



Colorado's Protection & Advocacy System

MAINSTREAM

Helping individuals with disabilities live and work in the community, enjoying independent and productive lives.

The Legal Center prevails in due process lawsuit

On January 16, the Denver District Court handed people seeking developmental disabilities services in Colorado a victory. Judge Morris Hoffman found that two Colorado state agencies, the Colorado Department of Human Services and the Colorado Department of Health Care Policy and Financing, failed to provide state-level hearings to the three plaintiffs in a class-action lawsuit brought by The Legal Center and the nationally recognized disability rights law firm of Fox & Robertson.

Two weeks later, in a further victory for due process, the court expanded its ruling to include all people with developmental disabilities who were denied services after July 2004.

"Now that the court has certified the case as a class action," said Andrea Faley, one of the attorneys for the plaintiffs, "hundreds and perhaps thousands of persons who have sought developmental disabilities services in Colorado will be afforded the right to a state-level hearing before a trained administrative law judge."

On March 2, the court entered a permanent injunction directing the defendants to cease their illegal conduct. The

court also directed the parties to work together to draft a plan by March 17 to notify all the people whose eligibility was denied or for whom services were terminated without having the opportunity for a hearing at the state level.

To add to the case's complexity, on February 11, the two state defendants took the extraordinary step of asking the Colorado Court of Appeals to overturn part of the decision immediately. On February 25 the Court of Appeals dismissed that appeal. The defendants still have the option of filing an appeal in the regular process at the conclusion of the trial court proceedings.

The case began on July 10, 2006, when The Legal Center, together with Tim Fox of Fox and Robertson, PC, filed a class action lawsuit on behalf of individuals with developmental disabilities whose eligibility for Medicaid services was denied or terminated without notice or opportunity to appeal.

Initially, The Legal Center filed its complaint on behalf of Ann Rossart, a 50-year-old woman with developmental disabilities whose application for Medicaid services was denied by Developmental Pathways, Inc., the Com-

munity Centered Board serving the city of Aurora, parts of Adams County, and Arapahoe and Douglas counties.

Under Medicaid law, Ms. Rossart should have been given notice that she had the right to a state-level appeal before an administrative law judge. Instead she was offered a dispute resolution conference with Developmental Pathways and then was allowed to make only a written appeal to the executive director of the Colorado Department of Human Services. Robert Swift and Matthew Rice were also denied a state-level fair hearing when their Medicaid eligibility for developmental disabilities services was terminated.

Without the supports available through the Home and Community Based Services Medicaid waivers that serve individuals with developmental disabilities, each of the named plaintiffs in the suit, and others like them, remain isolated in the community. Ann Rossart lives

in a small apartment without access to community activities or supported employment. Matthew Rice is institutionalized in a mental health hospital. And Robert Swift has lost valuable services that might otherwise assist him in growing up more independently.

The Legal Center appreciates the involvement of disability rights attorney Timothy Fox. Tim Fox and his partner Amy Robertson have been successfully trying disability cases for many years. Tim Fox agreed to join the effort out of his personal commitment to ensure that people with disabilities are afforded their constitutional protections.

Much of our work at The Legal Center involves helping people with disabilities negotiate a confusing and often unyielding bureaucracy. We strive to resolve problems through informal resolution. Litigation is always a last resort, but when it becomes necessary, The Legal Center moves forward to file suit in defense of civil rights. ■

Young attorneys plan fun night out to benefit The Legal Center



In February, board members of the Denver Bar Association Young Lawyers Division visited with The Legal Center's board and staff to plan the 3rd annual Attorneys' Night Out. All attorneys deserve a night out now and again, and on May 15 they'll have an excellent reason to celebrate as all money raised by the Young Lawyers Division benefits The Legal Center.

Picture from left to right are Lana Rupperecht, Arapahoe County; Sharon Riley, Great West Life & Annuity Insurance Company (event co-chair); Libby DeBlasio, Colorado Attorney General's Office; Casie Collignon, Baker & Hostetler LLP (board chair); and Melissa Nicoletti, Colorado Bar Association Staff Liaison.

