

# Children's Advocacy Institute

## 2009 Annual Report







*The 2009 CAI Annual Report  
is dedicated in memory of  
Sol and Helen Price.*

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This annual report covers the activities of the Children's Advocacy Institute between January 1, 2009 and December 31, 2009.

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# Executive Director's Message



**Robert C. Fellmeth,**  
Executive Director  
Children's Advocacy Institute  
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## *The Status of Children in Today's Society*

The state endured its fourth year of profound malaise in 2009, with worse anticipated for 2010–11. The state Legislature yet again enacted a tardy and dishonest budget applicable to 2009–10 that projects to almost \$20 billion in deficits for fiscal 2010–11. The continuing dysfunctionality means little legislative progress for children is likely in 2010. And for the fiscal year starting on July 1, 2010, we will no doubt see even more draconian cuts to child care, child health, and basic safety net protection for impoverished children.

Indeed, beyond the devastating prospect of cuts, any measure that costs anything at all, even if leaving hundreds of millions of federal monies on the table for other states, or even if saving state public general fund dollars over a three- or five-year period, are all precluded. The Legislature's "Suspense File" process shoves any bill costing public funds into a special category in the Senate and Assembly Appropriations Committees. There, almost all measures fail to obtain a vote. Like MacArthur's famous requiem for generals, they don't die, they just fade away.

**The Greatest Generation survived a depression, fought a world war against three major military powers, rebuilt Europe, and profoundly invested in its children—creating an infrastructure of transportation, parks, water development, generously provided safety net for children, and public education that was the envy of the world. We, their children—today's Boomer adults—are not passing it down the line.** Our legacy appears to be the disassembling of this historical commitment to children. California reflects some of the hallmarks of this self-indulgence—a jurisdiction whose adult

generation has gained uncommon wealth and comfort from the investment of our predecessors. The manifestation of generational self-indulgence has taken many forms:

- Child poverty is increasing and the public safety net is being withdrawn in a *seriatim* pattern of strangulation. One generation ago, the basic safety net of Temporary Aid to Needy Families (TANF) and food stamps approximated the federal poverty line in California; it has since fallen to now approach 50% of that benchmark. The federal poverty line itself represents less than one-half of the California Budget Project's calculated "self sufficiency" budget for California.
- California has one of the lowest levels of participation in federal food stamps in the nation—as its state government gives those who need food help little priority—even when the funds to provide it are entirely federal.
- The political campaigns starting at the end of 2009 feature Republican Gubernatorial candidates who are billionaire Boomers threatening to eviscerate the meager TANF safety net remaining. They apparently do not understand (or care) that not only are the levels record lows, but parents are barred from help for themselves or their children unless they are looking or preparing for work—and parents face a five-year lifetime limit on help. And they will not mention in their demagoguery that 75% of the recipients are children, or that most of the parents are working or looking for work in a *bona fide* fashion. Nor will the media—now dominated by five-second sound bites and celebrity reporting—likely call them on their deceit and hypocrisy.
- Child care assistance will be cut in the final Gubernatorial 2010–11 budget proposal radically. This is the Governor who sponsored an initiative to increase after-school child care. The needle in our political spectrum has moved into the extreme



“self-indulgence” side, especially for older adults. Assistance for young, working poor families with children is especially lacking. Ironically, many of these folks followed the rules and are now working and need child care help to keep working, or to find a job in a state with double digit unemployment.

- Despite the passage of federal health reform legislation in early 2010, almost one million California children lack basic health care coverage, while coverage for the elderly (who cost seven times as much each) is universally assured. Indeed, the state General Fund was unable in 2009 to provide even the **one-third** state match for new child enrollment in Healthy Families, and has had to expropriate funds intended for other purposes—including the fund approved by voters to help children ages 0 to 5. For families whose children remain uncovered, this means little preventive care and reliance on emergency room care—with billing at three to five times the cost paid by private and public insurers. An operation and short stay in the hospital means financial ruin for working poor families. Taking a child in for treatment continues to feed the largest source of personal bankruptcy in the state—collection of medical bills.
- K–12 education investment is in sharp decline. The state has dropped to 47<sup>th</sup> among the 50 states in per pupil spending—and class sizes now fall to 49<sup>th</sup>, with thousands more teacher lay-offs threatened.

- Higher education fees and tuition are at record levels as state officials, eschewing evil “tax increases”, make an exception by increasing higher education tuition (as well as increasing fees for child care and foster care licensure). Federal Pell grants have now fallen to a small fraction of annual tuition. College kids now graduate with unprecedented debt. The State CalGrant system has similarly not kept pace with higher education costs for the students covered. And symptomatic of the overall malaise, higher education capacity is being slashed. Fewer youth will have a chance at college, at any cost. Once the pride of the nation, the state’s public and higher educational systems have declined markedly.

All of the above are apart and beyond the promised evisceration of public investment in order to close a budget gap now reaching \$20 billion per annum. Reciting these developments in repetition of previous warnings risks the appellation of “chicken little” false alarmism. Except that the sky, while it has not fallen, is in point of fact demonstrably darkening for children.

The federal stimulus package protected the state somewhat in 2009. But it is not in prospect for the last half of 2010 or for 2011. And even as to remaining federal matching funds in accounts for safety net and health coverage, will the state be able to provide its share? That is increasingly in doubt.



But it is more than an immediate problem. It is an extended and evolving failure of generational performance—an unprecedented accumulation of obligation by one generation for its care and comfort imposed on those who follow it. Former U.S. Comptroller General David Walker published a book in 2009, *Come Back America*. Much of its data is regrettably confirmed by non-partisan sources. Medicare, Social Security, and the federal budgetary debt are now projected to total over \$50 trillion in unfunded liability for the next generation—those now being born. Rather than diminishing it, he projects that we are adding \$1 trillion a year to that daunting total. And it now appears that his numbers have been overly conservative.

employees, and city and county personnel. The City of San Diego alone has a \$2 billion unfunded public pension liability. Teachers and special district employees, and even utility retirees have piled up substantial pension deficits for our children to pay. Many public employees are now able to retire at age 55—or younger—at full salary. The demographics not only of longer lives, but of smaller families, means that far fewer young will be available to support a relatively larger population of our elderly.

The related problems of the Southern European welfare states (Greece, Spain, Italy, Portugal), politically dominated by public



We have promised the current group of elderly a set of benefits that vastly exceed their contribution to its financing. California is perhaps the worst offender nationally; it has added to the national total of \$50 trillion owed to the two major elderly accounts and the budget deficit additional sums at the state and local level. Through the ubiquitous “defined benefit” format of current public pensions, California adds to the nationally determined total with high unfunded liability for state workers, school district teachers and

employee unions, may well presage our own fate. Indeed, how ironic it is that the major source of current security for the United States, as our obligations begin to mount, is the full faith and credit from the People’s Republic of China, a totalitarian regime. Our officials rightly warn of the pitfalls of dependency on Middle Eastern nations and the OPEC cartel, but less attention is paid to our supine posture before a communist regime with nuclear weapons—that is now our largest national creditor.



What is the scale here of deficits and unfunded obligations? How much is \$50 trillion—a conservative projection given the power of the organized elderly and advances in joint and organ replacement, and in extended life, and our exclusion of public employee pensions? One trillion is substantially more than one million dollars deposited every day from the time of Christ to the present. To carry this understated sum of \$50 trillion at a modest 4.5% (not to pay any of it off), our grandchildren will have to pay over \$20,000 per family in current dollars. That is almost one-half of median family income before taxes. Although Nobel Economist Samuelson is talking about it, few others are. In fact, the problem has been clouded by the anti-government, anti-deficit demonstrations of the “tea party” movement, which has contaminated this legitimate and compelling critique with demagogic ramblings, class warfare rhetoric and tribalistic partisanship.

Even if the media were attuned to a problem that is gradual and long range, political influence factors favor the elderly. At the federal level, AARP spends 28 times as much on lobbying as do all child advocates combined (\$28 million versus just under \$1 million). The elderly vote heavily, and the median age of large campaign contributors is over 68 years of age.

Instead of taxing us at levels approaching those contributed by our parents, we Boomers in California are complaining about our rather average burden, including property tax levels that are among the lowest in the nation. And to exacerbate the disinvestment, those property taxes are slanted to allow our adult generation a cross-

subsidy from the young. Those property taxes are an *ad valorem* tax (Latin for a tax on market *value*). But we have substantially frozen real property at just above 1977 levels for us older folks, while assessing those who start new businesses or buy new homes at current market rates. That means that the young commonly pay five or ten times what Boomers pay in taxes for the same public services. The Proposition 13 limitation of taxation to 1% of a property’s value is not the problem—instead, it is how it is assessed on dishonest market value bias, taken by one generation from the next. This practice stands as a rather naked violation of the American tradition of fairness and intergenerational equity. The exploitation of our young by the Boomers in our state is not only unquestioned, any criticism of the arrangement is considered political suicide—and that judgment is one of the few bi-partisan agreements extant.

California represents one of the wealthiest jurisdictions on earth. It is locked into paralysis borne of a deep and abiding generational flaw, and of three antidemocratic structural problems that exacerbate it: (1) both parties have gerrymandered the state to minimize competition, concentrating anti-state zealots in about 20% of the state’s legislative districts; (2) unlike 47 other states, California requires a two-thirds vote to enact a budget; and (3) the Republican caucus, curiously eschewing their “individualism” ethic, adopted a rule binding all to vote with its majority. Hence, 18% of the most radical representatives block child investment—a greater affront to democratic values than the often criticized 40% required to block action in the U.S. Senate.

The sacrifice here demanded of California's adults is trivial compared to our parents' performance for us. The state can select from a relatively painless menu: tax corporations at a level typical of other states; eliminate corporate tax avoidance through locational dishonesty; tax alcohol at the level other states commonly assess; restore the longstanding 2% vehicle license fee improvidently reduced after more than 20 years and producing \$5 billion per annum we are now losing; and/or examine closely the nearly \$50 billion in tax credits, deductions and exemptions that currently exist (which are not examined annually—or ever—and require a two-thirds vote to end). Want more options? Apply sales taxation to professional services; tax internet sales and allocate to states; and/or reform property taxation by assessing all property at actual value—perhaps reducing the 1% of value tax limit to 1/2 of 1% in the bargain.

Importantly, the 2001/2003 federal tax cuts gave California's wealthy class \$37 billion per year in additional income. Some combination of the measures listed above to recapture about one-third of this amount would retain most of the tax subsidy while (a) eliminating the state deficit; (b) allowing the state to capture federal matching funds otherwise foregone; (c) restoring safety net protection and educational opportunity; (d) medically covering the state's children (as every other civilized nation accomplishes); and (e) allowing spending decisions to be made at the state level consistent with stated conservative principles of federalism.

