ACLU NEWS

Newspaper of the American Civil Liberties Union of Northern California

Volume LXV, No. 4 - July/August 2001

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Judge Rules Governor's "No-Parole" Policy Unfair

On June 21, Los Angeles Superior Court Judge Paul Gutman ruled that Governor Gray Davis has a “no parole policy” for convicted murderers “regardless of any extenuating circumstances.” The judge then ordered the release of Robert Rosenkrantz, who was convicted of second-degree murder in 1985, a victim of the Governor’s unfair policy. The Board of Prison Terms had previously granted Rosenkrantz’s release, but the Governor overturned the decision in October. *[As the ACLU News went to press, the Governor’s request for a stay pending appeal was granted by the California Supreme Court; Rosenkrantz therefore remains in prison.]*

The ACLU, concerned about the Governor’s untenable stance in the Rosenkrantz case and others, challenged the “no-parole” policy on behalf of three religious organizations and the former Chair of the Board of Prison Terms. “A ‘get tough on criminals’ stance may have political appeal, but the Governor’s blanket policy denies inmates the individualized consideration that they are entitled to under due process of law,” explained ACLU-NC Legal Director Alan Schlosser. “The Governor may have the final word, but he is not above the law – he cannot convert all life sentences to ‘life without possibility of parole’ by administrative fiat.”

Schlosser explained that in 1999 the Board of Prison Terms held nearly 2,000 parole hearings for those serving life terms for murder, and determined that only 16 were suitable for parole. In every case, Governor Davis reversed or recommended against parole. In 2000, the Board conducted a similar number of hearings, and deemed only 19 lifers suitable for parole. Governor Davis reversed or recommended against parole in every instance last year except one. Moreover, Schlosser cited a 1999 *Los Angeles Times* report on parole where the Governor stated, “If you take someone else’s life, forget it.”

“It is this court’s conclusion that the discretion invested in an executive the exercise of which will affect the liberty rights of a citizen, cannot be considered to be absolute and unfettered without express language to that effect,” wrote Judge Gutman in a 26-page opinion.

He noted that Davis’s virtual no parole policy violates prisoners’ state and federal due process rights. The judge also determined that Rosenkrantz has been illegally confined beyond his previously set parole date of May, 2000.

Rosenkrantz’s parole bid has garnered the support of members of the state Legislature, the judge who sentenced him, and a member of the victim’s family. Three religious groups,

represented by the ACLU affiliates of Northern and Southern California, and the law offices of Latham & Watkins, argue that Rosenkrantz is a victim of Governor Davis's no parole policy that violates state and federal law. The groups, the California Council of Churches, the Board of Rabbis of Northern California, and the California Province of the Society of Jesus, were also joined in their friend-of-the-court brief by Albert M. Leddy, former Chairman of the California Board of Prison Terms.

Despair and hopelessness

"We urge Governor Davis to reconsider his policy of refusing to release inmates convicted of murder who have been recommended for parole and are not considered a danger to society," said Scott Anderson of the California Council of Churches. "The Governor's no parole policy takes away any incentive for rehabilitation and reform and only increases the prisoner's despair and hopelessness. The policy robs society of those inmates who are rehabilitated, remorseful and repentant and who want to return as productive members to their communities. Mr. Rosenkrantz is such a man."

Since his imprisonment, the 33-year-old Rosenkrantz has become a computer expert, and has received several job offers. He completed therapy and has had a spotless record at the state's medium-security prison in San Luis Obispo.

Held captive

Governor Davis' blanket policy of no parole for all those who have committed murder is clearly unconstitutional and unlawful," said Will Barnett Fitton of Latham & Watkins. "The Governor's policy does not consider all of the individual's characteristics and his likelihood of reform and only looks at the facts of the crime. In the Rosenkrantz case, the Los Angeles Superior Court and the Court of Appeal ruled that the offense was not sufficient to deny him parole. Rosenkrantz is being held captive by the Governor's no parole policy."

