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Healthy Children, Healthy Communities, and Legal Services

By Robert García and Erica Flores Baltodano



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If current trends in obesity, inactivity, and disease continue, today's youth will be the first generation in this nation's history to face a shorter life expectancy than their parents.¹ The epidemic of obesity, inactivity, and related diseases such as diabetes is shortening children's lives, destroying the quality of their lives, and costing the United States over \$100 billion each year. In California, for example, only 27 percent of fifth-, seventh-, and ninth-graders achieved minimum physical fitness standards in 2004. In the Los Angeles Unified School District, the second largest school district in the nation, only 15 percent of students are physically fit.² This crisis is not just the result of individual eating or exercise habits. Urban areas such as Los Angeles fail to provide enough open space for recreation in parks, schools, and other public lands.³ Communities of color and low-income communities in urban areas are disproportionately denied the benefits of safe open spaces for physical activity in parks and schools and disproportionately suffer from obesity-related diseases.⁴

Legal aid providers who advocate for children and their families in the areas of health care, education, economic development and community revitalization, immigrant rights, and the like are well situated to address the relationship between human health and urban equity. The providers can help achieve equal access to schools, parks, and green spaces for healthy children and healthy communities to improve human health and the overall quality of life for their clients.

¹Eloisa Gonzalez, Los Angeles County Department of Public Health, Los Angeles Unified School District Citizens' School Bond Oversight Committee, Jan. 21, 2004; see also Jennifer Radcliffe, *Going to War against Epidemic of Childhood Obesity*, Los Angeles *DAILY NEWS*, Jan. 27, 2004, at 1.

²California Department of Education, www.cde.ca.gov/ta/tg/pf/index.asp; Cara Mia DiMassa, *Here's the Skinny: Most Students Aren't*, LOS ANGELES *TIMES*, Nov. 25, 2004.

³See Richard J. Jackson & Chris Kochtitzky, Centers for Disease Control and Prevention, *Creating a Healthy Environment: The Impact of the Built Environment on Public Health* (June 30, 2004), www.sprawwatch.org/health.pdf.

⁴Childhood obesity in rural communities is also on the rise. Studies suggest the common denominator between rural and urban areas with high obesity rates is poverty. CNN, *Child Obesity Grows Faster in Rural Areas*, March 14, 2005, at cnn.com.2005/HEALTH/diet.fitness/03/14/rural.obesity.ap/. Although we focus in this article on urban communities, many of the lessons articulated are equally applicable to legal aid providers of all regions.

I. Public Health Crisis of Inactivity and Obesity

Obesity rates have doubled in children and tripled in adolescents in the past twenty years.⁵ From 13 percent to 14 percent of children from ages 6 to 19 are overweight nationwide.⁶ Overweight children face greater risks of lung disease, diabetes, asthma, and cancer.⁷ Indeed, adult-onset diabetes is now called Type II diabetes because of its growing prevalence among children.⁸ Mexican American and African American children are twice as likely as non-Hispanic white children to be overweight.⁹ Researchers from the University of Illinois in Chicago contend that if the current levels of childhood obesity remain “unchecked,” obesity-related complications such as diabetes, cancer, and cardiovascular disease will result in today’s children living “two to five years less than they otherwise would.”¹⁰

The Surgeon General promotes physical activity to prevent disease and premature death and urges the country to “accord it the same level of attention that we give other important public health practices that affect the entire nation.”¹¹ Nevertheless, nationwide only 50 percent of young people (ages 12–21) regularly participate in vigorous physical activity, while 25 percent report no vigorous physical activity.¹² Physical inactivity is more prevalent among women than men, among blacks and Hispanics than



whites, among the less affluent than the more affluent, and among older than younger adults.¹³

One result of physical inactivity and obesity is diabetes, which is now the seventh leading cause of death in the United States. The diabetes mortality rate increases when deaths caused by complications from diabetes, such as heart disease and stroke, are included.¹⁴ Diabetes and other weight-related diseases are particularly on the rise in communities of color. In California, for example, African Americans, Native Americans, Latinos, and older Asians have higher rates of diabetes than whites.¹⁵ During the past

⁵National Alliance for Nutrition and Activity, *Obesity and Other Diet- and Inactivity-Related Diseases: National Impact, Costs, and Solutions 1–3* (2003), at www.cspinet.org/nutritionpolicy/briefingbookfy04.ppt.

⁶U.S. Department of Health and Human Services, *The Surgeon General’s Call to Action to Prevent and Decrease Overweight and Obesity 12–14* (2001).

⁷California Center for Public Health Advocacy, *An Epidemic: Overweight and Unfit Children in California Assembly Districts 18* (2002).

⁸Gold Coast Collaborative, *A Health Crisis in Paradise 3* (2003).

⁹California Center for Public Health Advocacy, *supra* note 7, at 17–18.

¹⁰Pam Belluck, *Obesity Threatened to Reverse Growth in U.S. Life Spans*, *NEW YORK TIMES*, March 16, 2005.

¹¹U.S. Department of Health and Human Services, *supra* note 6, Preface.

¹²U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *PHYSICAL ACTIVITY AND HEALTH: A REPORT OF THE SURGEON GENERAL 200* (1996).

¹³*Id.* at 200; Patricia Barnes et al., *Physical Activity Among Adults: United States, 2000*, *ADVANCE DATA*, May 14, 2003; REBECCA FLOURNOY ET AL., *POLICY LINK, REGIONAL DEVELOPMENT AND PHYSICAL ACTIVITY: ISSUES AND STRATEGIES FOR PROMOTING HEALTH EQUITY 9–12* (2002).

¹⁴U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *supra* note 12, at 125.

