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Emeritus Members
Birt Harvey, M.D.
Paul A. Peterson

University of San Diego
School of Law
5998 Alcalá Park
San Diego, CA 92110
(619) 260-4806
(619) 260-4753 (Fax)

717 K Street
Suite 509
Sacramento, CA 95814
(916) 444-3875
(916) 444-6611 (Fax)

Reply to:
 San Diego
 Sacramento

www.caichildlaw.org



July 23, 2009

Andrew Signey
California Health & Human Services Agency
4600 Ninth Street, Room 460
Sacramento, CA 95814
asigney@chhs.ca.gov

SENT THIS DATE
VIA EMAIL

RE: California Child Welfare Council's Draft Recommendations

Dear Mr. Signey,

The Children's Advocacy Institute (CAI) is an academic center and statewide advocacy group focusing on the welfare of California's children. CAI, which is part of the University of San Diego School of Law, 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. Among other things, CAI convenes the Children's Advocates Roundtable in Sacramento — an affiliation of over 300 organizations with an interest in child-related policy. Prof. Robert Fellmeth, one of the undersigned, directs CAI, holds the Price Chair in Public Interest Law, is author of *Child Rights and Remedies* (Clarity, 2002, 2006), and will begin service next month as the Chair of the Board of the National Association of Counsel for Children.

CAI appreciates the opportunity offered by the Child Welfare Council to comment on the recommendations authored by each of the committees. The time and energy that has gone into each of the recommendations is clear. We have tailored our comments to each particular committee recommendation.

Prevention/Early Intervention Committee Recommendation

The recommendation of the Prevention/Early Intervention Committee focuses on the need to bring "Differential Response" to scale on a statewide basis. In other words, the Committee recommends a specific approach (Differential Response) to the practice of evaluating a family's risk when the family comes into contact with Child Welfare Services. In particular, the Committee places an emphasis on selection of "Path 1", whenever possible, at the Child Protection Hotline decision making level. Path 1 means that a family who is identified at risk is referred to community providers and can either voluntarily participate in or refuse these services.

The Children's Advocacy Institute supports the implementation of Differential Response throughout California. In particular, we find key the recommendation to give priority access to community services for families that are identified as at risk. Furthermore, CAI believes it is crucial that all program initiatives, including Differential Response, include an outcome measure component and we were very pleased to see this included in the recommendation that California adopt a statewide Differential Response approach.

Unfortunately, the Prevention/Early Intervention Committee has chosen, in its recommendation, to focus on the implementation of an approach to practice that comes, we believe, too late in the process. True prevention and early intervention should come before a family is even identified as "at risk". CAI proposes three additional prevention areas that should be considered by the Committee: parenting education, reproductive responsibility, and the methamphetamine epidemic.

Parenting Education

California's current educational system is quick to "teach to the test". This is necessary given the current culture of No Child Left Behind. Unfortunately, we, as a state, are missing out on an opportunity to cut long-term child welfare costs (both financial and societal) by leaving information on how to parent out of our curriculum. We should be providing parenting education aimed at reducing the incidence of unplanned, teenage and/or unwed births, and which covers diverse topics such as the importance of specifically intending and planning to become a parent; child development; budgeting for a child and the financial realities of being a parent; child health and safety issues, such as why you do not leave a child in a car, why an infant can never be shaken, and why an infant should be placed backside down in the crib; how to handle the stress of being a parent, such as dealing with a child who cries loudly for a long time; and a thousand other things. Furthermore, these topics should not be covered in a single elective class. They should be intertwined throughout various core curriculums starting in the eighth grade and continuing through high school graduation. By integrating these important lessons throughout core classes and throughout the schooling experience, we will be able to educate the widest range of individuals – individuals who are likely to become tomorrow's parents – *before* they become "at risk" parents.

CAI has developed a sample curriculum and would be pleased to provide the CWC with further information in this area.

Reproductive Responsibility

If we were to list the causes of child abuse and neglect, we should include child poverty, parental burdens that are concentrated on a single parent unable to both earn rent and care for a child, and the breakdown of extended family living together that provides a back-up when the two-parent family structure breaks down. Nobody who has experience in the child welfare system can doubt the relevance of poverty and parental abandonment on making a family "at risk".