But the problem is more complicated than the structural ability of a small minority to determine allegedly democratic outcomes. The Republican philosophy does have some important messages to impart about the limitations of government, the importance of outcome measurement and accountability of agencies, the need to use market and self-regulating forces rather than "top down" dictation of policy by public authority, the tendency of Democrats to sequentially expand a social service establishment by hiring more and more public employees, and the failure to demand personal responsibility.

The last element purportedly a part of conservative concern includes the most momentous decision human beings make—to create a child. That message is in particular order where unwed births rise from levels of 8% a generation ago to 40% today—with most of the involved children living in poverty amidst a collapsing safety net. Interestingly, the children of married couples live in families with median incomes well above \$50,000, not 50% more or double, but about five times the family income of their contemporaries born to unwed mothers. The poverty from unwed births is driven by improvident sexual license, contraception ignorance, and paternal abandonment. Absent fathers of such

children pay an average of less than \$60 per month per child, and almost half of that money goes to state/federal accounts as TANF compensation. Regrettably, it is considered politically incorrect to talk about such things by both parties.

But the Republicans have largely surrendered these laudable principles. Instead of a partnership for children, where they back child investment conditional on this list of defensible principles, they have surrendered them in order to win from Democrats an ongoing public disinvestment in children. They dare not offend the elderly—the welfare state there is sacrosanct. Personal responsibility is not demanded—they will just remove the safety net for the kids. And people do not pay their own way, they steal from those who follow. There has been an implicit deal struck that allows each party to essentially sacrifice its laudable pro-child agenda in return for the excision of the other party's counterpart. There has not been a "contract with America" by public officials, but an undiscussed "contract on California's children" by both parties.

### *CAI's Work During 2009*

Faced with these difficult political conditions, what has CAI been doing? One key activity has been working on media relations and trying to stimulate public coverage of child issues. In this effort, we need to be much more effective and successful, and the current collapse of newspapers and the rash of journalist firings reduces our most potent arsenal—detailed journalistic exposés that the Price Child Health and Welfare Journalism Awards organization honors annually for effective child coverage.

We did have some modest successes and additional opportunities for 2009, and we outline those in some detail in this Annual Report—but do not be misled. The children of California and this nation are in trouble.

On the positive side, we have seen an increase in the number and dedication of our students, many of whom tell us they decided to attend USD because of CAI. Our Child Rights and Remedies class has a bumper crop of child advocate future stars. Those signing up for the 2010 program make up the largest set of applicants in our history—with 53 of the entire class of 290 seeking entry. And most of them will participate in intensive clinics representing abused children in dependency court and/or accused youth in delinquency court, or participating in our policy advocacy work.

Statewide, we performed our third year of training for new dependency court attorneys (those representing the county, parents and children) under the federal Children's Justice Act grant. In



this final year of this grant, we brought together leading scholars and practitioners who provided 20 hours of live training for new dependency court counsel in Sacramento and San Diego. To date, the program has trained over 500 new juvenile court attorneys throughout the state.

We have selected as legislative and litigation goals the protection of foster children—the 77,000 children who have been removed from their homes due to abuse and neglect. These children have had judicially determined unfit parents. The court (the state) has become their parent. Choosing this child-related issue as our primary focus is based on three factors: (1) these children are in a system where largely gratuitous confidentiality shields the system from democratic accountability; (2) CAI is part of a law school well suited to examining the legal system enmeshing them and has direct access to the courts and these children; (3) these children are among our most vulnerable and are now parented by the state—and in a democracy such as this, that means each of us is personally responsible to each and every child in foster care. CAI is focusing on four major deficiencies in the child welfare system:

- First is a failure to engage in prevention, which properly includes laying down the gauntlet of personal responsibility and reducing unwed birth rates and the related problem of paternal child support failure; implementing meaningful parenting education in middle or high schools; and addressing 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 \$5,000 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. The number of children in non-kin family placements has fallen from 16,000 to 6,666 from 2001 to 2009. 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, foster children are given short shrift in the judicial proceedings that determine their fate. They are often not even present when decisions are made concerning where they are to spend the remainder of their childhood. In California, they are usually given attorneys (a right CAI has worked hard to assure), but in most of the state's judicial districts counsel is effectively removed in the critical appellate proceedings when the county or parents appeal. And the caseloads of attorneys are two to three times levels that would allow for minimally competent representation. The leading *Kenny A.* federal case indicates the more than 100 children per attorney jeopardizes the 5<sup>th</sup> and 6<sup>th</sup> amendment rights of these child clients. Many counties in California (including San Diego) have caseloads double and triple that standard, and even higher—caseloads that preclude counsel from talking with their clients except in *pro forma* fashion in many cases. These confidential judicial proceedings, so important to the child parties involved, also suffer from judicial caseload excess. Courts, serving as the legal parents of these children, should not have more than 300 children before them at any one time. Many have over 1,000.
  - Fourth, when youth age out of the foster care system at age 18, they are essentially abandoned to the streets by the state. On average, a typical young adult does not achieve self-sufficiency until age 26, and that's with private parents giving a median of \$44,500 to their children after the age of 18 to assist them achieve that 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 2009 to address these areas. One of our highest priorities is tackling the fourth issue listed above—namely, improving outcomes for youth who age out of the foster care system by improving the resources and services provided to them by the state. Continuing our efforts funded by The California Wellness Foundation, CAI recast its Transition Guardian Plan into the Transition Life Coach (TLC) proposal,

using terminology that garners more positive responses from the target population.

The TLC plan replicates what competent private parents do for their young adult children. When a foster youth is 16, he, his attorney, his social worker, and the court would develop a plan for self-sufficiency as an adult. The court would appoint a trustee or “coach” to help monitor the youth’s progress, and would give the coach the authority to administer a fund for that youth equal to at least the median amount private parents devote to their children post-18 (now approximately \$50,000). During 2008 CAI had secured the clarification of the law on this point (AB 3051, Jones), explicating the right of juvenile courts to make “orders or appointments” relevant to funds for dependent children, including those youth after aging out at 18. CAI then directed its focus toward identifying funding sources for the TLC plan, one of which might be the Mental Health Services Act (Proposition 63), which collects \$1.4 billion annually. The Act makes prevention of mental illness a high priority, and specifically references the transition to adulthood (from age 16–25) as an area of special concern. CAI contends that no population warrants this kind of investment more than foster children, given their vulnerable profile, outcome measures in terms of suicide, homelessness, arrests, and status as the state’s own legal children.

Although disappointed that state officials will not cooperate in allocating the 8% of Proposition 63 money necessary to fulfill this seminal obligation to these children (which would hit the median provided by private parents for all of them), we are trying to obtain local Proposition 63 funding for a pilot project in San Diego County. We have obtained the written endorsement of the previous and current presiding judges of juvenile court—who will be the key arrangers of this help (Judges Huguenor and Bashant). We have obtained endorsements from leaders throughout the community: former Sheriff Bill Kolender (formerly on the state Proposition 63 Board), former Mayor Susan Golding (now executive director of the San Diego Child Abuse Prevention Foundation), District Attorney Bonnie Dumanis, and others. And we have prepared a report written by our Melanie Delgado that reviews Proposition 63 spending on emancipating foster youth—county by county, grading them, to be released in early 2010.

During 2009, CAI also continued our efforts to increase foster family home rates. Despite two compelling reports released in 2007—a CAI report on the state of family foster care compensation and supply entitled “They Deserve a Family” and a report entitled, “No Family, No Future,” by the County Welfare Directors Association of California and Legal Advocates for

Permanent Parenting, documenting the decline in family foster care supply—legislation that would have increased these rates failed that year in the Legislature, falling prey to the “suspense file” mechanism discussed above. 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 pro bono counsel from one of America’s premier law firms, Morrison & Foerster.

Our 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 our 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 number of family foster care placements in the state fell from 15,000 to below 5,000 from this constriction between 2001 and 2010. During late 2008, U.S. Federal Court Judge William H. Alsup granted partial summary judgment to the plaintiffs. His order supported the theory of CAI’s case and declared the state in violation of federal standards. The case, described in more detail on the CAI web site, has been appealed by the state and is now before the Ninth Circuit Court of Appeals.

During 2009, CAI also addressed the third foster care deficiency listed above. We filed suit in U.S. District Court for the Eastern District of California in *E.T. v. George*. The case seeks to establish the clear constitutional right of foster children subject to state custody and control, to counsel, and those counsel to caseloads allowing them to satisfy due process standards and comply with federal law on the duties of a “guardian ad litem” (a function of these attorneys).

Caseloads for attorneys with Sacramento Child Advocates Inc., the firm that provides this representation in Sacramento County, exceed 380 children for some attorneys. We expect a difficult struggle in our litigation because we filed against the state court system itself—in California it is the Administrative Office of the Courts controlled by the Supreme Court, that arranges for representation of relevant dependent children in juvenile court and funds them, determining their caseloads. Those state appellate justices understandably enjoy the strong empathy of many of their federal counterparts. But this issue will be brought forward, and pressed to the Ninth Circuit and beyond. These children are truly dependent on the state for everything, and they deserve attorneys with caseloads that reflect their importance and allow for their effective representation. The decisions of the state made before these courts are binding, and will be in many cases the most important events in the lives of these children.



Although one of CAI's high priority bills won initial passage by the Legislature during 2009, it was vetoed by Governor Schwarzenegger. AB 921 (Jones) was an extremely modest measure that would have simply required that foster kids who end up on the delinquency side when they hit 18 be given information about their right to access transitional help available to other dependency kids. The idea here is simple: the dependency court is the legal parent, and if your kid gets into trouble, you may punish him or her, but you do not walk away. In vetoing this measure, the Governor cited the extra expense of simply providing information that would help these kids—the state's own legal children.

In addition to our work on foster care issues during 2009, CAI also worked on several child health-related and child care issues, including the following:

- CAI continued to encourage the Legislature to provide health care coverage to all of the state's children. 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 one in which all kids are covered, and for the few who incur high treatment costs, parents are billed on a sliding scale *post hoc*. This new system would not make more people eligible for health care services, it would simply give all those who are eligible access in an efficient manner. Those who are ineligible would have to pay on a sliding scale, just as they do now, but would do so after treatment.
- 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 researched these questions, receiving over 600 survey responses from nurses and education professionals. CAI released Shelly's findings during early 2009 at a panel presentation before the Children's Roundtable in Sacramento and in the published report: *The Health of California's School Children: A Case of State Malpractice*.
- CAI attempted once again to enact legislation ensuring that foster youth have assured medical coverage after they age out of the child welfare system. Although guaranteed in theory, their coverage has been limited by unnecessary paperwork allowing their arbitrary excision from coverage. Our legislation to resolve the problem failed in 2008 and 2009, but will be reintroduced in 2010.
- CAI's Homeless Youth Outreach Project continues to provide homeless children and youth with legal services and related

assistance. Under the direction of CAI Staff Attorney Kriste Draper, our 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.

