February 18, 2008

Focus Questions for Hearings on the Fair Administration of the Death Penalty in California.

1. Should reporting requirements be imposed to systematically collect and make public data regarding all decisions by prosecutors in murder cases whether or not to charge special circumstances and/or seek the death penalty, as well as the disposition of such cases by dismissal, plea or verdict in the trial courts?

2. Should the California constitution be amended to permit the transfer of jurisdiction over pending death penalty appeals from the Supreme Court to the Courts of Appeal?

3. Should California law be changed to require state habeas corpus petitions in death penalty cases be filed in the Superior Courts?

4. Should California law be changed to narrow the special circumstances that would make a defendant eligible for the death penalty?
   A. Should death penalty eligibility be limited to cases in which the defendant was the actual killer?
   B. Should death penalty eligibility be limited to cases in which the defendant formed the intent to kill?
   C. Should felony murder special circumstances be retained?
   D. Should special circumstances be limited to the “worst of the worst”? If so, which special circumstances define the “worst of the worst”?
5. What measures should be taken to assure the prompt appointment of qualified lawyers to provide competent representation for the defendant in death penalty cases at the trial stage, on direct appeal, and for habeas corpus challenges?

6. Should consistency of representation be provided for state and federal habeas corpus proceedings in death penalty cases?

7. Are funding and support services for the defense of capital cases adequate to assure competent representation by qualified lawyers?

8. Are there significant racial disparities associated with the race of the victim or the defendant in imposing the death penalty in California? If so, what remedies are available to minimize or eliminate the problem?

9. Are there significant geographical disparities from county to county in utilizing the death penalty in California? Is this a problem? If so, what remedies are available to minimize or eliminate the problem?

10. Is there a need for proportionality review of death penalty sentences in California? If so, how should such a review process be incorporated into California’s death penalty law?

11. Are clemency procedures used by California governors consistent from one administration to the next? Are they consistent with the procedures utilized by other states? Are they adequate to assure a fair opportunity to be heard by all interested parties, and to assure a principled decision on the merits?