The 2007 Attorneys' Night Out brought together more than 160 young attorneys of all ages (youth is a state of mind) and raised \$24,000. Both young and established attorneys had a fun evening networking with their colleagues while supporting a good cause.

For the third year running, our host will be the Blake Street Tavern in Denver which is generously contributing its excellent beer and appetizers. By popular demand, there will once again be tours of Stranahan's Distillery, as well as an opportunity to bid on fabulous prizes in the silent auction.

For more information on Attorneys' Night Out and to register, please go to our website at www.thelegalcenter.org. ■

David Ball, Attorneys' Night Out Steering Committee co-chair (above), couldn't make the planning meeting with all the women, but he's working hard to make the event a success and he promises to be there on the night.

VOTE! Protecting the rights of voters with disabilities

When The Legal Center's newest protection and advocacy program, authorized under the Help America Vote Act (HAVA), started up in 2004, we were largely unknown by Colorado's election officials. Since then, VOTE! has been actively engaged in protecting the right of all Colorado citizens with disabilities to vote.

We have testified before legislative committees and at rulemaking hearings, participated in advisory committees, partnered with the Secretary of State's Elections Division on polling place accessibility audits, met with county clerks to discuss improvements for voter access, and collaborated extensively with Colorado's election reform network. VOTE! developed the disability-related training and technical assistance materials used by the Secretary of State's office, and presents the Disability module of the core curriculum during the annual HAVA conference for state, county and municipal election officials and administrators.

VOTE! Program Coordinator Faith Gross is an active member of the Secretary of State's Accessibility Task Force, the Election Task Force of the Colorado Lawyers' Committee and the Steering Committee for Just Vote Colorado (formerly known as Fair Vote Colorado). This year she has also been working with both major political parties to ensure full accessibility to caucuses, assemblies, and conventions.

VOTE!'s systems change advocacy complements our work on voter education, voter registration, and assistance with the complaints and grievance process for people with disabilities who encounter difficulties when trying to vote. All of these activities are designed to promote full access to and participation in the electoral process for Colorado citizens with disabilities.

Please do your part by voting in every election!

Continued back page

The Legal Center is a nonprofit organization protecting the human, civil and legal rights of people with disabilities and older people. As Colorado's Protection and Advocacy System, The Legal Center has authority under federal law to gain access to facilities and records in order to investigate allegations of abuse and neglect. The organization also helps people obtain state and federally funded services, such as special education, mental health services, developmental disabilities services, and vocational rehabilitation. The Legal Center specializes in civil rights and discrimination issues.

The Legal Center promotes systemic change to sustain or improve the quality of life for children and adults with disabilities and senior citizens. The Legal Center provides direct legal representation, education, advocacy, and legislative analysis to promote the independence, self-determination, empowerment and community participation of its clients. Similar organizations exist in every state and territory as part of a national protection and advocacy network.

The Legal Center has played a pivotal role in advancing disability law in Colorado and nationally. We are proud of our success in breaking new legal ground. However, we usually resolve our clients' objectives without litigation. Some of our most satisfying legal advances have come through empowering people to advocate for themselves. ■



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Volunteers in the spotlight

Like most nonprofits, The Legal Center relies on the dedication and commitment of volunteers to meet its mission. For this edition of *Mainstream*, we are featuring three wonderful people whose volunteer contributions are integral to the success of our work.

Randy Parcel is a retired attorney with 36 years of legal experience, none of it, as he cheerfully points out, in the field of special education law. Randy was introduced to The Legal Center by his wife, Dr. Tracy Kovach, who is a speech language pathologist with The Children's Hospital. Tracy met and worked with Director of Legal Services Randy Chapman, and shared stories with her husband about The Legal Center's special education program.

"When I retired, I was willing to learn on the job," says Randy, "and it's been so rewarding working with the attorneys and advocates here. I knew nothing about special education law and they've been very patient as I learn. My wife bought me a huge legal reference book for Christmas and I come in two days a week and research whatever cases they give me."