- CAI wrote an *amicus curiae* letter in the *Brandon S.* case, urging the Supreme Court to review this improvident decision by the Second District Court of Appeal, which misinterpreted a statute CAI sponsored a decade ago to provide an alternative to insurance coverage for family foster care providers. Homeowners' insurance historically excluded any coverage of foster children from the policies of these families. Needing some coverage to encourage families to take these children into their homes, CAI's measure created a special state fund to provide it. It was working fine until the Second District erroneously interpreted a standard exclusion in the law we helped to write. The provision at issue states that, like insurance in general, this fund will not cover deliberate tortious acts of the policyholder; we do not want to stimulate harm from such intentional acts by providing the perpetrator with knowing indemnification. This is not unusual. But the Second District expanded the exclusion to deny coverage if the loss arises out of any intentional act by any person, including a neighbor or a third party unrelated to the policyholder. In other words, the exclusion pretty much swallowed the coverage. Regrettably, the California Supreme Court did not vote to review this error and CAI will be working in 2010 on a correction to the statute in accord with its intent.
- CAI commented on various rulemaking proceedings, including the Department of Social Services' implementation of legislation CAI co-sponsored in 2007—SB 39 (Migden), which substantially increases public information relevant to deaths and near deaths from child abuse or neglect. Beyond California, CAI worked in 2009 at the national level, including the following:
  - CAI participated on a panel presentation on impact litigation at the annual conference of the National Association of Counsel for Children in Brooklyn. CAI Staff Attorneys Melanie Delgado and Christina Riehl joined yours truly on the panel and in authoring the conference publication chapter on the subject.
  - CAI's Ed Howard and our Morrison & Foerster colleague, Rick Ballinger, presented a session on our *California Foster Parents Association v. Wagner* case at the 2009 American Bar Association (ABA) Conference on Children in Washington, D.C.
  - CAI joined with First Star to release a national report analyzing the performance of the 50 states in the provision of competent counsel for abused and neglected children in



dependency court. The report, *A Child's Right to Counsel—A National Report Card on Legal Representation for Abused and Neglected Children* (2nd Ed.), was released at a press conference held in the U.S Capitol in October 2009.

- CAI also assisted in developing a model act for dependency court attorney representation for ABA consideration.

### ***Looking Ahead to 2010***

In addition to working on the specific issues discussed above (e.g., implementing the TLC pilot project in San Diego, continued work on CAI's two pending federal lawsuits, etc.), CAI's plans for 2010 include:

- The retention of an attorney-advocate to work on federal issues on behalf of CAI in Washington, D.C.
- Presentations at the Voices for America's Children 2010 Forum in Berkeley and the NACC national conference in Austin.
- A study of the law and policy in 12 states concerning the expropriation of monies directed to or belonging to foster children (bequests, survivor benefits, insurance, earned income, etc.) to

reimburse themselves for the cost of providing foster care.

- Sponsorship of bills, including the statutory corrections discussed above (reversing *Brandon S.*, providing for transition coverage of dual jurisdiction foster children, improved state child prostitution laws, easier qualification of foster kids to Medi-Cal coverage from 18 to 26 years of age) and legislation to protect homeless foster kids from collection harassment under specified circumstances.
- The monitoring of all child-related legislation, with appropriate written and testimonial support and opposition to bills that significantly impact California's children.
- Development of a Continuing Legal Education program in children's law relevant to practitioners in dependency, delinquency and family law to enhance the skills of attorneys for children.

Additionally, 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 Advocates' Roundtable, a network of over 300 organizations interested in children's issues. Created by CAI in 1991, the Roundtable meets monthly in Sacramento to provide a forum for child advocates to share information and plan advocacy strategy. The Roundtable's work in 2010 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 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.
- Commencement of impact litigation where warranted, as well as contribution of *amicus curiae* briefs in pending 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 as described above.
- Continued collaboration with the San Diego Juvenile Courts and the San Diego Office of the Public Defender aimed at improving the educational experience for children and youth involved in the juvenile court system; specifically, CAI will continue to recruit, train, and oversee responsible adults to act as Educational Representatives for children and youth involved in dependency or delinquency proceedings.
- Continued involvement with Voices for America's Children, where we serve as counsel to the Board. For example, CAI will co-host the annual Forum of Voices Chapters in Oakland in June 2010; executive directors and staff from over 40 state capitols are expected to attend, help each other in our respective state work, and plan national strategy.
- Greater involvement with the National Association of Counsel for Children (NACC), where yours truly now serves at the Chair of the Board, selected by my colleagues at NACC's 2009 national conference in Brooklyn. NACC selected a new president in 2009, Maureen Farrell-Stevenson, and we are working closely with her. Like CAI, NACC is interested in expanding its presence in national advocacy.
- Further collaboration with First Star, NACC, and the ABA toward the adoption of an ABA Model Act on child representation in dependency court.
- Continued efforts aimed at the creation of a Masters of Law Program in Child Advocacy, which would create a multidisciplinary educational opportunity for new law graduates and for veteran counsel who seek a career change in the service of children. On a related note, CAI will begin more extensive coordination with the Joan B. Kroc Institute for Peace & Justice here at USD; that cooperation will include development of curriculum materials on international child rights, and the participation of School of Peace Studies graduate students in the School of Law's Child Rights and Remedies course.

### *A Note of Thanks*

As always, we are grateful for the help of our friends and supporters, especially our CAI Council for Children, our donors, and our grantors. We are gratified to find a majority of the faculty of the USD School of Law contributing to our work from their personal pockets. 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.

As we look into 2010 and 2011, we are aware that we have lost both Sol and Helen Price. Their passing does not diminish our duty to represent their ideals for child representation—we now make up an important part of their legacy. And we have the difficult task of matching the many other elements of that legacy. All of us at CAI feel their presence, and what they would want us to do is our guiding lodestar.



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



# History and Purpose



Robert C. Fellmeth with Sol and Helen Price

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

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

CAI 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:

- they can practice law in Dependency Court, representing abused or neglected children;
- they can practice law in Delinquency Court, representing minors charged with offenses; and
- they can engage in policy advocacy at the state or federal level, drafting legislation, participating in regulatory proceedings, researching and writing in-depth reports, assisting in impact litigation, or working on a variety of special policy projects.

Individually, **each of these three distinct opportunities gives USD law students a unique perspective into the day -to-day demands, challenges and rewards of being a full-time child advocate, whether it be through direct child**

**representation in the Dependency or Delinquency clinics, or through high impact policy advocacy at the state or federal level.** When combined, CAI's clinical opportunities produce legal professionals who are trained and experienced at effectively advocating on behalf of children in every forum. Indeed, many graduates of CAI's Child Advocacy Clinic have become professional child advocates, and many others commit time to the representation of children's interests on a *pro bono* basis.

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.

Ongoing and past CAI publications include the *California Children's Budget*, an extensive analysis of past and proposed state spending on children's programs; 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 CAI Staff Attorney Kriste Draper, HYOP provides homeless youth with a clinic where they can receive legal assistance and related advocacy necessary to secure services to which they are entitled. 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. Funding to maintain HYOP

has generously been provided by Sony Electronics, Inc., the San Diego County Bar Foundation, the McCarthy Family Foundation, the BNSF Foundation, the Simon-Strauss Foundation, and others.

In 2008, CAI officially launched its new **Educational Representatives** program. For most children, their parents are their primary academic advocates, providing oversight, support, and intervention when necessary. However, many children—particularly those in the foster care and juvenile justice systems—do not have adults in their lives who are willing and able to appropriately guide their educational progress. Without appropriate help and direction, these children struggle in the classroom and are often academically left behind. Sadly, these children and youth are subject to higher drop-out rates and face disciplinary action at a much higher rate than their peers. With funding from the Cox Kids Foundation, Price Charities, and others, CAI has developed a program to recruit, train, and oversee adults who are interested and eligible to serve as Educational Representatives for local children in need. Educational Representatives are appointed by the juvenile court to represent a child in all aspects of his or her academic life.

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 CAI 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.

# 2009 Activities and Accomplishments

## **Academic Program**

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

### ***Child Rights and Remedies***

Students must complete Professor Robert Fellmeth's three-unit course, *Child Rights and Remedies*, as a prerequisite to participation in the Child Advocacy Clinic. *Child Rights and Remedies* surveys the broad array of child advocacy challenges, 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 committing various 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 2009, 27 law students participated in CAI's clinical programs:

- 14 law students (Shane Barrett, Phil Ciccarelli, Allison Fernandez, Mary Elizabeth Grant, Matt Heim, Jae Hyun Kim, Jessica Liu, Briana Monahan, Sarah Quinnear, Laura Sheppard, Jessica Springer, Aaron Stoessel, Kate Symmonds, and Lauren Yip) participated in CAI's Policy Clinic. Students worked on semester-long advocacy projects such as researching prospective litigation projects; increasing resources available to— and thus improving outcomes for — transition age foster youth; researching







"Bob Fellmeth and the Children's Advocacy Institute helped me to realize the power I had to create real change in the lives of people who are often unable to defend themselves because of circumstances beyond their control. I will carry, and always appreciate, the lessons I learned from my work with Bob and CAI for the rest of my career."

—**Kevin Cleveland**

*2010 Recipient of the James A. D'Angelo Outstanding Child Advocate Award*



"My participation with CAI changed the trajectory of my entire career. It made me realize the extent of suffering of children today and the need for a more holistic approach to healing children's trauma. As a result, I am now headed into the field of psychology and health to explore the mental, emotional, physical, and spiritual tools necessary for children to fully heal and recover from trauma."

—**Victoria Furman**

*2010 Recipient of the James A. D'Angelo Outstanding Child Advocate Award*



"Working with CAI was the most rewarding experience I had in law school. There is a direct link between my work for CAI and my current job as a special education attorney. In addition, my time at CAI helped reinforce my desire to be more active in shaping my community and helping others through both charitable work and advocacy."

—**Shelly Kamei**

*2010 Recipient of the James A. D'Angelo Outstanding Child Advocate Award*



"I deeply value the mentorship of Bob Fellmeth and the entire staff of the Children's Advocacy Institute. My experience taking Child Rights and Remedies and three semesters of Child Advocacy Clinic has become the important foundation for what I hope to accomplish in the field of child welfare."

—**Becky Wu**

*2010 Recipient of the James A. D'Angelo Outstanding Child Advocate Award*



"What children need and deserve isn't always what they get. The seriousness of that disparity was driven home through my CAI experience and that keeps me involved in the fight for the well-being of neglected and abused children. Being a part of an organization that has impacted the lives of so many children was tremendously rewarding and educational. My experience at CAI is the driving force behind my desire to continue to make a difference in the lives of abused and neglected children."

—**Lauren Yip**

*2010 Recipient of the James A. D'Angelo Outstanding Child Advocate Award*

and analyzing how jurisdictions deal with sexually exploited minors; researching state practices with regard to the interception and use of foster children's Social Security benefits; researching the over-detention of foster children and homeless youth in delinquency facilities; and research on a national report card analyzing state practices with regard to the appointment of attorneys for abused and neglected children and youth in Dependency Court proceedings.

