Children's Advocacy Institute

2019 Annual Report

This annual report covers the activities of the Children's Advocacy Institute (CAI) between January 1, 2019 and December 31, 2019.

CAI is part of the nonprofit University of San Diego School of Law. Contributions to CAI are tax-deductible to the extent the law allows.

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History and Background

In 1989, Professor Robert C. Fellmeth founded the Children's Advocacy Institute as part of the Center for Public Interest Law (CPIL) at the University of San Diego (USD) School of Law. Staffed by experienced attorneys and advocates, and assisted by USD law students, CAI works to improve the status and well-being of children and youth. CAI engages in the academic and clinical training of law students in child advocacy, conducts research into child related issues, and provides public education about the status of children and of the performance of the state to advance their interests. CAI also engages in direct advocacy before courts, agencies, and legislatures to seek leveraged results for the benefit of children and youth. All of these functions are carried out from its offices in San Diego, Sacramento, and Washington, D.C. **CAI is the only child advocacy group operating at a law school, in a state capital, and in our nation's capital**. That presence has grown in importance as organized interests, with a focus on relatively narrow and short-term self-benefit, increasingly dominate public policy.

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

CAI's academic program is funded by USD and includes the first faculty chair endowment established at the USD School of Law. In 1990, San Diego philanthropists Sol and Helen Price funded the **Price Chair in Public Interest Law**; the first and current holder of the Price Chair is Professor Robert C. Fellmeth, who serves as CAI's Executive Director. The chair endowment and USD funds committed pursuant to that agreement finance the course and clinic academic programs of both CPIL and CAI.

In 2014, the USD School of Law was pleased to establish the **Fellmeth-Peterson Faculty Chair in Child Rights**, which will assure the continuation of CAI as an educational part of USD and, hopefully, as a state, national—and perhaps someday, international—advocate for children. The chair is named in honor of Robert B. Fellmeth (father of CAI Executive Director Robert C. Fellmeth), and Paul Peterson, a longstanding supporter and inspiration for CAI from its beginning 30 years ago. The Chair is now fully funded, and in August 2018 Jessica Heldman was named the Fellmeth-Peterson Professor in Residence in Child Rights.

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

Executive Director's Message

Our Reality. Children suffer from two features that render them politically impotent. They are not politically organized—they do not vote, contribute to campaigns, or lobby on any meaningful scale. Furthermore, their fate depends upon future focus and investment; a system dominated by those with here and now commercial concerns does not prioritize their interests. The U.S. Supreme Court's disturbing holding in *Citizen's United* illustrates the problem. To be sure, corporations and all financial interests subject to market forces can bring untold benefits to all of us. But a focus on immediate profit impact is the necessary priority for the corporate structure. Indeed, the officers of a corporation have a fiduciary duty, properly guiding them to seek maximum return for its owners (stockholders). This understandable feature properly distinguishes it from the decision-making criteria for political decisions—the policies of the "State" representing the "People" at large. The People have a common concern about our children and our future. A corporation does not. To ignore that fundamental difference and conflate the two, as the SCOTUS did in *Citizen's United*, betrays the most basic values of America.

Child advocacy today must challenge both parties. It must address the restructuring of government to end corruptive obeisance to immediate private profit impact, as well as many liberal assumptions—*e.g.*, the universal avoidance of condemnation or even discussion of the right of the child simply to be *intended* by two caring adults, or private responsibility in general. As committed child advocates, we must be willing to take on all sides.

One example of the current nonfeasance of both parties is the universal failure to address or even discuss the unprecedented level of future deficits our grandchildren (and theirs) will face. The debt load with which baby boomers are burdening future generations includes not just the federal budget deficit now exacerbated by unprecedented tax cuts, but also Medicare, Social Security, generous public employee pensions and medical coverage, and other public spending with impact beyond the stated federal deficit. These programs may have merit, but those benefitting from them should pay—not their children. It is the same immoral bias reflected in our property tax system here in California, where my child who buys a house next door to mine, with the same value as mine, will pay ten times my property tax for the same services. Where are these issues being discussed?

These preoccupations have all combined to create the largest ongoing financial obligation any human grouping has ever imposed on its successors. The deficit per family is likely to exceed $500,000. How ironic that the largest obligor making this cosmic embezzlement possible are the low treasury rates paid for by the largest single purchaser: The People's Republic of China! And the perverse reduction of interest rates demanded by the current President may stimulate current economic growth, but what are the long-term implications? Exactly when and where have we heard substantive future economic impact discussed in our insult-preoccupied media?

The second major generational betrayal—global warming—is getting some attention now. CAI is quite proud of its sibling organization, the Energy Policy Initiatives Center (EPIC). Headed by Scott Anders, EPIC completes climate action plans for many cities striving to accomplish carbon reductions, holds an annual Symposium featuring national environmental officials and experts, and uses that scholarship to help produce the nation's first law review on global warming—the USD School of Law's *Journal of Climate and Energy Law*.

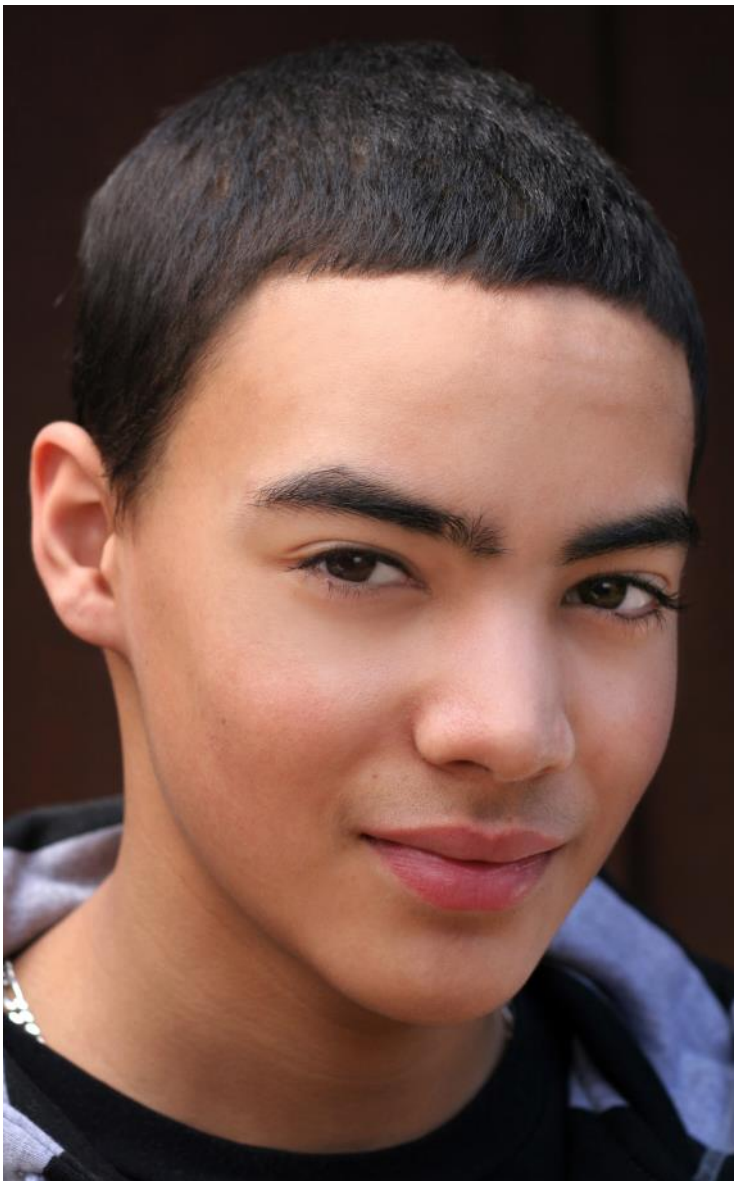
To be sure, we all appreciate the role of dissenters to any orthodoxy. Copernicus was right in disputing the then orthodoxy that the cosmos moved around the earth. But we all properly consider evidence in an inductive process to ascertain realities and dangers. When scientists drill into arctic ice that captures the atmosphere going back hundreds of thousands of years and find our carbon dioxide percentage at extraordinary and unprecedented levels, that matters. This is an unsurprising consequence when a species that rarely exceeded 600 million over the last 500,000 years has exploded more than tenfold to 8 billion in a blink of evolutionary time—with the per capita carbon emissions also growing markedly through our industrial age mechanization. And even if you can rationalize it all away, how do you justify using up all or a large portion of any non-renewable resource from the earth? The core of conservatism is violated by those who disregard the most important conservation obligations we have—what we leave behind for those who follow us—our children and theirs.

