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On

The 2012 Democratic Party Platform

Before the 2012 Democratic Platform Drafting Committee

July 28, 2012

Chairman Strickland and Members of the Committee:

Thank you for inviting the ACLU to offer testimony for the Committee. My name is Michael Macleod-Ball and I am the Chief of Staff of the ACLU's Washington Legislative Office. We are a non-partisan advocacy organization with millions of members and activists and 53 affiliates nationwide. We urge the Committee to reaffirm the Party's commitment to our democracy by providing a vision for America that enhances our freedoms – to be free from discrimination, to equal opportunity in employment and education and to marry and lead a life free from unwarranted government interference, to vote, to speak and associate freely, and to believe according to our own beliefs.

In the summer of 2012, we have heightened concern in a trend toward intolerance for and the marginalization of a new set of oppressed classes – classes defined on the basis of religion, national origin, immigration status, and race. I will focus my remarks today especially on the need to push back hard on this seemingly new environment of intolerance and discrimination.

The traditional notion of racial profiling focused on discriminatory practices aimed at African Americans - the allegorical 'driving while black'. Now there are three faces of profiling. While unwarranted harassment of black Americans continues, discriminatory enforcement action now targets immigrant populations – especially Latinos – and religious minorities – especially Muslims. States are passing anti-immigration laws challenging federal enforcement authority and voting laws make it harder for some to vote. Congressional committees hold hearings asserting the radicalization of American Muslims and others use McCarthy-ite smear tactics as if for sport. We urge the Committee to condemn racial profiling in all its forms and to support certain critical initiatives to help achieve that end.

- The Platform should call for DHS to end partnerships with local law enforcement that enable biased policing at the local level. The 287(g) and Secure Communities programs encourage police to rely on unlawful assumptions about individuals' immigration status, causing well justified fear and concern among immigrants. Terminating these two programs would curb discriminatory policing while respecting local judgments on how best to protect the public. It would complement the Department of Justice's admirable effort to overturn anti-immigrant laws like Arizona's HB 1070.
- The Committee should urge the enactment of the End Racial Profiling Act. The legislation would make racial profiling illegal and provide victims with legal recourse. Profiling breeds resentment and suspicion toward law enforcement among minority communities, undercutting cooperation. The Platform should also call on the Department of Justice to issue updated internal guidelines which currently provide improper instruction to federal law enforcement officials.

The discrimination inherent in profiling can manifest itself in other ways. When government singles out those of one ethnicity or religion to receive or be denied a public benefit, such action incubates the same disease of inequality.

- The school-to-prison pipeline reflects a trend to push certain kids out of public schools and into the criminal justice system because of overreliance on discriminatory discipline policies. The increased involvement of police increases the likelihood that students will end up in jail rather than college. The impact falls disproportionately on students of color or with disabilities. The Platform should support legislation to improve school discipline policies, including the Positive Behavior for Safe and Effective Schools Act.
- A wave of new state statutes makes it harder to vote, especially for the poor, people of color, students, the elderly, and people with disabilities. The Platform must emphasize the importance of upholding and strengthening laws like the Voting Rights Act. The Department of Justice should continue to enforce these laws and scrutinize new state restrictions for discriminatory purpose or effect. Other federal legislative reforms should include restoring voting rights to those with convictions, modernizing registration processes, and developing uniform standards for early voting.

Discrimination also exists in other contexts – in too many contexts for a nation of America’s greatness to bear.

- Religion must not be used as an excuse to discriminate against employees, customers, or patients. Whether it’s the workplace or the healthcare law, organizations should not get loopholes that sanction discrimination in the name of religion.
- Bans on public funding for abortion services inflict disproportionate harm on low-income women and women of color. The Committee should denounce all federal limitations on insurance coverage for abortion and reaffirm its commitment to a woman’s access to safe abortion care.
- It is time to end discrimination in the institution of marriage. The Platform should endorse the freedom to marry for all committed couples and for repeal of the discriminatory Defense of Marriage Act.
- The Platform should call for passage of the Student Non-Discrimination Act to ensure that severe harassment of LGBT students has no place in public schools.
- The Platform should support passage of the Paycheck Fairness Act to close gender pay equity loopholes in the Equal Pay Act.

National security and privacy issues are inherently different than those of discrimination and equality. They bear on the authority of government to act. Our system has become imbalanced in reaction to 9/11. It is time to restore our equilibrium.

- The government should close Guantanamo by charging detainees in criminal court or transferring them to countries where they will not be in danger of torture

or indefinite detention. The Platform should call for an end to the use of indefinite detention without charge or trial.

- The Platform should reaffirm the rejection of torture and recognize the need for accountability for those responsible.
- The Platform should oppose the use of unlawful lethal force against terrorism suspects away from any battlefield.
- The federal government asserts sweeping power to conduct dragnet collection of innocent Americans' personal records – and to monitor peaceful political and religious activities. The Platform should call for limits on surveillance and demand judicial involvement.
- The police have been tracking people long-term using GPS and cell site technology without judicial approval. The Committee should call for enforcement agents to get a warrant based on probable cause before using such tools.

Our written submission offers more detail on our broader set of recommendations for the things our national government can do in the ongoing struggle to create a more perfect union. We are most grateful for your invitation to offer these recommendations for the Democratic Party's 2012 Platform. I will be pleased to answer any questions or comments.