¹⁵Allison L. Diamant et al., *UCLA Center for Health and Policy Research, Diabetes in California: Findings from the 2001 Health Interview Survey* (2003).

decade, hypertension increased the most among black women and the least among white men.¹⁶

Inactivity and obesity have significant health effects, but the financial implications are also worth noting. The surgeon general estimated that obesity cost the nation \$117 billion in 2000, with \$61 billion in direct costs (including preventive, diagnostic, and treatment services) and \$56 billion in indirect costs (wages lost due to illness, disability, and premature death).¹⁷ In California childhood obesity costs more than tripled from \$35 million to \$127 million from 1979 to 1999.¹⁸ The U.S. Department of Agriculture estimates that healthier diets can prevent at least \$71 billion per year in medical costs, lost productivity, and lost lives. If physically inactive Americans became active, the United States would save \$77 billion in annual medical costs.¹⁹

II. Children and Communities

As legal services providers well know, healthy children and their families require adequate health care, affordable housing, access to government benefits, safe homes, stable employment, consumer protection, and appropriate educational opportunities. A healthy community is one that is safe with schools, parks, recreation centers, playgrounds,

roads, trails, swimming pools, transit, and other services to meet the needs of the people. Providing space and facilities such as parks, school yards, and other public spaces can create opportunities for recreation and healthy lifestyles.²⁰ To provide safe, accessible places for children to play or adults to walk, jog, or ride a bike and to require physical education for every student every day in school are a public responsibility.²¹

A. Recreation and Healthy Children

Reducing obesity and improving fitness have widespread implications that go far beyond disease and the cost of health care for children and their communities. Healthy and fit children do better academically, stay out of trouble, are more likely to have a healthy adulthood, and have better mental and emotional health.

Physically fit students perform better academically.²² Teenagers who participate in team sports are less likely to have unhealthy eating habits, smoke, have premarital sex, use drugs, or carry weapons.²³ The Los Angeles County district attorney concluded that among the reasons young people join gangs was “[the exclusion] by distance and discrimination from adult-supervised park programs” and recommended that “alternative activities like recreation” form part of every gang-prevention strategy.²⁴

¹⁶Ihab Hajjar, *Trends in Prevalence, Awareness, Treatment, and Control of Hypertension in the United States, 1988-2000*, JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION 199-201 (July 9, 2003).

¹⁷U.S. Department of Health and Human Services, *supra* note 6, at 9-10.

¹⁸California Center for Public Health Advocacy, *supra* note 7, at 3.

¹⁹National Alliance for Nutrition and Activity, *supra* note 5, at 2.

²⁰See U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTHY PEOPLE IN HEALTHY COMMUNITIES 1-2 (2001); Ross C. Brownson et al., *Environmental and Policy Determinants of Physical Activity in the United States*, 91 AMERICAN JOURNAL OF PUBLIC HEALTH 1995 (2001); see also James F. Sallis et al., *Environmental and Policy Interventions to Promote Physical Activity*, 15 AMERICAN JOURNAL OF PREVENTIVE MEDICINE 379, 389 (1998).

²¹See U.S. Department of Health and Human Services, *supra* note 6; see also ROBERT WOOD JOHNSON FOUNDATION, HEALTHY PLACES, HEALTHY PEOPLE: PROMOTING PUBLIC HEALTH AND PHYSICAL ACTIVITY THROUGH COMMUNITY DESIGN, REPORT OF AN EXPERT'S MEETING (2000), www.rwjf.org/publications/publicationsPdfs/healthy_places.pdf; see also Strategic Alliance for Healthy Food and Activity Environments, www.preventioninstitute.org/nutrition/html.

²²Press Release, California Department of Education, State Study Proves Physically Fit Kids Perform Better Academically (Dec. 10, 2002), www.cde.ca.gov.nr.ne/yr02/yr02rel37.asp.

²³Russell R. Pate et al., *Sports Participation and Health-Related Behaviors Among U.S. Youth*, ARCHIVES OF PEDIATRICS AND ADOLESCENT MEDICINE (Sept. 2000); see also U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, PHYSICAL ACTIVITY FUNDAMENTAL TO PREVENTING DISEASE 9 (June 20, 2002).

²⁴Gangs, Crime and Violence in Los Angeles: Findings and Proposals from the District Attorney's Office (1992).

Athletics also build character, pride, self-esteem, social skills, and healthier bodies; promote teamwork, leadership, concentration, dedication, fair play, and mutual respect; help keep children in school and develop the skills to do better in school and in life; and improve the likelihood of higher education.²⁵ Male athletes are four times more likely to be admitted to Ivy League colleges than other males; for female athletes, the advantage is even greater.²⁶

Physical activity for children and adolescents helps build and maintain healthy bones, muscles, and joints and helps prevent or delay the development of high blood pressure later in life.²⁷ Regular physical activity is associated with enhanced health overall and reduced risk for all-cause mortality, heart disease, diabetes, hypertension, and cancer.²⁸ An inactive lifestyle doubles a person's likelihood of having symptoms of depression that can lead to suicide, the ninth leading cause of death in America.²⁹

Physical activity relieves depression and anxiety by offering opportunities for social interaction, increased feelings of self-mastery and self-efficacy, and stress relief. The opportunity for social interaction through physical activity strengthens

social ties, which are important predictors of well-being and longevity. For older adults, parks and schools can offer services including exercise, art, and meals to encourage older residents to be active and socialize. The strength of social ties is a predictor of well-being and longevity.³⁰ Mere exposure to green spaces is linked to improved mental health. For example, symptoms of attention deficit disorder are relieved after contact with nature.³¹

B. Recreation and Healthy Communities

Promoting healthy lifestyles requires a comprehensive approach to create environments conducive to physical activity.³² Time spent outdoors is the most powerful correlate of physical activity.³³ Creating or enhancing places for physical activity led to a 26 percent increase, under one study, in the number of people exercising three or more days per week.³⁴

According to the *American Journal of Preventive Medicine*, information outreach, together with creating or enhancing places for physical activities, resulted in a 48 percent increase in physical activity.³⁵ The surgeon general says that schools in particular “offer an almost populationwide setting for promoting physical activities to

²⁵See Anastasia Loukaitou-Sederis & Orit Stieglitz, *Children in Los Angeles Parks: A Study of Equity, Quality, and Children Satisfaction with Neighborhood Parks* 1–6 (2002).