"We are anxious to preserve the integrity of the state parole system," said Rabbi David Teitelbaum, of the Board of Rabbis of Northern California. "The state parole system is based on the principle of human reconciliation and renewal. The Governor's no parole policy violates this very principle."

Albert Leddy, who served for nine years as a member, Commissioner and then Chairman of the California Board of Prison Terms from 1983-1992, noted, "The Governor's policy of denying parole to all prisoners who have committed murder eliminates hope and motive for improvement and creates increased tension within the state's prison walls. If an inmate has no hope of being released, then why should he respect the rules and regulations that govern the prison? The California parole system values redemption and rehabilitation, and Rosenkrantz is clearly a model prisoner who deserves to be released."

The Governor appealed the ruling on behalf of Rosenkrantz to the California Supreme Court. On July 11, the high court issued a stay, denying Rosenkrantz's release until athe appeal is decided by the Court of Appeal.

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Korematsu Honored with Medal Of Liberty

CAPTION GOES HERE

ACLU-NC Board Chair Margaret Russell congratulated Fred Korematsu at the ACLU Biennial in Miami, where he was honored with the national Medal of Liberty for resistance to World War II internment orders.

The ACLU-NC had a major presence at the national ACLU Biennial, held in Miami, Florida from June 13 – 16.

The organization's highest honor, the Roger Baldwin Medal of Liberty, was presented to Fred Korematsu for his courage in defying the internment order issued by President Roosevelt that incarcerated 120,000 Japanese Americans during World War II. Korematsu, who shared the honor with Gordon Hirabayashi, was represented by the ACLU of Northern California all the way up to the U.S. Supreme Court.

As one of the largest affiliates, the ACLU-NC was represented by eight voting delegates: Donna Brorby, Luz Buitrago, Scott Burrell, Milton Estes, Ramon Gomez, Susan Mizner, Margaret Russell, David Salniker, William Walker, and Michelle Welsh. Estes and ACLU-NC Vice-Chair also attended as national Board members.

In addition, twelve staff members, two Racial Justice Project Fellows, and three Friedman Project interns attended, and several led workshops and plenary sessions. Executive Director Dorothy Ehrlich, the outgoing chair of the Executive Directors Council, chaired an all-day session of affiliate leaders and spoke at the luncheon bidding farewell to national Executive Director Ira Glasser and welcoming the new ACLU head, Anthony Romero. ACLU-NC Racial Justice Project Director Michelle Alexander served on the panels "Racial Profiling – Public Education and Legislative Strategies" and "Racial Profiling -- Current Litigating Strategies." Nancy Otto, Howard A. Friedman First Amendment Education Project Director, spoke at the workshop on "Student Expression – Safe Schools," and Media Associate Stella Richardson was a panelist for the session on "How to Outreach to the Latino Community," and

The ACLU bestowed the Medal of Liberty on Fred Korematsu (left) and Gordon Hirabayashi for their courage in resisting the internment of Japanese Americans during World War II

Board members Estes and Buitrago led a panel on how to build diverse affiliate boards.

More than 550 ACLU affiliate lay leaders and staff members attended the national meeting. The Biennial conference is where ACLU leaders from all over the country come together to debate and decide on ACLU policy.

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UC Regents Rescind Affirmative Action Ban

To the cheers of students, faculty and civil rights advocates who packed the hall, the U.C. Board of Regents voted unanimously on May 16 to rescind the six-year old resolutions, SP 1 and SP 2 that banned affirmative action in admissions and hiring at the University of California.

The vote capped years of organizing by civil rights groups and educators who had mobilized support throughout the state in opposition to the Regents 1995 ban that led to a dramatic decrease in admissions of students of color. Despite the long-term effort, U.C. Regent William Bagley, who spearheaded the repeal effort, said that the vote was in doubt until the early hours of the morning preceding the Board meeting in San Francisco's Laurel Heights campus.

When word came that the consensus that had been hammered together was in danger of falling apart, ACLU-NC Executive Director Dorothy Ehrlich, ACLU-SC Executive Director Ramona Ripston and San Diego Executive Director Linda Hills sent a letter urging the Regents to vote for nothing short of a full repeal of SP 1.