Regrettably, the current federal administration is not guided by the legitimate conservative principles that would respond to the above realities, but by hateful prejudice that has cloaked the forcible separation of thousands of children from their parents. Apparently, the Constitutional role of the executive to carry out the intent of Congress allows it to evade the entire body of law and precedent governing refugee entry. Of course, we have millions of persons on this earth who may wish to immigrate here that we cannot accommodate. But we properly determine their status by following the law. Although not highly publicized, President Obama deported more of those who did not so qualify (millions) than did his predecessors.

Beyond constitutional usurpation, how can a nation's leader point to a concededly horrendous crime committed by one Central American immigrant, and then attribute murder, rape, and mayhem to an entire ethnic or immigrant grouping (especially when the defiled group manifests a relatively lower crime rate than that of longstanding citizen groupings)? This is the heart of racism.

Our Response. This Annual Report focuses on CAI's work during 2019, highlighting many of our activities and accomplishments. This includes things that have become a part of our core operations—the publication of our annual *Children's Legislative Report Card*, presenting each California legislator's votes on child-friendly measures; the annual recognition of journalists who most effectively inform the public about significant issues impacting children's health and well-being; the convening of our Children's Advocates Roundtables in Sacramento, which Melanie Delgado does quarterly to bring together statewide advocates and officials to discuss current issues and goals; meetings with our advisory Council for Children, which both guides and inspires us; the work of Ed Howard in Sacramento and Amy Harfeld in Washington, D.C., to represent children with credibility and skill in our state and nation's capitols; our fundraising work that is essential to our continuation, and that includes gifts from our colleagues on the Law School faculty; the teaching by Jessica Heldman and yours truly of Child Rights and Remedies and the oversight of law student participation in our court and policy clinics; and frequent additions to our inspirational "Changemaker Wall," featuring over fifty CPIL, CAI, and EPIC graduates engaged in public interest work—with at least another five due to be added in 2020. Finally, we continue to participate in the governance of major national and regional organizations, including the Partnership for America's Children (now in 42 states), where we serve on the Board and as counsel, Public Citizen, First Star, the Maternal and Child Health Access Foundation, and the National Association of Counsel for Children, where Amy Harfeld has taken my seat on the Board. All of this is organized by CAI Administrative Director and Senior Staff Attorney Elisa Weichel.

In addition to these core operations, we engaged in the following substantive issue areas during 2019. Although this work is covered in the Report to follow in more detail, it is presented here to highlight some key accomplishments as well as our plans for 2020.



★ **Legal Representation of Abused and Neglected Children**. A landmark victory in CAI advocacy occurred in December 2019 when the Children's Bureau amended its Child Welfare Policy Manual to open up federal entitlement funding to help states pay for legal representation of children in dependency cases. This was a long-term goal and one for which CAI was widely acknowledged to have played an instrumental role. In addition, during 2019, CAI and First Star jointly released the 4th Edition of our national report of state performance in complying with what we argue is the constitutional obligation to provide foster children—whose parents and lives will be largely determined by a state court judge—an attorney to ensure elemental due process. Our national reports are deliberately released in multiple editions over time, so the issue does not abate. However, in order to moot the issue of a fifth edition, we filed the *Nicole K.* case, a class action on behalf of foster children in three Indiana counties. We have been assigned a court, and both motions and discovery have started and will proceed through much of 2020. We are joined in our advocacy by Steve Keane and others from Morrison and Foerster's *pro bono* division, as well as by the Indiana firm of Delaney and Delaney. The purpose here is to generalize the holding in the iconic *Kenny A.* case from Georgia; the holding there affirmed the constitutional right of foster children to counsel. However, it was not appealed by that state—resulting in a published district court opinion without force outside of Georgia. A circuit court holding would have a dramatically broad impact, including the twenty-some states still lacking that basic due process for children. Our goal is to establish that right nationally.

★ **Private For-Profit School Exploitation of Students**. We have been working for some time on countering the exploitation of students by private for-profit colleges. Not all, but many for-profit colleges deceive prospective students, receive public financing for 80% or more of their revenue, and expend little on education but millions on marketing and executive compensation. Of greatest concern, the abusers among them have created an underclass of former students lacking useful education or job opportunity—but facing debt from unpaid loans that are not easily quashed, even by personal bankruptcy. During 2019, we won enactment of three partially curative measures for California (see *infra*). We intend to help our national partners in this effort to achieve some new federal legislation in 2020. We also hope to limit the abuses of the School Approval Reciprocity Agreement (SARA) that now clouds remedy and prevention in 49 states—with only California refusing to participate. And we are counting on the sunset report and curative legislation regarding the state's Bureau for Private Postsecondary Education due in 2020 to serve as a vehicle to accomplish effective student protection. And we shall continue the illuminating journalism of David Halperin exposing the Trump Administration and Secretary DeVos conflicts and documenting the continuing federal corruption in this area. Finally, we will be convening a national summit of leaders on this issue in January 2021.

★**Preventing Child Maltreatment Fatalities.** Every year in the U.S., over 3,000 children die as a result of abuse and neglect. That is more children than die annually from all childhood cancers combined. Research has shown that for every child killed as a result of child maltreatment, the total economic cost is $2,659,649. We have worked for over a decade to hold federal and state governments accountable for the disclosure and data around these fatalities, and to advance federal and state policies to prevent future fatalities. CAI wrote the California statute on death and near-death reporting (2007's SB 39 (Migden)) and litigated to void the impotent rules adopted to implement it, forcing more inclusive reporting. CAI also played an instrumental role in advocating for the formation for and testifying before the bipartisan federal Commission to Eliminate Child Abuse and Neglect Fatalities. After publishing a report in 2018, Steps Forward, we have continued to engage this year in advocacy to implement the Commission's recommendations. We are now working within California to ensure the state's compliance with SB 39 and on the federal end to stimulate compliance nationally (see *infra*).

★**Halting the Commercial Sexual Exploitation of Children (CSEC).** Our work during 2019 included efforts to ensure the proper implementation of two CSEC-related CAI-sponsored bills that were enacted in 2018. Also during 2019, CAI participated in a unique multi-university and multi-disciplinary clinical offering, allowing our students to engage in in-depth research and advocacy on this issue. During 2020 we intend to continue advocacy before the California Department of Social Services' stakeholder group to develop model policies, procedures, and protocols to assist counties in their enforcement, including the further implementation of the 2018 statutes. And we shall engage in other advocacy, including the implementation of our successful bill to authorize civil prosecutions of CSEC abuses with radically enhanced civil penalties. During 2020 we intend to work on a model statute to impose temporary restraining order bars on all communications, either directly or through third parties, between any child victim and any pimp or john offender. And we planned a January 2020 summit to mobilize all parts of USD on this issue—acknowledging the expertise and interest of other parts of the University to combat the commercial sexual exploitation of our children.

★**Child Privacy**. While we did not prevail in our 2015 intervention in the *Fraley v. Facebook* settlement before the Ninth Circuit, in 2019, we did prevail in the enactment of a California Consumer Privacy Law, effective January 1, 2020. This new statute applies to Facebook, given its headquarters in Menlo Park. We also now have language reducing the abuses from child purchases of products lawfully bought only by adults. In 2020, we shall monitor compliance, and also introduce legislation that requires an affirmative "opt in" for the use of personal child information collection and use.

★ **Immigration-Related Abuse of Children**. We have been involved in *amicus* contribution to the *Ms. L v. ICE* federal district court case before the Honorable Dana Sabraw here in San Diego. In 2020, we anticipate joining in two additional *amicus* briefs on the related *Flores* case (relevant to the treatment of immigrant children situated in the U.S.). One of the briefs is authored by my son, Professor Aaron Fellmeth, an international law professor at Arizona State, on behalf of Amnesty International and other human rights world entities. In addition, during 2018, we made formal Freedom of Information Act requests of the major immigration agencies (ICE, ORR, and CBP) pertaining to information about the condition and treatment of children detained at the border. The agencies refused to respond in good faith to any of the eight requests made, so in 2019 we filed suit to compel production. We have been assisted in our suit by the pro bono part of the major firm Sheppard Mullin, with leadership from our former student Travis Anderson, now a partner at the firm. Following the filing of our lawsuit, we began receiving responsive documents; during the coming year, we expect to achieve compliance by the defendants, and release a relevant report or otherwise share the information obtained through our efforts.

★ **The Transition Life Coach Model**. For more than ten years, we have attempted to implement a pilot project to assist foster youth achieve self-sufficiency. For any young adult, the median age for that accomplishment is not 18 or 21—but 26. And parents contribute close to $50,000 per child to assist in the transition to self-sufficiency. As children of the state, foster youth do not receive a comparable or effective assist. In prior years we succeeded in getting state law changed to allow the creation of a trust to accomplish continued financial assistance in an effective way, with the judge who served as the legal parent assisted by a trustee to spend funds on behalf of the young person in a flexible but responsible way that will produce self-sufficient, independent adults. We hope 2020 will see the beginning of that pilot.

