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CHILDREN'S ADVOCACY INSTITUTE
2015 Annual Report



This annual report covers the activities of the Children's Advocacy Institute (CAI) between January 1, 2015 and December 31, 2015.

CAI 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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History & Background

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 and youth. CAI engages in the **academic and clinical training of law students** in child advocacy, conducts research into child related issues, and provides public education about the status of children and of the performance of the state to advance their interests. **CAI also engages in direct advocacy before courts, agencies, and legislatures to seek leveraged results for the benefit of children and youth.** All of these functions are carried out from its offices in San Diego, Sacramento, and Washington, D.C. CAI is the only child advocacy group operating at a law school, in a state capital, and in our nation's capital. That presence has grown in importance as organized interests, with a focus on relatively narrow and short-term self-benefit, increasingly dominate public policy.

CAI is advised by the Council for Children, a panel of distinguished community, state, and national leaders who share a vision to improve the quality of life for children. CAI functions under the aegis of the University of San Diego, its Board of Trustees and management, and its School of Law.

CAI's academic program is funded by USD and includes the first faculty chair endowment established at the USD School of Law. In 1990, San Diego philanthropists Sol and Helen Price funded the Price Chair in Public Interest Law; the first and current holder of the Price Chair is Professor Robert C. Fellmeth, who serves as CAI's Executive Director.

The chair endowment and USD funds committed pursuant to that agreement finance the course and clinic academic programs of both CPIL and CAI.

In 2014, CAI received USD's commitment to establish the **Fellmeth-Peterson Faculty Chair in Child Rights**, which will assure the continuation of CAI as an educational part of USD and, hopefully, as a state, national, and perhaps someday, international, advocate for children. The chair is named in honor of Robert B. Fellmeth (father of CAI Executive

Director Robert C. Fellmeth), and Paul Peterson, a longstanding supporter and inspiration for CAI from its beginning 25 years ago. The Chair is expected to be fully funded during 2016, and the USD School of Law is expected to solicit a Chair Professor in Child Rights in late 2016 or early 2017.

Although CAI's academic component has established funding sources, **CAI must raise 100% of the funding for its advocacy program each year from external sources** — gifts, grants, attorneys' fees, cy pres awards, etc.



Executive Director's Message

Children are honored symbolically. The old cliché about politicians ostentatiously kissing babies led to an interesting poster by one of our colleagues. It showed a politician kissing an infant on the cheek below a heading “Who is for kids, and who is kidding?” **The reality is that most decisions are not made in the presence of either children or cameras. They are made by increasingly passive legislatures responsive to campaign contributors and organized horizontal associations.** Indeed, as the son of a Professor of Linguistics, language is noted as revealing underlying biases. The term “sponsor” used to mean the legislator initiating and carrying a bill, but now it openly means the private grouping (usually an organized association or powerful economic interest) that actually drafts and steers legislation in today’s world. Legislators are now referred to as “authors.”

And what is the term for those who will vet the measure and have input into its final form? “Stakeholders.”

Children are theoretical stakeholders but are not at the stakeholder’s table. At the state level, CAI is one of the very few lobbies representing children and children only—not service providers, labor or the many trade and business associations. At the federal level it is worse, where there are over 12,000 registered lobbyists, including former members of Congress and staffers—but at least one noted analyst estimates that the actual number of lobbyists is closer to 100,000 as they use various tactics to avoid reg-

istration requirements. They spend billions on influencing the Congress. One study by our friend Charles Bruner estimates that a single association, AARP (representing the elderly), spends \$25 million a year on lobbying. All child advocates combined (the Partnership for America’s Children, the Children’s Defense Fund, CAI and others) expend less than \$1 million.



The problem is exacerbated by the U.S. Supreme Court’s holding in *Citizens’ United*, which gives corporations the political first amendment status of individuals. Corporations are run by directors and officers who have a central fiduciary duty to protect the capital investment of the corporation and maximize profit for its shareholder owners. This is not a condemnation—these state-created “persons” play an important role. But they, and the many associations dominating political influence, focus on economic protection

and advancement in the here and now. They are not oriented, as individuals who actually make up our voting democracy, on the diffuse and future interests that will form our long-term legacy.

Children represent that future interest and it has merit far beyond its current political weight. Our favorite saying manifests that interest, from our Native American forbearers: **“I did not inherit this earth from my parents, I am borrowing it from my Grandchildren.”** Such should be the lodestar for our combined citizenry.

Instead, the trends are awry. **Money is more and more influential, with a bias to protect current investment.** For example, even if one were to doubt the global warming danger, how do you justify using up the earth's finite supplies of non-renewable assets? Even if it takes another 100 years of continued mining, drilling and expropriation, how does that comport with our obligation to those 240 years from now? That is a fair question given our justified respect for our founders, who risked all they had for us, 240 years ago. Should not the external cost of exhaustion support a fee that is assessed to internalize that external cost, one that will increase markedly as years pass in a pre-set schedule? One that will allow corporations to recover current investment but properly provide disincentives to move to absolute exhaustion going forward, and provide an incentive to pursue options that do not involve that momentous external cost? That is not a tax, it is a market correction that internalizes an external cost and limits a market flaw while retaining the efficiencies and other positive features of a competitive market. Why is that not required? It would be were children and the future given proper weight.

The other discouraging trend is the decline in independent media attention to the long range, cumulative issues affecting children. This is because the media requires a dramatic event to warrant attention. A child who is raped or killed may inspire spurts of concern and even political action, such as Amber Alerts or Megan's Law. But what of higher education costs that are now five times more than inflation adjusted prices from the Boomer Generation levels? What of housing prices, similarly inflated? Where is the promise of success and a home and family with economic security for the next gener-

ation? Where is the attention to the Boomer imposition of the largest indebtedness in human history on its children and grandchildren? It is not centered in the federal deficits bemoaned by conservatives, it is centered in the Social Security, Medicare, and public worker medical and pension benefits—that are obligations perhaps with justification, but are being billed to our grandchildren down the road at a level well above \$60 trillion. In a stark example, California imposes property taxes on the elderly at a fraction of the levels paid by new home buyers, because the valuations upon which they are based are artificially sup-

pressed to a small fraction of the actual market value that is the basis for current taxation (Proposition 13 limits home valuation to 2% a year after 1977). So those of us at above 65 years of age will commonly pay 1/8th or less than the taxes paid by young residents who buy identical houses and receive the same services. And we get free medical care and Social Security, and have a poverty level much below that of our young.