- 8 law students (Phil Ciccarelli, Taleed El'Sabawi, Kevin Fard, Breeanna Fujio, Melody Gillis, Ryan Hamaguchi, Brenden Shaw, and Merhawit Tekle) 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 and CAI staff attorneys.
- 5 law students (Amanda Fuchs, Andrew Miazga, Grace Pineda, Elizabeth Rodriguez, and Karin Wahlstrom) participated in CAI's 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 and CAI staff attorneys.

### ***James A. D'Angelo Outstanding Child Advocate Award***

On May 15, 2009, 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 **Kevin Cleveland**, **Victoria Furman**, **Shelly Kamei**, **Becky Wu**, and **Lauren Yip**, for their exceptional participation in CAI's Child Advocacy Clinic.

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 children and youth. Their efforts contributed significantly to improving the health and well-being of countless children.

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 and Denise Golden Merit Award in Child Advocacy*

In 2004, graduating law student **Jessica Heldman** established the Joel and Denise Golden Merit Award in Child Advocacy, which is presented annually to 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 2009 recipient of the Joel and Denise Golden Merit Award in Child Advocacy was **Julia Davis**, in recognition of her willingness to use her knowledge, skills, and compassion to better the lives of San Diego's foster children. Julia's own words reflect the impact that she was having on abused and neglected children — and the impact that the experience was having on her:

"...I spent the fall of 2008 representing abused and neglected children at the San Diego Public Defender's office through the Dependency Clinic offered at USD. Specifically, I worked with the foster youth who were in juvenile hall because they had been charged with crimes and were awaiting a trial to determine if they would stay in the dependency system or move to the delinquency system.

I loved everything about working with these "dual jurisdiction" kids. These foster youth were going through a critical time in their lives without the guidance of a parent. I am forever grateful that I had the opportunity to work with them and be exposed to the

intricacies of this area of law..."

—**Julia Davis**

*2009 Recipient of the Joel and Denise Golden Merit Award in Child Advocacy*



## **Advocacy, Research, and Publications**

### *Legislative Activity*

**CAI 2009 Legislative Priorities.** CAI sponsored two measures during the 2009 legislative year:

➤ **AB 921 (Jones) would have ensured that foster youth who are transferred from the dependency (foster care) courts to the juvenile delinquency court system, are made aware of their rights to transitional living assistance services.**

Specifically, the measure would have required the juvenile court, whenever it terminates jurisdiction over a ward, or upon release of a ward from a non foster care facility, who was at any point

previously adjudged a dependent child of juvenile court, to order the probation or parole officer to provide the ward with (1) a written notice stating that he or she is a former foster child and may be eligible for the services and benefits that are available to former foster children through public and private programs, including, but not limited to, any independent living program for former foster children; and (2) information on the availability of, and assistance to enable the person to apply for and gain acceptance into, federal and state programs that provide independent living services and benefits to former foster children.

AB 921 was passed out of the Assembly and Senate without receiving a single "no" vote. Other organizations that supported AB 921 included the California Coalition for Youth, the California State PTA, the Family Law Section of the State Bar, the John Burton Foundation for Children Without Homes, the Junior League of California, and Legal Services for Prisoners with Children.

Regarding AB 921's fiscal impact, the Senate Appropriations Committee staff determined that "[t]he scope of this bill is prodigiously narrow and, thus, the mandate on county probation officers (if deemed reimbursable) is unlikely to reach \$50,000." The

Committee staff further noted that it is "extremely unlikely that implementing the bill's provisions could take more than one hour of a county probation or parole officer's time, for each ward." Regrettably, however, Governor Schwarzenegger vetoed AB 921 on October 12, 2009, stating that "[g]iven the state's severe economic climate and the social services reductions being implemented, it is not prudent to expand requirements imposed on state and local governmental programs."

➤ **SB 114 (Liu).** Because former foster youth move frequently and are often homeless, otherwise routine paperwork requirements often cause severe problems for this population, and in fact result in many former foster youth between the ages of 18 and 21 losing their Medi-Cal health care coverage. If the youth does not receive the form, does not return the form or cannot be reached by a county welfare office, Medi-Cal terminates even though that youth categorically qualifies for coverage. When former foster youth lose the health care coverage to which they are entitled, many go to emergency rooms instead, negatively impacting health care service delivery and costs.

**SB 114 would have required the Department of Health Care Services (DHCS) to ensure that there is no interruption in Medi-Cal coverage for an independent foster care adolescent**



**who was in foster care on his or her 18th birthday.** The bill would also have required DHCS to develop and implement a simplified form for the purposes of annually redetermining independent foster care adolescent eligibility, which the individual would return only if his or her information had changed. The bill would have provided that failure to return the annual redetermination form could not be the only reason to terminate Medi-Cal benefits to the individual, and would have specified that benefits may be discontinued only after DHCS established ineligibility.

CAI co-sponsored SB 114 with the Alliance for Children's Rights, the County Welfare Directors Association of California, and

Western Center on Law and Poverty. Other groups that supported SB 114 included the American Federation of State, County and Municipal Employees, the California Medical Association, the California Nurses Association, the California State Association of Counties, the Chief Probation Officers of California, the City and County of San Francisco, Health Access California, Legal Advocates for Children and Youth, Public Counsel Law Center, and Youth Law Center.

The Senate Appropriations Committee's analysis of SB 114 estimated that approximately 500 to 700 young adults would retain coverage as a result of the passage of this bill, and there would be some offsetting administrative cost savings due to reduced churning of eligible beneficiaries. The annual additional costs, at \$113 per member per month for managed care enrollees and at \$60 per member per month for fee-for-service enrollees, were estimated to be between \$440,000 and \$615,000 annually, commencing April 1, 2010. Medi-Cal costs are generally split 50/50 between the federal government and the state general fund (although as a result of the passage of the American Reinvestment and Recovery Act, the federal share is 62% from October 1, 2008 through December 31, 2010). Thus, after December 31, 2010, SB 114 would have incurred state general fund costs of no more than \$307,500 annually (50% of \$615,000). Despite its minimal fiscal impact and its significant potential benefit for the health and well-being of hundreds of former foster youth, the Appropriations Committee held SB 114 in its suspense file, effectively killing the measure without having to publicly vote on it.

In addition to the two bills that it sponsored during 2009, CAI supported several other measures, including the following:

- **AB 938 (Assembly Judiciary Committee)** requires a social worker, when a child is removed from the home, to conduct, within 30 days, an investigation, as specified, in order to identify and locate all grandparents, adult siblings, and other adult relatives of the child, in order to provide, except when that relative's history of family or domestic violence makes notification inappropriate, those persons with specified information, including that the child has been removed from the custody of his/her parents or guardians and an explanation of various options to participate in the care



and placement of the child, as specified, and to report to the court at the initial petition hearing regarding that effort. Among other things, the bill also requires the Judicial Council to develop a relative information form that would provide information regarding the needs of the child, and would include a provision whereby the relative may request the permission of the court to address the court. AB 938 was passed by the Legislature and signed by the Governor on October 11 (Chapter 261, Statutes of 2009).

- **AB 719 (Liu)**, among other things, requires the Department of Social Services (DSS) to create a “transitional food stamp for foster youth” program for independent foster care adolescents, regardless of income and resources, who are not eligible for CalWORKs or Supplementary Security Income program benefits. AB 719 was passed by the Legislature and signed by the Governor on October 11 (Chapter 371, Statutes of 2009).
- **AB 1393 (Skinner)** requests the California Community Colleges and the University of California (UC), and requires the California State University, in order to ensure stable housing for current and former foster youth, to give priority for campus housing to current and former foster youth with first priority for housing open for uninterrupted year-round occupation and next priority for housing open for occupation most days during the calendar year. The housing priority for foster youth as it concerns the UC, would only apply for residence in housing facilities for which the foster youth are eligible. AB 1393 was passed by the Legislature and signed by the Governor on October 11 (Chapter 391, Statutes of 2009).
- **AB 743 (Portantino)** would generally require California to place siblings together when they have been removed from their parents or guardians unless that placement is contrary to their safety or well-being pursuant to the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act). AB 743 is a two-year bill still pending in the Legislature at this writing.
- **SB 654 (Leno)** would extend eligibility for Independent Living Program services to former foster youth placed with a nonrelative legal guardian, whose guardianship was ordered on or after the child’s eighth birthday. SB 654 is a two-year bill still pending in the Legislature at this writing.

***Children’s Legislative Report Card. For the first time since it started issuing annual legislative report cards in 1997, in 2009 CAI was unable to individually grade members of the Legislature for their performance during a legislative year.***

In reviewing the child-friendly bills introduced and passed by the legislature during 2009, it was impossible for us fairly to grade each member. **While many bills had and have merit, both the number of them and their ambition were insufficient to warrant gradations between legislators.** We tried. We ran sample grades based on the most child-supportive bills and we simply could not come up with grades that reflected a comparative contribution to a meaningful result that helped California’s children. The paucity of such bills meant that missing a single vote had disproportionate effects on a grade. While sometimes members will intentionally not vote on a measure (which has the parliamentary effect of a negative vote), sometimes they miss a vote because they are legitimately and temporarily indisposed, and may well know the margin does not require their vote. This is especially true late in the session, when the votes come fast and furiously. Typically, this is statistically smoothed over by a cluster of votes for a large number of child-friendly bills. But not this year.

Key to our decision to offer no grade was sympathy—perhaps misplaced—for members who did not introduce more ambitious bills in a year when devastating and historically record-setting cuts to the social safety net were the order of the day. It is hard to fault an individual member for failing to introduce bills he or she knows cannot get enacted. It is therefore hard to grade individual members based on a slate of bills that reflects their individual decisions not to introduce bills of greater child-improving ambition.

Hence, CAI gave the Legislature as a whole a grade of “Incomplete.” And since any democratic institution holds its controlling membership accountable for its final performance, each member properly received an “Incomplete.” We hope to see more ambition and fortitude from our policymakers during 2010, but early indications are not encouraging.

### ***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. To that end, CAI 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 2009, CAI continued to work on its 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 fail to adequately reimburse foster parents for necessities as required by federal law.

In 2008, the average assistance per child paid to licensed foster parents was 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.

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%.

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. Many of the 10,000 children who were in family foster homes in 2001 but are now in other placements are in group homes at \$5,000 per month each. An increase in family foster rates from \$530 to \$800 a month

would restore many of those family home placements and enhance supply for the ideal scenario—competition among prospective homes for each child. If supply is restored, only 400 children (5% of the enhanced supply) moved from the group home alternative pays for the entire increase. After that, it is relative profit for the state. That the state pays more money out-of-pocket to put kids in institutional settings where outcomes are demonstrably worse appears to be a sad testament to mathematical incompetence.