★ **Juvenile Probation Report for CPOC.** During 2019, CAI was retained by the Chief Probation Officers of California (CPOC) to perform an objective review of how state law pertaining to juveniles has changed and how these changes have affected probation's responsibilities and obligations to serve youth in the areas of prevention, intervention, detention, and supervision in the juvenile justice system. This is a significant development because of the importance of the probation system on youth recidivism vs. rehabilitation. That those who provide those services are asking for third party evaluation is a major testament to their *bona fide* commitment to their purpose. Not only did they invite the study, but they also offered CAI a grant to perform it. The reason is undoubtedly our wisdom in appointing Jessica Heldman as our Fellmeth Peterson Professor in Residence in Child Rights. She has a long-standing national reputation as an expert in the field of juvenile justice, from her past role at the RFK National Resource Center for Juvenile Justice and in other capacities. Under her capable supervision and direction, CAI will complete and release the report to CPOC in 2020.

★ **Strengthening Federal Standards and Enforcement for Child Protection.** After helping to win enactment of the 2012 Protect Our Kids Act, and then closely monitoring the work of the federal bipartisan Commission to Eliminate Child Abuse and Neglect Fatalities, which completed its work and submitted its recommendations in 2016, we have worked hard to get those recommendations implemented. This effort, and others across an array of child protection issues, is embodied in pending amendments to the Child Abuse Prevention and Treatment Act that is the subject of much of our federal advocacy.

★ **Formalizing Our Commitment to Racial Equity.** During 2019, CAI started the process to formally integrate our long-standing commitment to racial equity, diversity, and inclusion into our advocacy and our organizational foundation. Since our inception over 30 years ago, CAI's advocacy has focused significantly on improving systems that disproportionally impact children and youth of color and on creating equitable opportunities for vulnerable children to succeed. Although our organizational values and commitment to evening the playing field for all children are understood amongst ourselves, we (as a society, community, organization, and as individuals) still have work to do to increase our understanding of racial inequity, our role in unintentionally perpetuating it, and our commitment to fighting it through our work. In this spirit, we started the process to formalize CAI's commitment to racial equity and diversity, with the initial goals of providing training for our staff and leadership and integrating racial equity impact analysis tools in our work.

★ **Protecting Children and Youth from Impacts of the Coronavirus Pandemic.** In early 2020, CAI finds itself addressing the unique challenges presented by the coronavirus that started rampaging through our world just as the year 2019 was ending. We now face unprecedented and daunting health and economic emergencies intersecting, such as the interruption/disruption of educational programs for students at all levels; shortages of food and necessities; a staggering unemployment rate, rising daily; older and former foster youth unable to sequester at home, as many do not have homes or functioning parents; and population-specific challenges such as those impacting child immigrants and those in the juvenile justice system—all of whom face particularly severe health risks.

Never has CAI's research and advocacy been more needed than it is as we proceed into a troubled 2020.

★ Academic Landmarks

★ **Admissions.** We worked with a superb group of law students in 2019; 26 students took our Child Rights core course, and many completed additional court and policy clinic work. I expect most of them to pursue child advocacy as their avocation (an increasing trend for some time). Child Rights is now a recognized *concentration* at the USD School of Law, with that achievement a part of the graduation diploma. I have served on the Admissions Committee at the school for many years, and in 2018 and then even more in 2019, saw a major increase in applicants citing public interest, environmental, immigration, or child rights as their primary interest in attending USD. For that reason, we expect another promising class in 2020.

★ **Text Adoption.** During 2019, we published the 4th Edition of *Child Rights and Remedies*, which was co-authored by myself and Professor Jessica Heldman—and her contribution included many improvements, updates, and refinement. We obtained additional endorsements from major scholars/advocates in the field and, for the first time, promoted it to juvenile law faculty at other law schools, offering complimentary copies if requested. As of the end of 2019, professors at 42 law schools requested and are reviewing the text for possible adoption and use in their teaching.

★ **Training Grant from the Judicial Council**. During late 2019, CAI was awarded a significant contract by the California Judicial Council, the administrative and policymaking body of the California judicial branch. The purpose of the contract is to provide training to attorneys, judges, social workers, and others on enhancing permanency for foster children. Foster children who end up being competently parented in a family setting and without movement between placements achieve significantly enhanced results. The training will include 12-hour sessions in seven locations around the state during 2020 and 2021. CAI plans to present leading experts, and call upon its expertise, to educate and inform attendees on factors and strategies that correlate with permanency and improved outcomes.

Before I close, one final note. One of the advantages of working for a cause for many years is the possibility of a cumulative impact. For example, in 2019, CAI received credit for a significant improvement in saving children from accidental deaths. During the late 1990s, we wrote and sponsored legislation on a variety of child safety issues, resulting in enacted statutes regarding playgrounds, bicycles, guns, kids in cars, and swimming pools. Regarding the latter, we researched various laws and requirements across the world, finding successful apparent examples in parts of Australia and Arizona. We used their three required protections, drawn from applicable empirical evidence, in our California statute. Our model was then adopted by many states and promoted by the Drowning Prevention Foundation and others. During late 2019, a major national study of child drowning found a marked decline in these deaths—to less than one-third in California and less than half nationally. The study attributed the reduction to our legislation, which has saved the lives of countless children over the last 25 years. Such results may be a major advantage of growing old—allowing one to discern a long-term result.

Bob Fellmeth

Price Professor of Public Interest Law
University of San Diego School of Law
Executive Director, Children's Advocacy Institute

CAI Campaigns

Championing a Child's Right to Counsel

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

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

CAI ADVOCACY RESULTS IN FEDERAL POLICY SHIFT OPENING UP UNCAPPED IV-E ENTITLEMENT FUNDING TO REIMBURSE STATES FOR PROVIDING CHILDREN WITH LEGAL REPRESENTATION IN CHILD ABUSE AND NEGLECT CASES. In a much-anticipated move, the Children's Bureau of the U.S. Department of Health and Human Services revised its Child Welfare Policy Manual (CWPM) in January 2019 to permit title IV-E funds to be used to reimburse states for the administrative costs of legal representation for children (and parents) in child welfare cases. This decision reflects an evolving understanding of the due process rights at stake for children in abuse and neglect cases faced with being involuntarily placed in state custody, aka foster care, and an emerging national consensus around the need for high-quality representation for all parties in these cases. Initial coverage regarding this policy change highlighted the central role played by CAI in this reform.

Before this change, the nearly 40 states that provide legal representation to children in child welfare court cases were forced to bear the financial burden of providing legal representation to children on their own without any federal support. The goal of securing a right to counsel for all children in abuse and neglect cases has been a cornerstone of CAI's work for over a decade. CAI founder and Price Professor of Public Interest Law Robert Fellmeth said, "This is a game-changer for children's civil rights. If accused criminals facing incarceration have a constitutionally recognized right to counsel paid for with federal dollars when necessary, there is no reason why children victimized by maltreatment ought not to be granted at least the same when faced with being placed in state custody. This gets us one step closer to that goal."

CAI has played a leading role in this work through co-publication of several editions of the National Report Card on a Child's Right to Counsel, as well as through Congressional briefings, federal and state legislative and administrative advocacy, and impact litigation. CAI has worked proudly alongside exceptional allies such as First Star, Inc., the National Association of Counsel for Children, and the American Bar Association Center on Children and the Law in pursuing this work.

Said CAI National Policy Director Amy Harfeld, "This is a critical milestone in the movement toward attaining children's right to counsel. CAI is more committed than ever to continuing this work until every child across the country has a well-trained attorney by their side to protect their legal interests and ensure their voices are heard. This policy victory paves the way towards the ultimate recognition of a constitutional right to counsel for all children in child welfare cases and federal legislation ensuring such representation."

In explaining this change, the Children's Bureau stated, "Previous policy prohibited the agency from claiming title IV-E administrative costs for legal services provided by an attorney representing a child or parent. This policy is revised to allow the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child's removal from the home." Dr. Jerry Milner, Associate Commissioner of the Children's Bureau, and Special Assistant David Kelly were key players behind this landmark policy change.

Child Welfare Policy Manual
Section 8.1B, Question 30 now reads:

Question: May a title IV-E agency claim title IV-E administrative costs for attorneys to provide legal representation for the title IV-E agency, a candidate for title IV-E foster care or a title IV-E eligible child in foster care and the child's parents to prepare for and participate in all stages of foster care related legal proceedings?