The children in single parent homes, increasingly the result of unwed births, live as a matter of median income well below the federal poverty line —which is an imprecise standard by which to gauge income in a high cost-of-living state like California. The California Budget Projects calculates a self-sufficiency budget for a family of 3 or 4 not at \$12,000 to \$15,000, but at about \$40,000 in our state. That is with no college contribution or pension savings. The average household income for unwed families with children falls well below \$15,000 per year, while the median income for two-parent households with children is almost four times as much – more than \$55,000.

The problem is not just unwed mothers — it is bi-gender. The average monthly child support payment from absent unwed fathers for a child is under \$60 per month — not even close to \$1,000 a **year**. And about one-third of that goes not to the kids but to governments as compensation for welfare support.

We need a cultural sea change here. We need to support initiatives which encourage parenting by two committed parents who live together, sharing the expenses and parenting duties in one household.

The Methamphetamine Epidemic

Most of our Dependency Court cases in San Diego, and increasingly nationally, are related to parental methamphetamine addiction. Methamphetamine is a menace unlike any we have faced — way beyond heroin or cocaine, both of which can be devastating. But methamphetamine hits the brain unlike anything you will see, and the most recent research is frightening about the relatively irreversible changes it visits on the brain, including those parts important to paternal and maternal pleasure and devotion. CAI believes that California's prevention agenda must include a real war on drugs.

Permanency Committee Recommendations

The recommendation of the Permanency Committee focuses on the need for California to commit to implementing Family Finding and Engagement (FFE). CAI fully supports this recommendation and appreciates the complete analysis involved in the recommendation. In particular, CAI agrees that FFE should be integrated into the recommendation of the Prevention/Early Intervention Committee and appreciates the focus on the cost savings that can come from implementation of FFE.

CAI proposes that the Permanency Committee adopt an additional recommendation that will also increase permanency options and realize cost savings – namely, increasing the rates paid to family foster care providers.

Most adoptions come from either relatives or family foster care providers. Unfortunately, there is currently a staggering lack of available family foster care providers. Foster children are often placed with a family simply because there is a bed available – not for all the reasons a placement should be made (because the home is in the child's original neighborhood, because the child can

be placed together with her siblings, and/or because the child and the family seem like they would be a good match).

Over the years there has been a contraction in foster family homes related to the decreased reimbursement received by foster parents. When mapped out, the correlation is unmistakable. Foster parents, increasingly, have been asked to take from their own pockets (and savings or retirement accounts) to pay the costs of providing a loving home to a foster child. Predictably, fewer people are able to take on the role of foster parent where such sacrifices are compelled. Indeed, much of the middle class is effectively foreclosed from that role.

It is not surprising that it is difficult to find foster parents when we are asking them to sacrifice their savings to raise a stranger's child. The Child Welfare Act acknowledges this truism and requires that foster parents be reimbursed for "the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to a child's home for visitation." 42 U.S.C. §§ 671 (a)(2), 672 (b)(1) and 675 (4)(a). In late 2007, the University of Maryland released a fantastic report entitled "Hitting the MARC: Establishing Foster Care Minimum Adequate Rates for Children" that analyzes state compensation for foster parents as compared to federal law requirements. California was among the lowest, at 43% below out-of-pocket cost. It is worth noting that the "MARC rates" did not even include transportation or child care costs as required by the Child Welfare Act.

Increasing rates will actually decrease overall costs. California pays an average of more than \$4,000 per month for group care as opposed to the average \$530 per month that is paid to foster family parents. Many group homes are paid more than \$6,000 per month. Historically, the group homes have argued that they have a more disabled population, but that is debatable now, as kids who could otherwise be placed in foster family homes are being placed in group homes simply because there is no "bed" available in a foster family placement. We are losing family foster care providers, by the hundreds and over the last five years, by the thousands. Some counties have virtually none. The more than 16,000 children placed with families statewide in 2001 now total less than 6,000.

Although a bit counterintuitive, higher rates means lower public outlay in the here and now. If you raise family foster care from an average of \$530 to \$780 and increase the supply, how many kids in group homes – where you are paying over \$4,000 a month – do you need to move into these families in order to pay for that total 40% compensation increase? About 400. In other words, if restoring rates to cost simply adds back the 10,000 placements in families lost since 2001, only 4% of that restoration coming from kids in (or who would be) in group homes pays for the entire increase.