²⁶WILLIAM G. BOWEN ET AL., *RECLAIMING THE GAME: COLLEGE SPORTS AND EDUCATIONAL VALUES* (2003).

²⁷U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES & U.S. DEPARTMENT OF EDUCATION, *PROMOTING BETTER HEALTH FOR YOUNG PEOPLE THROUGH PHYSICAL ACTIVITY AND SPORTS* 7 (Fall 2001), www.cdc.gov/nccdphp/dash/presphysactrpt.

²⁸U.S. Department of Health and Human Services, *supra* note 6, at 7, 85–87, 90–91, 102–3, 110–12, 127–30, 135.

²⁹*Id.* at 135–36, 141.

³⁰See generally B. Kweon et al., *Green Common Spaces and the Social Integration of Inner-City Older Adults*, 30 *ENVIRONMENT AND BEHAVIOR* 832 (1998); Kevin Fitzpatrick & M. LaGory, *Unhealthy Places: The Ecology of Risk in the Urban Landscape* (2000); J. Coughlin & A. Lacombe, *Ten Myths about Transportation for the Elderly*, 51 *TRANSPORTATION QUARTERLY* 91–100 (1997).

³¹Andrea Faber Taylor et al., *Coping with ADD: The Surprising Connection to Green Play Settings*, *ENVIRONMENT AND BEHAVIOR* 33, 54–77 (2001); *id.*, *Views of Nature and Self-Discipline: Evidence from Inner City Children*, 22 *JOURNAL OF ENVIRONMENTAL PSYCHOLOGY* 49–63 (2001).

³²See Gretchen Williams Torres & Mary Pittman, *Active Living Through Community Design: A White Paper Prepared for the Robert Wood Johnson Foundation* 9–10 (2001), www.rwjf.org/publications/publicationspdfs/health_places.pdf; U.S. Department of Health and Human Services, *supra* note 6; see also ROBERT WOOD JOHNSON FOUNDATION, *supra* note 21; Strategic Alliance for Healthy Food and Activity Environments, www.preventioninstitute.org/nutrition.html.

³³Sallis et al., *supra* note 20, at 383.

³⁴Paul M. Sherer, Trust for Public Land, *Why America Needs More City Parks and Open Space*, 13 (2003), www.tpl.org.

³⁵Emily B. Kahn et al., *The Effectiveness of Interventions to Increase Physical Activity*, 22 *AMERICAN JOURNAL OF PREVENTIVE MEDICINE* 87–88 (2002).

young people, primarily through classroom curricula for physical education and health education.”³⁶ The health costs of urban sprawl should inform land use and planning to create and preserve green space, walkable neighborhoods with mixed land uses, and limited road construction balanced by transit alternatives.³⁷ The Centers for Disease Control and Prevention observes that “applying public health criteria to land-use and urban design decisions could substantially improve the health and quality of life of the American people.”³⁸

A person’s level of physical activity depends on the neighborhood, in particular, access, convenience, and safety of spaces for activity.³⁹ Those fortunate individuals with access to parks and school yards are more likely to achieve recommended levels of physical activity.⁴⁰ Physical activity is an opportunity to interact with nature. People with access to nature are healthier than those without.⁴¹ In a college campus study, students enjoyed substantial psychological and recreational benefits from the time they spent in a five-acre park; even students who rarely used the park attached importance to its aesthetic benefits.⁴²

Adding parks and open space to urban communities will help increase levels of physical activity; safe, open places for recreation currently are not available in many cities such as Los Angeles.⁴³ While noting that additional empirical research was necessary, a recent national study on the relationship between the type of places where people live and their activity, health, and weight concluded that

urban form could be significantly associated with some forms of physical activity and some health outcomes.⁴⁴

Parks and other open spaces promote healthy lifestyles. Clean, safe, and accessible parks, school yards, beaches, and wilderness areas are not a luxury but a critical component for any healthy community. Parks bring people together as equals and allow them different rhythms for everyday life. Parks are democratic commons where people can play, walk, talk, kiss, sit, jog, bike, learn, bird-watch, protest, pray, and work. Parks cool the city and clean the air and ground.

III. Structural Disparities and the Unequal Distribution of Open Space for Physical Activity

Healthy communities need a wide range of accessible, safe, and affordable opportunities for recreation in order to be fit and healthy, but communities of color and low-income communities are disproportionately denied the benefits of parks, school yards, and other safe spaces necessary for physical activity.

A. Inequities in the Distribution of Public Resources

Low-income communities and communities of color in urban areas suffer the greatest shortages of green space, and this contributes to inactivity and obesity. Los Angeles, for example, has fewer acres of parks per person than any other major city nationwide, with less than one acre per thousand residents compared to the

³⁶ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *supra* note 12, at 235–36.

³⁷ See Jackson & Kochtitzky, *supra* note 3; FLOURNOY ET AL., *supra* note 13, at 15.

³⁸ Jackson & Kochtitzky, *supra* note 3, at 5.