"On behalf of the more than ACLU 50,000 members in California who share a deep commitment to racial and social justice in our state, to our state's outstanding university system and to all the children of our state who deserve the best education we can offer them, we urge the Board of Regents to rescind SP 1 and to reject the idea that the doors of opportunity should be closed to students of color," the affiliate directors wrote. "By doing so, the Board sends a message to African American, Latino, Pilipino and Native American high school students that the University of California values them and their education – and will do its part both to seek them out and to provide them with all the tools they need to succeed at the University.

"For the past five years, ever since the passage of SP 1, the ACLU has fought on many fronts – before this Board, in our communities, in the courts and in the court of public opinion – to challenge the unfair exclusion of students of color from our University, which belongs to all the people of this state.

"Along the way, we have seen too many talented, brainy and committed students of color become frustrated and dejected by the message of rejection from the University of California. This is not a time for symbolic resolutions. It is time for the Board to send a clear message that the University welcomes students of color. It is time to reject the flawed two-tiered admissions policy and return the responsibility for setting admissions criteria to the faculty," the ACLU leaders stated.

Backing for the repeal also came from a delegation of a dozen state legislators – many from the Black and Latino caucuses, and several UC graduates – who traveled from Sacramento to attend the meeting at San Francisco's Laurel Heights campus.

The Regents' resolution rescinded SP 1 and SP2 and reaffirmed that the UC faculty should determine admissions policy, including whether or not to drop the two-tiered admissions policy that required that 50-70 per cent of students be chosen solely by grade point averages and test scores, regardless of other qualities.

In July, the system wide faculty committee charged with evaluating the admissions procedure proposed that the two-tier system be abandoned in favor of a more comprehensive admissions policy. Student applicants should be judged not only on a numeric formula but on a broad basis that would include socioeconomic background academic opportunity, social contributions and intellectual motivation, according to the guidelines proposed by the Board of Admissions and Relations with Schools.

UC Regent Bagley said that he hoped the Regents vote would send a message to the world that the University welcomes minority students – and that the reputation of the University of California, besmirched by SP1, would be restored.

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ACLU Moves to Unseal Wen Ho Lee Court Files

On behalf of Chinese for Affirmative Action, attorneys from the ACLU-NC, the Asian Law Caucus and the law firm of Steinhart & Falconer filed a motion "to peel away the layers of government subterfuge" and gain access to documents that remain under seal in the case of *United States of America v. Wen Ho Lee*. The motion was filed in U.S. District Court in New Mexico on June 6.

"Although Dr. Lee was released last year, many questions linger concerning the manner in which federal employees in our country, including Dr. Lee, are investigated and prosecuted," said Diane Chin, Executive Director of Chinese for Affirmative Action. "The possibility that Dr. Lee was the victim of selective prosecution is a matter of great concern to our organization and to the American public, which has a right to view documents that could reveal whether the federal government and the nation's tax-supported laboratories are engaging in racial profiling. CAA is requesting the immediate unsealing of all documents, or portions of documents, that do not threaten national security to prevent any further violation of the public's constitutional rights."

Solitary confinement

On December 10, 1999, the government charged Dr. Lee, a U.S. citizen born in Taiwan, with 59 counts of mishandling classified information. For over nine months after he was taken into custody, Dr. Lee was kept in solitary confinement, denied bail, and shackled with leg irons and chains whenever he left his cell.

On August 11, 2000, the ACLU-NC and the Asian Law Caucus filed briefs in support of Dr. Lee's motion to seek government evidence of race-based selective prosecution. On September 13, two days before the U.S. Attorney's Office was to have produced documents relating to selective prosecution, the government dropped all but one charge against Dr. Lee. . In an unprecedented move, the Court apologized to Dr. Lee for the manner in which his constitutional rights were violated.

Public concern

" The public has a First Amendment right to review documents filed in court cases," said ACLU-NC staff attorney Robert Kim. "This right is especially important when the government is a party in the case, and when issues of wide public concern are involved. Few cases in recent times have evoked as much public concern as the federal government's prosecution of Wen Ho Lee."