In addition to this immediate cost savings, increasing monthly foster care maintenance payments will certainly permit more people to afford providing a loving home to a foster child. Then we, as advocates, can deal with the "problem" of looking for a placement in the most appropriate home – rather than in the only home available – and we will have more children looking at real permanency for their future.

Child Development and Successful Youth Transitions Committee Recommendations

Transition age foster youth must cope with the events and decisions that occur during the formative years from ages 16-25, which will impact profoundly the course of their lives, without parents to guide them. The California Child Welfare Council Child Development and Successful Youth Transitions Committee (hereinafter the Committee) recognizes the abysmal results of California's current policies toward transition age foster youth in its report.

CAI has represented foster children in the courts, before the legislature, and before administrative agencies for two decades, and has been extensively involved with research and policy advocacy for this group of foster youth for the past five years.

CAI would make one clarification to the data the Committee used in its description of the hardships faced by this population. The report cites a study by Schoeni and Ross on page 5, under the heading Transition Planning, Services and Supports. The Committee correctly notes that parents provided their young adult children with material assistance totaling approximately \$38,000 between the ages of 18 and 34; however, it is important to note that the amount cited is in 2001 dollars. When the amount is adjusted to 2009 dollars using the CPI, it is \$46,694.¹

CAI agrees with the Committee's recommendation that California needs to begin to prepare foster youth for adult life much earlier than age 16. The committee recommends that the state begin this at age 14, and ideally younger, and CAI agrees. Additionally, CAI agrees that education is of paramount importance and the state should stress education and begin to present foster youth with their various options regarding the education and career opportunities that follow high school at least by age 13, as the Committee recommends. The state must move away from the goal of simply ensuring that foster youth graduate from high school and ensure that the youth are properly prepared and able to attend college or train for the career of their choice. This preparation, done properly, starts well before age 16.

CAI also agrees with the Committee's recommendation that California should expand child welfare benefits to foster youth, aged 18-21. As the Committee notes, in October 2008, the federal Fostering Connections to Success Act was signed into law, allowing states to receive federal matching funds for foster youth to age 21. California must not leave this money on the table. In enacting a law to extend child welfare benefits, however, California must ensure that the law allows the broadest array of options possible for foster youth aged 18-21. The state must not simply extend the same types of foster care placements used pre-18. Unfortunately, AB 12, in its current form, unnecessarily limits the options the federal law would allow; the state must ensure that this is not the case and eliminate the clauses that narrow the application of the federal law before passing AB 12.

CAI agrees with the Committee that foster youth need assistance that extends through age 24. However, as previously stated, CAI believes that foster youth should have options post-18 that are not rooted in the same social services mind set as pre-18 services. The Committee mentions data from the *Midwest Study* which, among other issues, compares the number of youth who

¹ The CPI Conversion Calculator is available online at http://www.bls.gov/data/inflation_calculator.htm. CAI used the number provided by the study (\$38,340 in 2001 dollars) and converted it to 2009 dollars.

remain in care until age 21 in Illinois, where the option is available, to other states where the option to remain in care is not available. While it is true that many more youth remain in care for longer in Illinois, it is also true that one-third opt out before age 20 and nearly one-half opt out before they reach age 21. Another study conducted by Chapin Hall, discussed in the Issue Brief *Continuing Foster Care Beyond Age 18: How Courts Can Help*², found large disparities in retention of foster care until age 19 within different regions in Illinois. In more urban areas, more youth remain in care, but the percentage of youth who remain in care drops dramatically in the more rural counties. The study indicates one reason for this disparity is the availability of placements. Caseworkers tended not to recommend keeping a youth in care if appropriate placements were seen as unavailable or too far away. Youth who do not want to be a part of the system and youth for whom traditional services may be unavailable or too far away need options, and the state should not unnecessarily foreclose an option the Federal law would allow.

The Transition Life Coach (Coach) approach is an example of an option that could be made available to address issues some youth may have with remaining in the system as it has traditionally been structured. A Transition Life Coach would be a consistent, caring adult who is part of the youth's life, and is chosen by the youth. The adult would act as closely as possible in the role traditionally filled by the parent in the life of a young adult. The Coach would be paired with the youth as young as age 14, and would help the youth prepare for adulthood, college, and career. After the youth ages out of the Foster Care system, the adult would distribute money from a fund in agreed upon monthly stipends to the youth, just like a parent does for a child between the ages of 18 and 25. The Coach would be accountable to the juvenile court, just as a trustee is accountable to the court. The juvenile court is familiar with the youth and, as such, is in a unique position to oversee the administration of the fund. This arrangement would give the youth freedom with guidance and without the social services framework with which the youth has dealt for years and of which many youth are understandably leery. This comment is not meant to demean the social services establishment, which provides invaluable services to a vulnerable population. Rather, it recognizes the realities that, after age 18, many youth want and need to be free from "the system", while they also need guidance and assistance to achieve goals so they can live a productive adult life. We are happy to provide further information, as desired by the Committee, on the Transition Life Coach approach.