³⁹ See Centers for Disease Control and Prevention & President’s Council on Physical Fitness and Sports, *Healthy People 2010*, at 2–26 (2002), www.healthypeople.gov/document/pdf/volume2/22physical.pdf

⁴⁰ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *supra* note 12, at 214, 235; FLOURNOY ET AL., *supra* note 13, at 53.

⁴¹ RACHEL KAPLAN & STEPHEN KAPLAN, *THE EXPERIENCE OF NATURE* 173 (1989).

⁴² Roger Ulrich & David Addoms, *Psychological and Recreational Benefits of Residential Parks*, *JOURNAL OF LEISURE RESEARCH* at 60–61 (First Quarter 1981).

⁴³ Stephanie Pincetl et al., *Toward a Sustainable Los Angeles: A “Nature’s Services” Approach* 28 (March 2003) (unpublished paper).

⁴⁴ Reid Ewing et al., *Relationship Between Urban Sprawl and Physical Activity, Obesity, and Morbidity*, *AMERICAN JOURNAL OF HEALTH PROMOTION* 47 (Sept.–Oct. 2003).

national standard of six to ten acres. Disproportionately wealthy and white communities have 1.7 acres of park space per thousand residents, while the inner city has only 0.3 acre.⁴⁵ The Los Angeles Unified School District supplies 71 percent more play acres for non-Hispanic white students than for Latino students in elementary schools.⁴⁶

Many environmental factors contribute to inactivity.⁴⁷ Communities such as Los Angeles are designed with the automobile at the center; this discourages walking and bicycling and makes it more difficult for children to play together.⁴⁸ Increasing concerns about personal safety limit the time when and areas where children are allowed to play.⁴⁹ New technology has conditioned young people to be less active and made sedentary indoor activities more appealing.⁵⁰ Communities have failed to invest adequately in close-to-home physical activity facilities, including parks.⁵¹

Our schools are also failing to provide for the full development of our children. Currently California does not adequately enforce its physical education requirements.⁵² Physical education classes have so many students that teachers cannot give students the individual attention they need.⁵³ In California the average student-teacher ratio is 43 to 1, far exceeding the national recommendation of 25 to 1.⁵⁴ In the Los Angeles Unified School District, for example, middle-school physical education classes average fifty-five to sixty-

five students per class, with some gym classes exceeding seventy students per teacher.⁵⁵ As a result, students in physical education sessions may spend more time standing on the sidelines waiting for their turn, rather than actually participating in an activity.⁵⁶

Results from the 2003–2004 California Physical Fitness Report, on tests of fifth-, seventh-, and ninth-graders in a range of fitness categories, demonstrate the fitness

Table 1.—Percentage of Physically Fit Children in the Los Angeles Unified School District Schools

Percentage of Physically Fit Children	Number of Schools in the District
0%	40
1–5%	58
6–10%	96
11–15%	123
16–20%	83
21–25%	75
26–30%	42
31–35%	38
36–40%	22
41–45%	16
46–50%	4
>50%	8

SOURCE: Thomas A. Rubin, Analysis of Data from 2003–2004 California Physical Fitness Report for Los Angeles Unified School District Schools (2005) (on file with the Center for Law in the Public Interest).

⁴⁵Jocelyn Stewart, *Officials Resort to Creativity in Trying to Meet Need for Parks*, LOS ANGELES TIMES, June 15, 1998, at B1 (based on 1990 census data).

⁴⁶Michael Strumwasser, Strumwasser & Woocher LLP, Testimony and Report on Title VI Compliance Submitted to the Los Angeles Unified School District Citizens' School Bond Oversight Committee (Nov. 17, 2004).

⁴⁷Gretchen Williams Torres et al., *Active Living Through Community Design A-5* (Feb. 2001) (unpublished paper).

⁴⁸U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES & U.S. DEPARTMENT OF EDUCATION, *supra* note 27, at 11.

⁴⁹*Id.*

⁵⁰*Id.*

⁵¹*Id.*

⁵²Vicki Kemper, *New Priorities Leave PE, Obese Children Behind*, LOS ANGELES TIMES, Sept. 15, 2003, at A2.

⁵³U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES & U.S. DEPARTMENT OF EDUCATION, *supra* note 27, at 11.

⁵⁴Cara Mia DiMassa, *Campus Crowding Can Make PE a Challenge*, LOS ANGELES TIMES, Nov. 19, 2003, at B2.

⁵⁵*Id.*

⁵⁶Prevention Institute, *Strategies for Action: Integrating Nutrition and Physical Activity Promotion to Reach Low-Income Californians* 11 (Oct. 2001), www.preventioninstitute.org/nutrapp.html.

crisis among children in the Los Angeles Unified School District. *Forty schools did not have a single physically fit student.* In nearly one-third of the 605 schools in the district, less than 10 percent of students are physically fit. Only eight schools have a student population that is more than 50 percent physically fit. Table 1 shows the percentage of physically fit children in schools in the district.

Inequities in the distribution of parks, school yards, and other open spaces in urban areas such as Los Angeles, the policies and practices causing those inequities, and the policy and legal bases for redressing the inequities are well documented.⁵⁷

B. Low-Income and Minority Communities Face Barriers to Physical Activity

Low-income and minority urban communities face objective environmental barriers to physical activity that more affluent communities do not. According to the Centers for Disease Control and Prevention, two of the main reasons for not exercising are lack of facilities and fears about safety.⁵⁸

Parents identify the safety of parks as the most important factor in deciding whether to use them.⁵⁹ Low-income urban com-

munities, in particular, are very concerned about the safety of existing open spaces. Concerns about neighborhood safety were reported more frequently by Hispanic parents (41.2 percent) than by non-Hispanic white parents (8.5 percent) and non-Hispanic black parents (13.3 percent).⁶⁰ According to the Centers for Disease Control and Prevention, parents with lower incomes and education levels reported more perceived barriers.⁶¹