Neither the media nor our political system covers any of this. It is our dirty little secret. The degree of child and future denigration grows apace.



This is the setting for CAI's advocacy. But we are able to counterpunch, and occasionally accomplish leveraged change. Our reports, litigation, lobbying and other activities detailed below function in this discouraging and difficult setting. Hopefully, we shall accomplish more changes in the political system, the media, and the cultural world around us. Such change would elevate the fate of our children to a high priority, including gradual trends that do not normally generate attention. And it would lead to changes that make our public monies and laws responsive to the gradual, diffuse and future fate of our children.

Advocacy Highlights

1. ELIMINATING CHILD ABUSE & NEGLECT FATALITIES & NEAR FATALITIES

One of CAI's ongoing campaigns is aimed at eliminating child abuse and neglect fatalities and near fatalities. One of CAI's strategies for this campaign is to improve states' public disclosure of child abuse and neglect death and near death findings and information, such as information about prior reports made about these children or families and the responses taken by child welfare agencies. Such disclosures, which are mandated by the federal Child Abuse Prevention and Treatment Act (CAPTA), give child advocates a rare insight into an otherwise confidential process, which gives them the opportunity to identify and remedy systemic failures in our child protection systems.

Federal Advocacy.

Following up on two prior editions of its report entitled *State Secrecy and Child Deaths in the U.S.*, which analyzes and grades the quality and scope of each state's public disclosure policy, CAI staff spent much time during 2015 urging the U.S. Department of Health and Human Services' Administration for Children and Families (ACF) to engage in more robust oversight, implementation, and enforcement of CAPTA. Among other things, we continued to call upon ACF to provide states with more specific guidance, in the form of binding regulations, regarding their public disclosure obligations, and to reverse its 2012 changes to the Child Welfare Policy Manual that give states wide discretion to avoid disclosure entirely.

Also during 2015, CAI made a full-court press on the federal **Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF)**, as it held hearings across the country to gather testimony and information to shape its national strategy and recommendations for reducing fatalities resulting from child abuse and neglect. CAI's Amy Harfeld crisscrossed the country to attend almost every CECANF hearing and share CAI's research and recommendations with the Commissioners. At the July 15, 2015, hearing in Madison, WI, Amy testified before the Commission, emphasizing the need to improve the accountability and transparency of the child welfare system, and describing CAI's struggles to get ACF to take any steps in that direction. CECANF will release its final report in March 2016.

In June 2015, CAI responded to ACF's request for public comment regarding CAPTA's public disclosure mandate and ACF's policy interpretations, contained in the Child Welfare Policy Manual, which purport to guide state compliance with that provision. CAI took this opportunity to remind ACF that in enacting the public disclosure mandate, Congress determined that in order to identify and fix flaws in our child welfare system, the need for public disclosure of what happened in these specific cases must trump the rule of confidentiality that typically applies to child abuse and neglect records and reports; accordingly, any ACF rules or policy interpretations that allow states to avoid meaningful public disclosure are contrary to Congressional intent.



California Advocacy. During 2015, CAI Senior Counsel Ed Howard and Senior Staff Attorney Christina Riehl worked extensively with officials at the California Department of Social Services (DSS) to craft a CAPTA-compliant near fatality policy. Although California has a public disclosure policy regarding child abuse and neglect fatalities (resulting from CAI co-sponsored SB 39 (Migden) (Chapter 468, Statutes of 2008)), it currently does not have a public disclosure policy applicable to near fatalities that complies with CAPTA as it has been interpreted by ACF. Because DSS did not adopt a CAPTA-compliant near fatality policy during 2015, CAI will explore other avenues of advocacy to ensure such a policy is enacted during 2016.

2. CHAMPIONING A CHILD'S RIGHT TO COUNSEL

Every abused and neglected child should be represented by a trained, competent client-directed attorney throughout legal proceedings that will impact every aspect of their lives—such as where the child will live and with whom, whom the child may see and how often (including siblings), what school the child will attend, *et al.* Regrettably, however, the federal statute requiring representation for abused and neglected children allows the appointment of a non-attorney as the child's guardian ad litem (GAL). Many states do not appoint counsel for these children, and many states that do appoint attorneys (such as California) force them to carry such high caseloads (300–500 children per counsel) that their role becomes largely symbolic.

Federal Advocacy. As part of its continuing follow up on the research and findings contained in CAI and First Star's 3rd edition of *A Child's Right*

to Counsel—A National Report Card on Legal Representation for Abused & Neglected Children, CAI continued its efforts to inform policymakers and the public about the need for children and youth to have legal representation in proceedings that will forever change their lives. During 2015, CAI's Amy Harfeld and Christina Riehl remained actively involved with the ABA's Section of Litigation Children's Rights Litigation Committee and engaged in substantial public outreach on the need to ensure children have legal representation in dependency proceedings.



California Advocacy. During 2015, CAI's Ed Howard led CAI's efforts to decrease case-loads for minors' counsel in California through a variety of strategies, including budget advocacy, legislative advocacy, and public education. While our efforts resulted in an additional \$11 million for minors' counsel throughout California, significantly more funding is needed in order to ensure case-loads that allow for a meaningful attorney-client relationship between abused and neglected children and their counsel.

On the legislative front, CAI co-sponsored SB 316 (Mitchell), which would ensure that counsel representing a child or nonminor dependent would not have a caseload that exceeds 77 clients unless that counsel has the assistance of a social worker or investigator on a half-time or more than half-time basis, in which case that counsel's caseload could not exceed 188 clients. SB 316 is a two-year bill, so CAI will continue to advocate for its passage during 2016.

Also during 2015, CAI's Christina Riehl continued to research and co-author a report on the appointment of counsel for children involved in family

and probate court proceedings. Often, children who are the subjects of abuse and neglect proceedings find themselves before family or probate courts but with vast differences—they have no social workers mandated to provide services in their best interest and no guarantee that an attorney, or even a guardian ad litem, to protect their interests in court. Our research revealed that while appointment of counsel for children in family and probate court is permitted, few courts in California exercise their discretion to appoint attorneys. This is true even though the children who are the subjects of these custody proceedings have needs mirroring the needs of children appearing in dependency court. CAI will continue providing advocacy and suggested solutions for assuring that more children are appointed counsel in family and probate court proceedings that follow a multi-disciplinary model of representation.

3. IMPROVING OUTCOMES FOR TRANSITION AGE FOSTER YOUTH

One of CAI's goals is to improve outcomes for transition age foster youth by, among other things, eliminating federal and state policies that impede youth from attaining self-sufficiency after exiting the foster care system, and increasing funding for programs and services that meet the unique needs of this vulnerable population.