The staff all agree that Randy is much too modest about his skills and experience, and they point out that his stellar legal background in mining and minerals law has translated extremely well to The Legal Center. By handling the investigations, legal research and policy analysis, Randy frees up the special education staff to spend more time working directly with clients and advocating on their behalf.

Randy Parcel retired last year from Royal Gold, Inc., the precious metals royalty company, where he was vice president and general counsel. Prior to that he was partner at the law firm of Perkins Coie LLP, and he was founder and partner at Parcel, Mauro, Hultin & Spaanstra, PC. Randy received his law degree from Northwestern University School of Law in Chicago. He is also a graduate of the South Dakota School of Mines where he now serves as a trustee on the foundation board. Randy is actively involved in the school's capital campaign and the selection process for a new president. When he isn't traveling to South Dakota on School of Mines business, visiting his mother at her retirement home near Des Moines, or volunteering at The Legal Center, Randy and his wife enjoy golf and skiing.

J. Fern Black's legal career has included service on behalf of the Colorado Supreme Court where she handled complaints about lawyer misconduct in the Office of Attorney Regulation. During her years of private practice, among other legal work, she was involved in trials of personal injury cases involving medical issues, which spurred her volunteer interest in working with people with disabilities. As an attorney volunteer at The Legal Center, Fern has assisted in just about every program area.

"I enjoy coming in and doing legal research and other work for the different programs—I'm available for any assignment," she says.



The Legal Center volunteers include, from left to right: Michele Manning, J. Fern Black, and Randy Parcel.

Like her volunteer colleague, Randy Parcel, Fern is also learning new skills at The Legal Center. After volunteering on numerous different legal projects for the past few years, she now finds herself immersed in the workings of the legislature.

Fern explains that The Legal Center has a new lobbyist she is assisting to monitor bills pending in the legislative process of interest to the Legal Center. "I've been involved with the League of Women Voters for a number of years so it isn't an entirely new venture. I'm watching 50 or more bills now as the legislative session progresses. I help out here wherever I'm needed, and right now it's monitoring legislation."

Fern Black received her law degree from the University of Colorado School of Law in 1972. Throughout her career, she was active in the Colorado and Denver Bar Associations and the Colorado Women's Bar Association. She currently serves on the Board of the Colorado Women's Bar Association Foundation which supports the work of women lawyers, as well as supporting legal programs that help women from all walks of life.

Michele Manning did such a great job last year as a volunteer administrative assistant, that in January she was hired as an employee to work three days a week. Michele has a developmental disability and a job coach from the Department of Vocational Rehabilitation is helping her learn the different job responsibilities. Michele has just moved into her own office at The Legal Center and is thoroughly enjoying her new position.

"I work on a lot of different projects," Michele explains. "I do a lot of filing and I'm also learning to put together case projects. I hope if I can get good at this, that I might be able to answer the phones. I've always liked working with people. My favorite thing to do is give speeches about my disability. I love doing that. I want to encourage people with disabilities to go after the jobs they want to do. I'm in a group called People Planning Together where we learn to write our own plans. Not the plan Voc Rehab or someone else wants us to do—but what we want to do with our lives."

The Legal Center appreciates all that Randy, Fern and Michele are contributing and is proud to count them as colleagues in the mission to secure independence and opportunity for all people with disabilities.

To learn more about volunteering with The Legal Center, visit our website at www.thelegalcenter.org and click on the "Ways to Give" tab. Or, simply call Julie Busby, Volunteer Coordinator, at (800) 288-1376 or (303) 722-0300, ext. 214. ■

How we are changing lives

In Fiscal Year 2007, The Legal Center provided legal assistance and advocacy to help 1,679 individuals with disabilities live and work in the community, enjoying independent and productive lives.

Housing: The Legal Center has worked for three decades to help people with disabilities leave or avoid institutions and live independently. We fight eviction notices, represent clients in housing discrimination cases and least restrictive setting cases, and request reasonable accommodations from landlords. We represented 28 individuals in cases involving a wide range of housing issues; of those, 20 cases involved housing discrimination. Another 33 individuals received advocacy over the phone and referral information.