Parents in communities of color also express concerns about opportunities for physical activity in their neighborhoods.⁶² The lack of parks in many communities is exacerbated by a decrease in school yards, which are disappearing with the rising use of portable classrooms and increased scarcity and price of land.⁶³ School physical education programs are being cut, and available and safe recreation facilities are lacking.⁶⁴ Children of color do not have access to parks and school yards in their communities and do not have access to cars or a decent transit system to reach neighborhoods where the parks are.⁶⁵ Families in more affluent white communities have backyards, swimming pools, basketball hoops over garages, access to country clubs and private beaches, and vacation resorts. Families in low-income communities of color do not. The children in these neighborhoods lack adequate access to cars or to

⁵⁷See Robert García et al., *Building Community and Diversifying Democracy: Strategies from the Urban Park Movement*, in *WASTING AWAY: ENVIRONMENTAL JUSTICE, HUMAN RIGHTS, AND THE POLITICS OF POLLUTION* (Robert Bullard et al. eds., forthcoming 2005); *id.*, Center for Law in the Public Interest, *Dreams of Fields: Soccer, Community and Equal Justice—Report on Sports in Urban Parks to the California Department of Parks and Recreation* (Dec. 2002), www.clipi.org/pdf/dreamsoffields.pdf; *id.*, Center for Law in the Public Interest, *Equal Access to California's Beaches*, (Oct. 23, 2002), www.ejrc.cau.edu/summit2/Beach.pdf (Second National People of Color Environmental Leadership Summit, Resource Paper Series); *id.*, *The Heritage Parkscape in the Heart of Los Angeles*, www.clipi.org/pdf/heritageparkway.pdf; Robert García, *The Legacy of Rodney King and a Testament of Hope*, GOAL IX (American Bar Association, Chicago, Ill.), Spring 2002; *id.*, *Mean Streets: Transportation Equity Improves Social Justice, Economic Vitality, and Environmental Quality*, FORUM FOR APPLIED RESEARCH AND PUBLIC POLICY (2000); see generally Loukaitou-Sederis & Stieglitz, *supra* note 25, at 1–6; Anastasia Loukaitou-Sederis, *Urban Form and Social Context: Cultural Differentiation in the Uses of Urban Parks*, 14 *JOURNAL OF PLANNING, EDUCATION AND RESEARCH* 89–102 (1995).

⁵⁸Jackson & Kochtitzky, *supra* note 3, at 8.

⁵⁹Sallis et al., *supra* note 20, at 383.

⁶⁰See Centers for Disease Control and Prevention, *Physical Activity Levels Among Children Aged 9–13 Years—United States 2002*, *MORBIDITY AND MORTALITY WEEKLY REPORT*, Aug. 22, 2003.

⁶¹*Id.*

⁶²*Id.*

⁶³Press Release, California Department of Education, State Schools Chief O'Connell Announces California Kids' 2002 Physical Fitness Results (Jan. 28, 2003).

⁶⁴See American Obesity Association, AOA Fact Sheets, www.obesity.org/subs/fastfacts/obesity_youth.shtml.

⁶⁵See García et al., *Dreams of Fields*, *supra* note 57, at 4; see also Radcliffe, *supra* note 1, at 1.

a decent transit system to reach parks and wilderness areas.⁶⁶

To compound matters, many of the health threats related to sprawl disproportionately affect people of color and low-income people, who are more likely to suffer from air pollution and related diseases, heat-related diseases and mortality, motor vehicle fatalities, and pedestrian fatalities.⁶⁷

IV. Sustainable Regional Planning for Legal Aid Providers

Legal aid providers advocating on behalf of children and their families in traditional legal arenas are well positioned to address the relationship between human health and urban equity. As with many of the issues that legal aid providers face on a day-to-day basis, the health crisis is complex, requiring a comprehensive, multipronged solution. Much like the affordable-housing crisis, domestic violence, and unemployment, the crisis of obesity and inactivity among youth is not just the result of individual decision making or choice but an issue of urban equity, shaped by matters of race, ethnicity, and socioeconomic status.

Healthy children and healthy communities require access to parks, school yards, and other green spaces for recreation and physical activity just as they require affordable housing, appropriate social services, and adequate employment and education opportunities. Working with policymakers and advocates, legal aid providers can readily incorporate solutions for sustainable regional planning into their everyday advocacy to improve human health and the overall quality of life for their clients. Lessons from the urban park movement in Los Angeles demonstrate the relationship between parks, schools, and open space, and the issues of urban equity that many legal aid providers are already working hard to address.

A. Lessons from the Urban Park Movement in Los Angeles

The Center for Law in the Public Interest is promoting human health in Los Angeles by advocating open space and recreation in new parks and through the joint and community design and use of schools and parks. The center's work to ensure equal access to parks, beaches, forests, school yards, and other green space demonstrates the interrelationship between advocacy in support of sustainable regional planning and legal service practice areas ranging from community redevelopment and immigration to education and employment.

The center is guided by a collective vision: a comprehensive and coherent web of parks, playgrounds, schools, beaches, forests, and transportation; the web promotes human health and economic vitality and reflects the diverse cultural urban landscape. At the center we rely on a multifaceted approach to advocacy that puts the affected community at the center. First, we engage in coalition building and public education to learn what people want and to find collective ways of getting it. Second, we help people with public policy and legal advocacy outside the courts by showing them how to participate in planning and administration as well as ballot measures and election campaigns. Third, we assist in strategic media campaigns. Fourth, we engage in multidisciplinary research and analyses, including complex demographic analyses using census data and GIS (geographic information system) mapping tools, to illuminate inequities. We follow the money through analysis of public records, budgets, and funding policies and procedures to determine who benefits from the investment of public resources and who gets left behind. We connect the historical dots to understand how communities came to be the way they are and how they could be better. Fifth, we creatively engage opponents to find

⁶⁶See Robert García & Thomas A. Rubin, *Crossroad Blues: The MTA Consent Decree and Just Transportation*, in *RUNNING ON EMPTY: TRANSPORT, SOCIAL EXCLUSION, AND ENVIRONMENTAL JUSTICE* 221–56 (Karen Lucas ed., 2004).