Federal Advocacy. CAI's national report, *The Fleecing of Foster Children*, documents practices and policies that inhibit foster youth from achieving financial security after leaving care. The original *Fleecing* report, released in 2011, continued to generate substantial coverage during 2015, and served as the basis for extensive CAI advocacy at the federal level. One such area of CAI's advocacy pertains to

the state practice of intercepting funds belonging to foster children in order to pay themselves back for the child's support and maintenance. **When a child is a beneficiary of Social Security disability or survivor benefits, such funds are typically paid to the child's representative payee, who is required by law to use or conserve those benefits as appropriate to meet the best interests of the child—such as addressing the child's current disability-related needs or conserving funds for the child's future use.** That is what a responsible parent would do—not take the child's money to pay for groceries, rent, or expenses that the parent is legally obligated to cover.



But for foster children, foster care agencies routinely apply to serve as their representative payees. The federal Social Security Administration (SSA), which is not required to notify the court, GAL, or child's attorney of an agency's request to serve as representative payee for a foster child, uniformly approves such requests—and then sends the agencies the child's funds. **The agencies then almost universally intercept those funds meant for the specific, individualized needs of**

each child beneficiary and use them to reimburse themselves for the child's foster care costs—expenses that the government is otherwise obligated to provide.

In 2015, CAI's Amy Harfeld testified in support of Maryland legislation that would rectify this unjust practice and restore critical funds to the beneficiaries. Among other things, CAI argued that from a national perspective, the interception of foster children's Social Security benefits is a factor precluding the financial security and independence of youth leaving care; from a basic ethical standpoint, it is wrong to intercept and pocket the assets of children for whom

states have assumed responsibility; and from a financial point of view, it is shortsighted for states to pocket such funds knowing that they will pay many times more in public benefits when youth age out of care with no means to cover their basic financial needs. Although the bill did not pass, CAI will continue its efforts to inform policymakers about the need to ensure the proper use and/or conservation of assets belonging to youth in foster care.

Also, CAI continued to inform members of Congress and their staff about this issue and press for the reintroduction of the **Foster Children Self-Support Act**, to curtail this unethical practice and restore a good portion of these funds to the neediest foster children. We believe the Act will be reintroduced during 2016, and will continue to work to secure more champions to press this important federal legislation ahead.

California Advocacy. During 2015, CAI's Melanie Delgado continued to monitor and analyze the impact of California's Fostering Connections program, the state's extended foster care program which allows youth to stay in care until age 21 if they meet certain eligibility requirements. The program, which took effect on January 1, 2012, was created to help better prepare foster youth to live successful, self-sufficient, independent lives after leaving care and to avoid the negative outcomes now commonly associated with aging out of foster care, such as homelessness, incarceration, unemployment and insufficient educational attainment. While Fostering Connections is a promising new opportunity, CAI's 2013 report entitled **California's Fostering Connections: Ensuring that the AB 12 Bridge Leads to Success for Transition Age Foster Youth**, identified shortcomings in the law and its implementation, including obstacles that could ultimately threat-

en its success. CAI has and will continue to urge policymakers to refine Fostering Connections to ensure that it achieves its goal of improving the transition to self-sufficiency for foster youth aging out of care.

Melanie also continued to urge policymakers to provide other innovative options to assist transition age foster youth bridge the gap to self-sufficiency. Among other things, CAI followed up on recommendations in its 2013 report, **Are They Being Served—Yet?**, which proposes that such programs be financed through Proposition 63, the Mental Health Services Act (MHSA), proceeds of which are supposed to expand and transform the state's mental

health system to improve the quality of life for Californians living with or at risk of serious mental illness—and which specifically identifies transition age foster youth as one such at risk group. **CAI's research has revealed that MHSA funding has not appreciably benefited this highly deserving and at-risk population.** CAI found that some counties had designed no MHSA-funded programs exclusively for TAFY; few track TAFY participation in their programs; and none had any longitudinal outcome data related to TAFY who

had participated in any of their MHSA-funded programs. Further, the report noted that the state's extension of foster care up to age 21, as discussed above, highlights the need for appropriate services for TAFY ages 21–25. These youth face a significant gap when they age out of care; at that point, they no longer have access to resources that were available to them while in care, but many still struggle with various issues, including mental health issues, and are not yet self-sufficient.

In addition to advocating for the use of MHSA funds on behalf of TAFY at the county level, CAI



continued to call on state leaders to commence a comprehensive review of the administration and oversight of the MHSA at both the state and county levels, as any misappropriation of MHSA funding takes money away from the vulnerable populations that voters intended to help when they approved Prop. 63 in 2004.

CAI also continued to call for the implementation of the Transition Life Coach (TLC) option we have promoted over the past decade—an option that mirrors the support and guidance typically offered by parents to their youth adult children. The TLC model involves youth buy-in to his/her plan for transitioning to self-sufficiency and independence, is flexible and personal, involves a mentor or coach to help guide the youth and assist him/her in accessing funds that further the youth's transition, and is overseen by the court (who has served as the legal parent of the child). **The TLC model, which could be made available to TAFY ages 21–25, could be implemented statewide using less than 10% of MHSA proceeds.**



4. STOPPING THE FEDERAL GOVERNMENT'S NEGLECT OF CHILD WELFARE LAWS

For years, all three branches of federal government have been hugely underperforming with regard to their respective roles in enacting, implementing, interpreting, and enforcing child welfare laws. By failing to comply with their responsibilities vis-à-vis abused and neglected children, all three branches are

allowing states to fall below minimum standards with regard to appropriately detecting and protecting children from child abuse and neglect and complying with minimum federal child welfare requirements, notwithstanding the fact that states receive nearly \$9 billion in annual federal funding to help them meet those floors.

National Advocacy. CAI's Robert Fellmeth, Amy Harfeld, Christina Riehl and Elisa Weichel unveiled a new national report entitled, ***Shame on U.S.***, at a Congressional Briefing at the U.S. Capitol in January 2015. This report was the result of several years of research on the failures of all three branches

of government to address the problems of child abuse and neglect. **The report faults the U.S. Department of Health and Human Services (DHHS) for infrequently and inadequately exercising its oversight powers to ensure state compliance with federal mandates, essentially becoming the states' complicit partner in the substandard care of our nation's most vulnerable children.** In many areas, DHHS takes on a passive role, allowing states to self-certify compliance and set lower standards and performance expectations

for themselves—all of which allow glaring non-compliance with federal law to go unabated, at times going so far as to blatantly flout direct Congressional orders.

