

2011 Annual Report



supporting dignity, equality, independence and freedom

Read their stories and more inside:

- David, 11, goes to a new school
- Joaquin moves out of an institution
- Esther signs our settlement

Board of Directors



2011 Board Members: Allison Brightman–President, Izetta Jackson–Chair, Amy Kalivas–Chief Financial Officer, Jose Flores–Secretary, Connie Cha, Billy Hall, Diana Honig, Lily Lambert, Marijit Singh, Kathryn Janet Trevino, Angela Van Ostran, Eduardo Vega, Guy Wallace, Eric Ybarra.

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A majority of the Board have a disability or are family of people with disabilities. The Board reflects California’s ethnic and language communities.

Contents

3	Highlights by executive director; pro bono thanks	7	Cases and advocacy in hospitals, jails and prisons
4	Case: saving adult day health care	8	Training: voter education for tribes and youths with disabilities
5	Success stories: leaving institutions	9	Success stories: enabling students to benefit from their education
6	Case: stopping cuts to in-home supportive services; repeal of law requiring fingerprinting of IHSS consumers	10	Leadership awards
		11	Fast facts; financial summary
		12	Ways to donate to DRC; our offices

Cover: photo credits

Top: Siyon Rhee, David Cho and his mother, Nam-joo Cho, photographed by Ricardo Jauregui; left: Joaquin Carson, photographed by Diana Pastora Carson; right, Esther Darling, photographed by Dawn Myers Purkey

2011: Our spirited victories preserve dignity, equality, independence and freedom

By Catherine Blakemore, executive director



photo credit: Margaret Johnson

In a continuing bad budget climate, Disability Rights California's work makes the difference between Californians with disabilities receiving the services they need and cuts proposed by the State, which jeopardize their health and safety and lead to institutionalization. We are and will continue to be dauntless in our efforts to preserve dignity, equality, independence and freedom!

Standing proudly between Allison Brightman, our Board President, and me, is Jimmy White, a plaintiff in our Capitol People First case, which ensured that Californians with developmental disabilities could move to the community with appropriate services and supports. Jimmy, 70, traveled 7 hours from his new home to

accept our award for his courage in moving into the community after 56 years in an institution. He told us about his victory in clear terms: how he loves cooking breakfast, going for walks and Sammy, the kitten who tries to sleep on his head.

We are also celebrating the settlement of our *Darling v Douglas* class action, which ensures that an estimated 30,000 Californians with disabilities and seniors can continue to attend a new program, one that is very similar to the Adult Day Health Care services they currently receive. Read page 4 to learn about how these services help people stay in their homes as long as possible.

We continue our fight to preserve services for 372,000 Californians whose In Home Supportive Services (IHSS) have been targeted for a drastic 20% cut. As a result of our class action lawsuit, *Oster v Lightbourne*, the court issued an injunction stopping the cuts. Details about our litigation and advocacy are on page 6.

Our work demonstrates that even during difficult budget times, it is possible to preserve the social safety net and ensure that Californians with disabilities can progress toward the same level of independence, dignity and freedom as their peers. To do less is unacceptable.

In late 2012 we will create a new 5 year advocacy plan of concrete actions to take in the years 2013-2017. We are counting on your creativity, contributions and collaboration to make sure that together we make a difference in the lives of Californians with disabilities. Please read our eNewsletter and watch our website for opportunities for your input.

We thank our pro bono partners and volunteer attorneys!

Barbosa Metz & Harrison LLP
Cooley LLP
Davis Wright Tremaine LLP
Fox & Robertson P.C.
Gibson Dunn & Crutcher LLP
Law Offices of Amy Vandeveld

Law Offices of Charles Wolfinger
Lewis Feinberg Lee
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Schneider Wallace Cottrell
Brayton Konecky LLP
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Skadden Aarps Slate
Meagher & Flom LLP
Traber & Voorhees
Winston & Strawn LLP