⁶⁷Howard Frumkin, *Urban Sprawl and Public Health*, 117 *PUBLIC HEALTH REPORTS* 209, 211 (May–June 2002).

common ground. Impact litigation is available as a last resort within a broader strategic campaign.

A core strategy to bring people together to create the kind of community where they want to live and raise children is to emphasize the diverse values at stake—making possible for children to have the simple joys of playing in the park and school yard; improving health and recreation; core educational values of academic excellence and physical fitness; equal access to public resources; democratic participation in deciding the future of the community; economic vitality for all and local jobs for local workers; spiritual values in protecting people and the earth; providing the benefits of clean air, water, and ground in safe and healthy urban parks and green schools; and sustainable regional planning. Articulating the values at stake to appeal to different stakeholders in the urban park movement is consistent with George Lakoff's call for a progressive movement built around the shared values that define who progressives are and that encompasses the work done by groups working on many different issue areas and programs.⁶⁸

The center spearheaded one of the broadest and most diverse alliances ever behind any issue in Los Angeles to create parks in underserved communities. We helped create a thirty-two-acre state park in the Chinatown Cornfield, stopping the development of warehouses in the abandoned railyard.⁶⁹ The *Los Angeles Times* called the Cornfield “a heroic monument” and “a symbol of hope.”⁷⁰ We helped create a 40-acre park as part of a planned 103-acre park in Taylor Yard along the fifty-one-mile Los Angeles River Parkway and stopped a commercial project. To save a two-square-mile park in the Baldwin Hills, the historic heart of an African American community in Los Angeles, we

helped stop a power plant and a city dump. The park in the Baldwin Hills will be the largest urban park in the United States in over a century—bigger than New York City's Central Park or San Francisco's Golden Gate Park. We recently organized community support and helped secure state funding for a new park in Ascot Hills on 140 acres of land in the park-poor community of East Los Angeles.

In addition to bringing open space to the community, the center is taking the community to the open space. The center is working with others to develop a constituency-building campaign to diversify support for, and access to, the four forests in Southern California; protect the rich biodiversity in those forests; and promote low-impact recreation there. To expand the “pie” of open space in Los Angeles, the center is also working to maximize public access to the beach and ensure the fair treatment of people of all races, cultures, and incomes in their access to these public resources.

We advocate the joint use of schools, playgrounds, parks, and common areas to make optimal use of scarce land and public resources. Los Angeles is building schools and playgrounds for the first time in thirty years. We are influencing the investment of over \$14 billion in school bonds for school construction, modernization, and repair. The Los Angeles Unified School District has 800 schools, with 2,021 acres of school yards. Adding 240 acres of open space are 120 new schools. The vision in Los Angeles is to build and maintain schools that promote the full development of the child, both physically and mentally; are educationally and environmentally sound; enhance neighborhoods through design and programming as centers of the community, with playgrounds open after school and

⁶⁸Prof. George Lakoff of the University of California, Berkeley, identifies from a cognitive perspective six types of progressives with shared values: (1) socioeconomic: all issues are a matter of money and class; (2) identity politics: our group deserves its share now; (3) environmentalists: respect for the earth and a healthy future; (4) civil libertarians: freedoms are threatened and have to be protected; (5) spiritual progressives: religion and spirituality nurture us and are central to a fulfilling life; (6) antiauthoritarians: we have to fight the illegitimate use of authority. See George Lakoff, *DON'T THINK OF AN ELEPHANT! KNOW YOUR VALUES AND FRAME THE DEBATE* (2004); *id.*, *MORAL POLITICS: HOW LIBERALS AND CONSERVATIVES THINK* (2002).

⁶⁹Jesus Sanchez, *L.A.'s Cornfield Row: How Activists Prevailed*, *LOS ANGELES TIMES*, April 17, 2001; García, *The Legacy of Rodney King and a Testament of Hope*, *supra* note 57.

⁷⁰James Ricci, *A Park with No Name (Yet) but Plenty of History*, *LOS ANGELES TIMES MAGAZINE*, July 15, 2001, at 5–6.

on weekends; reflect the wise and efficient use of limited land and public resources; and are flexible and well built to remain useful over a long lifetime.⁷¹ Schools must become centers of their communities with playing fields open after school and on weekends. Schools and communities have the potential to improve the health of young people by providing instruction, programs, and services that promote enjoyable, lifelong physical activity.⁷² New construction and modernization will also create local jobs for local workers and stimulate the Los Angeles economy. The school construction program will create 174,000 jobs, \$9 billion in wages, and \$900 million in local and state taxes. The school district wants to ensure that small businesses and local workers receive a fair share of these benefits.

The work to promote sustainable regional planning is not only improving human health and the environment but also revitalizing neglected communities, improving the quality of life for recent immigrants, and creating opportunities for recreation, employment, and education for low-income youth who might otherwise drop out of school, turn to gangs or violence, and end up needing a range of legal services. The struggle for parks, school yards, and other natural spaces is building community and diversifying democracy from the ground up by giving people a sense of their own power in deciding the future of their city, their lives, and their children's lives. People who have not participated in government before are fighting city hall and wealthy developers—and winning.