Among other things, *Shame on U.S.* revealed that:

- ★ During two full rounds DHHS' Child and Family Services Reviews, which spanned a decade, not a single state was in full substantial conformity with laws designed to ensure the safety and well-being of abused and neglected children;



CAI's Elisa Weichel, Robert Fellmeth, Christina Riehl, and Amy Harfeld at the Shame on U.S. congressional briefing in Washington, D.C. (January 2015).

- ★ Congress is weaning the federal government off its duty to financially support foster children (and increasing the burden on states) by not eliminating the “look back” provision, which ties federal reimbursement eligibility to 1996 AFDC eligibility levels with no inflation index; and
- ★ Federal courts have walked away from their role as a check on the other two branches, finding that federal laws do not give children and families a private right of enforcement — in effect barring private litigants from pursuing much-needed remedies.

**All told, the actions and inactions of the federal government on behalf of abused and neglected children have resulted in a tri-
fecta of inertia, neglect, and abandonment.**

The report contained recommendations which are now the subject of ongoing CAI advocacy. For example, DHHS must toughen its oversight and enforcement activities to ensure that each state operates its child welfare programs consistent with federal law, and impose serious and expedient consequences when states fall short; Congress must eliminate the look back provision and engage in federal child welfare finance reform; and the federal judiciary must acknowledge its role as a check and balance

to lax executive branch enforcement of child welfare laws, and ensure that states entering into consent decrees bring their child welfare systems into compliance with federal law in a timely manner.



Also during 2015, CAI urged DHHS' ACF to step up its role in overseeing and enforcing child welfare laws. For example,

- ★ CAI urged ACF to adopt binding regulations (as directed by Congress) that give states clear and enforceable instructions on complying with CAPTA's public disclosure mandate, which requires states to have policies allowing for public disclosure of findings and information about child abuse and neglect fatalities and near fatalities;
- ★ CAI urged ACF to rescind its 2012 changes to the Child Welfare Policy Manual that provide states with loopholes and broad exceptions that can be used to avoid disclosure of child abuse or neglect fatalities or near fatalities; and
- ★ CAI officially commented on ACF's proposed rule changes to the Adoption and Foster Care Analysis and Reporting Systems, suggesting ways in which the rules could be augmented or changed to ensure more robust collection of meaningful, useful data.

5. CALLING FOR FEDERAL CHILD WELFARE FINANCE REFORM

The federal child welfare financing system has serious flaws. Take, for example, the irrational vestige of previous years noted above—the so-called “look back” provision that bars all federal reimbursements for services provided to abused or neglected children removed from parents earning more than the federal poverty line *as it existed in 1996*. **This archaic law allows the federal government to avoid all financial responsibility for now over half of all children in foster care, based on a bizarre link to a poverty level that is both outmoded by inflation and unrelated to any need or justification for the proper care of an abused or neglected child.** Do only extremely poor children need to be protected from abuse and neglect? This baffling provision has not been corrected in almost 20 years, and the result is that increasing numbers of children are denied federal financial support while in foster care, heaping the entire financial burden on states—and even more concerning, providing a financial disincentive to remove children from dangerous homes at all. It also means that federal floors that accompany federal support can also be denied to these children.

Federal Advocacy. The focal point of CAP’s federal activity in this area during 2015 was Prof. Bob Fellmeth’s research and drafting of a comprehensive white paper on child welfare finance reform, which will be released in 2016. CAP’s advocacy in this area is greatly needed to counterbalance the concession made by many child advocates who accept as a start-

ing point that any child welfare financing change must be “revenue neutral”—one that does not increase public cost. It is true that the Congress looks unfavorably upon entitlements and any actual or even perceived increases in spending, especially on social programs. It is incredibly challenging to successfully advocate for legislation that calls for increased investments in this environment. But this does not mean that advocates and others in the child welfare community who can appreciate and quantify the unmet needs of this most vulnerable population should lay down their arms and back away from the fight. In point of fact, given the CPI and increasing numbers



of children subject to abuse or neglect reports, the results of “revenue neutrality” are real spending per child cuts year after year. As will be noted in the upcoming white paper, **this concession to revenue neutrality is an irresponsible surrender based on a flawed formula that is not at all neutral. And the shortfall is exacerbated further by the federal look back clause noted above that allows increasing numbers of foster children to be abandoned by the federal jurisdiction every year. For acceptance by any child advocate**

of the revenue neutrality premise underlines the weakness of our cadre and the critical need for fresh and courageous voices in the debate.

6. ENHANCING ACADEMIC OUTCOMES FOR POSTSECONDARY STUDENTS

Because of their profit maximization charter, some private for-profit postsecondary schools spend a small fraction of revenue on educational services, academic instruction, and student support services, and focus instead on marketing, lobbying, and profits for shareholders / CEOs. Programs at these schools average four times the cost of degree programs at comparable community colleges. In addition to the higher expense, for-profit schools often lack appropriate support services that are critical to student success, and many students drop out prior to graduating. Those who do graduate rarely find the lucrative careers commonly touted in the schools' ubiquitous advertising. Regardless of whether they drop out or are able to graduate, too many of these young people are saddled with debt that they are unable to climb out from under.

Since 2012, CAI has led the Private For-Private Postsecondary Campaign, a consortium of advocates working to improve the oversight and regulation of the private for-profit postsecondary industry. With key partners such as Public Advocates in California and David Halperin in Washington, D.C., CAI is calling upon policymakers to ensure that these schools are properly regulated and meet minimum requirements regarding matters such as graduation rates, mandated disclosures, academic and other support, job placement, default rates, and complaint handling. CAI's work in this area includes legislative and regulatory advocacy, research, outreach, and public education.

Federal Advocacy. During 2015, CAI's Melanie Delgado researched and wrote what will be CAI's sixth national report, one that will reveal the extent to

which states provide appropriate regulation, oversight, and enforcement of private for-profit postsecondary schools, which have proliferated apace, helped by public subsidies. Former foster youth and non-minor dependents are targeted by some members of the for-profit postsecondary industry. The fact that these young adults can access federal Chafee Educational and Training Vouchers and other exclusive federal and state funding streams is not lost on many private for-profit postsecondary schools.