Answer: Yes. The statute at section 474(a)(3) of the Act and regulations at 45 CFR 1356.60(c) specify that Federal financial participation (FFP) is available at the rate of 50% for administrative expenditures necessary for the proper and efficient administration of the title IV-E plan. The title IV-E agency's representation in judicial determinations continues to be an allowable administrative cost.

CAI Files Federal Lawsuit In Support of Constitutional Right to Counsel for Abused and Neglected Children. In February 2019, CAI—together with pro bono co-counsel Morrison & Foerster and DeLaney & DeLaney LLC—filed a federal lawsuit to challenge how one state appoints guardians ad litem (GALs) to represent children in every case of abuse or neglect that results in a judicial proceeding, as is required by federal law. CAI identified the state of Indiana as having a convoluted system of child representation in its juvenile dependency courts, resulting in its failure to provide federally-mandated GALs (lay or attorney) for many of its eligible children, despite the fact that Indiana law recognizes children as parties to their proceedings. In addition to challenging the state's failure to comply with federal law, CAI will argue that only attorneys are capable of adequately representing a party's interest in such legal proceedings.

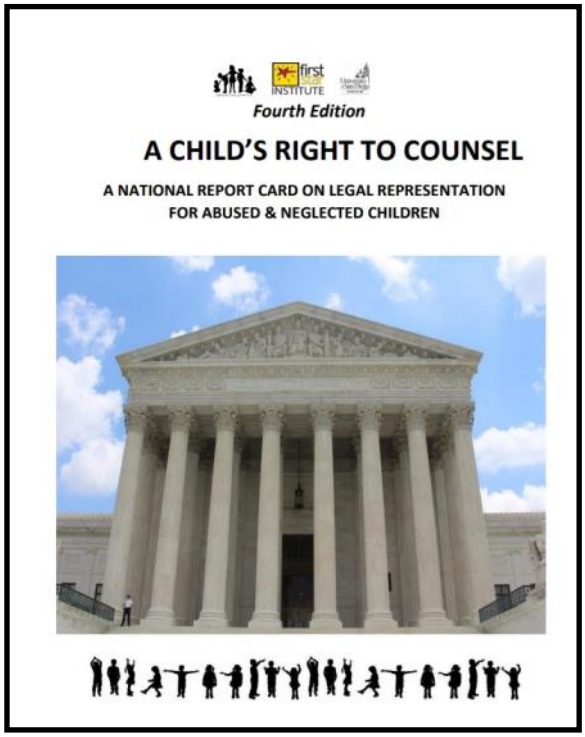
Every year, thousands of children in Indiana are removed from their homes and families due to abuse or neglect. They are put into court proceedings known as Child in Need of Services (CHINS) proceedings, where a juvenile court determines their fate. The court decides where they will live, with whom they will live, where they will go to school, whether they will be permanently separated from siblings, etc. In these proceedings, which are entirely about the child, the government has an attorney, and the parents have attorneys paid for by the county if they are unable to afford one. But the child has no attorney, except in very rare cases.

Without an attorney, a child in a CHINS proceeding is at the complete mercy of the system, as other parties present evidence, offer witnesses, and make decisions about the child's future that the child is not permitted to discredit, challenge, or even address.

In more than 30 states, it is mandatory to appoint counsel to children in such proceedings. Indiana is behind the rest of the nation. In Indiana, a child facing a month in juvenile detention is appointed an attorney. However, an abused child facing 18 years of government-directed foster placements, living among countless strangers in dozens of homes, is not.

CAI's lawsuit seeks certification of a class of more than 5,000 children and seeks declaratory and injunctive relief that would require the appointment of licensed attorneys to represent children in CHINS proceedings. Trial is scheduled to commence in December 2020.

CAI and First Star Release 4th Edition of *A Child's Right to Counsel*. In June 2019, CAI and First Star Institute jointly issued the 4th edition of *A Child's Right to Counsel*, a national progress report on the effectiveness of state laws in providing legal representation to children in abuse and neglect cases. Although the report found steady progress among most states to secure quality representation, it also revealed that several states still put children at risk by not providing adequate legal representation during civil child abuse and neglect proceedings.



Since the report was first published in 2006, state grades have steadily increased, with 31 states showing improvement. Currently, a record 19 states receive a grade of "A." Unfortunately, many states still fail to statutorily require the kind of legal representation that can lead to better outcomes, more quickly, for children in dependency cases.

The report's principal findings indicate that states increasingly are providing independent legal representation to children in child abuse and neglect cases, and are providing this counsel through appeals; are providing party status to children in these cases, and are holding children's attorneys to professional responsibility standards of confidentiality and liability. The report proposes continued improvement in the representation of these children, particularly by the 22 "C," "D," and "F" graded states. All states are encouraged to make use of recent federal policy changes that allow federal funds to cover up to 50% of the cost of this legal representation (discussed above).

CAI and First Star released the report at a Capitol Hill briefing hosted by the Congressional Caucus on Foster Youth, the Senate Caucus on Foster Youth, the Congressional Caucus on Crime Prevention and Youth Development, and the Congressional Access to Legal Aid Caucus.

"We hope all states will make use of the newly available federal support to even the playing field and help courts achieve better outcomes for abused and neglected children," said Amy Harfeld, CAI National Policy Director. "Going forward, federal legislators can look to ensure that no child faces placement in state custody, aka foster care, without a statutory right to legal representation to protect their rights and amplify their voice."

The Report Card has become a relied-upon resource and tool for advocates and changemakers at all levels. The 4th Edition was published as Congress began in earnest the process of reauthorizing the federal Child Abuse Prevention and Services Act (CAPTA), the only federal law specifically addressing the representation of children in abuse and neglect proceedings. In advocating to strengthen CAPTA's representation mandate, Harfeld pointed to the sustained progress by states documented in the 4th Edition, as well as to the newly-available federal dollars available to cover the cost of legal representation of children, to make a strong case for reform. CAI presented U.S. Senate committee staff with a list of priorities around desired amendments to CAPTA relating to representation. Additionally, Harfeld informed Congressional staff on the House Education and Labor Committee, the House Ways and Means Committee, and several members of the Congressional Caucus on Foster Youth about the importance of protecting children's legal rights in dependency cases. She also met with members of the Senate HELP Committee, Finance Committee, Appropriations Committee, and members of the Senate Caucus on Foster Youth to promote the protection of the legal interests of maltreated children.

Although CAPTA reauthorization has still not been finalized and there will surely be more work to be done, the bipartisan House version that was passed unanimously in 2019 includes a provision for which CAI advocated. If adopted, this provision will ensure that youth who elect to remain in foster care beyond the age of 18 through the Fostering Connections Act will be able to retain their representation for the duration of their time in foster care, creating greater legislative consistency with that Act, and preserving access to critical advocacy for youth during this vulnerable time.

Highlights of 4th edition's findings on state statutes regarding the appointment of legal representation for children in abuse and neglect proceedings

- 29 states earned grades of A or B in 2019, compared to 22 in 2008.
- 11 states earned D or F grades in 2019, compared with 15 in 2008.
- 34 states statutorily require independent counsel for children in abuse and neglect proceedings, but only 15 of those require client-directed counsel under all reasonable circumstances.
- 7 states have laws that provide counsel for children only on a discretionary basis, and another 17 states have laws that provide representation with major restrictions.
- When an attorney is appointed for a child in these proceedings, most state statutes (76%) provide that the attorney is appointed for all phases of the case, including appeal.
- A slim majority of states (54%) want to at least hear the child's views, while one-third of all states require client-directed child representation in these proceedings.
- Most states (76%) give the child all the rights of a party in child abuse and neglect proceedings.

Other CAI Advocacy in Support of a Child's Right to Counsel. As a result of CAI's advocacy in support of a child's right to counsel, we were invited to help form a new entity, the Family Justice Initiative, which works to increase access to high-quality legal representation for children and parents in accordance with the revised title IV-E policy discussed above. We continue to collaborate with this group to ensure continued movement towards the provision of high-quality legal representation for children and parents in dependency cases.

CAI also consulted with other advocates working to build on the results of *A Child's Right to Counsel* by delving yet deeper into the issue. One allied organization consulted with CAI to research the scope of the roles of Court Appointed Special Advocates in states that do not provide legal representation. Another group drew upon the 4th Edition to identify which states are and are not currently opting to continue legal representation for youth participating in extended care beyond the age of 18.

In addition to educating members of Congress and Congressional committee staff, CAI responded to requests to present on the findings in the Report to the Children's Rights Litigation Committee of the American Bar Association. In addition, CAI worked with the National Association of Counsel for Children to advise it on updating its official policy statement on the legal representation of children.