Victor Hwang, attorney with the Asian Law Caucus, noted, “There is a long history of anti-Asian sentiment in this country. In May, the only Chinese-American member of Congress, Representative Wu, was denied entry to a Department of Energy facility where he was scheduled to deliver remarks about the importance of Asian Pacific American Heritage Month. He was stopped by guards who questioned him about his nationality. From Dr. Wen Ho Lee’s case to the imprisonment of Japanese-Americans in concentration camps during World War II, political and racial scapegoating of Asian Pacific Americans has been a part of American life. It is for this reason that the documents in Dr. Lee’s case must be unsealed.”

“It is well-established that the First Amendment cannot be overcome by national security concerns unless the Court conducts its own analysis of the records and finds that there are bona fide national security concerns at stake,” said Lisa Sitkin of Steinhart & Falconer. “That did not happen here. Given the history of this case, the government’s generalized claims that the documents threaten national security are dubious at best. Just as the Court ordered Dr. Lee released from solitary confinement when the government finally admitted he was no threat to national security, it should also release the documents that will allow us to know what really lay behind his prosecution.”

The motion to unseal the documents was filed by cooperating attorney Hope Eckert in Albuquerque, New Mexico. A copy of the motion is available online at www.aclunc.org.

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Religious Employer Must Provide Contraceptive Coverage for Employees

by Terry Chang

Stating that Catholic Charities may not “impose its own religious views on its employees” by refusing to provide them with health insurance that covers contraception, the state Court of Appeal both gave a boost to reproductive rights for hundreds of workers and upheld the constitutionality of a new state law, the Women’s Contraception Equity Act. The July 2 ruling in the case of *Catholic Charities v. Superior Court of Sacramento*, echoed many of the arguments cited in the ACLU-NC friend-of-the-court brief.

Catholic Charities, a social service nonprofit organization, sought exemption from the Contraception Equity Act on the claim of religious liberty. This state law mandates that any employee health plan including prescription drug benefits must also contain coverage for contraception.

The ACLU’s friend-of-the-court brief supported the law, opposing an injunction by Catholic Charities.

While the Contraception Equity Act exempts clergy officials and members of religious orders from employment regulation, it does not excuse institutions that provide secular services, such as hospitals, universities, and relief agencies.

Catholic Charities lawyers argued that since contraception is considered a “grave sin” in Catholic theology, obeying the Contraception Equity Act would place an undue burden on its religious freedom.

Not exempt from labor laws

ACLU-NC staff attorney Margaret Crosby disputed this claim. “Catholic Charities is the paradigm of an organization that is not exempt from state labor policy,” she explained. “Its employees predominantly do not share the Catholic faith. Its charitable work is secular. It is a 501(c)(3) nonprofit organization, which receives substantial government funds. Catholic Charities serves people of all faiths—and people who adhere to no faith—in California’s pluralistic population.”

“The agency’s religious rights do not trump its employees’ health,” said Crosby. “Neither free exercise nor establishment clause principles support Catholic Charities’ noncompliance with California’s important health policy.”

Under the Act, Crosby explained, “Catholic Charities remains free to persuade its Catholic and non-Catholic employees not to buy or use contraception. Providing a comprehensive health plan does not interfere with Catholic Charities’ ability to oppose birth control and to convey its moral message to its adherents.”

Available only to women

The passage of the Contraception Equity Act creates a crucial foothold for ensuring gender equality in the workplace, added Crosby. “The EEOC recognized that prescription contraceptives are a form of health care available *only* to women and that exclusion of birth control drugs and devices is therefore a form of sex discrimination in compensation. Moreover, the discrimination undermines women’s control over childbearing, which directly affects women’s ability to participate equally in the labor force.”

The Court of Appeal agreed with Crosby’s arguments, finding the contraception law both neutral and nondiscriminatory. “When an organization elects to provide its employees with health or disability insurance coverage with prescription drug benefits, requiring the policies to cover prescription contraceptive methods—so as not to discriminate against women—cannot be said to inhibit religion, even if its parent entity is a religious organization that believes the use of contraceptives is a sin,” the Court stated in its 58-page opinion. “For us to conclude otherwise would mean that such a provider of secular services could impose its own religious views on its employees by refusing to provide them with health coverage that is available to the employees of other entities performing secular services.”