Also during 2015, CAI's Amy Harfeld continued to press policymakers to engage in more robust oversight and regulation of private for-profit schools. Her work included advocacy before federal agencies such as the U.S. Department of Education (DOE), the Federal Trade Commission, the U.S. Department of Justice, and the Consumer Financial Protection Bureau, among others, as well as members of Congress and their staff. In June CAI called on DOE to develop a proactive, risk-based, student-centered strategy for dealing with private for-profit schools that the Department has reason to believe may be breaking the law and putting students and taxpayers in jeopardy.

California Advocacy. During 2015, CAI's Ed Howard worked hard to put AB 573 (Medina) on Governor Brown's desk. The bill, which did not get a single "no" vote during the legislative process, would have provided a modest helping hand to debt-saddled students who had attended the disgraced and closed Corinthian Colleges in California. Regrettably, Governor Brown vetoed the measure — an action that was criticized point-blank in an op-ed by CAI's Robert Fellmeth in *The Mercury News*. Fellmeth wrote that the Governor disparaged certain aspects of the bill and ignored other aspects with a "dismissive snort."





CAI's Amy Harfeld testifies before the U.S. Department of Education regarding the regulation of the private for-profit postsecondary industry (June 2015).

In other activity, CAI and its Campaign partners submitted lengthy comments in July 2015 to the Bureau for Private Postsecondary Education (BPPE) regarding regulatory changes BPPE was considering. The regulatory package sought to implement CAI-supported AB 2296 (Block) (Chapter 585, Statutes of 2012), which required institutions regulated by BPPE to provide additional disclosures to prospective students.

Accordingly, the proposed rules addressed issues such as disclosures to prospective students, school performance fact sheets requirements, and annual reports by institutions to BPPE. In addition to providing specific comments and suggested changes to aspects of the rulemaking package, **CAI and its partners called upon BPPE to ensure that disclosures to prospective students pursuant to AB 2296 be as inclusive as possible, telling the whole story about all students that finish their programs at for-profit institutions and seek employment in the field in which they were trained.**



7. PROTECTING THE PRIVACY INTERESTS OF CHILDREN & YOUTH

Also, CAI's Melanie Delgado and Christina Riehl provided training sessions around the country to inform transition age foster youth and their service providers how to make fully-informed decisions about postsecondary options. These sessions revealed issues and concerns regarding private for-profit schools; explained recent legislative/regulatory measures aimed at curbing abuses and helping students understand the programs and their associated costs; provided questions students should ask when considering postsecondary options and explained how to understand and compare school data; and discussed actions that can be pursued when a school

has misled a student or has not provided education and services as promised or advertised.

Privacy laws are not keeping pace with technological advances and societal trends and innovations, particularly with regard to protecting the rights of children and youth, and the right of parents to make decisions as to the use and

dissemination of their children's images, information, postings, *et al.*

Our major case in this area is [*K.D. v. Facebook*](#), where we began as attorneys for objectors to a proposed settlement in a federal class action that would allow the enforcement of a new terms and conditions clause granting to Facebook the unfettered right to expropriate any posting, including photos, of any teen subscriber, rearrange it, and transmit it to whomever it wished in blank check fashion — without prior notice to the teen and with no notice to or consent from a parent.



*CAI's Robert Fellmeth argues before the Ninth Circuit Court of Appeal in **K.D. v. Facebook** (September 2015).*

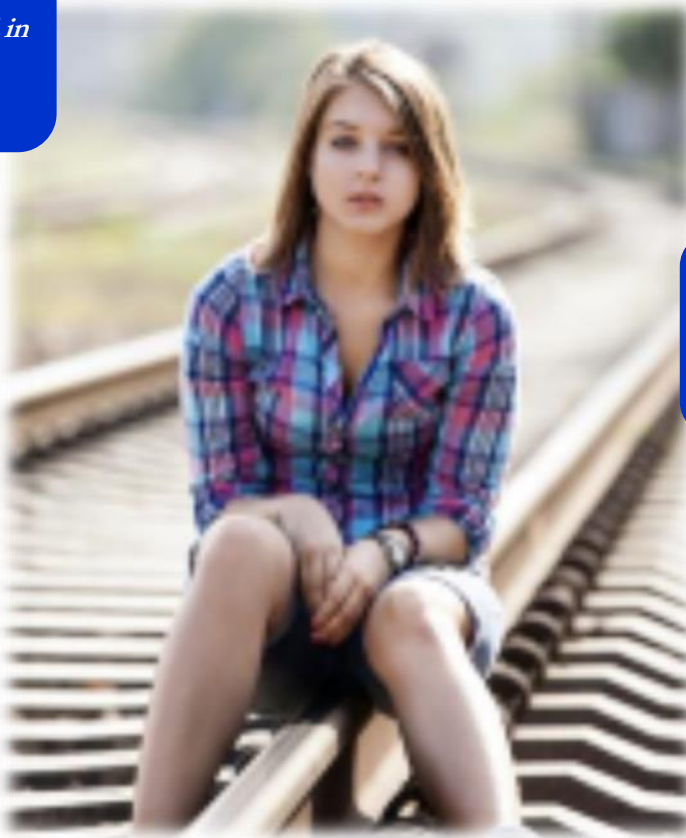
After the District Court approved the settlement, CAI appealed to the Ninth Circuit, which held oral argument on the matter in September 2015. Among other things, **CAI contended that the settlement is not fair, adequate and reasonable for the subclass of ten million American children, as it places them in a position with less protection than they would have without the agree-**

ment. It purports to recruit the federal courts to enter an order that would effectively exempt Facebook from statutes protecting privacy and children. And, contrary to Facebook's contention, the federal Children's Online Privacy Protection Act, which only applies to children under the age of 13, does not preempt or void any common law or state privacy provision as to teens who are over the age of 13.

CAI also pointed out why the District Court's review of the proposed settlement should have been much more robust than it was: the case settled before class certification; Facebook repeatedly threat-

ened the class with millions of dollars in attorney fees (due to an unusual reverse fee shift provision), creating an unprecedented forced collusion contaminant; and the settlement was rejected by some organizations that otherwise would have received *ex post* awards pursuant to the terms of the agreement.

Regrettably, the Ninth Circuit affirmed the District Court's approval of the settlement agreement—despite the fact that Facebook's legal contentions drew *amicus* opposition from the Federal Trade Commission, the California Attorney General, and some of the country's most highly respected privacy and child rights institutions. CAI is now pursuing a Petition for Writ of Certiorari to the U.S. Supreme Court.



8. STOPPING THE SEXUAL EXPLOITATION OF MINORS

During 2015, CAI engaged in outreach and advocacy related to the implementation of the Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980), which includes the elevation of many of the provisions CAI has successfully cosponsored in California law into a federal floor applicable to other states.