CAI agrees with the Committee's recommendations with regard to K-12 and Post-secondary education. However, while we understand the reason behind using the language "as soon as fiscally feasible," we believe that it is unnecessary and gives the state a way out of this obligation. Foster youth are the state's own children; it is tantamount to negligent parenting for the state not to prioritize these youth above other obligations.

CAI commends the Committee for its recognition of the mental health needs of foster youth and agrees with its recommendations. However, CAI believes that the recommendations do not go far enough. The recommendations focus on medically necessary mental health services, which are important. However, the Committee says nothing about preventative services. The Mental

² Peters, C. et al, Chapin Hall Issue Brief: Continuing Foster Care Beyond Age 18: How Courts Can Help, July 2008. Available online at: <http://www.chapinhall.org/sites/default/files/publications/Beyond%2018%20Issue%20Brief%20redesign%2002-04-09.pdf>

Health Services Act, passed in 2004, states as one of its purposes: “To define serious mental illness among children, adults and seniors as a condition deserving priority attention, **including prevention and early intervention** services and medical and supportive care.”³

The Committee notes the prevalence of mental health issues in the foster youth population. Clearly, foster youth are a population highly at risk to develop the serious mental illnesses the MHSA explicitly seeks to prevent. Foster youth are the state’s own children, and they are a population distinct from other highly at risk populations, such as youth in juvenile justice or youth aging out of the children’s system of care. These factors should result in the state and counties’ prioritizing foster youth, particularly those aged 16–25 (Transition Age Youth) for MHSA-funded programs designed solely and specifically to meet their needs. Unfortunately, there are very few counties with programs designed solely and specifically for transition age foster youth. In fact, most counties do an abysmal job addressing the needs of this highly at risk group of transition age youth at a time when preventative measures would pay dividends in savings to state and local budgets and, more importantly, reductions in the adverse impact on the individual foster youth. CAI requests that the Committee go farther in its recommendations with regard to addressing mental health in foster youth. CAI requests the Committee recommend that the state and counties use MHSA funding for programs geared specifically to prevention programs for foster youth and transition age foster youth in particular.

CAI would also add a recommendation that the state provide annual reports reflecting how MHSA funds are spent specifically to address the needs of foster youth and transition age foster youth, and require the counties to provide annual reports reflecting how much MHSA funding is spent addressing specifically foster youth and transition age foster youth. Additionally, the reports should include information tracking the outcomes of the programs in a meaningful way, beyond simply indicating that a participant has been in foster care. Finally, the reports should include information on any barriers the counties encounter to providing services or tracking outcomes.

Data Linkage and Information Sharing Committee Recommendations

CAI supports the recommendation of the Data Linkage and Information Sharing Committee. In particular, we agree that data linkage is important. We particularly support the Committee’s efforts to encourage outcome measures as this is a key to the continued analysis of the implementation of child welfare services. As mentioned in the recommendation, first steps have been outlined. CAI looks forward to seeing the action and implementation steps as they are recommended.

³ Proposition 63 (MHSA) Section 3(a)

Thank you again for the opportunity to comment on the Committees' recommendations. If you have any questions or would like further information regarding our comments, feel free to contact Christina Riehl at CAI's San Diego office.

Sincerely,

A handwritten signature in black ink that reads "Robert C. Fellmeth". The signature is written in a cursive style with a large initial 'R'.

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

A handwritten signature in black ink that reads "Christina McClurg Riehl". The signature is written in a cursive style with a large initial 'C'.

Christina McClurg Riehl
Staff Attorney, Children's Advocacy Institute

A handwritten signature in black ink that reads "Melanie Delgado". The signature is written in a cursive style with a large initial 'M'.

Melanie Delgado
Staff Attorney, Children's Advocacy Institute