B. Legal Aid Providers and the Healthy Profile of Children and Communities

The health and other benefits of physical activity and recreation programs should encourage legal aid providers in all practice areas to understand the health profile of their communities, know what opportunities for recreation exist, and support community efforts to increase the availability of and access to such legal aid.

Legal aid providers working in urban communities can promote healthy children and healthy communities, while serving the legal needs of their clients in any number of ways:

- Advocates who provide social services, economic development, employment, housing, and community revitalization services would benefit from understanding the economic impact of urban parks. Parks can raise property values, increase tourism, promote the economic revitalization of neighboring communities, create jobs and housing, and reduce health care costs. When cities create greenways in or near downtown areas, property values rise and the number of businesses and jobs grows.⁷³
- Advocates for community revitalization can organize public education campaigns so that clients and policymakers alike understand why community revitalization is necessary for healthy children and healthy communities. By articulating the different values at stake (human health, environment, social justice, education, economic, community empowerment,

⁷¹See, e.g., Los Angeles Unified School District Facilities Services Division, *New Construction Strategic Execution Plan* (2004), www.laschools.org/bond.

⁷²Centers for Disease Control and Prevention, *Guidelines for School and Community Programs to Promote Lifelong Physical Activity Among Young People*, 46 MORBIDITY AND MORTALITY WEEKLY REPORT, March 7, 1997 at 6.

⁷³See, e.g., Steve Lerner & William Poole, *The Economic Benefits of Parks and Open Spaces* 12, 13, 17, 20, 26 (1999) (unpublished paper). The following examples illustrate a national trend on the beneficial economic impact of urban parks on communities: After the revitalization of Meridian Hill Park in Washington, D.C., visits to the park tripled, and many park visitors use local businesses. Occupancy rates in surrounding apartment buildings increased. After expansion and restoration of the Martin Luther King Jr. National Historic Site, Atlanta's African American "Sweet Auburn" neighborhood was revitalized, with dozens of new homes, 500,000 annual visitors boosting local business, and a decrease in crime. After citizens prevented San Antonio, Texas, from burying the San Antonio River, the resulting river park has become the most popular attraction in the city's \$3.5 billion tourist industry. After the Pinellas Trail was built through Dunedin, Florida, store vacancy rates went from 35 percent to 0 percent. After Chattanooga, Tennessee, replaced abandoned warehouses with an eight-mile greenway, the number of full-time jobs and businesses more than doubled, and property values increased by 127 percent. After Oakland, California, created a three-mile greenbelt surrounding Lake Merritt near the city center, surrounding property values increased by \$41 million. *Id.*

- and sustainable planning), legal aid providers working in the area of community revitalization can build stronger, more diverse coalitions to attract opponents *and* policymakers to improve the health of the clients and community served.
- Lawyers and other advocates who help clients on issues of economic development, including the development of recreational facilities, neighborhood beautification issues, and the creation of community gardens, have a clear opportunity to emphasize the physical, mental, and emotional health implications of recreation facilities, community gardens, and other public green spaces.
 - Legal aid providers working with immigrant groups may improve outreach and increase effectiveness while promoting human health and healthy communities by working with community-based sports clubs, where immigrants and their children tend to be well organized. For example, the first types of Latino immigrant organizations in major cities have been soccer groups.⁷⁴ New Latino immigrants in the United States are far more likely to organize themselves into soccer leagues than formal political associations. Soccer can bring about a social network that reduces the financial and social costs of immigrating, eases adjustment to a new culture, language, and life and can serve as a source of valuable information, job contacts, social services, and legal resources necessary to survive and prevail.⁷⁵ Social relationships and organizational ties to soccer teams and leagues intensify social integration, sustain communities, and solidify the settlement process. Youth soccer associations offer the added benefit of bringing families together. Parents go to weekly soccer games to watch their children play. At the games, parents talk, learn about employment opportunities, share information with one another, and spend quality time with their children and their neighbors. While promoting physical fitness and social health, soccer groups offer an opportunity for outreach and education in many legal areas.
 - Education specialists advocating appropriate school placements and services would contribute to the health of their clients by requiring physical education and health education as part of a comprehensive education plan. Advocates who support equal access to educational opportunity, new school construction, and education reform must understand the importance of advocating schools that promote physical and academic excellence, including standards that specify the acres of school yards and playing fields necessary for physical education for every student every day in every school and for students to be physically fit under state fitness standards.
 - Legal aid providers working in the area of employment and job training can advocate local hiring and employment opportunities for youth clients in and around parks and new school construction. For example, the new state parks in the Chinatown Cornfield and Taylor Yard neighborhoods can rely on community youth who are part of the Los Angeles Conservation Corps to help with park maintenance while the youth undergo job training. At-risk youth who might easily turn to crime, drugs, gangs, violence, and teenage pregnancy have job training in a natural environment to steer them toward healthy alternatives.
- In addition to advocating healthy children and healthy communities through current areas of legal services practice, state and federal civil rights, environmental, and equal protection laws can be effective legal bases for addressing urban equity and health issues:
- Title VI of the Civil Rights Act of 1964 and its implementing regulations prohibit both intentional discrimination based on race, color, or national origin, and unjustified discriminatory impact for which there are less discriminatory

⁷⁴JUAN GONZALEZ, *HARVEST OF EMPIRE: A HISTORY OF LATINOS IN AMERICA* 142, 145 (2000).