Volunteer attorneys

Ashley Welgan
Bill Hershon

Candace Hayward-Hoke
D'Arcy Dewey
Joanne Kim

Kathleen Ebert
Scott Paul

DRC lawsuit prevents governor from eliminating Adult Day Health Care



Esther Darling and her legal team. Photo by Ellen Goldblatt

On November 17, 2011 we reached a settlement in *Darling v Douglas*, which ensures that the state of California will continue to provide center-based services for low income people with disabilities who qualify for Adult Day Health Care. “This is great,” Esther Darling said. “I have fought to stay out of a nursing home and have been able to do it because of ADHC.” DRC lead counsel, Elissa Gershon who negotiated the settlement with co-counsel, described the resolution as critical to “preserving the rights of people with disabilities to the support necessary to stay in their own homes and be part of their communities.” The settlement obligates the state to continue the ADHC-

like services, now to be called Community Based Adult Services (CBAS) for those who need them to stay out of hospitals and institutions, and to offer managed care for those whose needs are not as acute.

This victory was the culmination of a long fought battle that started in 2009 as the Governor searched for services to cut from California’s shrinking budget and chose Adult Day Health Care. The reaction was outrage all over the state: it became clear that the 300 ADHC centers, used by some 35,000 people, are firmly rooted in their communities and provide much more than the sum of their services. Esther Darling, the feisty 74 year old named plaintiff of this case, attended demonstrations, hearings and press conferences to talk about the center in Davis, where she has been going for 15 years to get her heart checked, her blood pressure and diabetes monitored and take most of her 14 medications.

Most but not all clients are older; all have complex medical conditions and disabilities. Many live with a family member who is able to continue to go to work because the centers are providing care during the week.

In 2009 DRC was granted an injunction to stop the state from a drastic reduction of ADHC. In response, the state announced that its new budget would completely eliminate ADHC in 2011. Rallies by hundreds of ADHC clients were held on the streets of Los Angeles and San Francisco in October, resulting in extensive local news coverage of many of the centers and their clients. Just weeks before the December 1 shutdown date of ADHC services, the case was settled, ensuring that thousands of Californians with disabilities can stay out of institutions and continue to live in their own homes.



Two men struggle to leave institutions, and with DRC help, manage to rejoin community living

After a multi-year battle, DRC helped Joaquin Carson move into his own home with the services and supports he needs to be successful. In 2004, Joaquin was institutionalized after adverse reactions to a new medication. Isolated in primary and secondary school, he had faced barriers before, but he always went home to his family. This time, Joaquin's isolation was much more severe, far from home in a large state institution.

Over the years, Joaquin told his sister, Diana, and other family members repeatedly that he needed a "new bike and a new home." His family members became convinced that Joaquin's plan to move closer to relatives was practical and possible and helped him explore how he could leave the institution.

As an individual with a developmental disability, Joaquin has a right under California's Lanterman Act to live in the community, if that is his choice. In 2011 after the regional center had refused to help Joaquin pursue his independence, he and his family asked Disability Rights California for help.

DRC attorneys defended Joaquin's plan at a hearing, explaining the powerful, negative effects of the medications and institutionalization on his quality of life. In addition, Diana and other family members had to drive long distances to see Joaquin for short visits.

After the second hearing, the judge ordered the regional center to immediately begin funding Joaquin's supported living services. Joaquin's reaction was "I win! I like bike! I go!" His renewed enthusiasm for life was evident.



Joaquin's legal team and supporters: Diana Pastora Carson, former DRC Board Member, and Will Leiner, DRC attorney, both in front row; Barbara Dickey, DRC attorney at far right



Joaquin gets his steak.

In October, contributed furniture was fixed up and in November, Joaquin moved in. A friend brought a grill to cook Joaquin's requested steak dinner to celebrate the first night in his own place.

We help Saul find a new place to live

Saul Mendonsa is a 35 year old man with psychiatric and developmental disabilities who voluntarily lived in a locked facility for the last three years. He felt ready for discharge and had told his regional center that he wanted to move back to the community and needed their help to find an appropriate placement. Unfortunately, the regional center staff told him there was nothing available.

He contacted DRC and had several discussions about what sort of community housing and supports he needed to regain his independence. When we contacted the regional center, they agreed to work on finding a placement. Saul is now living in a central California community, with appropriate services. He is working in a vocational program and is glad to be closer to where he grew up, where his family and friends still live.