CAI continued to monitor and analyze legislation related to sexually exploited minors. As California moves toward providing services to such victims through the child welfare services system or other means, CAI will work to ensure that the members of this unique population are properly identified and their needs are appropriately addressed.

Leadership & Collaboration

CAI participates in state and federal collegial education and advocacy, and is part of several national coalitions such as the National Foster Care Coalition, the National Child Abuse Coalition, the Children's Leadership Council, the Coalition on Human Needs, and the Child Welfare and Mental Health Coalition. We are involved in the governance of the National Association of Counsel for Children and the Partnership for America's Children. CAI also participates in the governance of the Maternal and Child Health Access Foundation and First Star.

CAI continued to organize, convene and chair the Children's Advocates Roundtable in Sacramento, as we have for 25 years now.

We are now joined in that effort by Children Now, and are working to expand the Roundtable's influence and the number of organizations participating. Led by CAI's Melanie Delgado, the Roundtable meetings feature presentations by state and national experts, policymakers, legislative and executive branch staff, and others on major issues impacting children and youth. During 2015, presentations focused on issues such as DSS' Continuum of



Care reform efforts; state budget updates; dual status youth reform; commercially sexually exploited children policies; and updates on a variety of children's policy issues and concerns.

Also during 2015, CAI continued to be an active participant in California's Step Up Coalition, which is working to remove the barriers that pre-

vent relatives foster care providers from receiving reimbursements equal to the basic foster care rate, as well as providing specialized care system support to relatives caring for children with heightened needs.

Historically in California, relative foster parents received federal foster care benefits only if the child meets the federal rules — but because of the antiquated look back provision discussed above, at least a third of California foster children are not federally eligible. Thanks to the work of the Step Up Coalition, now non-federally eligible children

placed with relatives can receive Approved Relative Caretaker (ARC) benefits equal to the basic foster care rate, if the county has opted into the program. For children placed through counties that have not opted into ARC, the child is only eligible for CalWORKs benefits, which provides just a fraction of the amount available through ARC. During 2015, CAI continued its involvement with this Coalition's efforts to shape the implantation of California's Continuum of Care Reform (CCR) to assure that relatives continue to be a prioritized resource for placement of children in foster care—not only in policy but in implemented practice

through equal supports in services as well. In 2016, CAI will continue to work with the Step-Up Coalition to move California toward a truly child-centered foster care rate system that provides support to children based on their needs.

CAI also led the effort of the Private For-Profit Postsecondary Campaign (see above), and participated in other coalitions and consortiums, such as an effort to align California's Foster Youth Services program with the Local Control Funding Formula.

Special Projects

1. PRICE CHILD HEALTH & WELFARE JOURNALISM AWARDS

During 2015, CAI continued to staff the **Price Child Health and Welfare Journalism Awards**, which have been presented annually since 1992 to recognize excellence in journalism, and specifically to recognize significant stories, series, or bodies of work that advance the understanding of, and enhance public discourse on, child health and well-being issues (e.g., health, nutrition, safety, poverty, child care, education, child abuse, foster care, former foster youth, juvenile justice, children with special needs). **The 2015 Price Child Health and Journalism Award was presented to Karen de Sa of the San Jose Mercury News for the multimedia series, *Drugging Our Kids*, which revealed how California's foster children are being prescribed unproven, risky medications at alarming rates.**

This is the second Price Child Health and Welfare Journalism Award for Karen de Sa. In 2008, she received top honors for her San Jose Mercury News series, *Broken Families, Broken Courts*, an extended series exposing the failings in the state's Juvenile Court system.

2. EDUCATIONAL RIGHTS HOLDER PROGRAM

Also during 2015, CAI continued to participate in the **Educational Rights Holder Program (ERHP)**. This collaborative effort with the Dependency Legal Group of San Diego, the County

Office of Education, the San Diego Volunteer Lawyer Program, Advocates for Children and Education and others, seeks to recruit, train, and oversee eligible adult volunteers who are willing to make educationally-related decisions on behalf of students in foster care. In addition to its work on ERHP, CAI plans on researching how other jurisdictions ensure that appropriate educational rights holders are recruited, trained, and appointed for students in foster

care, and will be developing a set of best practices for dissemination on a national basis.

3. LAWYERS FOR KIDS

CAI's **Lawyers for Kids** program offers attorneys and law students the opportunity to serve as pro bono 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 have the opportunity to assist CAI's advocacy programs by responding to legislative alerts issued by CAI staff and by providing pro bono legal representation, either independently or with CAI serving as co-counsel.



Academic Program Highlights

1. OVERVIEW

In addition to educating those interested in child welfare through conferences and presentations, one of our primary responsibilities is to educate the child advocates of the future. That includes a core course in *Child Rights and Remedies*, as well as three clinics representing children in court and engaging in policy research and advocacy at the state and federal levels. The USD School of Law now offers a Concentration in Child Rights, and an increasing number of law students are graduating with this distinction, demonstrated their commitment to this educational focus.

In 2014, CAI received USD's commitment to establish the **Fellmeth-Peterson Faculty Chair in Child Rights**, which will assure the continuation of CAI as an educational part of USD and, hopefully, as a state, national, and perhaps someday, international, advocate for children. The chair is named in honor of Robert B. Fellmeth (father of CAI Executive Director Robert C. Fellmeth), and Paul Peterson, a longstanding supporter and inspiration for CAI from its beginning 25 years ago. The Chair is expected to be fully funded during 2016, and the USD School of Law is expected to solicit a Chair Professor in Child Rights in late 2016 or early 2017.



2. CAI CLASSES AND CLINICS

The centerpiece of CAI's academic program is *Child Rights and Remedies*, a one-semester course taught in a modified Socratic method with students assigned various roles (child attorneys, parent attorneys, feminist advocates, fathers' rights advocates, fundamental religious, civil liberties advocates, Attorney General, *et al.*). The course, which uses Professor Fellmeth's text, *CHILD RIGHTS AND REMEDIES* (Clarity Press, 3rd Edition, 2011), is a prerequisite to participation in CAI's three clinics — the Dependency Clinic, the Delinquency/At-Risk Youth Clinic, and the Policy Clinic.

During 2015, the following USD School of Law students participated in one or more of CAI's clinical opportunities and/or otherwise participated in CAI's academic component: Gregory Catangay, Ashley Foote, Lauren Harris, Nareen Karakashian, Alexa Katz, Ashley Kaye, Joseph Mandry, Maryam Rastegar, Amalea Romero, Suzanne Soin, and Danielle Sullivan.

