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BY FACSIMILE & U.S. MAIL

Honorable Lonie Hancock
California State Senator
Chair, Senate Public Safety Committee
State Capitol, Room 2082
Sacramento, CA 95814
Fax: (916) 327-1997

Re: LDF Support for the Fair Sentencing for Youth Act (SB 9)

Dear Senator Hancock:

The NAACP Legal Defense and Educational Fund, Inc. ("LDF") writes in support of the Fair Sentencing for Youth Act (SB 9), which offers youth offenders serving life-without-parole sentences the opportunity for judicial review of their sentences after 10 to 25 years in prison. LDF previously submitted letters in support of similar legislation on March 17, 2009, and June 22, 2010. We now renew our request that the California Legislature enact the Fair Sentencing for Youth Act so that California's children will have a meaningful opportunity to demonstrate their rehabilitation and ensure that their prison sentences appropriately reflect the careful and measured judgment of the criminal justice system.

LDF is a non-profit civil rights law firm founded in 1940 by the late U.S. Supreme Court Justice Thurgood Marshall. Since its inception, LDF has fought to make this country's constitutional and statutory guarantees of equal treatment and civil rights a reality for African Americans and other communities of color. Recognized as the nation's finest civil rights and public interest law firm, LDF has been a pioneer in its long-standing advocacy for racial justice in the criminal justice system.

LDF's opposition to the sentencing of adolescents to lifetime imprisonment is driven by not only a fundamental belief in the rehabilitative capacity of all children but also by (1) the stark racial disparities endemic to juvenile life without parole sentencing; (2) the scientific evidence establishing that fundamental mental, emotional and psychological development continues until adulthood; (3) the unique challenges faced by

youths in complex, criminal proceedings; and (4) the enormous financial burden faced by states that incarcerate juveniles for their lifetimes.

In light of these concerns, LDF filed an *amicus* brief in support of the petitioners in *Graham v. Florida* and *Sullivan v. Florida*, the two United States Supreme Court cases that challenged the constitutionality of juvenile life without parole sentencing in non-homicide offenses. In 2010, the Supreme Court in *Graham*¹ declared such sentences unconstitutionally cruel and unusual, in part because they inappropriately “forswear[] altogether the rehabilitative ideal” and make irrevocable judgments about a child’s place in society while ignoring their capacity for change and growth.² In reaching this decision, the Supreme Court accepted and cited the arguments presented by LDF in its brief, noting that “the quality of a juvenile defendant’s representation” is likely impaired by factors such as children’s “mistrust [of] adults and . . . limited understandings of the criminal justice system and the roles of the institutional actors within it,” as well as children’s “[d]ifficulty . . . weighing long-term consequences; a corresponding impulsiveness; and reluctance to trust defense counsel”³

The problems with juvenile life without parole sentencing that were identified by the Supreme Court are, however, just the tip of the iceberg. The documented evidence of severe racial disparities in sentencing children to life without parole is equally troubling. Nationally, African-American teens receive life without parole sentences at a per capita rate that is 10 times higher than their white counterparts.⁴ This horrendous disparity is even more severe in California, where African-American adolescents serve life without parole sentences at a rate that is 18.3 times higher than the rate for white youth.⁵ While one in every 123 white juveniles in California arrested for murder serves a life without parole sentence, as many as one in 21 African-American teens arrested for murder receives the same sentence.⁶ Overall, 85% of all juvenile life without parole sentences in California were imposed on youth of color — 75% on African-Americans and Latinos.⁷ It is for all of these reasons that the injustice of sentencing children to die in prison has been universally recognized as a violation of fundamental human rights, leaving the United States as the only country in the world with children serving such sentences.⁸

Finally, in these difficult economic times, it is impossible to ignore the fact that sentencing children to live their entire lives in prison – a period of time up to eight

¹ 560 U.S. ____, 130 S.Ct. 2011 (2010).

² *Id.* at 2030.

³ *Id.* at 2032.

⁴ Human Rights Watch, “When I Die, They’ll Send Me Home: Youth Sentenced to Life Without Parole in California” (Oct. 2008) (hereinafter “California JLWOP Report”).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Human Rights Watch, “The Rest of Their Lives: Life Without Parole for Youth Offenders in the United States in 2008” (May 2008). The U.S. Supreme Court noted in *Graham* that, in addition to the United States, Israel has a practice of imposing juvenile life without parole sentences. However, the Court further noted that Israel permits parole review of child offenders serving life sentences, though the nature of that review is uncertain. *Id.*

decades or more – is an irresponsible use of California’s resources. Since 1990, California has spent between \$66 million to \$83 million on the lifetime incarceration of teenagers.⁹ The cost of incarcerating those teenagers currently serving life without parole sentences is expected to reach \$500 million, and *each* additional juvenile life without parole sentence will cost California \$2 million to \$2.5 million.¹⁰ Given these figures, review of juvenile life without parole sentences and the identification of those successfully rehabilitated individuals who no longer require state incarceration is a logical and necessary step to alleviate California’s budget crisis.

Life without parole sentences are patently inappropriate for child offenders, who should be given the opportunity to demonstrate their capacity for rehabilitation and their ability to live productive, law-abiding adult lives. For all these reasons, LDF urges the passage of SB 9 in order to bring justice to California’s youth of color and to give all juvenile offenders the chance to redeem themselves and contribute positively to their communities.

Sincerely,



John Payton
President and Director-Counsel

⁹ California JLWOP Report, *supra* note 4.

¹⁰ *Id.*