Employment: People with disabilities want to work like everyone else. Sadly, private employers and even the government agencies set up to serve them often ignore the laws on disability rights. In 2007, we provided legal assistance that enabled 85 people to retain or move toward employment; 49 people received vocational rehabilitation services and assistive technology.

Education: The Legal Center believes that everyone in the community benefits when children with disabilities are educated alongside their peers in neighborhood schools. The Individuals with Disabilities Education Act (IDEA) guarantees a free, appropriate and inclusive education. Last year, we provided assistance to 59 families seeking to obtain an inclusive education for their children. Our special education staff responded to 394 phone calls from parents to help them advocate for their child. Hundreds more served as their own advocates using *The Everyday Guide to Special Education Law* and the Spanish/English version, *Guía De La Ley De Educación Especial*.

Quality of Life: The Legal Center operates Colorado's "Protection and Advocacy System," ensuring the safety, well-being, and dignity of people with disabilities in group homes, people with disabilities in jail or prison, people confined in mental health facilities, and elderly people in long-term care. We investigated 95 complaints of abuse and neglect and resolved numerous rights concerns of individuals living in facilities. (These figures do not include the work of The Long-Term Care Ombudsman Program.)

Since its founding in 1976, The Legal Center has provided 16,591 people with direct legal representation.

**Of the 1,679 people who received services, 508 were provided with direct legal representation. ■*

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Introducing Alison Butler Daniels



Please welcome Alison Butler Daniels, The Legal Center's new special education attorney. Alison is working with the parents of children with disabilities to help them obtain a free and appropriate public education, and she also heads investigations on the use of seclusion and restraint in schools.

Prior to joining The Legal Center, Alison worked in private practice representing employees in discrimination cases. She has also worked with public and Indian housing authorities, and she worked as an assistant public defender in Palm Beach County, Florida.

"I've been interviewing with The Legal Center for three years, and they finally hired me," Alison reports happily. "My goal in life is to fight for the rights of people who aren't represented in the legal system. When someone calls to say 'My son's been locked in a room' or 'My daughter's tied in a chair against her will' and I can help them, then I know I'm doing something worthwhile. Special education work wasn't particularly my goal, but now I'm here, I can't imagine doing anything else.

"Every case is a case I care about. I love working with the families, and everyone at The Legal Center feels the same way. It's wonderful to be working in a place where everybody is doing what they want to do—and that's to help other people."

In addition to her special education work, Alison is on the steering committee and volunteers once a month at Legal Night at Mi Casa where attorneys provide free legal advice to community members in need of help.

"Most of the questions are about family law or immigration issues," she explains. "I really enjoy the variety of cases, but I especially enjoy being able to help people who simply can't afford a private attorney."

Alison received her B.A. in political science in 1994 from Florida State University and her law degree from Columbia University School of Law in 1997. She and her husband moved from Florida to Denver seven years ago and two years ago they welcomed a daughter into their life. ■

Thank you to our donors!

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News from The Legal Center in Grand Junction

It has been a busy winter and early spring in the Grand Junction Office.

Learning about special education

Rights Advocate Jennifer Shook has been receiving an increasing number of calls from parents anxious about their child's Individual Education Plans (IEPs), and in some cases concerns over inappropriate restraint and seclusion. Jennifer regularly supports parents at IEP meetings and also works with school staff to ensure that children with disabilities are receiving the inclusive and appropriate education to which they are entitled by law.

To address some of the concerns from parents with children in public schools, in January, Jennifer Shook and Managing Attorney Bill Higgins hosted a series of three workshops on "Special Education Advocacy" in Delta, Grand Junction and Montrose. The flier read: "If you have ever felt overwhelmed or confused by your child's IEP or would like to know more about the services your child receives, this presentation is for you!" Bill and Jennifer gave parents a general overview of the law and their children's rights, and also provided advice on individual cases along with tips to help them advocate for the best interest of their students.