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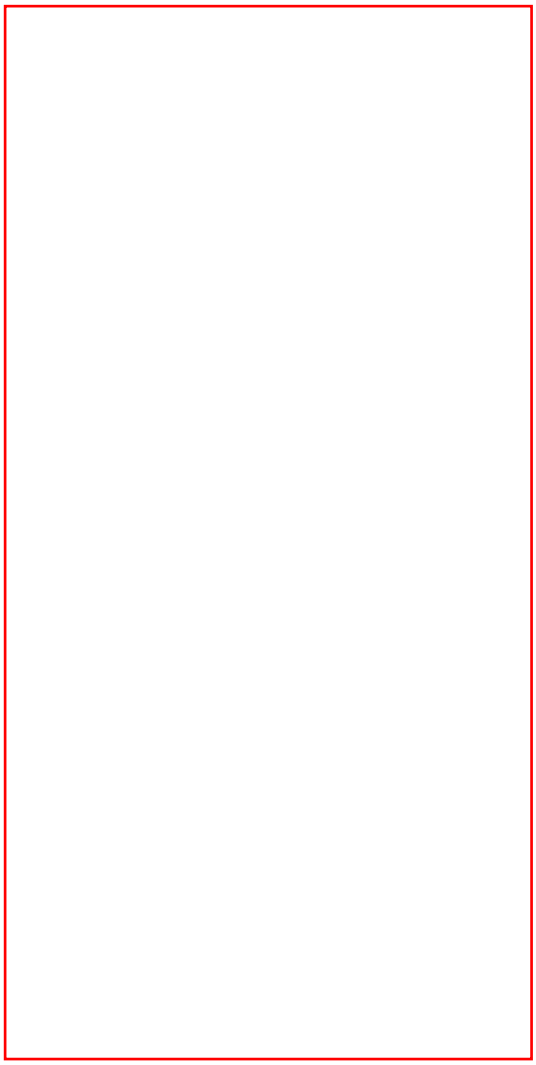
County Drops Plan to Ban Contraceptive

by Terry Chang



The national spotlight shone on the unlikely setting of the Board of Supervisors meeting in San Bernardino County on June 12, when the Board debated and voted on a plan to stop distributing the “morning after pill” in County clinics that receive federal funds. The issue drew national attention: anti-choice activists pushed to stop the use of EC, a contraceptive that doctors consider an important method of reducing unplanned pregnancies. Reproductive rights activists – including the ACLU – argued that a ban would deny poor, uninsured women use of an effective contraceptive.

In April, the Board voted to ban the contraceptive. The County sought a waiver from federal requirements, which the agency administering the federal family planning program denied. In June, the Board debated whether to appeal this decision to the Department of Health and Human Services – putting it squarely in the lap of an Administration that has exhibited its hostility to providing women with contraceptives.

EC, emergency-contraception pills, prevent pregnancy by blocking a fertilized egg from implanting itself in the womb if the pills are taken within 72 hours of unprotected sex. The pill is effective and widely used around the country. The American College of Obstetricians and Gynecologists advocate that doctors provide advance prescriptions for them during routine gynecologic visits.

ACLU-NC staff attorney Margaret Crosby testified at the Board meeting, explaining that the County’s requested waiver to exclude the “morning after pill” from its family planning services would “directly contravene Congress’s express purpose for enacting the Title X program: providing comprehensive family planning services to low-income families.

“In 1981, the California Supreme Court held that the state Constitution bars government from requiring women to waive their right to reproductive choice as a condition of receiving

subsidized health care," Crosby explained. "While other birth control methods remain available to San Bernardino County women, the prohibition on EC would infringe upon fundamental privacy rights. EC is unique in allowing women to control their procreation; it is the one method that prevents pregnancy after intercourse.