There is still much work to be done. CAI has been called upon to contribute to exciting discussions about how children's attorneys can best advocate for children and families before cases even come to court. The field of pre-petition representation in child welfare is a new space, with new federal dollars available, and significant potential to help keep families safely together when possible.

Eliminating Child Abuse and Neglect Fatalities and Near Fatalities

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

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

Federally-Mandated Public Disclosure of Abuse and Neglect Fatalities and Near Fatalities. During 2019, CAI continued to follow up on the second edition of its report, *State Secrecy and Child Deaths in the U.S.*, which analyzed and graded the quality and scope of each state's CAPTA-mandated public disclosure policy, by urging the U.S. Department of Health and Human Services' Administration for Children and Families (ACF) to, among other things, engage in more robust oversight, implementation, and enforcement of CAPTA. CAI focused its advocacy this year on amending CAPTA itself. This was done independently as well as with several allied coalitions. Many of CAI's priorities, including significant increases in funding, development of a standard national definition for maltreatment fatalities, limiting restrictions on disclosure, and more stringent and comprehensive reporting requirements and sources, were indeed included in the introduced CAPTA bills in the House and Senate. In addition, CAI continued to pressure the Administration to enforce clear violations of disclosure requirements on states more conscientiously. Finally, CAI staff worked closely with investigative reporters from the Boston Globe on a years-long series, including a stark expose of the failure of the federal government to collect adequate data on child maltreatment deaths and a state-by-state interactive tool reflecting compliance with this and four other mandates in CAPTA.

Improving Outcomes for Transition Age Foster Youth

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

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

Monitoring California's Extended Foster Care Program. At the state level, CAI's Melanie Delgado continued to monitor and analyze the impact of California's Fostering Connections program, the state's extended foster care program, which allows youth to stay in care until age 21 if they meet certain eligibility requirements. The program, which took effect on January 1, 2012, was created to help better prepare foster youth to live successful, self-sufficient, independent lives after leaving care, and help them avoid the negative outcomes now commonly associated with aging out of foster care, such as homelessness, incarceration, unemployment and insufficient educational attainment. During 2019, CAI continued to urge policymakers to refine Fostering Connections to ensure that it achieves its goal of improving the transition to self-sufficiency for foster youth aging out of care.

Advocacy for Implementation of Transition Life Coach Model. During 2019, CAI continued to call for the implementation of the Transition Life Coach (TLC) option, which mirrors the support and guidance typically offered by parents to their young adult children. The TLC model involves youth buy-in to his/her plan for transitioning to self-sufficiency and independence, is flexible and personal, involves a mentor or coach to help guide the youth and assist him/her in accessing funds that further the youth's transition, and is overseen by the court (who has served as the legal parent of the child). CAI has been educating policymakers, and community leaders about the needs of transition age foster youth in San Diego and the holes in the system and advocating for a TLC pilot program that would serve as a model for California and other states.

Enhancing Academic Outcomes for Postsecondary Students

Because of their profit maximization charter, some private for-profit postsecondary schools spend a small fraction of revenue on educational services, academic instruction, and student support services, and focus instead on marketing, lobbying, and profits for shareholders / CEOs. Programs at these schools average four times the cost of degree programs at comparable community colleges. In addition to the higher expense, for-profit schools often lack appropriate support services that are critical to student success, and many students drop out prior to graduating. Those who do graduate rarely find the lucrative careers commonly touted in the schools' ubiquitous advertising. Regardless of whether they drop out or are able to graduate, too many of these young people are saddled with debt that they cannot afford.

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

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

CAI Advocacy Results in Enactment of Three Important Model State Statutes. Over the past several years, CAI worked hard to successfully transform California from the state with one of the nation's worst regimes overseeing private, for-profit postsecondary schools to the state with the best regulatory oversight. This effort included targeted legislative efforts, including re-upping a reformed Bureau of Private Postsecondary Education (BPPE) required to pursue student priorities in enforcement, best-in-the-nation disclosures both in statute and regulation, closing gaping loopholes, and establishment of a community college "public option" alternative to for-profit online abusers.

During 2019, CAI assumed on-the-ground lobbying and strategy leadership for an unprecedented seven-bill package aimed at further extending student protections. Our advocacy resulted in the enactment of three model statutes as discussed below:

- ★ **AB 1344 (Bauer-Kahan)** requires out-of-state for-profit online colleges to provide critical and expanded information to the BPPE if they enroll California students in online programs, specifically adding adverse actions to the list of information that has to be provided; authorizes BPPE to place these out-of-state private postsecondary institutions on a probationary status and revoke authorization to enroll California students; and states that an institution that fails to comply with the above provisions is not authorized to operate in California, as specified.
- ★ **AB 1346 (Medina)** provides protection in a critical area: How a state should deal with school closures. This bill allows students who have been victimized by for-profit institutions that have closed to recoup costs outside of tuition—including fees and all expenses related to student loans and payments to third parties such as grants that were the student's property. This law contrasts markedly with the current practice of U.S. Secretary of Education Betsy DeVos to refuse to provide consistent recovery—even in violation of outstanding court orders to the contrary.
- ★ **AB 1340 (Chiu)** establishes the structural foundation for a California-specific Gainful Employment rule. Specifically, it requires institutions regulated by BPPE to report identifying, program enrollment, and loan debt information to BPPE, and authorizes BPPE to match student information with wage data provided by the Employment Development Department.

In addition to those three enacted bills, CAI spearheaded much of the effort on four additional measures which were regrettably not enacted during 2019:

- ★ **AB 1341 (Berman)** would have ensured that for-profit schools do not evade oversight by creating shell corporations and posing as nonprofit or public institutions. Although the bill did not receive a single "no" vote in the Assembly or two Senate policy committees, it was killed by the Senate Appropriations Committee without a public vote.
- ★ **AB 1342 (Low)** would have required the Attorney General to review and approve all sales of nonprofit colleges to for-profit companies in a manner similar to how the sale of nonprofit hospitals are approved. After receiving bipartisan support, the bill was killed by the Senate Appropriations Committee without a public vote.
- ★ **AB 1343 (Eggman)** would protect against taxpayers from being overcharged by ensuring that for-profits do not price tuition solely based on the wealth of the taxpayer benefit. Whereas usually taxpayers are protected from being overcharged by private vendors through competitive bids and contracts or price setting, no such protections exist for education. To prevent predatory, benefits-based pricing, federal law requires that to be eligible for federal aid institutions must be able to attract just ten percent of their students in the market, paying from nonfederal sources, as proof that what they charge is based on market realities rather than the amount of benefits available. But an absurd loophole decrees GI Benefits not to be federal aid even though it is. This ironically leads the institutions least able to attract cash students to target veterans aggressively. AB 1343 would close that loophole, raise the percentage of students a school needs to attract to 20%, and offer an alternative proof of fair pricing: if you spend half of what you get in government benefits on instruction, then you do not have to satisfy the rule. After receiving bipartisan support and the hard-won and negotiated support of DeVry University, the bill—by a wide margin the biggest target of the for-profits and the bill that consumed by far the most of CAI's time—was made into a two-year bill, eligible to be heard in 2020.
- ★ **AB 1345 (McCarty)** would have closed loopholes in current law prohibiting colleges from requiring quotas in recruiting or paying admissions representatives commission, an important reform as nearly every for-profit scandal involves hyper-aggressive recruitment. After receiving bipartisan support and with USD leading the exhaustive negotiations with the for-profit sector, resulting in University of Phoenix dropping its opposition, the bill was killed by the Senate Appropriations Committee without a public vote.

CAI Starts Planning Inaugural Student Defense Summit. During 2019, CAI started to plan a unique convening to bring together advocates, policymakers, public prosecutors, and others from across the nation to discuss promising policy efforts, key litigation activities, and effective strategies to protect students from unfair practices and predatory postsecondary institutions. The Student Defense Summit, scheduled to be held at USD on Jan. 7–8, 2021, will be a compelling call to action for all those working to ensure that postsecondary schools do not over-promise and under-deliver when it comes to their educational offerings.

Protecting the Privacy Interests of Children and Youth

Privacy laws have not kept pace with technological advances and societal trends and innovations. CAI's work in this area seeks to protect the rights of children and youth and the right of parents to make decisions as to the use and dissemination of their children's images, information, postings, et al.

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

Legislation to Protect Children's Online Privacy Rights. In 2019, CAI sponsored AB 1665 (Chau), which would have enacted the Parent's Accountability and Child Protection Act. Among other things, this bill, as originally introduced, would have:

- prohibited a person or business that conducts business in California, that operates an internet website or application that seeks to use a minor's name, picture, or any information about the minor on a social media internet website or application pursuant to an arrangement in which the person or business is paid by a third party to display the minor's name, picture, or information that could reasonably identify the minor from doing so without obtaining prior parental consent, which must be separate from the social media internet website or the application's general terms and conditions;
- provided that the failure of a parent to provide the parental consent to the use of the minor's name, picture, or information shall not result in any minor being denied access to the social media internet website or application; and
- prohibited parental consent from being obtained through the minor.