⁷⁵PIERRETTE HONDAGNEU-SOTELO, *GENDERED TRANSITIONS: MEXICAN EXPERIENCES OF IMMIGRATION* 55 (1994).

alternatives, by applicants for or recipients of federal funds.⁷⁶ Although the U.S. Supreme Court held in *Alexander v. Sandoval* that there is no right for private individuals and groups under Title VI to enforce the discriminatory *impact* regulations issued by federal agencies under the Title VI statute, we must keep in mind that intentional discrimination and unjustified discriminatory impact are just as unlawful after *Sandoval* as before and that recipients of federal funds remain obligated to prohibit both.⁷⁷ Even now, after *Sandoval*, individuals still may sue a recipient of federal funds under Title VI to challenge intentionally discriminatory practices. Known discriminatory impact continues to be among the most important evidence leading to a finding of discriminatory intent. Agencies remain obligated to eliminate discriminatory impact regardless of litigation.

- California Government Code Section 11135 prohibits intentional discrimination and unjustified discriminatory impact by recipients of state funding and remains available as a legal basis for achieving healthy communities through equal access to parks, recreation, and playgrounds.⁷⁸ Other parallel state laws may serve to bolster federal civil rights protection provisions.
- States can develop statutory schemes for achieving environmental justice. California law defines environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of

environmental laws, regulations, and policies.”⁷⁹ State environmental justice statutes can be used to promote human health through equitable and sustainable regional development.

- The same kinds of evidence can be as persuasive in planning, in the administrative arena, and in the court of public opinion as in a court of law. Similar evidence is relevant to prove both discriminatory intent and discriminatory impact. Civil rights and environmental claims can be combined to achieve equal access to parks, recreation, and playgrounds and to promote healthy children and healthy communities. For example, environmental impact reports and environmental impact statements, mandated under state and federal environmental laws, should analyze the health impact of development on surrounding communities, including people of color and low-income communities.
- Recent cases in California address ways of improving the equitable distribution of public resources to underserved urban school districts. *Godinez v. Davis* challenged the distribution of a \$2.9 billion state school bond that short-changed urban schools while giving more money to suburban areas for new school construction and facilities, including playgrounds and playing fields.⁸⁰ The suit alleged that the regulations and procedures for distributing the funds violated the equal protection clause of the California Constitution and state law, which requires the state to use a ranking system to determine the priority of new-construction fund-

⁷⁶Title VI provides: “No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d (2004). The equal protection clause of the Fourteenth Amendment to the U.S. Constitution also prohibits intentional discrimination. See also Section 1983 of the Civil Rights Act of 1871.

⁷⁷*Alexander v. Sandoval*, 532 U.S. 275 (2001).

⁷⁸See CAL. GOV'T CODE §§ 11135 (2004).

⁷⁹CAL. GOV'T CODE § 65040.12 (2004). The Governor's Office of Planning and Research is working on implementing this code section.

⁸⁰Doug Smith, *School Funding Rules Challenged*, LOS ANGELES TIMES, Mar. 31, 2000, at A3; English, Munger & Rice, A Brief Summary of *Godinez v. Davis*: Case No. BC227352 (Cal. Super. Ct., L.A. County, Mar. 23, 2005) (on file with the Center for Law in the Public Interest). (English, Munger & Rice represented plaintiff students and community groups, along with the Mexican American Legal Defense and Education Fund and the Asian Pacific American Legal Center).

ing based on the number of students that exceed each district's physical capacity when state funds are scarce.⁸¹ The *Godinez* case resulted in new regulations for new-school construction funds and the award of hundreds of millions of dollars for urban schools.⁸² *Williams v. California* charged the State of California with reneging on its constitutional duty to provide students with education essentials, including text books, qualified teachers, and clean and safe facilities.⁸³ The *Williams* settlement requires that all students have books and that their schools be clean and safe; the settlement includes funding to inventory facilities and repair deteriorating ones at the lowest-performing schools. The Los Angeles Unified School District is required to eliminate overcrowding and the need for busing to relieve overcrowding by specified dates.⁸⁴

- Title IX of the Education Amendments of 1972 and Title IX regulations bar sex discrimination at educational institutions that receive federal funding.⁸⁵ The law protects equal access to sports opportunities and has led to an explosion of women's athletics on campuses. Title IX has spurred women's participa-

tion in collegiate athletics more than 400 percent.⁸⁶



The health crisis facing many of the communities served by legal aid attorneys is not just a matter of individual eating or exercise habits. We cannot expect children and families to be healthy if urban areas such as Los Angeles fail to provide enough open space for recreation in parks, schools, and other public lands. Legal aid providers on the frontlines of addressing urban inequities ranging from housing and employment to social services and economic development would serve their clients well by incorporating advocacy for sustainable regional development into their day-to-day work. The epidemic of obesity and inactivity, particularly among children of color and low-income children, is a complex problem requiring a comprehensive solution. Like many of the problems facing clients assisted by legal aid providers, the solution to the health crisis cuts across many disciplines. While continuing the great work they are doing, legal aid providers from every field can promote healthy children and healthy communities.

⁸¹*Id.*

⁸²*Id.*

⁸³*Williams v. California*, Case No. 312236 (Cal. Super. Ct., S.F. County), was filed by the Center for Law in the Public Interest, ACLU Foundation of Southern California, Mexican American Legal Defense and Education Fund, Asian Pacific American Legal Center, Morrison & Foerster, and others in May 2000 on behalf of California students who attended substandard schools. A copy of the complaint is on file with the Center for Law in the Public Interest.

⁸⁴Press Release, ACLU of Southern California, ACLU and State of California Reach Settlement in Historic Williams Education Lawsuit (Aug. 13, 2004), www.aclu-sc.org/News/Releases/100740/.

⁸⁵20 U.S.C. §§ 1681–1688 (Title IX of the Education Amendments of 1972 was modeled after Title VI of the Civil Rights Act of 1964).

⁸⁶See, e.g., Tamar Lewin, *U.S. Rule on Women's Sports May Ease College Compliance*, NEW YORK TIMES, March 23, 2005, at A15.