Judge agrees with DRC, says no to “dumping thousands and thousands of people who really need these services”

On January 19, 2012, in response to our request, Judge Claudia Wilken issued a preliminary injunction barring the state from going forward with cuts to In-Home Supportive Services hours for hundreds of thousands of adults with disabilities, including seniors. She had previously issued a Temporary Restraining Order on December 1, 2011, stopping the IHSS cuts until the January hearing.

The Administration planned to cut deeply across the board on short notice, informing IHSS recipients that they could apply to restore their hours only if they could demonstrate that this level of assistance is necessary “to avoid out of home placement.”

Melinda Bird, our lead counsel in the lawsuit, *Oster v Lightbourne*, stressed that these cuts would likely lead to unnecessary institutionalization of many, violating the Americans with Disabilities Act. “As just three examples from our named plaintiffs, Charles T., 71, is blind and already receives fewer hours than recommended for mobility assistance because he maneuvers around his apartment by grabbing onto corners of the furniture; Andrea H., 65, with multiple disabilities, gets fewer hours for mealtime preparation than shown in the guidelines because she doesn’t eat breakfast; and if hours are further cut for Polly S., 86, she will have no help with applying medication to prevent her skin lesions from becoming infected, a condition that resulted in her hospitalization in 2010.”

Judge Wilken said the state’s plan would cause “thousands and thousands of people who really need these services to be dumped off, and only if they clawed their way back on, would they regain their hours.” She made it clear she would only be satisfied with a needs assessment that is done before people’s services are cut, not after. The Brown administration appealed the judge’s decision and we await the outcome.

Repeal of law requiring fingerprinting of people using IHSS



One of our advocacy successes last year was convincing the legislature and Governor Brown to reverse the decision to require fingerprinting of nearly half a million IHSS recipients. Fingerprinting service users was part of the previous Administration’s anti-fraud package, even though it was projected to cost at least \$41.6 million in new equipment and training of numerous county staff to operate it.

This bill to repeal the fingerprinting requirement was co-sponsored by the California Association of Public Authorities (CAPA) for IHSS, organizations of IHSS providers and DRC. Effective media outreach by the coalition conveyed the message that for each \$5000 military-style camera purchased for fingerprinting, 500 IHSS hours could be bought instead.

There’s
No Place
Like
Home

Home is where
we have:

- Choice
- Independence
- Family
- Work
- Community

Nobody wants to have to leave home and move to a nursing home, hospital or other institution. So let’s move our tax dollars away from funding permanent stays in nursing homes and institutions, into funding home-based services so people can live in their own homes.



Disability Action Coalition

www.DisabilityActionCoalition.org

Fund for by private donations to the Disability Action Coalition.

Poster at left: DRC staff helped create this poster in 2011 as part of the Disability Action Coalition. It was delivered in person to the offices of legislators during Disability Capitol Action Day advocacy visits in May.

Protecting rights in state hospitals, juvenile hall and jails

Individuals with disabilities in state hospitals and jails are often forgotten; they live in environments that are unsafe and do not receive the services they need. Disability Rights California's work addresses their discriminatory and dangerous treatment.

Ensuring state hospital residents' voices are heard

Recent incidences and deaths in the state hospitals have raised public pressure to make system wide changes to improve safety, while the budget crisis reduces resources. As the provider of the California Office of Patients' Rights (COPR), our role has been to present the "patients' perspective" in numerous meetings about safety issues. For example, in January 2011, approximately 300 attended a Town Hall Forum in Napa, where state legislators had invited us to present a perspective of how recent policy changes are impacting the daily living of Napa State Hospital residents. As we go to press, this issue is still in the spotlight, requiring ongoing monitoring.

Reducing dangers in juvenile hall and jails

Following a study by DRC and Public Counsel showing that youths with developmental disabilities often were detained 6-18 months longer than their peers in Los Angeles County juvenile hall, we filed suit. The main issues were how to protect incarcerated youths with disabilities from harm and better planning for their discharge from juvenile hall to the community. As agreed in the settlement, we educated probation staff about the issues facing youth with disabilities, developed a train-the-trainers curriculum and then trained staff. We are monitoring progress.