"The California Constitution protects the County's low-income women from the elimination of EC from family planning clinics," Crosby told the Board.

The ACLU was joined by Planned Parenthood and the state Department of Health in opposing the proposed ban. Jon Dunn of Planned Parenthood said that the Board's vote is a "victory for women of San Bernardino County. Unintentional pregnancies will be avoided. Abortions will be reduced. And that is the outcome we were seeking."

Anti-choice activists urged the Board to force a test of the Bush administration's position on clinic distribution of the contraceptive. "Given the Bush administration's hostility to providing contraceptives to workers covered by the Federal Employee Health Benefits program, this could have been a very dangerous move," Crosby explained. "We are glad that we were able to defeat this local ban – and to establish that uninsured women in California have a right to all methods of effective contraception."

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Fight in Congress to Restore Contraceptive Equity

The Bush administration is trying to remove a provision from the federal budget that provides more than a million women covered by the Federal Employee Health Benefits program to receive a full range of contraceptive and medical services. During the past two years, this provision has required insurance providers who participate in the Federal Employee Health Benefits program to cover FDA-approved prescription contraceptives and devices in the same manner that they cover prescription drugs. Approximately 1.2 million women rely on the federal health plan for their medical care. Without insurance coverage, many of these women will be forced to choose less reliable methods of contraception, and face unintended pregnancies.

To remedy this attack on reproductive rights, two Members of Congress, Steny Hoyer (D-MD) and Nita Lowey (D-NY) have proposed an amendment to the federal budget that would restore the provision establishing contraceptive equity. A vote in the House on the Hoyer-Lowey amendment will likely take place before Congress leaves for its August recess. To read more about this battle, go to the national ACLU website at www.aclu.org.

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Key Bills With Their Way to the Governor's Desk

The ACLU has helped bring a number of significant civil liberties bills through the Legislature this session. Although two key bills - one banning the execution of mentally retarded people and one mandating data collection for racial profiling - were stalled in Committee by a combination of political maneuvering and a lack of political will - several are now on their way to the Governor's desk. See the sidebar for ways you can voice your opinion on legislation that affects the civil liberties of everyone in California.

Data Collection by Employers and Government Contractors

AB 1309 (Goldberg-D, Los Angeles): requires that large employers and contractors file reports with the Department of Fair Employment and Housing showing the employee composition by gender and ethnicity and describing recruitment efforts. The bill would also provide that all such reports be available for public inspection.

Co-sponsored by the ACLU, this legislation ensures that larger employers and governmental contractors have open and transparent hiring and recruitment practices.

Only rigorous enforcement of anti-discrimination laws can ensure that all qualified applicants have a fair chance at employment. AB 1309 will help show whether contractors benefited by government contracts have fair recruitment practices open to all.

Civil Rights Protections For State Workers

SB 1196 (Romero-D, Monterey Park): responds to a recent U.S. Supreme Court decision cutting back on civil rights protections by explicitly waiving the state's 11th Amendment immunity from numerous federal civil rights laws, including the Americans with Disabilities Act (ADA). This measure is also sponsored by the ACLU.

SB 1196 restores the protections to state workers that Congress meant to provide under five civil rights laws: Title VII of the Civil Rights Act, the ADA, the Family and Medical Leave Act, and the Fair Labor Standards Act. This would ensure that the State of California is held to the same standards as private actors, not to lesser standards. It would guarantee all Californians the civil rights protections that they have long enjoyed, and that Congress meant for them to have.

Prohibiting English-Only Workplace Rules

AB 800 (Wesson-D, Los Angeles): prohibits English-Only workplace rules, unless the employer can show a business necessity.

Language is intimately tied to national origin. Rules prohibiting the use of languages other than English discriminate and have an adverse impact on protected groups. Forced suppression one's native language creates an oppressive and intimidating workplace. Indeed, the imposition of an English-only rule is a tool often used to mask intentional discrimination on the basis of national origin.

Allowing individuals to communicate among themselves in their native languages is good for business. Even if employees are bilingual, often they can communicate more efficiently in their own language. It hurts morale to impose on certain employees the burden of monitoring their speech.

