



Of Service

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By *ROBERT J. RHUDY AND JOE SURKIEWICZ,*

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National Center for Youth Law: Using the law for poor children

Some grim facts: Children are the nation's most impoverished group. One in five children, approximately 13 million, now lives in poverty — the highest rate in 10 years, according to the U.S. Census Bureau.

More: Nearly 3 million children are reported to be victims of abuse or neglect annually.

And every year, nearly 300,000 children nationwide go into foster care.

Since 1970, the National Center for Youth Law (NCYL), headquartered in Oakland, Calif., has been their advocate through litigation, lobbying, and a myriad of other activities

"When you represent children and you're able to do some things when they're younger, it might actually make a difference in their lives," said NCYL Director John O'Toole. "It might actually turn their lives around."

Its mission statement explains that "NCYL uses the law to improve the lives of poor children. We work to ensure that low-income children have the resources, support, and opportunities they need for a healthy and productive future. Much of NCYL's work is focused on poor children who are additionally challenged by abuse and neglect, disability, or other disadvantage."

The center currently concentrates on four areas:

- Protecting abused and neglected foster children;
- Expanding poor children's access to health care;
- Securing public benefits to meet the special needs of children and youth; and
- Juvenile justice.

Reforms through litigation

Until recently, NCYL focused on filing class action "law reform" lawsuits, finding change through legislation very difficult. Over the past 23 years, it filed approximately 100 such suits throughout the country — and lost only two.

For example, in 1990 NCYL helped secure a Supreme Court victory in *Sullivan v. Zebley* for a nationwide class of 450,000 poor children with chronic illnesses and

disabilities, assuring that they received ongoing supplemental security income payment and (in most states) Medicaid health care services.

Working with local advocacy organizations and private pro bono counsel, NCYL's 10 attorneys are currently involved in four major cases around the country.

A new advocacy strategy

The class action approach is enormously resource- and time-intensive, taking years to win a victory, frequently followed by many more years to monitor compliance and implementation. NCYL recently decided to try another strategy.

"We went to the San Francisco Chronicle last year," O'Toole said, "laying out the facts about the crisis faced by the 80,000 children in foster care in California. At that time, foster care wasn't on the public agenda."

Following that meeting, the influential newspaper published 30 articles and editorials on the issue. NCYL established a new office in Sacramento to develop and promote corrective legislation.

In September, Gov. Arnold Schwarzenegger signed eight bills — three proposed by NCYL and five it had actively supported — passed with strong bipartisan legislative support to reform the state's foster care system. The governor and legislature increased foster care funding by \$100 million annually.

California Chief Justice Ronald George has just created a new blue ribbon commission on foster care, chaired by a state Supreme Court justice who is a foster care parent. NCYL Senior Attorney Curt Child serves on the commission.

NCYL in Maryland

Bill Grimm, a University of Maryland School of Law alum, has worked at NCYL since 1988.

Grimm became chief attorney of the Maryland Legal Aid Bureau's Youth Advocacy Unit in 1982. Between 1984 and 1988, he spent most of his time working on *L.J. v. Massinga*, a federal class action suit against the state of Maryland to reform Baltimore's foster care system.

"When we filed *L.J.* in 1984, we knew we were going to be in for the long haul, but I don't think we anticipated how bitter the battle would be," Grimm recalled. "It was bitter all the way up to the point the 4th Circuit affirmed. Then we finally got down to serious negotiations."

Eighteen years after the 4th Circuit ruling, negotiations are still continuing to get Maryland to comply with the order.

"I was recently asked to come back and help try to mediate a new resolution of the case," Grimm said. "Baltimore now has 7,000 children in foster care, more than the entire states of Georgia or Washington. We were making some progress during the early years, but things have been steadily worsening recently."

Mitchell Mirviss, an attorney at Venable LLP in Baltimore, co-counseled with Grimm on *L.J.* when they worked together at Legal Aid. He continues to work pro bono with

Grimm, Maryland's Public Justice Center, and Gary Posner, also pro bono from Whiteford, Taylor & Preston.

"Bill is an extraordinary national resource," Mirviss said. "It's a symptom of how badly things have deteriorated that we again need him back in our state. No one has done more for Maryland's foster care children."

Surviving to serve

In 1995 NCYL lost more than half its annual budget when the U.S. Congress eliminated funding for state and national support programs for legal services to the poor, while also prohibiting programs like the Legal Aid Bureau from filing class actions or challenging welfare reform.

The organization has since survived through private donations, foundation funding, attorneys' fees from litigation and support from pro bono counsel in major firms.

NCYL publishes a quarterly journal, Youth Law News, and distributes on-going information on youth advocacy through its Web site, www.youthlaw.org.

"I'm proud to be a part of NCYL," said board president Peter Edelman, professor of law at Georgetown University Law Center. "Our staff is superb. I wish we could multiple them by 50 or 100 times to help our children and youth escape poverty and fully participate in our community and national life."

Robert J. Rhudy, the former executive director of the Maryland Legal Services Corporation is a consultant and attorney in private practice in Baltimore. He can be reached at bobrhudy@yahoo.com. Joe Surkiewicz is communications director at the Legal Aid Bureau. He can be reached at jsurkiewicz@mdlaborg.