The record in this case documents—through state official deposition admissions, expert reports, and uncontested data—the state's failures to (a) monitor costs and (b) pay close to the out-of-pocket costs of care for the state's own children. In late 2008, U.S. Federal Court Judge William H. Alsup granted partial summary judgment to CAI's clients. His order supported CAI's theory of the case and declared the state in violation of federal standards, stating the following:

The record in this case indicates that California's rates are not based on the [federal] statutory criteria; in fact, it indicates that California has no mechanism in place to ensure that it is meeting that federal obligation. It does not track foster care costs; it does not analyze the adequacy of its rates; and it has no mechanism for making adjustments to rates that may be needed.

In January 2009, the state appealed the District Court's decision to the Ninth Circuit Court of Appeals. **The appeal has been briefed and argued, but at the time of this writing the Ninth Circuit decision had not yet been issued.** While the appeal was pending, the District Court considered the plaintiffs' motion for attorneys' fees, and in December 2009 granted that motion in the amount of \$926,797.12.

**Dependency Counsel Caseload Litigation.** In July 2009, CAI and pro bono co-counsel Winston Strawn filed a class action in U.S. District Court for the Eastern District of California, alleging that the caseloads shouldered by attorneys for abused and neglected children—which in Sacramento can reach nearly 400 cases per attorney—violate numerous federal and state laws, including the right of the children to effective assistance of counsel. The federal class action alleges that the Administrative Office of the Courts of the Judicial Council, which funds and manages Sacramento's program, has created a system which requires caseloads to swell far past the Judicial Council's own recommended maximum of 188 children per attorney. As a consequence, the Sacramento lawyers who represent abused and neglected children are, according to the suit, unable adequately to perform even the minimum tasks required of such counsel



under law and in accordance with the American Bar Association's standards.

Dependency court proceedings have enormous consequences for children. During the pendency of a case, the court makes life-altering decisions such as whether a child's relationship with one or both parents will be severed, where and with whom the child will live, and whether the child will live with or see his/her brothers or sisters.

The District Court granted the Defendant's motion to dismiss the case based on the theory that because state court is the parent for foster children, the federal court cannot exercise jurisdiction over their complaints. At this writing, CAI is currently in the process of appealing the case to the Ninth Circuit Court of Appeals and will be securing *amicus curiae* support from several advocacy organizations.

***Amicus Curiae Activity.*** In July 2009, CAI filed an *amicus curiae* letter brief to the California Supreme Court, urging it to grant the petition for review in *Brandon S. v. State of California ex rel. Foster*

*Family Home and Small Family Home Insurance Fund*, which concerns coverage by the Foster Family Home and Small Family Home Insurance Fund. CAI has long monitored the supply of foster family homes and is well familiar with the important disincentive from participation that flows from what is currently an effective private insurance boycott of coverage for these providers. In fact, current homeowner and other policies are increasingly strict in excluding any possible liability involving foster care. As a result, a crisis developed in the mid-1980s, with many licensees threatening to leave the field. That crisis led to the passage of legislation in 1986 creating this stop-gap fund that is here at issue.

The case at issue concerns a stepson who molested a foster child (Brandon) as the result of alleged negligent supervision by the foster parents subject to the Fund's coverage. The opinion looks at Health and Safety Code section 1527.3—the section of the relevant statute listing what is excluded from coverage. The Court of Appeal looked at section 1527.3(a), which excludes from coverage any loss arising out of a dishonest, fraudulent, criminal, or intentional act, and concluded that this language means that if any such act is implicated in the alleged wrong—regardless of whether



that act was committed by the insured or by somebody other than the insured—coverage is denied.

In its *amicus* letter, CAI explained that the court below read subsection (a) out of context and without an understanding of its rationale. CAI noted that the eight exclusions listed in section 1527.3 are properly reviewed *en toto* prior to interpreting any of them. Each of these subsections pertains to the foster parents who are covered—not to third parties.

CAI noted that the lower court’s misinterpretation effectively forecloses Fund coverage unless there is no criminality (broadly defined), dishonesty, or intentional act involved in the causation of an injury—and not just by the policyholder, *but by anyone at all*. It is unclear what is left for such a Fund to cover, and why the Legislature would bother to create a Fund without a likely recipient. Certainly the entire concept of negligent supervision, the obligation of foster parents to perform as they are employed to act, would here be foreclosed from coverage based on the

arbitrary happenstance that the injury causation related to some third party’s intentional act. CAI argued that such an interpretation has nothing to do with the rationale for “criminal intent” denial of coverage for policyholders who commit intentional, criminal acts, and in fact, it has nothing to do with any rational policy consideration that can be articulated.

Regrettably, the California Supreme Court denied the petition for review in September 2009. CAI is currently drafting legislative amendments to clarify the language and intent of section 1527.3(a), and will sponsor a bill containing those amendments in 2010.

In August 2009, CAI joined fourteen other amici curiae in a case of national significance. *Sam M. v. Carcieri* is a class action alleging that Rhode Island is violating various constitutional and statutory rights of that state’s foster children; the case was filed by three individuals (as Next Friends) who sought to pursue the case on behalf of foster care children who are unable to sue for themselves due to their minority. The district court dismissed the case, finding that the Next Friends lacked capacity to sue on behalf of the foster children; the court held that the only adults who could authorize a federal lawsuit on behalf of foster children are their court-appointed guardians ad litem (GALs) in the state dependency case.



On appeal, amici argued that GALs fill the role of lawyer in the state dependency proceeding, and it is improper to make those lawyers the gatekeeper to federal court for their clients. Amici also noted that there are many reasons — such as already overcrowded caseloads — why a child’s dependency attorney may not wish to or be able to play the role of representative in a major federal case challenging the entire foster care system.

The matter is pending before the First Circuit Court of Appeals; a decision is expected to be issued in mid-2010.

## ***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 2009. 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. The regulatory proceedings in which CAI participated during 2009 included the following:

**Implementation of SB 39.** In 2007, CAI and the National Center for Youth Law (NCYL) co-sponsored SB 39 (Migden) (Chapter 468, Statutes of 2007), which revised and streamlined the state’s procedure for releasing information pertaining to child deaths resulting from abuse or neglect. Among other things, SB 39 (1) provided for the release by a county welfare agency of specified information regarding a deceased child where the death is reasonably suspected to be the result of abuse or neglect, within five days of the child’s death; (2) where a child’s death is substantiated to be from abuse or neglect, establishes a process for the release of specified documents in a county welfare agency’s juvenile case file, without court review and for the release of other documents in the case file after a petition is filed and opportunity is given for interested parties to object to the release of those other documents; and (3) clarifies existing law relating to the release of a juvenile case file when a child has died due to abuse or neglect, including the presumption of disclosure unless statutory grounds for non- or partial disclosure or redaction of information exist.

In March 2009, CAI, NCYL and the California Newspaper Publishers Association jointly commented on regulations proposed by the California Department of Social Services (DSS) to implement portions of SB 39. The comments focused substantially on the implementation of SB 39’s required redaction of any information that “is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.” To help local administrators implement its provisions, SB 39 directed DSS

to promulgate regulations listing such external state or federal laws and regulations that would be relevant and setting standards governing any further redactions. The joint comments pointed out that as drafted, the list of laws and regulations that might necessitate redaction was overly inclusive and misleading. The comments further opined that the proposed language failed to provide counties with sufficient guidance with regard to applying those other state or federal statutes to the records whose release is mandated by SB 39, and noted that “[w]ithout the guidance that SB 39 mandates, county administrators would have to do their own parsing of numerous statutes and regulations, leading to precisely the lack of uniformity in disclosing that the legislature, in SB 39, has determined to remedy.” As an alternative, the comments provided an edited list of statutes and regulations for DSS’ consideration.

Upon review, DSS agreed that its original list of confidentiality laws was over-inclusive, and agreed to use the edits, in part, suggested by CAI and its co-commenters.

**Amendments to Foster Family Home Regulations.** In June 2009, CAI submitted comments and recommendations to DSS on the agency’s proposed amendments to foster family home regulations; the proposed changes were the result of an effort by the Children’s Residential Regulations Review Workgroup—on which CAI participated—to ensure that foster family home regulations provide for the health, safety and well-being of children; are clear, concise, user-friendly and simple; promote a normal childhood experience; and prepare foster youth for adulthood. Although DSS did not adopt all of CAI’s recommendations, it did agree to several of them, as follows:

- One of the overarching comments CAI made to DSS regarding the proposed amendments concerned the use of the term “facility” to refer to the licensed foster family home; CAI opined that the use of this term seemed inapposite to the promotion of normalcy and instead gave an institutional feel to regulations that were intended to govern homes. CAI proposed that the term “facility” be replaced with the term “foster family home” throughout the regulatory package. In response to CAI’s comment, DSS agreed to adopt the recommendation to replace “facility” with “foster family home” in several instances.
- CAI also commented on proposed amendments that would define the term “care and supervision”. CAI opined that in order to create a family-like environment, appropriate “care and supervision” must be specifically tailored to each child and should not be limited to items set forth in a regulation. However, if DSS determined that the term must be defined, CAI suggested that the regulation include language indicating

that the term “includes but is not limited to” the specific items listed in the regulation. DSS agreed to adopt CAI’s recommendation in this regard.

- CAI also commented on regulatory language that provides that, except for infants, foster children shall not share a bedroom with an adult. CAI recommended that foster children be permitted to share a bedroom with their adult sibling who is a former foster youth, to the extent permitted under federal law. CAI opined that this change would benefit older youth who have aged out of foster care and show a commitment to keeping family units closely connected. DSS agreed to adopt CAI’s recommendation in this regard.

**Victim Compensation Program Regulations.** In March 2009, CAI submitted comments to the Victim Compensation and Government Claims Board regarding proposed changes to the Victim Compensation Program regulations to implement AB 2809 (Leno) (Chapter 587, Statutes of 2008), which sought to ensure that all children, regardless of their familial relationship to the victim, can seek reimbursement for the cost of out-patient mental health counseling if they suffer an emotional injury as a direct result of witnessing a violent crime.

CAI’s comments opined that the Board’s proposed language implementing AB 2809 was unduly restrictive in three respects.

- AB 2809 did not specify the means by which a minor might witness a violent crime, thus CAI argued that it was restrictive for the Board’s regulations to limit coverage to those cases in which a minor sees or hears a violent crime. CAI suggested that the Board use broader language that would not preclude any other types of situations that may arise.
- AB 2809 envisioned coverage for any minor witness who was in “close proximity” to the victim when the minor witnesses the violent crime. CAI opined that it was unnecessarily restrictive for the Board’s proposed language to require that the minor be in “close physical proximity” to the victim. CAI pointed out that in other statutory provisions, the Legislature has specifically used the terms “close physical proximity” and “close geographic proximity” but it declined to use such terms in AB 2809. CAI questioned the need for the regulatory language to be more limiting in scope than the statutory language being implemented.
- AB 2809 seeks to assist minors who suffer an emotional injury as a direct result of witnessing a violent crime, but it does not specify what constitutes a “violent crime”. The Board’s proposed regulations listed 13 specific crimes that would constitute

qualifying violent crimes for purposes of this provision. CAI opined that attempting to explicitly list each qualifying crime by name is problematic and unnecessarily limiting, as it allows for the omission of other violent crimes that could be witnessed by minors. Borrowing from an unrelated regulatory provision, CAI suggested that the Board instead define the term “violent crime” as “a crime that, upon evaluation of the code section violated or the reports regarding the underlying offense, presents a risk of harm or violence”. CAI opined that such language would provide the breadth and inclusion that was envisioned by AB 2809.