Data Collection on Suspended/Expelled Students and Homework/Testing Required for Suspended Students Awaiting Expulsion Hearings

SB 320 (Alarcon-D, Van Nuys): allows data collection on the race, sex, and learning disability of suspended and expelled students, and requires thatparents be told that their children's academic needs must be met and be informed of their options. This measure is co-sponsored by the ACLU.

Suspension and expulsion from school should only be punishments of last resort. Collecting suspension/expulsion data on gender, age, race, and learning disability will help determine whether inequalities exist in school disciplinary systems statewide. This information is crucial to developing strategies to address the suspension/expulsion and drop out rates for these pupil populations. Requiring that-parents be told of their children's options to meet their academic needs will help keep students from falling farther behind while waiting to hear whether they will be expelled.

Domestic Partnership

AB 25 (Migden-D, San Francisco): would extend to registered domestic partners about a dozen basic legal rights that currently only married heterosexual couples have under California law, including the ability to make medical decisions in the hospital; inherit property without a will; use sick leave benefits to care for a domestic partner or a domestic partner's child; leave a job to relocate with a domestic partner without jeopardizing unemployment benefits; and, providing domestic partners with employer based health coverage without additional taxation.

This bill will strengthen families and give registered domestic partners crucial tools to take care of each other in times of crises and needs.

Compassionate Release for Dying Prisoners

AB 675 (Migden-D, San Francisco) - Co-sponsored by the ACLU, the bill streamlines and makes more accessible the compassionate release process for dying prisoners. Family

members and dying prisoners have had a hard time navigating the current compassionate release process. AB 675 would make the procedure more accessible and protect prisoners' due process rights by requiring the California Department of Corrections to keep the prisoner and his or her family apprised at each stage of consideration. Additionally, AB 675 directs the Department of Corrections to issue a memo to staff explaining the recall of sentence process.

The release of terminally ill prisoners who can no longer pose a threat to the public safety saves state taxpayers hundreds of thousands of dollars and provides these women and men with appropriate end-of-life medical and palliative care.

Right to Financial Privacy

SB 773 (Speier-D, San Mateo) requires that (1) consumers affirmatively consent to the sharing of their information when it will be shared with companies that are third parties (not affiliates of the company) (opt in) and (2) consumers expressly state that they do not want their information shared with affiliates (opt out). This measure was drafted in response to Congress's enactment of the Financial Services Modernization Act, allowing the merger of banks, insurance companies, and brokerage firms. After several hearings, SB773 passed the assembly Banking and Finance Committee, and will be held in the Assembly Judiciary Committee.

The ACLU insists that privacy of one's financial information should be protected by state law - and we are not alone in this. In a 1998 Lou Harris Poll: 90% of the respondents said that they are concerned about threats to their privacy; 85% of the respondents felt they had lost control over how companies use their personal information; and 75% said they have refused to give information to a business for privacy reasons.

Higher Education for Undocumented Immigrant Students

AB 540 (Firebaugh-D, Cudahy): Allows undocumented students who meet certain criteria (high school attendance in California for three or more years, graduation from a California high school) to pay in-state tuition.

Many of these immigrant students are children of lawful permanent residents who will eventually become permanent residents or citizens themselves - yet they currently must pay out- of- state tuition even though they may be long-time residents of the state. This bill ensures that all qualified students, regardless of immigration status, will have meaningful access to our college and university systems. Making higher education accessible and affordable is an investment in the individuals and also California's future.

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Governor, Democratic Leadership Thwart Crucial Bills

Death Penalty Reform Delayed by Democratic Leadership

AB 1512 (Aroner-D, Berkeley) bans the execution of the mentally retarded in California. Despite widespread support by the public and the passage of similar legislation with bi-partisan support in states like Texas, Florida and Missouri, the bill was stalled in the Appropriations Committee.

The Assembly Democratic leadership requested the bill be held, not wanting moderate Democrats voting on a bill that could be construed as “soft-on-crime”. Recent news stories and editorials have blasted this display of political “cowardice”. Nevertheless, the bill remains stalled for this year, but may be taken up for a vote again next January.