We also filed suit against Sacramento County for its practice of physically restraining all inmates who receive kidney dialysis. As a result of our December 2010 settlement, Sacramento county has removed the blanket restraint policy. Based on the settlement, which we are monitoring through 2012, the dialysis room was moved nearer to the nursing station to enable a quicker response in case of emergency.

In late 2011, together with the Prison Law Office and Cooley LLP, we filed a class action suit against Fresno County for cutting back the jail's medical and mental health services to the point of failing to provide adequate care, endangering prisoners' lives. For example, Quentin Hall was hospitalized because the jail refused to give him medication that helps him keep his depression and hallucinations under control; and Dawn Singh was finally taken to a hospital emergency room due to internal bleeding, after waiting 2 years to be treated for a serious intestinal disorder.

Jail visitation made accessible

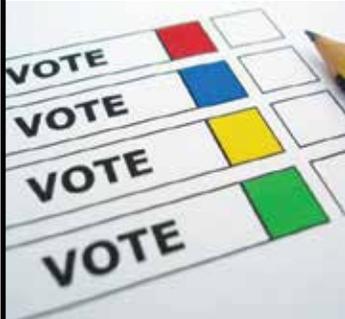


A new ramp goes in

Josefina Tancredo, who uses a wheelchair, contacted Disability Rights California for assistance after discovering that the local Jail Visitation Center was inaccessible when she went to see her son. A passerby helped her up the steps and propped open a heavy entrance door so she could enter. But there was no one to help her down the steps after the visit, and she was injured by the fall from her wheelchair. We worked with Ms. Tancredo and a local Independent Living Center to draft and send a demand letter to the Visitation Center. As a result they agreed to put in a ramp and obtain an automatic sliding entry door.

DRC holds “Rock the Native Vote” training in Chico for Mechoopda tribe members

WHO CAN VOTE?



To vote in California you must be:

- 18 years old by the day of the election
- A citizen of the United States
- A resident of California
- A registered voter

You must not:

- Be in prison or on parole for a felony conviction
- Have been told by a judge that you cannot vote



“Most of the 25 members who came to our training were long registered to vote but had never done so — because they didn’t see any links between their community concerns and issues the candidates were talking about,” said Phyllis Preston, DRC Native American outreach coordinator. “We got everyone interested in how to relate traditional tribal interests in, for example, housing, health care and nutrition, to typical state and national candidates’ platforms. We added in some history about how Native Americans obtained their right to vote in the early 20th century, and how we still need to step forward to claim that right — every 2 and 4 years, just like everyone else.”

The trainers encouraged participants to talk about why voting had not been a priority, and among issues identified were lack of transportation and the absence of a voting tradition, unless there was something specific on the ballot related to tribal affairs. Some members said they were used to voting, but only within the Tribal Council. DRC adapted its voter training materials to the Native American culture and they are being developed into a train-the-trainers module.

Training for youths with developmental disabilities uses a contest to demonstrate voting

An enthusiastic, lively event was the outcome of collaboration among our Office of Clients’ Rights Advocacy (OCRA), the Developmental Disability Peer Self-Advocacy unit, the We Care a Lot Foundation and Area Board II. A poster contest on the theme of voting as a right and responsibility attracted over 40 entries from artists and advocates and young people with disabilities. The event to select an audience favorite was conducted by voting on the spot in an actual voting booth, to get people familiar with how the process works. This was the culmination of a well-attended training on the voting process, including accessibility issues. The poster, “I can vote,” by Nina Marie Coker (right), won both the Jury’s award for excellence and the audience favorite. The other illustration (above) is taken from newly developed DRC voter education materials.



Every year, we help thousands of children get appropriate school services

Children with disabilities and their families are too often told they must attend segregated school sites or told they cannot attend school at all because of their disabilities. When this happens, DRC quickly intervenes and ensures enforcement of federal law that requires school districts to provide a free and appropriate education to all children with disabilities.

His dad had to force him to get on the school bus; now David runs to the bus, forgetting to wave goodbye

Although 11 year old David Cho is nonverbal, his Korean-American parents could understand from his behavior how unhappy he was about attending a segregated school. He cried and refused to board the school bus. His parents were unsure of David's rights, but after a year of unproductive meetings with the school, they came to our Los Angeles office for help.