In response to requests from some of the professionals who work with children with disabilities, on March 20th the Grand Junction Office will present a Special Education training for approximately 40 social workers and case managers of the Mesa County Department of Human Services.

Additional Special Education Advocacy training sessions are being planned for Glenwood Springs and Craig later this spring. For more information regarding upcoming training sessions, contact Jennifer at (970) 241-6371 or jshook@thelegalcenter.org.

Advocating for legal rights

A long-running case concerning "Jim" from a rural Western Slope town has finally been resolved. Throughout the year 2006 and most of 2007, Bill Higgins worked with Jim to help protect his freedom and his legal rights when the local community centered board (CCB) asked the district attorney to confine him to a restricted residential program.

Jim has a developmental disability, but he had worked productively and without problems for many years at a local hospital. One day, without warning, he touched a volunteer on the knee. Although physically unharmed, the young woman was upset by Jim's actions, and he was fired from his job. At that point the CCB stepped in and insisted that Jim be placed in a restrictive behavior modification program, something he did not wish to happen.

Jim shares an apartment with a roommate and until this incident

had functioned very well, living with relative independence and autonomy under the supervision of a case manager. Jim was sorry for his actions and agreed to counseling, but he did not want to leave his home for what was essentially a minor misdemeanor. To bolster their case with the district attorney, the CCB divulged confidential details of Jim's conversations with his psychologist, a clear breach of the law.

After several court proceedings, the district attorney dropped the case based on The Legal Center's argument that our client's right to confidentiality had been violated. The Legal Center was awarded court costs in the case, and while Jim is now very carefully supervised he remains independent and living in the community.

Finally...a home with a shower

Last August, "Stella" applied and was accepted for assisted housing through Housing Solutions for the Southwest, a public housing authority in Durango. Due to severe disabilities Stella must use an electric wheelchair and receive daily assistance from a home health attendant. Stella was excited about moving to a fully accessible apartment where "I can finally take a full shower."

She handed in her notice to her landlord, and made plans to move into her new home. Sadly for Stella, she soon learned that the new apartment was not accessible as promised as there was no access into the shower for an electric wheelchair. Even sadder, the apartment complex had no roll-in showers in any of their "accessible" units. The housing authority agreed to retro-fit the bathroom to accommodate her needs, but after four months of waiting Stella was still not in her approved apartment. She was not happy. Her landlord was not happy. Nor were the tenants who had been promised Stella's old apartment.

Stella contacted The Legal Center's Grand Junction office in December. After several letters and phone calls from The Legal Center, Housing Solutions for the Southwest hired a contractor who remodeled the apartment and complied with the Americans with Disabilities Accessibility Guidelines (ADAAG) for accessibility of a roll-in shower. As of March 1st the apartment was finally accessible for Stella.

Western Slope Advisory Council

The Legal Center serves people from throughout Colorado. In 1995, we opened the Grand Junction Office to better serve the people on the Western Slope of Colorado. This year, we are forming an Advisory Council to provide input to The Legal Center's staff and Board of Directors on local concerns. If you live on the Western Slope and would like to apply for a seat on the Advisory Council, please contact Jennifer Shook at (970) 241-6371 or JShook@TheLegalCenter.org. ■

The Legal Center Urgently Needs Your Help

When people call The Legal Center, they are about to lose something valuable—their independence, their home, or control of their life. They may be being evicted from their apartment, fired from their job, or facing life in an institution—and they cannot find anyone who will assist them with their concerns. Before we can help, we need the support of donors like you.

We invite you to become a donor. Your gift in any amount will help us provide direct assistance to more than 1,800 people seeking to regain control of their lives. Your support will fund over 6,800 calls for assistance, enabling people with disabilities to assert their independence through self-advocacy.