Regrettably, the Board did not adopt any of CAI’s recommendations and implemented its regulatory changes as originally proposed.

## **Collaboration & Leadership**

### ***Children’s Advocates’ Roundtable***

During 2009, CAI continued to coordinate and convene the monthly meetings of the Children’s Advocates’ Roundtable 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.

During 2009, CAI coordinated informative Roundtable discussions on a variety of topics, including the following:



- **School Nursing in California: The Shortfall in Public Schools and Potential Governmental Solutions**, a panel discussion moderated by CAI Intern Shelly Kamei, and featuring panel members Joan Edelstein, Senior Health Consultant, California School Boards Association; Linda Davis-Alldritt, School Nurse Consultant, California Department of Education; Nancy Spradling, Executive Director, California School Nurses Organization; Eunice Rodriguez, Associate Professor of Pediatrics, Stanford; and Melinda Landau, Manager, Health/Family Support Services, San Jose Unified School District (February).
- **State Budget Aftermath and the Upcoming Budget Initiatives**, featuring Scott Graves, California Budget Project; Christian Griffith, Chief Consultant, Assembly Budget Committee; Michael Herald, Western Center on Law and Poverty; Sherry Novick, First 5 Association of California; and Kirsten Barlow, Associate Director for Legislation and Public Policy, California Mental Health Directors Association (March).
- **Special Election Ballot Initiatives Perspectives: Pros and Cons**, with Christopher Woods, Budget Director for Assembly Speaker Karen Bass; Trudy Schafer, League of Women Voters; Estelle Lemieux, California Teachers Association; Anthony Wright, Executive Director, Health Access; and Jerry Jeffe, Deputy Executive Director, California Council of Community Mental Health Agencies (April).
- **Discussions on the State Budget Outlook**, featuring Kathryn Dresslar, Chief of Staff, Senate President Pro Tempore Darrell Steinberg (May); Scott Graves, California Budget Project; Lenny Goldberg, California Tax Reform Association; Frank Mecca, County Welfare Directors Association; and Paul Richman, California Parent Teachers Association (June); and Christian Griffith, Chief Consultant, Assembly Budget Committee; and Cathy Senderling-McDonald, Senior Legislative Advocate, County Welfare Directors Association (September).
- **Healthy Families Program Update**, led by Anthony Wright, Executive Director, Health Access; Krystal Moreno Lee, Children Now; Roger Dunstan, Senate Health Committee;

Marjorie Swartz, Assembly Health Committee; and Ginny Puddefoot, MRMIB/Healthy Families (July) and by Steve Barrow, Director, California Premature Infant Health Coalition; and Suzie Shupe, Executive Director, California Children's Health Initiatives (September).

- **Indicators on the Health and Well-Being of California Children / Kidsdata.org**, featuring Andy Krackov, Assistant Vice President, Programs and Partnerships, Lucile Packard Foundation for Children's Health; and Sarah Marxer, Data Manager, Lucile Packard Foundation for Children's Health (October).
- **State Constitutional Convention**, with Matt Regan, Director of Government Relations, Bay Area Council (October).





***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), and in August 2009 he was elected to serve as NACC Chair. Also in August 2009, Fellmeth—along with CAI Senior Staff Attorney Christina Riehl and Staff Attorney Melanie Delgado—served on the faculty of NACC’s 32nd National Juvenile and Family Law Conference, presenting a panel discussion on improving foster care outcomes through impact litigation.

As noted above, CAI continued to work with the ABA’s Center on Children and the Law on developing a model act governing the representation of children in abuse, neglect and dependency proceedings. Also, in April 2009, CAI Senior Counsel Ed Howard and Morrison & Foerster Associate Richard Ballinger served on the faculty at the ABA’s 2009 National Conference on Children and the Law in Washington, D.C. They presented a discussion

on improving foster care outcomes through impact litigation, describing how to create and use partnerships with outside attorneys on pro bono impact litigation, specifically, the cooperation and strategies used by an advocacy program and law firm to secure higher foster care maintenance payment rates for individual families providing homes for foster youth.

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.

### ***Child Welfare Policy Briefing Series***

In January 2009, CAI participated in the statewide Child Welfare Policy Briefing Series coordinated by the John Burton Foundation for Children Without Homes by hosting a program on

methamphetamine use, and the impact that this drug is having on California's child welfare system. In California, methamphetamine is now the most commonly reported primary drug of abuse in California's publicly funded treatment system—having surpassed alcohol and heroin. Those engaged in the child welfare system must understand how this particular drug affects the parent/child relationship, and specifically how it impacts parenting capacity and behavior. The briefing session featured a lecture by Dr. Wendy Wright, a pediatrician at the Rady Children's Hospital Center and Co-Director of the Polinsky Center, San Diego's receiving home for children in protective custody. Following Dr. Wright's presentation, CAI Executive Director Robert Fellmeth led a roundtable discussion on the unique challenges that methamphetamine addiction presents the child welfare system.

## **Special Projects**

### ***Improving Outcomes for Transitioning Foster Youth***

During 2009, CAI continued its work on a grant from **The California Wellness Foundation** to inform policymakers and other stakeholders about promising programs and policies affecting the health and well-being of California's youth aging out of the foster care system. To date, some of the activities taken by CAI on this project include the release of a 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, detailed 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.

The report also included details on CAI's proposed Transition Guardian Plan (since renamed the **Transition Life Coach (TLC)** program) which would replicate as closely as possible the commitment of responsible parents during the transition of their children into independent adulthood. Under CAI's proposal, former foster youth who opt to participate in the TLC program would receive a monthly stipend and support services. The stipend is sent to a court-appointed adult (the TLC) 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. The fund would be flexible to allow for adjustments as needed, but would generally decrease as the youth becomes more self-sufficient. An important element of the TLC program is the Coach position itself. Ideally, this person will be someone with a prior relationship with the youth — to accomplish the continuity otherwise lacking for many of these children. The Coach 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.

In that report, 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.

**During 2009 and early 2010, CAI's report on expanding transitional services for emancipated foster youth has been cited numerous times by legislative committees in support of legislation that would benefit former foster youth.** For example:

- The Assembly Committee on Higher Education, the Assembly Appropriations Committee, and the Senate Rules Committee cited CAI's report in their analyses of AB 1393 (Skinner) (Chapter 391, Statutes of 2009), which requests the California Community Colleges and the University of California, and requires the California State University, in order to ensure stable housing for current and former foster youth, to give priority for campus housing to current and former foster youth with first priority for housing open for uninterrupted year-round occupation and next priority for housing open for occupation most days during the calendar year.
- The Assembly Appropriations Committee cited CAI's report in its analysis of AB 665 (Torrico) (Chapter 250, Statutes of 2009), which expands the use of federal Improving Adoption Incentive bonus funding to include other types of permanency for older children, including guardianship and reunification.
- The Assembly Appropriations Committee cited CAI's report in its analysis of AB 12 (Beall), still pending in the Legislature at this writing, which would, among other things, allow youth to remain in foster care as nonminor dependents of the court



until the age of 21 if they meet one of the criteria established by the federal Fostering Connections Act.

- The Assembly Committee on Human Services and the Assembly Judiciary Committee cited CAI's report in their analyses of AB 2418 (Cook), still pending in the Legislature at this writing, which would expand the definition of Indian child to provide protections to tribes, families and children in certain custody proceedings involving Indian children who are no longer minors, but are still under the jurisdiction of the dependency court.

During 2009, CAI worked hard to convince advocates, policymakers, and the general public of the need to increase funding and improve services for transitioning foster youth, and to identify funding sources for the TLC program. To that end, CAI Staff Attorney Melanie Delgado conducted extensive research to determine the extent to which funding from Proposition 63, the Mental Health Services Act (MHSA), is being used by counties to address the unique needs of transition age foster youth. Foster youth have an extremely high incidence of mental health issues, and CAI believes that transition age foster youth should properly be a priority for MHSA funding. Delgado's research focused on counties' use of funding in their original Community Services and Supports (CSS) plans as submitted to and approved by the state. Delgado's findings, which will be released in a January 2010 report entitled *Proposition 63: Is Mental Health Services Act Funding Reaching California's Transition Age Foster Youth?*, included the following:

- 26 counties, home to over 78% of California's transition age foster youth, received a failing grade. Seven more counties, home to an additional 15% of the state's transition age foster youth, received a D. These grades mean that **over 90% of California's transition age foster youth live in counties that either have not used Prop. 63's CSS funds to create programs targeted specifically for this population, or whose Prop. 63 CSS-funded programs lack adequate capacity to meet their needs.**
- Although the State Mental Health Services Oversight and Accountability Commission has allocated \$40 million to special

statewide programs such as Stigma and Discrimination Reduction, it has refused to commit any statewide funding specifically for the youth with the most urgent mental health needs: former foster youth between the ages of 18–25.

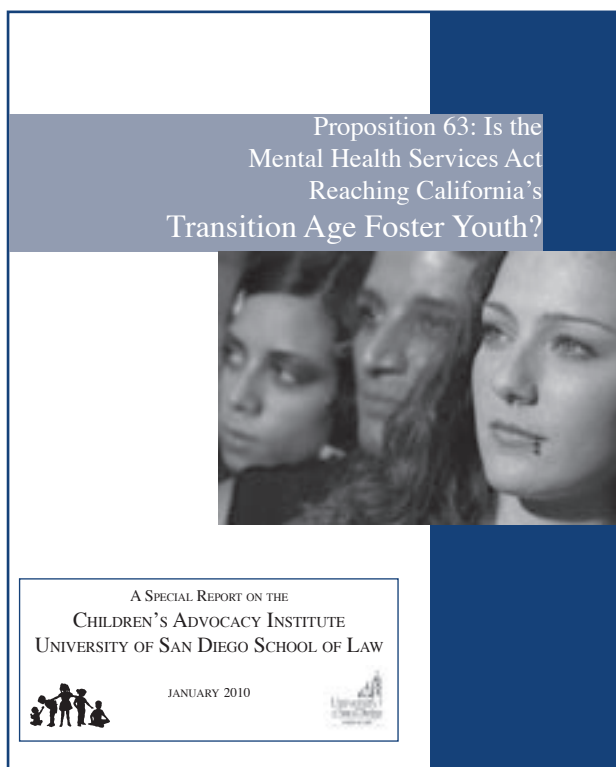
- Since 2005–06, Proposition 63 has taken in well over \$4 billion. During that same timeframe, over 20,000 youth have been kicked out of the foster care system at age 18 without receiving any meaningful assistance from Prop. 63-funded programs. Also during 2009, CAI undertook the following activities aimed at improving resources available to youth aging out of the foster care system:
- CAI was involved in advocacy surrounding AB 12 (Beall), which was introduced in early 2009 in the California Assembly. The bill would implement the Federal Fostering Connections to Success Act in California, extending foster care in California to foster youth to age 21. CAI believes that any plan to extend foster care to older youth must reflect the fact that they are young adults and must afford them with appropriate opportunities, such as living in a variety of settings, continuing their education and beginning their careers. To that end, CAI advocated throughout 2009 and continues to advocate in 2010

for flexibility in the placement options that AB 12 would make available to foster youth over the age of 18.

