

**EMBARGOED UNTIL
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**Settlement Announced by Division of Juvenile Justice and Juvenile Parolees
in Lawsuit over Lack of Due Process in Parole Proceedings**

California DJJ Agrees to Sweeping Overhaul of Parole System to Comply with Constitution.

(San Francisco, CA – June 4, 2008) – Juvenile parolees today reached an agreement with the California Division of Juvenile Justice (DJJ) and related entities, in a lawsuit alleging wide-spread violation of youths' constitutional rights. In California, those convicted as youths remain under the jurisdiction of the DJJ until age 25. The class-action case, *L.H. v. Schwarzenegger*, was filed in September 2006 in federal district court in Sacramento, by attorneys from the law firms of Rosen, Bien & Galvan, LLP and Bingham McCutchen, LLP, and the non-profit Youth Law Center.

"We are pleased that the State has agreed to reform their juvenile parole system to meet the same standards for adults on parole," said Gay Crosthwait Grunfeld, of Rosen, Bien & Galvan, and an attorney for the juvenile parolees. "This settlement agreement is far-reaching and will allow juvenile parolees to have a transparent process for revocation with clear rules and rights. We look forward to working with DJJ to implement a fair and constitutional parole system."

The *L.H.* suit had charged that lengthy parole holds are routinely imposed without proper or timely notice to the juveniles of the reasons for the detention. Juvenile parolees were not informed of the precise charges against them until they had been in custody for weeks or months, and often the charges would change late in the process. The suit charged that in the vast majority of revocations, DJJ denied juveniles the right to have witnesses testify on their behalf, to present evidence to defend or mitigate the charges, or to have an attorney. The suit also charged that DJJ failed to provide accommodations mandated under federal law for those youths suffering from mental or physical disabilities.

Elements of the settlement agreement include:

- Attorneys will be appointed for every juvenile parolee who has been charged with a violation of parole within 8 business days of the parole hold.
- Juveniles will receive a preliminary probable cause hearing within 13 business days of the parole hold.
- If there is probable cause to hold the youth, the juveniles will receive a full revocation hearing within 35 calendar days of the parole hold.
- Juveniles will have the right to present evidence and witnesses at their probable cause and revocation hearings.
- Clear policies will be developed that spell out which behavior warrants revocation of parole or a return to a DJJ facility.

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- Youth who are not revoked will be released promptly and DJJ will end a policy of “temporary detention” for youth continued on parole.
- Juveniles cannot be returned to DJJ for more than a year, and a revocation cannot be extended beyond a year, except for cases of serious in-custody misconduct.
- Accommodations for mental and physical disabilities and for effective communications, including language translation for non-English speakers, will be provided at all stages of the parole revocation process.
- Youth will no longer be automatically shackled during revocation proceedings and policies will be developed to govern when and how a youth is restrained.
- A prompt administrative appeal system that includes the appointment of attorneys.

The settlement also comes after federal Judge Lawrence Karlton ruled in January 2008 that DJJ was violating juvenile parolees’ due process rights in parole hearings, and ordered that attorneys be appointed to represent “each and every” DJJ parolee in revocation proceedings. Judge Karlton also ruled that DJJ was violating federal disability laws by not providing interpreters and other accommodations to assure that youth can understand and participate in parole revocation hearings.

“We believe that this agreement will end up saving the state money, as juveniles will no longer spend months on end in DJJ facilities awaiting hearings,” said Geoffrey Holtz, a partner at Bingham McCutchen, and one of the attorneys for the plaintiffs. “Because of DJJ’s failure to hold hearings in a timely manner, youth were warehoused at facilities for months before they received a hearing, even for technical violations of parole such as drinking alcohol or traffic violations, which often were determined not to warrant imprisonment at all.”

“Judge Karlton’s decisions were historic,” said Sue Burrell, Staff Attorney at the Youth Law Center. “It was the first time that a federal court has ruled that the same constitutional rights and protections that apply to adults in parole proceedings also extend to juveniles. The rulings made it clear that it was time for DJJ to stop fighting the lawsuit and to focus on reform.”

The settlement of the federal class action will be presented by the parties to Judge Karlton for his preliminary approval and then will be subject to a public notice and hearing, pending final approval. Judge Karlton previously appointed a Special Master, Chase Riveland, to work with the parties and assist the Court.

“The settlement is a benefit to all Californians,” said Michael Bien, Managing Partner of Rosen, Bien & Galvan. “Our clients, who will be provided with attorneys and with rights to a fair and just hearing, will gain respect for the legal process. In addition, the settlement will result in shorter, less expensive incarcerations and increased access to community programs that are proven to reduce recidivism and improve public safety.”

The plaintiff youths are represented by attorneys from the San Francisco law firms of Rosen, Bien & Galvan, LLP and Bingham McCutchen, LLP; and the non-profit Youth Law Center. A copy of the settlement agreement will be available at www.ylc.org.

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