Also during 2015, and under the supervision of Prof. Robert Fellmeth, the following USD School of Law students authored child-related articles, many of which have been published or are currently scheduled or being considered for publication:

Lauren Crosby — *Protecting Student Consumers from For-Profit School Abuses: The Restoration of Civil Justice and Class Action Remedies*

Katherine Brown — *Maximizing the GI Bill: The Need for State Approving Agencies to Hold For Profit Schools to a Higher Standard*

Amina Mousa — *The Case for an Attorney GAL for Children in Dependency Court*

Ashley Foote — *Adoption Laws After the Legalization of Same-Sex Marriage in the United States*

Danielle Sullivan — *Dealing with Defiance: How Suspension of Students for Minor Misbehavior Leads to Prison*

Nareene Karakashian — *Forgotten Children: Considering Incarcerated Youth When Assessing International Child Well Being*

Gregory Catangay — *Towards Uniform Application of Special Immigrant Juvenile Status*

Yurika Tulen and Heath Watanabe — *International Child Abduction in Japan*

Audrey Wood — *Private Rehoming of Internationally Adopted Children: Why the United States must Criminalize This Practice*

3. ACADEMIC AWARDS

In May 2015, CAI honored seven graduating law students for their exceptional work on behalf of children and youth. CAI presented the **2015 James A. D'Angelo Outstanding Child Advocate Award** to **Kelsey Hathaway, Jessica Kiley, Maryam Rastegar, Natalie Rodriguez, Alyssa Ruiz de Esparza, Jessica Underwood, and Rick Waltman**. These students participated in the policy, dependency and/or delinquency sections of the Child Advocacy Clinic over multiple semesters, advancing the rights and interests of countless children and youth.

Also in May 2015, CAI presented the **2015 Joel and Denise Golden Merit Award in Child Advocacy** to **Hala Alskaf**. This award is presented an-

nually to a second year law student who has already started to use his/her developing legal skills to benefit foster children. Even prior to starting her third year of law school, Hala made considerable contributions to the field of child advocacy in general, and on behalf of children in foster care specifically.

4. ADVOCATES FOR CHILDREN AND EDUCATION



In addition to participating in CAI's academic offerings, USD School of Law students have also created a child advocacy-focused student organization, Advocates for Child and Education (ACE). Founded in 2012 by CAI student Lisa Charukul, ACE seeks to promote the welfare of children by providing USD law students with opportunities to work with children in the local community. ACE provides volunteer opportunities in the areas of juvenile delinquency, special education, and general mentoring and advocacy. Additionally, ACE provides resources

and information about careers in child advocacy and education law.

During 2015, CAI student Patrice Darlin played a leadership role in ACE, for which CAI Executive Director Robert Fellmeth serves as Faculty Advisor.

5. MEET SOME OF OUR NEW CHILD ADVOCATES

CAI is honored to have worked with all of the students noted above, and we are delighted that many of them will be making child advocacy the focal point of their legal careers. We humbly share some of their comments about their experiences with CAI:



“Working with the Children’s Advocacy Institute was one of the most rewarding experiences I had during law school. I truly enjoyed advocating for children as part of my work at CAI, because children are the largest, most important population of individuals who are incapable of advocating for themselves.” — **Natalie Rodriguez**, 2015 Co-Recipient of the James A. D’Angelo Outstanding Child Advocate Award



“Working with CAI was the highlight of my law school experience at USD. Learning from Prof. Fellmeth in the classroom and from everyone at CAI throughout my time in the policy clinic was fundamental in shaping my career goals and essential in connecting me with professionals across the county who share in my passions. CAI showed me the rewards of being an advocate and gave me the skills to become one.” — **Jessica Kiley**, 2015 Co-Recipient of the James A. D’Angelo Outstanding Child Advocate Award



“I sought out CAI while applying to law school, because I knew I wanted to be involved in their work from the start. Aside from taking Prof. Fellmeth’s Child Rights and Remedies course, I worked with CAI for two semesters in their policy clinic....Working with CAI staff was immensely rewarding, not to mention relevant as I now practice as a school attorney representing public school districts and community colleges in California.” — **Alyssa Ruiz de Esparza**, 2015 Co-Recipient of the James A. D’Angelo Outstanding Child Advocate Award

Donors & Funders

We thank those who make our work possible, and in particular, the late Sol and Helen Price; Robert and Allison Price and their family; the Paul Peterson family; and Louise Horvitz. Their vision of what we should be remains our charted course. We are also grateful to our Council for Children and our Dean and colleagues on the faculty, many of whom contribute to CAI.

We are also thankful for the generous grants and gifts contributed by the following individuals and organizations between January 1, 2015, and December 31, 2015, or in response to CAI's 2015 holiday solicitation. CAI is fortunate to have the personal backing of many highly respected individuals. Together, these funds support CAI's advocacy, outreach, and public education efforts at the local, state and federal levels; without them — without you — CAI would not be able to do what we do.

Prof. Lawrence Alexander

Travis Anderson

Maureen Arrigo

Robert & Margaret Bavasi

William M. Benjamin

Kenneth W. Brooks

Prof. Roy Brooks

in memory of Penny Brooks

Alan & Susan Brubaker

Michael Butler & Sandusky
Shelton

Paul Cannariato

Anthony R. Carr

Dominic Chenella

Prof. Laurence P. Claus

Joan Claybrook

Philip M. Cohen

Joyce D'Angelo

in memory of Peter T. and James A. D'Angelo

Ann D'Angelo

in memory of Peter T. and James A. D'Angelo

Brian Daugherty

Steven B. Davis

Clifford P. Dobrin

in memory of Joanne F. Dobrin

David X. Durkin

Gary Edwards



Suzanne Evans

Dave Forstadt

*In memory of
James A. D'Angelo*

Lisa Foster & Alan Bersin

The Hon. Ron Frazier

Donna Freeman &
Gene Erbin

Nancy Gannon
Hornberger

Jennifer Gaylord

Hon. Charles Gill

Beth Givens

Elizabeth Gopinath

Joel Golden

Dr. John Goldenring

The Hon. Christine and the Hon. Jan Goldsmith

Goodshop / Goodsearch

James & Patti Goodwin
in memory of James A. D'Angelo

Renee Gorelick

Susan Gorelick

Dr. Birt Harvey

Kara Hatfield

Prof. Walt Heiser

Emily Hester

Adrienne Hirt & Jeff Rodman

Dr. Louise Horvitz

Robert G. Howard

Jackson W. Isaacs

Betsy Imholz

Blaise Jackson

The Junior League of San Diego

Beverly Kalasky

Josephine Kiernan

Angel Lau

Chris and Nanette

Herbuveaux Lawler

Prof. William Lawrence

Prof. Bert Lazerow

Joy Lazo, CWLS

Lynnae Lee

Mr. and Mrs. John Leslie

Michael D. Liuzzi &

Valorie A. Seyfert

Janet Madden

John Malugen

Deborah Mancuso

James B. McKenna

John and Betsy Myer

In memory of James A. D'Angelo

Ralph Nader

Randy & Susan Nielsen

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Dr. Gary Richwald & Sue Bayley