- CAI attended several meetings of the State Mental Health Services Act Oversight and Accountability Commission to publicly comment on the need for more mental health services for transition age foster youth, how MHSA funds should be used to meet that need, and the counties' lack of progress in this area. In addition, CAI submitted comments on proposed guidelines for MHSA Innovation funding encouraging further and more specific inclusion of transition

age foster youth in guidelines provided to the counties.

- Locally, CAI attended several Mental Health Board meetings in San Diego County to advocate for inclusion of the TLC program in San Diego's plan for MHSA Innovative funding. In addition to attending these Board meetings, CAI presented the TLC plan at the Children and Youth Subcommittee meeting,





took part in the transition age youth working group, and submitted the TLC plan for consideration. Regrettably, San Diego County did not include the TLC program in its initial plan for Innovation funding. CAI responded by engaging in further advocacy at the local and state levels, and will continue to advocate for inclusion of the TLC program in San Diego's second phase of Innovation funding.

- CAI was and continues to be involved in advocacy surrounding implementation of the federal Fostering Connections to Success Act of 2008, which provides the states with an important option to extend foster care to age 21 and receive matching federal IV-E funds for so doing. Further, the Act creates a new placement type for foster youth after age 18, the supervised independent living placement, to be defined by federal regulators. CAI urged federal policymakers to draft regulations that provide enough flexibility to allow older foster youth to pursue their education or their careers and live in age-appropriate settings, while continuing to be eligible for foster care maintenance payments. At this writing, the regulations have yet to be released and CAI continues to advocate for maximum flexibility.

- Finally, CAI made presentations regarding transition age foster youth at two national events during 2009. First, CAI presented information regarding funding for transition age foster youth as part of a panel discussion at National Association of Counsel for Children's 2009 conference in Brooklyn. Additionally, CAI presented information on the federal Fostering Connections to Success Act, specifically with regard to the new state option to extend foster care to age 21, and the new state option to receive federal IV-E matching funds, at the Voices for America's Children regional meeting in Oakland.

CAI is extremely grateful to The California Wellness Foundation for funding many of CAI's activities aimed at improving outcomes for transition age foster youth.

### *Dependency Counsel Training Program*

The California Emergency Management Agency (Cal EMA) (formerly 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

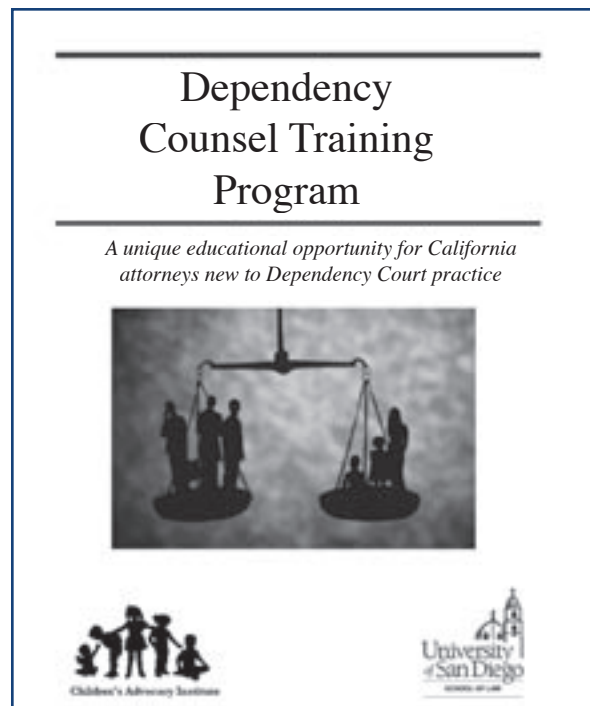
of this training is to ensure that attorneys appearing in Dependency Court—whether they are representing the county, parents, or children—are properly prepared for the extremely important, unique, and challenging work in which they are engaged.

During 2009, CAI presented two 20-hour live training sessions in San Diego and Sacramento. These sessions, which qualify as Minimum Continuing Legal Education (MCLE) for attorneys in attendance, covered 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, child development, and substance abuse issues; a comprehensive discussion of each hearing in the Dependency Court process, including practice tips from veteran 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. The sessions were provided free of charge to new Dependency Court counsel.

CAI is extremely grateful to the following experts who—together with CAI’s own Robert Fellmeth and Christina Riehl—served as 2009 trainers in the Dependency Counsel Training Program:

<b>Elizabeth Ahern</b>	<b>Jenny Cheung</b>
<b>Danielle Americh-Combs</b>	<b>Lisa Conradi</b>
<b>Cassandra Harris</b>	<b>Prof. John E. B. Myers</b>
<b>Randall Harris</b>	<b>Janine Molgaard</b>
<b>Leslie Heimov</b>	<b>John Passalacqua</b>
<b>Sophia Herman</b>	<b>Ken Sherman</b>
<b>Dr. Marilyn Kaufhold</b>	<b>Dr. Wendy Wright</b>
<b>Martha Matthews</b>	<b>Robin Vanderlaan</b>
<b>Candi Mayes</b>	<b>Marvin Ventrell</b>
<b>David Meyers</b>	

Approximately 175 attorneys attended CAI’s 2009 trainings, from every area of the state. For all three years combined, CAI provided 20 hours of live training to almost 500 attorneys who are new to Dependency Court practice, and many other attorneys watched the videotaped segments offered on CAI’s website. Although its grant through the Children’s Justice Act is now complete, CAI is



exploring ways to continue offering child-specific continuing legal education for attorneys practicing in fields such as dependency law, delinquency law, and family law.

### ***A Child’s Right to Counsel***

During 2009, CAI engaged in several activities aimed at ensuring that abused and neglected children in the foster care system receive client-directed representation by trained, competent attorneys. Many of CAI’s projects in this area were conducted jointly with First Star, a Washington, D.C.-based child advocacy organization.

In February 2009, CAI submitted comments on the American Bar Association’s proposed Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Proceedings. CAI’s comments noted that a comprehensive model law regarding child representation during dependency court proceedings would have the following features:

- It broadly defines “proceeding” to include all stages and does not allow the avoidance of representation at point of adoption, in cases of voluntary placement, or in appellate proceedings.
- It separately defines and elucidates the role of a “court appointed adviser”.
- It specifies that children are parties to dependency court proceedings.



- It provides for timely appointment of counsel, for conflict management, and for proper qualification.
- It applies the rules of professional conduct to counsel, and provides for client confidentiality and work-product protection.
- It requires counsel to meet with the child prior to each hearing and to visit the child in placement, and it outlines the other obligations that attend representation.
- It properly gives weight to the child's preferences and instructions, with exceptions properly drawn and based on diminished capacity.
- It allows for the appointment of a guardian ad litem in the event representation of the client's wishes is not feasible or where the child is incapable of directing representation.
- It includes the prescription that all court hearings include the presence of the child (or determine why not).

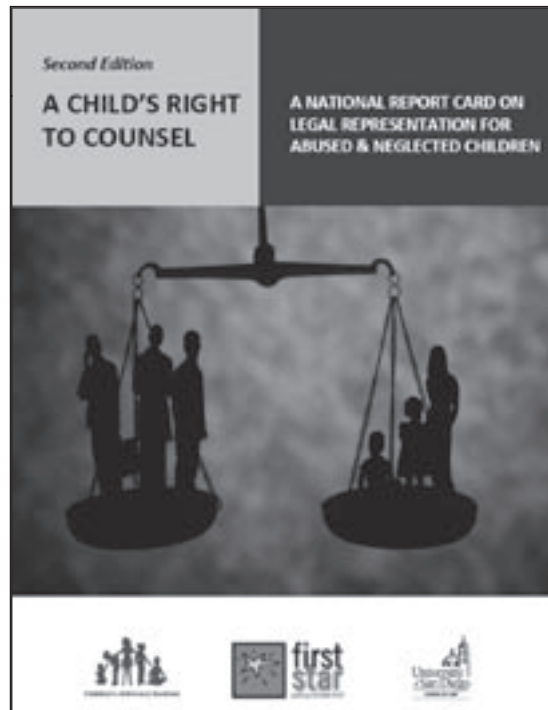
After reviewing the draft ABA Model Act, CAI offered four suggested amendments: (1) a requirement that attorneys receive interdisciplinary training prior to engaging in this specialized field of practice; (2) a defined caseload limit; (3) a provision for vertical representation, where children have the same attorney represent them through all levels of the proceedings; and (4) required representation for children in civil commitment/confinement proceedings.

In October 2009, CAI and First Star jointly researched, drafted and released *A Child's Right to Counsel—A National Report Card on Legal Representation for Abused & Neglected Children (2nd*

*Ed.)*. This national report, which was released at a press conference held in the U.S. Capitol, graded states on how well they protect the legal rights of foster children by providing trained, competent, independent counsel with reasonable caseloads to represent foster children throughout the dependency court process.

State grades were based on a rigorous examination of state law by leading national child welfare experts, who established guiding principles and developed a 100-point grading system. Criteria included whether state law mandates that attorneys be appointed for children in dependency proceedings; whether these attorneys represent the children in a client-directed manner; whether this representation continues throughout the case, including appeal; whether states have specialized education or training of a child's counsel; whether the child is given the legal status of a party to the proceedings; and whether rules pertaining to confidentiality and immunity from liability apply to attorneys representing these children. Extra credit was given if states have mandatory caseload limits for children's counsel.

The report found that most states do not adequately protect the rights of abused and neglected children, leaving them exposed to the vagaries of the juvenile court system without adequate legal representation. To ensure that children are properly represented



Press Conference Photos. Top: Rep. Patrick Kennedy (D-RI).  
Bottom: Rep. Kennedy and CAI Senior Staff Attorney Christina Riehl.

in these proceedings, CAI and First Star recommend:

- an amendment to the federal Child Abuse Prevention and Treatment Act (CAPTA) requiring that all abused and neglected foster children receive quality client-directed representation in dependency proceedings;
- passage by the American Bar Association of a Model Act that would serve as a prototype for states to establish uniform standards for representing children in dependency cases;
- implementation of a loan forgiveness program for child advocate attorneys, since compensation in this field of practice is prohibitively low;
- adoption of caseload limits of 100 clients so attorneys can focus enough attention on each case; and
- support to ensure that abused and neglected children receive quality representation in all court proceedings that determine their futures.