Although passing out from the Assembly without receiving a single "no" vote, this bill was gutted in the Senate and no longer pertains to the protection of children's privacy. However, CAI's advocacy in support of the measure resulted in Facebook's agreement to end its "sponsored stories" program, which was one of the child privacy infringements prompting CAI to sponsor AB 1665.

Stopping the Sexual Exploitation of Minors

CAI is working on several fronts to eliminate the commercial sexual exploitation of children (CSEC) and improve outcomes for CSEC victims. As a preliminary matter, CAI is working to inform the public, child advocates, and policymakers about the scope and extent of this issue, dispelling the myth that this is only happening in other parts of the world. A recent study found that in San Diego County alone, the underground sex trafficking economy generates over $800 million a year. Many victims start out as minors; the average age of a victim entering the industry is 16, with recruitment commonly taking place on high school and middle school campuses and in group homes serving foster children.

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

Summary of Activities. During 2019, CAI was engaged in a variety of advocacy efforts on behalf of CSEC, including:

- engaging in executive branch advocacy to assure effective enforcement of current CSEC statutes;
- highlighting CSEC as a Children's Advocates Roundtable topic for statewide planning in prevention and enforcement;
- promoting attorney education on CSEC issues;
- urging appropriate funding for CSEC prevention and enforcement;
- monitoring federal legislation regarding internet CSEC practices, with appropriate enforcement advocacy to the FTC and U.S. Attorneys;
- researching and analyzing emerging areas of focus in CSEC advocacy;
- participating in local and state working groups, coalitions, and collaborations working to eliminate the commercial sexual exploitation of children and to increase the resources and services available to CSEC victims;
- presenting a session on CSEC Special Courts at the National Association of Counsel for Children Annual Conference;

- offering a Fall 2019 clinical opportunity for students from three different USD schools (Law, Nursing, and Leadership and Education) to work on trafficking issues in a collaborative program involving other law schools, as well as with other academic and community partners;
- participating in the San Diego Human Trafficking Research and Data Advisory Roundtable;
- participating in the annual JUST (Juvenile Sex Trafficking) national conference;
- helping to plan a January 2020 USD campus-wide anti-trafficking Impact Strategy Summit; and
- exploring a collaborative effort to engage in research, education, and training to better inform those involved in the child welfare system of the unique needs and issues impacting trafficked mothers whose children are in the child welfare system, as well as the unique needs and issues impacting the involved children, to ensure that these mothers and children have the appropriate services, resources, and assistance that will put them on track toward successful reunifications.

CAI is grateful to the William D. Lynch Foundation for Children for its past support of some of CAI's outreach, advocacy, and related efforts to eliminate the commercial sexual exploitation of children.

Protecting Children of Asylum-Seeking Parents

In implementing the Trump Administration's so-called "zero tolerance" policy mandating the criminal prosecution of all adults who illegally enter the U.S., federal authorities have been separating children from their parents or guardians and placing them in government shelters. Following the end of the "zero tolerance" policy, separations have continued based on a parent's alleged lack of fitness or danger to the child. Concerns about federal agency abuse of discretion in making such determinations became a key area of interest for CAI in 2019.

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

FOIA Requests and Subsequent Litigation. In March 2019, CAI and pro bono co-counsel Sheppard, Mullin, Richter & Hampton LLP filed a complaint in the U.S. District Court, Southern District of California, seeking a court order declaring that various federal agencies failed to comply with the Freedom of Information Act (FOIA), and requiring them to promptly release the requested records.

Specifically, CAI submitted separate but substantively identical FOIA requests in 2018 to the Office of Refugee Resettlement, the Administration for Children and Families, the United States Immigration and Customs Enforcement, the U.S. Department of Homeland Security, and the U.S. Customs and Border Protection, seeking records related to individuals detained or arrested for suspected immigration violation upon their entry into the U.S. from January 1, 2018–June 20, 2018.

Among other things, the FOIA requests sought documents or databases sufficient to demonstrate the number of children under the age of 18 detained upon detected entry into the U.S. for immigration-related causes ("minor detainees"), by month since January 1, 2018, as available, and the following information for each minor detainee: whether the minor detainee was accompanied by an adult at the time of detention, and if so, whether the adult was identified or believed to be the parent of the minor detainee; all locations in which the minor detainee has been held in custody; languages spoken by the minor detainee; country of origin of the minor detainee; age at the time of the minor detainee's initial detention; medical condition(s) of the minor detainee requiring treatment at the time of detention or while during detention; for minor detainees with medical condition(s) requiring treatment at the time of detention or while during detention, whether such treatment has been rendered; and whether the minor detainee has been appointed or retained legal counsel.

Further, for each minor detainee, CAI's FOIA requests asked for documents or databases sufficient to demonstrate whether he/she was left in the custody of his/her accompanying adult(s); whether he/she was tendered to a relative (other than the accompanying adult); whether he/she was tendered to a non-relative adult sponsor; whether he/she was physically barred from entry and is assumed to have left the U.S.; whether he/she was put in the custody of any federal agency, and if so, which such agency has custody; whether he/she was physically separated from his/her accompanying adult(s) for any period following his/her detention; for each minor detainee who was separated from his/her accompanying adult(s) for any period following his/her detention, the total length of time such separation has taken place, the number of times he/she has had any physical contact with his/her accompanying adult(s) while in detention, and the total length of time of such contacts.

CAI also requested documents sufficient to demonstrate policies and procedures, formal or informal for determining the facilities or individuals who will have custody over minor detainees who are separated from their parents or accompanying adults; setting forth how minor detainees who have been separated from their parents or accompanying adults are to be treated, and assistance and services they are to receive, while in federal custody (addressing concerns such as, but not limited to, ensuring safe and appropriate housing and bedding, clothing, meals, medical services, mental health treatment or counseling, supervision, education, and assistance with routine needs such as feeding, bathing and diapering); for tracking the custody locations for minor detainees who were separated from their parents or accompanying adults; documenting requests by detainees to be reunited with their minor detainee children being detained separately, and the outcome of each such request; and for permitting detainees to communicate with their minor detainee children, if they are detained separately.

In the months following the filing of CAI's lawsuit, the defendants turned over some responsive documents; CAI is currently reviewing those responses to determine whether continued litigation of this matter is warranted.

***AMICUS* PARTICIPATION IN FEDERAL CLASS ACTION CHALLENGING THE SEPARATION OF FAMILIES.** During 2019, CAI continued its *amicus curiae* participation in support of the plaintiffs in *Ms. L. v. ICE*, an ACLU class action filed in the U.S. District Court, Southern District of California, challenging the Trump Administration's practice of separating asylum-seeking parents from their children. Among other things, the *amicus* brief argued that family separation within immigration detention is unconscionable, needlessly traumatizes children and families, and must be avoided; government action involuntarily separating children from parents who pose no risk of harm to them is unconscionable and contradicts accepted nationwide child welfare practices and international law; and government action involuntarily separating children from the parents who pose no risk of harm to them is unconscionable and unconstitutional.

In June 2018, Judge Dana Sabraw of the U.S. District Court ordered the federal government to stop separating children and families and to reunify, within thirty days, all children and families who had been separated by the Trump Administration. The government failed to comply with both directives. On September 20, 2018, the federal government reported to the court that it had reunified or otherwise released 2,167 of the 2,551 children over five years of age, and 84 of the 103 children under five years of age, who had been separated by a parent and were "deemed eligible" for reunification by the government. In November 2018, the court approved a settlement agreement that, among other things, allows most of the migrant children, and many of their parents, to have another chance to apply for asylum.

In anticipation of further litigation to effectuate the settlement or address other related issues—including the discovery of undisclosed removals prior to 2018—CAI drafted a new *amicus curiae* brief on behalf of child advocacy organizations addressing the illegality of the removals under American statutory and constitutional law. The brief has been written in conjunction with a separate *amicus* brief detailing the violations by the Trump Administration of international law that properly applies. The latter *amicus* brief was drafted by Professor Aaron X. Fellmeth (Robert's son and an international law professor at Arizona State) on behalf of Amnesty International and other international human rights organizations. These two briefs await the appeal of *Ms. L v. ICE* to the Ninth Circuit, which is currently delayed by a stipulated extension.