David Cho. Photo by Richard Jaurequi

Then they got lucky: they were connected with Siyon Rhee, an advocate of Korean heritage, who has a passionate interest in special education. She investigated David's situation and found no justification for his transfer from a special education class in a regular education setting to a segregated school. At her request, an emergency Individualized Education Program (IEP) meeting was called.

Everyone agreed: a less restrictive placement for David, who has autism, would be appropriate. Siyon and her supervisor, Connie Chu, helped the family identify a general education school with a special education class. David started his classes in the new school in September 2011 and reportedly loves his new teacher.

David's parents said they are amazed by the positive changes in his behavior, confirming how important interaction with both nondisabled classmates and those with disabilities is for him. Siyon, who has worked for DRC for 31 years, is thrilled that David has a second chance.

With new assistive technology, 16 year old Joy starts to communicate

At 16, Joy Lee, who has an intellectual disability, wasn't getting anywhere in her public school in Chico. Every year her Individual Education Program (IEP) goals were the same, with no evident progress. Despite evidence to the contrary, her mother, who primarily uses the Hmong language, was told by the district that everything was fine.

When Mrs. Lee asked the regional center for help, she was referred to Lorie Atamian, an assistant clients' rights advocate in our Office for Clients' Rights Advocacy. Lorie saw that Joy was struggling unsuccessfully to use an old communication device, and immediately requested assessments for academic capacity, speech and language therapy and assistive technology. As a result, Joy received appropriate communication devices and an independent speech therapist to work with her. Her teachers and family members were trained to use the new communication devices, and Joy is now benefiting from her education.

Leadership Recognition Awards 2011

Every year DRC honors leadership in achievements that improve life for Californians with disabilities. This fall, Board member Guy Wallace hosted a memorable evening in San Francisco, where DRC supporters joined to celebrate the remarkable successes of State Senator Ellen Corbett and the law firm, Chavez and Gertler. Senator Corbett was recognized for outstanding leadership on accessibility issues, most recently for her bill allowing businesses to limit lawsuit liability when they have accessibility inspections done.

Nance Becker and Jonathan Gertler, accepting their firm's award, spoke a few words about recent major wins, such as its challenge of Kaiser policies denying coverage of autism therapies, and its suit against travel companies that promises better online search results for accessible accommodations.

At the December open house for our new DRC Sacramento offices, we recognized legislative leaders and staff members, disability advocates and our clients whose work made a difference. We honored Senator Noreen Evans for her leadership of the uphill battle to reverse the law requiring IHSS consumers to be fingerprinted. (See page 6)

In recognition of a successful Assembly Hearing on Employment First, we honored Eric Gelber, consultant to the Assembly human services committee. Employment First is a policy promoting competitive employment for people with developmental disabilities.

We also recognized Michael Martin and Georgia Lyga, who were plaintiffs in our case brought against restraint of prisoners undergoing dialysis. (See page 7) As prisoners' rights advocates, they objected to the use of their taxes to support this practice.

Finally, we were privileged to recognize Michelle MacLeay and Elizabeth Gentry, two incredible individuals whose self-advocacy has helped ensure that they receive the services they need. We honored long-time disability advocate Laura Williams, President of Californians for Disability Rights, who passed away earlier this year. She was a person with significant disabilities, a senior, and an endlessly passionate, much beloved and highly respected social justice advocate.

Pro bono spotlight

Our work this year was successful because of our generous pro bono partners, including Morrison & Foerster LLP, which contributed over 800 hours in 2011 alone to the *Darling v Douglas* litigation (see page 4). In 2010, when the State appealed the second injunction to the Ninth Circuit Court of Appeal, Morrison & Foerster stepped in to write a compelling amicus brief in support of argument that ADHC is a necessary service to help people with disabilities to remain in their homes. We are especially grateful to partners Ben Fox and Shirley Hufstедler in the Los Angeles office for their hard work and excellent legal work on the appeal.