Governor Davis Stalls on Racial Profiling Bill

AB 788 (Firebaugh-*D, Cudahy*) – provides a meaningful definition of racial profiling and requires mandatory data collection by law enforcement officers.

On the eve of the Assembly Floor Vote, Davis Administration officials and law enforcement allies lobbied Democratic Assembly Members asking them not to vote for the bill. As a result of this high-stakes arm bending, Assemblymember Firebaugh decided not to bring the bill to a vote. However, the bill could be brought to a vote in January 2002.

Assemblymember Firebaugh and our coalition are developing strategies to bring the issue to the Governor’s desk. **Please go to www.aclunc.org for a link to fax letters to the Governor on the racial profiling issue.**

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Town Hall Meeting in San Jose Draws Pastors, DWB Victims

The Bible Way Christian Center in San Jose rippled with anticipation on June 28, as dozens of community members stepped up to the microphone to tell their story of racial profiling at the hands of the police and to organize a campaign for police accountability.

More than 100 San Jose residents came to the Town Hall Meeting on “Driving While Black or Brown,” sponsored by the ACLU-NC, the Racial Justice Coalition, the Bible Way Christian Center, Citizens Tribunal, Bethany College, San Jose Office of Human Relations, Students for Justice, NAACP-San Jose, LULAC, and the California Arab American Democratic Caucus. Pastor Oscar Dace of the Bible Way Christian Center welcomed everyone to his church, and noted the attendance of over seven San Jose based Pastors.

“We are especially pleased that pastors from many San Jose churches, who had never participated in the DWB Campaign before, attended the meeting,” said Michael McBride, Co-Chair of the Racial Justice Coalition and Vice President of the San Jose NAACP. “I was happy to see such a high turn-out because it’s important that they hear first hand from community members just how much racial profiling impacts peoples lives. I hope this town hall served to bring them into the Campaign as supporters.”

The Town Hall Meeting was organized to discuss the San Jose Police Departments’ data collection program, to hear the victims of racial profiling talk about their experiences, to learn about police complaint procedures, and to hammer out some ideas for stopping the illegal practice of racial profiling by law enforcement.

Michelle Alexander, Director of the ACLU-NC Racial Justice Project gave an overview of racial profiling in California and San Jose, stressing its links to the mass incarceration of people of color.

Other speakers included Darryl Williams, Executive Director of Citizens Tribunal, who spoke about demands for reform of the police accountability system in San Jose and AFL-CIO Community Coordinator Rudy Gonzalez, who discussed the impact of racial profiling on the workers.

McBride, who was a victim of racial profiling by the San Jose police when he was a seminary student, spoke about the urgent need to organize around police issues. “Gaining mandatory data collection in California will depend on the strength of our numbers when we call on our state legislators and Governor to pass a bill. That is why we are especially happy to see new faith-based organizations join this effort.”

Despite recent figures from the SJPD's data collection program showing that people of color are disproportionately stopped by police, racial profiling remains a serious problem in San Jose. The San Jose Town Hall was the first of a series of meetings that will organize San Jose residents in the Campaign Against Racial Profiling. The Campaign will address issues of police accountability and the criminal justice system at the municipal level, McBride explained.

Additional Town Hall Meetings are planned throughout the summer. The Racial Justice Coalition is working with the ACLU-NC Paul Robeson Chapter, the National Network for Immigrant Rights, the Black Radical Congress and PUEBLO on a Speak Out in Josie de la Cruz Park in Oakland and the Coalition for Justice in Stockton is organizing a meeting at Delta College. "Racial profiling is not simply an issue of who gets stopped. The Oakland Police Department recently released data that showed that African Americans were three times as likely to be searched as whites," said Louise Rothman Riemer of the ACLU-NC Robeson Chapter. "Our communities cannot sit by while police and elected officials allow these discriminatory practices."

For more information on Town Hall Meetings in your area, or to join the Racial Justice Coalition, please contact Olivia Araiza at the ACLU-NC, 415/621-2493.

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