Harvey Rosenfield

Ron Russo

in memory of Francis Russo

Gloria Samson

Peter Samuelson

in honor of Robert Fellmeth

Shinnick & Ryan

Dr. Alan & Harriet Shumacher

Jo-Ann Shyloski

Alan Sieroty Charitable Fund

Leonard B. Simon and Candace M. Carroll

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Prof. Ed Ursin

John Van de Kamp

Prof. Jorge Vargas

Howard Wayne

Elisa & Timmy Weichel
in memory of Peter T. and James A. D'Angelo



Carrie Wilson

Peter C. Winkler

Adam Woellert

Ya-Ping & Marge Zhou

Anonymous Donors

While every effort has been made to ensure accuracy, we apologize for any mistakes or omissions.

A final note about Sol and Helen Price, that we have repeated each year, and which we shall continue to repeat. Their passing will never diminish our duty to represent their ideals for child representation — we strive to be an important part of their legacy. All of us at CAI feel their presence, and what they would want us to do is our guiding lodestar.

Council for Children

CAI is guided by the Council for Children, an advisory body that meets periodically to review policy decisions and recommend action priorities. Its members are professionals and community leaders who share a vision to improve the quality of life for

children in California. CAI is also honored to have former Council members who served for many years remain a part of the Council as emeritus members. Accordingly, the CAI Council for Children includes the following:

Council Chair:

Gary F. Redenbacher, J.D. *Attorney at law*

Thomas A. Papageorge, J.D.

Special Prosecutor, Economic Crimes Division, San Diego District Attorney's Office

Council Vice-Chair:

Gary Richwald, M.D., M.P.H.

Consultant Medical Director, California Cryobank

Council Members:

Robert Black, M.D.
Pediatrician

Denise Moreno Ducheny
Attorney, Former State Senator

Anne E. Fragasso, Esq.
California Appellate Project, Staff Attorney

John M. Goldenring, M.D., M.P.H., J.D.
Medical Director, Riverside Physician's Network

Hon. Leon S. Kaplan (Ret.)
Retired Judge, Los Angeles Superior Court

James B. McKenna
President, Am Cal Realty, Inc.

David M. Meyers
Chief Operating Officer, Dependency Legal Services



Gloria Perez Samson
Retired school administrator

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

Emeritus Members:

Birt Harvey, M.D.
Professor of Pediatrics Emeritus, Stanford University

Louise Horvitz, M.S.W., Psy.D.
Licensed clinical social worker, individual and family psychotherapist

Paul A. Peterson, J.D.
Of Counsel to Peterson and Price, Lawyers

Blair L. Sadler, J.D.
Past President and Chief Executive Officer, Children's Hospital and Health Center

Owen Smith
Past President, Anzalone & Associates

CAI Staff

During 2015 CAI was extremely fortunate to have the following passionate and dedicated team of employees, all of whom contributed greatly to the

work CAI did — and the achievements CAI made on behalf of children and youth across the state and nation:

Robert C. Fellmeth

*Executive Director /
Price Professor of Public Interest Law*

Melanie Delgado

Staff Attorney / Director of Transition Age Youth Projects

Elisa Weichel

*Administrative Director/
Staff Attorney*

Brianna Blanchard

Executive Assistant

Tina Calvert

Executive Assistant

Amy Harfeld

*National Policy Director /
Senior Staff Attorney*

Ed Howard

*Senior Counsel /
Senior Policy Advocate*

Christina Riehl

Senior Staff Attorney



Future Member of the CAI Team? Amy Harfeld's daughter, Dalia, joined her at a child care event at the U.S. Capitol in 2015. Shown here with her mom and Senator Tim Kaine (D-VA) and urging Congress to increase child care funding, she looks to be a natural to follow in her mom's footsteps. Thanks for your help, Dalia!



Help CAI Help Kids

We greatly appreciate your continued support of CAI's work. Here are a few different ideas for how you can help us help kids:

- ★ Make a tax-deductible donation to CAI using the attached envelope or online at law.sandiego.edu/caigift.
- ★ Participate in meetings of the **Children's Advocates' Roundtable** and/or follow the Roundtable activities on Facebook.
- ★ Volunteer to serve as an **Educational Rights Holder** for a San Diego County student in foster care.
- ★ For attorneys involved in class actions that result in a **cy pres distribution fund**, identify CAI as a potential recipient of those funds.
- ★ Subscribe to **E-NewsNotes**, periodic emails from CAI about important legislative or regulatory proposals, significant litigation, new reports and publications, and other important events that impact the health and well-being of California's children.
- ★ Join **Lawyers for Kids**, which gives attorneys, law students, and others in the legal community the opportunity to use their talents and resources as advocates to promote the health, safety, and well-being of children; assist CAI's policy advocacy program; and work with CAI staff on impact litigation or by offering expertise in drafting amicus curiae briefs.



- ★ Make the Children's Advocacy Institute your charity of choice when using www.goodsearch.com to conduct online searches or www.goodshop.com when shopping online. GoodSearch is a Yahoo-powered search engine that donates about a penny per search to CAI each time you use it to search the Internet. GoodShop is an online shopping mall which donates up to 30% of each purchase to CAI.

Hundreds of vendors — stores, hotels, airlines, and other goods and service providers — are part of GoodShop, and every time you place an order, part of your purchase price will go directly to CAI!

- ★ Purchase a California **Kids' Plate**, a special license plate featuring one of four special symbols: a star, a hand, a plus sign, or a heart. Proceeds support local and statewide programs to prevent child injury and abuse, as well as childcare health and safety programs.
- ★ Review the list of CAI's legislative priorities currently pending at the state and federal levels (see www.caichildlaw.org) and express support to your elected officials.

For information on these opportunities, please visit CAI's website at www.caichildlaw.org, email us at info@caichildlaw.org, or call us at (619) 260-4806.