Stefan Szpajda displays award

In March 2011, Morrison & Foerster joined the litigation team and made innumerable and critical contributions to our successful efforts. In particular, partner Ken Kuwayti provided sound strategic advice, drafted and edited legal documents, and negotiated with opposing counsel. Associate Stefan Szpajda provided tremendous support on various motions and discovery issues and associate Ben Petersen also jumped in to assist with some of the dozens of declarations filed this year. And when we were faced with an unexpected appellate brief on a very short timeline, partner Seth Galanter led a team to draft and submit our brief, stepping in to do a job that no one else on the team could have managed. We are grateful for Morrison & Foerster's support!

Fast Facts: 2011

We provide free legal and advocacy services to low-income Californians with disabilities. DRC is a member of the Campaign for Justice, administered by the State Bar of California to support free legal services.

- In 2011 we helped individuals with disabilities resolve 26,761 issues related to their rights and services, an increase over the previous year.
- The top 7 areas of assistance requested were: regional center services; education; privacy and personal autonomy; health benefits; income benefits; abuse; and housing.
- Our core services are individual advocacy, self advocacy, training and class action litigation. In 2011 we provided 626 trainings and outreaches, reaching 31,000 people; and impacted more than 394,000 through our class action suits.
- Our trainings are augmented by hundreds of free publications on our website, written to help people learn how to obtain services and supports they need. Most popular are manuals on how to advocate for special education and rights under the Lanterman Act for people with developmental disabilities.
- DRC legislative advocates work with other rights-based groups to sponsor, develop and review bills and state budget provisions affecting people with disabilities.
- We serve people with all disabilities. As part of the national protection and advocacy system, DRC is funded to make sure specific groups receive services. For example, this year we resolved 11,311 issues for people with psychiatric disabilities; and 10,641 issues for those with developmental disabilities.
- DRC is also funded to provide specific services such as: outreach to underserved ethnic or language groups; work to improve the voting process for people with disabilities; public education to reduce stigma and discrimination against people with mental health disabilities; and in 2011 we began to provide the Client Assistance Program statewide to people seeking employment-related services from the Department of Rehabilitation.

Our legal, advocacy and support staff number over 200, are based in our offices in Sacramento, Oakland, Fresno, Los Angeles and San Diego, at all 21 regional centers for people with developmental disabilities and at the 5 state hospitals. Note that although we had less funding this year, the number of individuals we assisted and other services increased.

Summary of fiscal year 2011

Revenue and Support	FY2011	FY2010
U.S. Federal Grants	\$ 9,395,563	\$ 10,825,848
State of California DDS/DMH	\$ 6,607,622	\$ 6,424,737
The California State Bar	\$ 2,833,533	\$ 2,382,954
Program Income/Attorney Fees	\$ 618,697	\$ 585,947
Miscellaneous Income/Other Contracts/Interest Income	\$ 358,895	\$ 296,942
Donations	\$ 11,866	\$ 14,359
Total Revenues	\$ 19,826,176	\$ 20,530,787
Expenses		
Program Services	\$ 17,121,153	\$ 17,706,851
General and Administrative	\$ 2,354,027	\$ 2,411,566
Total Expenses	\$ 19,475,180	\$ 20,118,417
Change in Net Assets	\$ 350,996	\$ 412,370

Donate to Disability Rights California

Last year, DRC's litigation and advocacy efforts made legal rights a reality for hundreds of thousands of Californians with disabilities. Because of our work,

- Esther knows she can still plan her days around her beloved Adult Day Health Care family;
- Joaquin, Saul and Jimmy are free to explore their new communities, relieved to have the years of institutionalization behind them;
- Polly, Charles and Andrea can stay in their homes, confident that their IHSS hours will remain intact for now; and
- David and Joy are now benefiting from their education.

Your contribution will increase the number of success stories we have to tell next year. Find out more: www.disabilityrightsca.org/about/donate.htm

Ways to give to DRC

Your donations are tax deductible. There are many ways to support DRC:

- Donate by check
- Donate online at www.disabilityrightsca.org/about/donate.htm
- A monthly giving plan
- Donations matched by your employer

www.disabilityrightsca.org

Visit our website to subscribe to the weekly eNewsletter, check out the quarterly Outreach news, or find out how to obtain our most popular publications on CD or other formats.

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