February 11, 2008

Chair John Van De Camp
California Commission on the Fair Administration of Justice
900 Lafayette Street, Suite 608
Santa Clara, Ca 95050

RE: Disparities in California’s Death Penalty

Dear Chair Van de Kamp:

For over 80 years the American Civil Liberties Union of Southern California has been committed to protecting core American values of equal protection and due process. These principles demand that the criminal justice system treat everyone fairly and equally. By this measure California’s death penalty is a miserable failure.

From arrests to prosecution to sentencing, racial disparities pervade the criminal justice system. Nowhere is this bias more grave than in the area of state-decreed death. A defendant convicted of killing a white person is three hundred percent more likely to be sentenced to die than someone convicted of killing an African American and four hundred percent more likely to die than someone convicted of killing a Latino. The implicit message sent by the state is that the life of a person of color is simply not as precious as the life of a white person.

The arbitrary nature of our death penalty system is further demonstrated by geographic disparity. A mere 10 counties account for 80 percent of the death penalty cases in California. Again, race is an important factor. Counties with a high proportion of white residents are more than three hundred percent more likely to pursue the death penalty than more diverse counties. No accident of geography should impact the value the state places on someone’s life.

The unfair impact of race and place are further compounded by disparities in wealth. Adequately trained and experienced legal counsel, with sufficient access to the expensive investigators, experts and support staff necessary to mount a thorough defense are simply unaffordable and thus out of reach for most death penalty defendants. Most government appointed capital defense attorneys, while zealous advocates, do not have the compensation and resources necessary to compete with prosecutors in expensive, lengthy death penalty trials. Equal protection and due process are broken promises if they are not equally available to rich and poor alike.

Even if reforms could correct these injustices, the specter of executing the innocent still hangs over our death rows. Problems ranging from faulty witness identification to false confessions, sloppy lab work to ineffective lawyering, have resulted in hundreds of
Americans being wrongfully convicted and imprisoned. Some have been exonerated. Others have been executed. That is an error no procedure can prevent, no reform can reverse. The chance of killing innocent people is a reckless risk no civilized society should take. Indeed, societies around the world have increasingly moved beyond state executions, leaving our system not only cruel, but unusual.

We spend more money to prosecute capital cases than we can afford, and dedicate less money to capital defense than we must. Life imprisonment without the possibility of parole would eliminate the possibility of lethal mistakes, use fewer resources and cause less rancor and discord.

The reliability of a system that may kill an innocent person can not be trusted. The fairness of a system riddled with bias can not be trusted. The wisdom of a system that needlessly perpetuates state violence when better alternatives are available can not be trusted.

California’s death penalty system is arbitrary, biased, expensive and susceptible to fatal error. It cannot be fixed. It should not be tinkered with. It should be ended.

Sincerely,

Ramona Ripston
Chief Executive Officer