Improving Child-Serving Systems

Public systems that serve children, such as the child protection, child welfare, foster care, dependency, and juvenile justice systems, are capable of forever impacting a child's life–for better or worse. Too often, children involved with these systems are traumatized by the experience itself, in addition to whatever underlying ordeals brought them into contact with these systems. CAI seeks to ensure these systems have appropriate resources, policies, and protocols to achieve positive experiences and outcomes for the children they are serving.

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

Historical Review of Juvenile Justice in California. In 2019, CAI researched and began drafting "The Evolution of Juvenile Justice and Probation Practices in California," a report commissioned by the Chief Probation Officers of California (CPOC). The report, submitted to CPOC in February 2020, outlines how juvenile justice in California has changed over the past 25 years, and tracks how state law and funding allocations, as well as other policy and practice drivers, have influenced these changes. The report specifically examines how juvenile probation policies and practices across the state have shifted as a result of these changes, and the impact this has had on youth, families, and communities. The report is anticipated to be released by CPOC by Summer 2020.

CAI Awarded Statewide Training Grant by the Judicial Council of California. In late 2019, CAI was awarded a significant contract by the California Judicial Council, the administrative and policymaking body of the California judicial branch. The purpose of the contract is to provide training to attorneys, judges, social workers, and others on enhancing permanency for foster children—particularly with regard to actions and strategies during the first ninety days of a child welfare case. The training will include twelve-hour training sessions in seven locations around the state during 2020 and 2021. CAI will present leading experts and call upon its expertise to educate and inform attendees on factors and strategies that correlate with permanency and improved outcomes.

Legislative Advocacy. During 2019, CAI sponsored or supported legislation that would improve various aspects of the child welfare and juvenile court systems. Although not enacted, CAI laid the critical groundwork for these improvements and will continue to pursue these reforms during 2020 through legislative or other forms of advocacy. For example, CAI supported AB 395 (Rubio), which would have placed a number of requirements on investigations of allegations of child abuse or neglect conducted by the Department of Social Services (DSS) and other agencies with oversight authority in certain community care facilities serving foster youth; CAI sponsored AB 465 (Eggman), which would have codified certain definitions developed by a workgroup convened by the Judicial Council of California to assist in tracking "dual-status youth" who are involved in both the juvenile dependency and delinquency systems; and CAI sponsored AB 859 (Maienschein), which would have required DSS, in consultation with the Judicial Council, to convene a stakeholder group that includes county counsel, a nonprofit comprised of former foster youth, representatives of dependency counsel, and other stakeholders designated by the DSS, in order to make recommendations related to juvenile dependency proceedings.

Improving the Federal Government's Oversight and Enforcement of Child Welfare Laws

For years, all three branches of the federal government have been hugely underperforming with regard to their respective roles in enacting, implementing, interpreting, and enforcing child welfare laws. By failing to comply with their responsibilities vis-à-vis abused and neglected children, all three branches are allowing states to fall below minimum standards with regard to appropriately detecting and protecting children from child abuse and neglect and complying with minimum federal child welfare requirements, notwithstanding the fact that states receive nearly $9 billion in annual federal funding to help them meet those floors.

CAI's 2019 highlights, efforts, and accomplishments in this area include the following:

National Advocacy to Enhance Oversight and Enforcement. During 2019, CAI followed up on discussions that started with its 2015 release of *Shame on U.S.*, which documented some of the ways in which all three branches of government had failed to adequately protect children from abuse and neglect, as well as its 2018 release of *A White Paper on America's Family Values*, which discusses needed reform to the child maltreatment and child welfare financing system.

CAI staff met multiple times with officials at the Department of Health and Human Services to discuss the existing framework to review and respond to state compliance with existing child welfare laws—the Child and Family Service Reviews. These reviews have never found a state to be in full compliance with the performance standards tested. And states that are out of compliance are required to fulfill a less stringent measure in order to pass. Current Administration officials have flagged this process to be improved on in the coming years, and CAI will continue to press for greater accountability by states and DHHS until all children and families are protected, and all federal dollars have been spent in accordance with federal legislative standards and intent.

During 2019, CAI continued its advocacy in support of a stronger and more appropriately funded Child Abuse Prevention and Treatment Act. This law is overdue for reauthorization, and CAI has flagged lax oversight and anemic funding as targets for advocacy to ensure that the new version of the law is stronger, more robustly funded, and has the teeth it needs to adequately protect children.

In addition, during 2019 CAI closely followed the release of Round 3 of the Child and Family Service Reviews—the primary tool for tracking state compliance with federal child welfare law. Once again, the reviews showed that no state was in full compliance with all measures checked. CAI continued to press ACF for more stringent follow-through with these results, as well as a more comprehensive tool for monitoring. In addition, we continued to advocate for a right of private action in the reauthorization of CAPTA and beyond.

Leadership & Collaboration

CAI participates in state and federal collegial education and advocacy, and is part of several national coalitions such as the National Foster Care Coalition, the National Child Abuse Coalition, the Coalition on Human Needs, the Children's Budget Coalition, and the Child Welfare and Mental Health Coalition. We are also actively involved in the governance of the following organizations:

- ★ The National Association of Counsel for Children (NACC), the nation's major association of attorneys who represent children in court, juvenile, family and other venues. Professor Fellmeth served on the NACC Board for over 20 years, including a tenure as President, and Amy Harfeld now serves as a member of its Board.
- ★ The Maternal and Child Health Access Foundation was started at CAI and is now based in Los Angeles. It is now a major provider of services and expert advice on pregnant women and infants.
- ★ First Star Foundation now focuses on starting foster youth "academies" located on college campuses. Its early success indicates that giving foster children direct experience with college campuses facilitates major increases in college entry for these vulnerable children. CAI is also continuing to work with First Star Institute on joint national reports.
- ★ The Partnership for America's Children (PAC) is the successor organization for Voices for America's Children, which itself was formerly known as National Association of Child Advocates. CAI has been part of the governing board of all three of these entities. PAC includes child advocates operating in 42 state capitals currently.

CAI continued to organize, convene and chair the **Children's Advocates Roundtable** in Sacramento, as we have for 29 years. We are now joined in that effort by Children Now, and are working to expand the Roundtable's influence and the number of organizations participating. Chaired by CAI's Melanie Delgado, the Roundtable meetings feature presentations by state and national experts, policymakers, legislative and executive branch staff, and others on major issues impacting children and youth. During 2019, CAI convened and chaired four meetings of the Children's Advocates Roundtable. The February Roundtable featured insights from the Governor's Office and a two-part panel discussion on the new vision for juvenile justice. The May Roundtable featured discussions on Facebook and child privacy; child unintentional injury prevention; California's evolving foster care system (a Family First/CCR update); and a federal update on CAPTA. The August Roundtable featured an in-depth discussion on predictive risk modeling applications in child welfare. The November Roundtable featured a review of children's rights and major legislative developments and an in-depth discussion on preventing firearm-related child and youth deaths.

Children's Advocates Roundtable

CAI also led the effort of the **Private For-Profit Postsecondary Campaign** and participated in other coalitions and consortiums, such as the CSEC-focused collaborations discussed above.

Special Projects

Annual Journalism Awards. During 2019, CAI continued to staff the Price Child Health and Welfare Journalism Awards, presented annually since 1992 to recognize excellence in journalism, and specifically to recognize significant stories, series, or bodies of work that advance the understanding of, and enhance public discourse on, child health and well-being issues (e.g., health, nutrition, safety, poverty, child care, education, child abuse, foster care, former foster youth, juvenile justice, children with special needs). The 2019 Journalism Awards were presented to:

- ★ Jill Tucker and Joaquin Palomino, for the investigative series, Vanishing Violence, published by the San Francisco Chronicle;
- ★ Nuria Marquez Martinez, for "Should Oakland Schools Finally Try to Integrate?" published by the East Bay Express;
- ★ Politico, for its coverage on migrant child health and well-being; and
- ★ Voice of San Diego, for its coverage on children and youth, as well as other vulnerable populations.

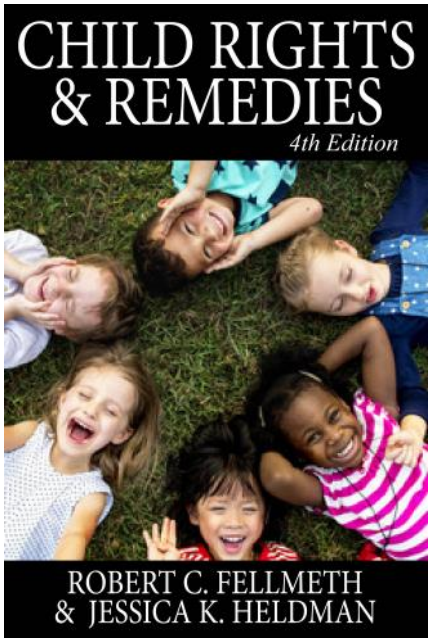
Educational Opportunities for Juvenile Court-Involved Youth. In conjunction with local partners throughout San Diego County, CAI continues its efforts to recruit, train, and oversee volunteers willing to temporarily hold educational rights for students in the foster care system. Additionally, CAI launched a pilot project aimed at providing volunteer advocates to work in partnership with families, caregivers, and/or other supportive adults to assist delinquency court-involved children meet their educational goals.