**CAI and First Star were honored to be joined at the October 2009 press conference by Rep. Patrick Kennedy (D-RI); Jeff Hild, Legislative Aid for Rep. Pete Stark (D-CA); and Shalita O’Neale, Director of the Maryland Foster Youth Resource Center, and a former foster youth from Baltimore who spent 19 years in the child welfare system.**

### ***Public Disclosure of Child Abuse Deaths and Near Deaths***

Approximately 1,500 children die every year as a result of abuse or neglect in the U.S., and countless more children suffer near fatal injuries due to 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.

*Shalita O’Neale, Director of the Maryland Foster Youth Resource Center.*



An April 2008 report released jointly by CAI and First Star—“*State Secrecy and Child Deaths in the U.S.*”—revealed, however, that while most states are generally in compliance with the limited letter of the federal statute, few state policies adequately further the legislative intent in these gravest cases. Information about these tragic incidents—information that helps drive systemic reform where warranted, and enables the public to hold child welfare systems accountable—is withheld by many jurisdictions. Specifically, the report concluded that the majority of U.S. states fail to release adequate information about fatal and life-threatening child abuse cases, adhering to misguided and secretive policies that place confidentiality above the welfare of children and prevent public scrutiny that would lead to systemic reforms. Only a handful of states fully comply with the legislative intent of federal law mandating public disclosure of the deaths and near deaths of abused or neglected children, according to the report.

The report generated a tremendous amount of media attention, which in turn sparked discussions in many states regarding their policies and at the federal level regarding CAPTA itself, and during 2009, CAI engaged in several activities to follow up on the momentum generated by the report. At the federal level, CAI advocated for amendments to the CAPTA statute, which is currently vague and leaves too much room for interpretation by states, to help clarify and strengthen disclosure requirements so states know how to comply with the intent of the legislation. CAI urged federal policymakers to take steps to clarify that states are required to release information in cases of death and near death; clarify that public disclosure of such information is mandatory; clarify that states cannot grant themselves discretion through restrictive conditions and limitations; and add language to direct the scope and nature of the information authorized for release. At the state level, CAI assisted advocates and officials in several states who were pursuing amendments to state policies and laws.

CAI is currently researching and drafting the 2nd edition of this report, which is expected to be published in 2010.

## *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 long been concerned about this situation, and in January 2009, released a report researched and drafted by CAI legal intern **Shelly Kamei** on the state of school nursing and provision of health care services in California public schools. As part of her extensive research, Shelly conducted a survey of California school nurses and administrators and received close to 500 responses from across the state. She analyzed the results of the survey responses and gathered data that will assist in the drafting of legislation that will protect the health of California's children while they are in school. Among other things, the report reviews the healthcare needs of children, as well as the healthcare crisis and the state of school nursing and school health services in California. It also discusses the need to have a legislative solution to the crisis, and offers a model law for that purpose. Finally, it includes the answers, feedback, and comments of almost 500 California school nurses, administrators, teachers, and others who responded to Kamei's survey.

**CAI's report was cited by the Assembly Business and Professions in its analysis of AB 1430 (Swanson), which was introduced on February 27, 2009. Sponsored by the California School Nurses Organization, AB 1430 would have generally required that any necessary medication be administered to a student by a licensed health care professional operating within the scope of his or her practice.**

Although AB 1430 was not enacted, it had the support of the California Teachers Association, the California Nurses Association,

the California Federation of Teachers, American Federation of Teachers, AFL-CIO, and numerous individuals.

## *Price Child Health and Welfare Journalism Awards*

In 1991, CAI created a nonprofit charitable corporation to administer the Price Child Health and Welfare Journalism Awards. These awards are presented annually for excellence in journalism for a story or series of stories that make a significant impact on the welfare and well-being of children in California and advance the understanding of child health and welfare issues, including but not limited to child health, health care reform, child nutrition, child safety, child poverty, child care, education, child abuse, and juvenile justice.

The recipients of the 2009 Price Child Health and Welfare Journalism Awards were the following:

- 1st Place: The San Diego Union Tribune series, "Short Lives Revealed," written by Greg Moran, a compelling look at the plight of children in San Diego County's child welfare system—and revealing details about nearly 20 children who died while in foster care.
- 2nd Place: The San Francisco Chronicle special report, "Eyes on the Prize," written by Jill Tucker and Nanette Asimov, tracking the lives of the 1995–96 kindergarten class at Dr. George Washington Carver Elementary School, and revealing how the students fared against tremendous obstacles as they worked toward their high school diplomas with the class of 2008.

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.; Anne Fragasso, J.D.; Louise Horvitz, M.S.W., Psy.D.; Dana C. Hughes, M.P.H., M.S.; Hon. Leon Kaplan (Ret.); Lynn Kersey; Gloria Perez Samson; Alan Shumacher, M.D., F.A.A.P.; Dr. Robert Valdez, Ph.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., the San Diego County Bar Foundation, the McCarthy Family Foundation, the BNSF Foundation, the Simon-Strauss Foundation, and the Kohala Foundation for supporting this much needed

effort to help homeless youth transition to safer environments and brighter futures.

### ***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. 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.

To help increase the supply of educational representatives, CAI has been working with the [San Diego County Juvenile Court](#), the [Public Defender's Office](#), 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. During 2009, CAI staff continued to recruit interested individuals and provide training and oversight, as well as serve as Educational Representatives under the appointment of the Juvenile Court. CAI appreciates the support provided by the Cox Kids Foundation and Price Charities for the Educational Representative program.

### *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.



# 2009 Development Report

CAI is grateful to the late 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, 2009, and December 31, 2009, and/or in response to CAI's 2009 holiday solicitation:

Vickie Lynn Bibro and John H. Abbott

Nancy and Howard Adelman

Prof. Larry Alexander

Victor and Millie Allstead

Anzalone and Associates, Inc.

Maureen Arrigo

Martin Bader

Marvin Baker

Benitez v. Gra Gar Cy Pres

William Benjamin

Robert Bicego

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

Alan and Susan Brubaker

Dana Bunnett

Prof. Karen Burke

The California Wellness Foundation

Thomas and Virginia Carter

Children's Justice Act

Prof. Laurence Claus

Philip Cohen

Jim Conran

Paula Cordeiro

David and Sandra Cox (*in honor of Sabrina Cox*)

Cox Kids Foundation



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

Margaret and Rex Dalton

Prof. Joseph Darby

Steven B. Davis

Gary Edwards

Rich and Ellen Edwards

Merrili Escue

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Hon. Charles Gill

Joel and Denise Golden

Dr. John Goldenring

Constance Goldin

David Goldin

GoodSearch

James and Patricia Goodwin (*in memory of James A. D'Angelo*)

Zo Guthrie

Amy Harfeld

Judy Hayden

Dr. and Mrs. Birt Harvey

Noah and Jessica Heldman

Prof. Walter Heiser

Adrienne Hirt and Jeff Rodman

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Anne Howard

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Harley & Oberman Foundation Inc.  
Josephine Kiernan  
Prof. Adam Kolber  
Kathryn Krug (*in memory of James A. D'Angelo*)  
Lynne Lasry  
Prof. Herbert and Jane Lazerow  
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Laurel Olson  
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Dr. Gary Richwald  
Kenneth Roberts  
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Maria Yeck  
Marjorie and Ya-Ping Zhou  
*Anonymous Donors*

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

—The Editors

# CAI Staff

**ROBERT C. FELLMETH** 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 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; 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 and as Legal Editor for Lexis Law Publishing.

**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 Senior 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, formerly 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.

**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 CAI Staff Attorney, overseeing 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.



**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.

**AARIKA GUERRERO** serves as office manager in the San Diego office, where she helps to coordinate and support law student participation in the academic program; supports CAI's

various advocacy activities and grant projects; and recruits, trains, and oversees work study students.

**ALICIA DIENST** is responsible for office management and outreach coordination, including coordination of the monthly meetings of the Children's Advocacy Roundtable in the Sacramento CAI office. She is involved with the legislative and policy advocacy activities as well as administering the day to day office functions of that office.





# CAI Council for Children

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

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

*attorney at law (Santa Cruz)*

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

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

**Robert Black, M.D.**

*pediatrician (Monterey)*

**Louise Horvitz, M.S.W., Psy.D.**

*Licensed clinical social worker, individual and family psychotherapist (Los Angeles)*

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

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

**Hon. Leon S. Kaplan (Ret.)**

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

**James B. McKenna**

*President, Am Cal Realty, Inc. (Studio City)*

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

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

**Gloria Perez Samson**

*Retired school administrator (Chula Vista)*

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

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

**Owen Smith**

*Past President, Anzalone & Associates (Sylmar)*

**Emeritus Members**

**Birt Harvey, M.D.**

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

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

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

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

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

## THANK YOU FOR SUPPORTING CAI'S WORK FOR THE PAST 20 YEARS...

In 2009, CAI celebrated its 20th year as one of the nation's leading child advocacy organizations. To commemorate this milestone, CAI published its 20th Anniversary Retrospective: *20 Years of Changes, Always a Kid at Heart*, which chronicles and highlights dozens of CAI's most significant accomplishments over the past two decades, and which pays tribute to those who make our work possible, including our donors, supporters, volunteers, law students, employees and colleagues. The *20th Anniversary Retrospective* is available on CAI's website, at [www.caichildlaw.org](http://www.caichildlaw.org), or request a copy by calling (619) 260-4806 or emailing us at [info@caichildlaw.org](mailto:info@caichildlaw.org).

## ...AND HERE ARE EVEN MORE WAYS YOU CAN HELP US HELP KIDS!

We greatly appreciate your continued support of CAI's work — and here are a few ideas for doing just that:

- ★ Make a tax-deductible donation to CAI using the attached envelope or by visiting our website at [www.caichildlaw.org/support-cai.htm](http://www.caichildlaw.org/support-cai.htm)
- ★ Make the Children's Advocacy Institute your charity of choice when using [www.goodsearch.com](http://www.goodsearch.com) to conduct Internet searches or [www.goodshop.com](http://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!
- ★ Volunteer to serve as an Educational Representative for a child or youth in the Dependency and/or Delinquency Court systems of San Diego County.
- ★ For attorneys involved in class actions resulting in a cy pres distribution fund, identify CAI as a potential recipient of those funds (Code of Civil Procedure section 384 lists "child advocacy programs" as eligible recipients of cy pres distributions).
- ★ 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.
- ★ Subscribe to receive 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.
- ★ Participate in the monthly meetings of the Children's Advocates' Roundtable and/or follow the Roundtable activities on Facebook.
- ★ Purchase a 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.

For information on all of these opportunities, please visit CAI's website at [www.caichildlaw.org](http://www.caichildlaw.org), call us at (619) 260-4806, or email us at [info@caichildlaw.org](mailto:info@caichildlaw.org).