Lawyers for Kids. CAI's Lawyers for Kids program offers attorneys and law students the opportunity to serve as pro bono advocates to help promote the health, safety, and well-being of children; assist CAI's policy advocacy program; and work with CAI staff on test litigation in various capacities. Among other things, Lawyers for Kids members have the opportunity to assist CAI's advocacy programs by responding to legislative alerts issued by CAI staff and by providing pro bono legal representation, either independently or with CAI serving as co-counsel.

Academic Program

In addition to educating those interested in child welfare through conferences and presentations, CAI educates the child advocates of the future. That includes a core course in Child Rights and Remedies, as well as three clinics in which law students represent children in court and engage in policy research and advocacy at the state and federal levels. The USD School of Law offers a Concentration in Child Rights, and an increasing number of law students are graduating with this distinction, demonstrating their commitment to this educational focus.

The USD School of Law is honored to have been endowed with the Fellmeth-Peterson Faculty Chair in Child Rights, which will assure the continuation of CAI as an educational part of USD and as an effective advocate for children. The chair is named in honor of Robert B. Fellmeth (father of CAI Executive Director Robert C. Fellmeth) and Paul Peterson, a longstanding supporter and inspiration for CAI from its beginning 30 years ago. In August 2018, CAI welcomed USD School of Law and CAI alumna Jessica Heldman back to USD as the holder of the Fellmeth-Peterson Professor in Residence in Child Rights. Prior to taking this position, Heldman served as Associate Executive Director at the Robert F. Kennedy National Resource Center for Juvenile Justice at Robert F. Kennedy Children's Action Corps, where she provided technical assistance and training to state and local jurisdictions, guiding the development of law and policy within child welfare and juvenile justice systems throughout the nation.



The centerpiece of CAI's academic program is **Child Rights and Remedies**, a one-semester course taught in a modified Socratic method with students assigned various roles (child attorneys, parent attorneys, feminist advocates, fathers' rights advocates, fundamental religious, civil liberties advocates, Attorney General, et al.). The course is a prerequisite to participation in CAI's **Child Advocacy Clinic**, which offers three unique opportunities to advocate on behalf of children and youth—the Dependency Clinic, the Delinquency/At-Risk Youth Clinic, and the Policy Clinic. During Fall 2019, Bob Fellmeth and Jessica Heldman team-taught Child Rights and Remedies, and started drafting the fourth edition of the casebook used in that course. Heldman also supervised several students participating in CAI's three clinics.

In May 2019, CAI honored four graduating law students for their exceptional work on behalf of children and youth. CAI presented the **2018 James A. D'Angelo Outstanding Child Advocate Award** to **Gina Schoelen, Nancy Tran, Ashlee Walcott** and **Bryan Yerger**. These students participated in CAI's Child Advocacy Clinic and/or engaged in other child advocacy opportunities in which they protected and promoted the rights and interests of countless children and youth.

CAI also presented the **2019 Joel and Denise Golden Merit Award in Child Advocacy** to **Helen Lockett.** This award is presented annually to a second-year law student who has already started to use his/her developing legal skills to benefit system-involved children. Even prior to starting her third year of law school, Helen made considerable contributions to the field of child advocacy, particularly in the area of juvenile justice.

In addition to participating in CAI's academic offerings, USD School of Law students have also created a child advocacy-focused student organization, Advocates for Children and Education (ACE), for which Bob Fellmeth and Jessica Heldman serve as Co-Faculty Advisors. ACE seeks to promote the welfare of children by providing USD law students with opportunities to work with children in the local community. ACE provides volunteer opportunities in the areas of juvenile delinquency, special education, and general mentoring and advocacy. Additionally, ACE provides resources and information about careers in child advocacy and education law.

Donors & Grantors

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

We are also thankful for the generous grants, gifts, and other funding contributed or directed to CAI by the following individuals and organizations between January 1, 2019, and December 31, 2019, or in response to CAI's 2019 holiday solicitation. CAI is fortunate to have the personal backing of many highly respected individuals. Together, these funds support CAI's advocacy, outreach, and public education efforts at the local, state, and federal levels; without them—without you—CAI would not be able to do what we do.

Mr. and Mrs. Larry Alexander

Anonymous Donors

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

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

Council for Children

CAI is guided by the Council for Children, an advisory body that meets periodically to review policy decisions and recommend action priorities. Its members are professionals and community leaders who share a vision to improve the quality of life for children in California. CAI is also honored to have former Council members who served for many years remain a part of the Council as emeritus members. Accordingly, the CAI Council for Children includes the following:

Council Chair:
Gary F. Redenbacher, J.D.
Attorney at law

Council Vice-Chair:
Gary Richwald, M.D., M.P.H.
Consultant Medical Director, California Cryobank

Council Members:
Bill Bentley
Child Advocate

Denise Moreno Ducheny
Attorney, Former State Senator

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

John M. Goldenring, M.D., M.P.H., J.D.
Health Plan Medical Director, Pediatrician and Adolescent Medicine specialist, and attorney at law

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

David M. Meyers
Chief Operating Officer, Dependency Legal Services

Thomas A. Papageorge, J.D.
Special Prosecutor, Economic Crimes Division, San Diego District Attorney's Office

Gloria Perez Samson
Retired school administrator

Ann Segal
Consultant

John Thelan
Senior Vice President, Costco Wholesale

Emeritus Members:

Robert Black, M.D.
Pediatrician

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

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

James B. McKenna†

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

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

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

Owen Smith
Past President, Anzalone & Associates

†Deceased

STAFF

During 2019 CAI was extremely fortunate to have the following passionate and dedicated team of employees, all of whom contributed greatly to the work CAI did — and the achievements CAI made on behalf of children and youth across the state and nation:

Executive Director:

Robert C. Fellmeth
Price Professor of Public Interest Law

CAI Team:

Tina Calvert
Executive Assistant

Melanie Delgado
Senior Staff Attorney / Director of Transition Age Youth Projects

Katie Gonzalez
Assistant Director, Public Interest Law Communications

Amy Harfeld
National Policy Director / Senior Staff Attorney

Jessica Heldman
Fellmeth-Peterson Professor in Residence in Child Rights

Ed Howard
Senior Counsel / Senior Policy Advocate

Elisa Weichel
Administrative Director / Senior Staff Attorney

Help CAI Help Kids

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

- ★ Make a tax-deductible donation to CAI online at **law.sandiego.edu/caigift** or for other donation options, contact us by phone or email (see below).
- ★ Participate in meetings of the **Children's Advocates' Roundtable** and/or follow the Roundtable activities on Facebook.
- ★ Volunteer to serve as an **Educational Rights Holder** for a San Diego County Juvenile Court-involved student.
- ★ For attorneys involved in class actions that result in a ***cy pres* distribution**, identify CAI as a potential recipient.
- ★ Subscribe to **E-NewsNotes**, periodic emails from CAI about important legislative or regulatory proposals, significant litigation, new reports and publications, and other important events that impact the health and well-being of California's children.

- ★ Join **Lawyers for Kids**, which gives attorneys, law students, and others in the legal community the opportunity to use their talents and resources as advocates to promote the health, safety, and well-being of children; assist CAI's policy advocacy program; and work with CAI staff on impact litigation or by offering expertise in drafting amicus curiae briefs.
- ★ Make CAI your charity of choice when using **www.goodsearch.com** to conduct online searches or **www.goodshop.com** when shopping online. GoodSearch is a Yahoo-powered search engine that donates about a penny per search to CAI each time you use it to search the Internet. GoodShop is an online shopping mall which donates up to 30% of each purchase to CAI. Hundreds of vendors — stores, hotels, airlines, and other goods and service providers — are part of GoodShop, and every time you place an order, part of your purchase price will go directly to CAI!
- ★ Purchase a **California Kids' Plate**, a special license plate featuring one of four special symbols: a star, a hand, a plus sign, or a heart. Proceeds support local and statewide programs to prevent child injury and abuse, as well as childcare health and safety programs.
- ★ Review the list of CAI's legislative priorities currently pending at the state and federal levels (see **www.caichildlaw.org**) and express support to your elected officials.

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

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