Won't you make a gift or pledge today? Please complete and mail the enclosed envelope, make a secure gift on line at www.thelegalcenter.org OR call Diane Carabello at 303-722-0300 Ext. 216 to make a telephone pledge. Please do not hesitate to call if you'd like more information about how to direct your gift. ■

VOTE! Protecting the rights of voters with disabilities

Continued from front page

Permanent mail-in ballot list

A 2007 state law changed “absentee ballot” to “mail-in ballot” and created the option of requesting to be on the permanent mail-in ballot list. If you choose to be on this list, you will not have to request a mail-in ballot for each election each year. You will remain on the list as long as you vote in every election or request to be removed from the list. Of course, if you move you must change your address with your county clerk and recorder’s office.

The application for mail-in ballots, Permanent List or for the 2008 Primary and General Elections is available on the Secretary of State’s website www.sos.state.co.us, from your county clerk and recorder’s office, or The Legal Center. This is an exciting election year and voter engagement and participation across the US has already proven to be significantly higher than any year in recent memory.

Be an election judge!

Election judges are the cornerstone of successful election administration. Many people choose to work at the polls out of a sense of civic duty; some folks like being part of the democratic process; and others enjoy being a part of their community and seeing their neighbors at their precinct polling place. With the many changes to election procedures since the 2000 presidential election, election judges must be fully trained and well prepared. This is particularly true for this year’s elections due to the higher than usual expected turnout.

Every polling place is required to be staffed with election judges from before the polls open at 7:00 AM until all work is completed after the polls close at 7:00 PM. These can be 13-14 hour days. State law now provides the option of working a half shift except for supervising judges who must be present during a full shift. This enables some people with disabilities who could not work a full shift to participate and serve their communities. Another change to state law allows state employees to take paid administrative leave on Election Day to work as election judges.

VOTE! encourages people with disabilities to consider becoming an election judge. The days are long and the pay is low (approximately \$100-\$125), but this is important work and a way to demonstrate that people with disabilities play a vital role in civic life. If you are interested, please contact your county elections office or Faith Gross, coordinator of the VOTE! Program at 303-722-0300, ext. 244.

Use it or (possibly) lose it!

In every Colorado polling place in 2008 there will be one State certified accessible voting machine, a direct recording electronic voting machine (DRE), equipped with adaptive technology to provide improved access for voters with disabilities who are unable to independently vote on paper ballots. This will be the case regardless of the outcome of SB08-189 which mandates paper ballots be the primary method of voting. Under this proposed legislation currently making its way through Colorado’s General Assembly, voters will have to affirmatively request to vote on the accessible DRE.

It is critical that voters with disabilities use these devices to demonstrate to politicians, elected officials and election administrators that people with disabilities vote—and they choose to vote privately and independently. Some members of the Colorado State General Assembly have questioned the reasonableness of spending so much money to accommodate so few. Reports of very few or no voters actually voting on the accessible voting machines either in precinct polling places, or in mail elections in the county clerks office have contributed to this view. People with disabilities must turn out in record numbers this year and must be visible in voting so as to protect the right to vote privately and independently!

What you can do to increase voter turnout by people with disabilities

- If you are registered to vote, check to make sure that your registration is accurate and current. You can do this online by visiting the Secretary of State’s website

<http://www.sos.state.co.us/Voter/voterHome.do> or by calling your county clerk and recorder’s office. You can find your county clerk’s contact information at www.elections.colorado.gov.

- If you are not registered to vote, or have moved since you last voted, register to vote. Voter registration applications can be obtained from The Legal Center and your county clerk and recorder’s office, or online from the Secretary of State’s website www.sos.state.co.us.
- Invite staff of the VOTE! Program to an event to offer voter education and registration. We are interested in providing these services to people with disabilities throughout Colorado.
- Find out if your community’s disability service providers are offering voter registration in accordance with the National Voter Registration Act (often referred to as Motor Voter). If they are not providing this service, advocate for them to contact their county clerk and recorder to learn more.
- Attend, or even host, candidate forums and ask questions of the candidates related to interests of people with disabilities.
- Offer to assist your county clerk and recorder in finding fully accessible polling places. VOTE! Would like to be informed of any polling places during the 2008 Primary Election that are not fully accessible. We are working with the county clerks to ensure full accessibility.

The Legal Center’s VOTE! Program is authorized under the Help America Vote Act and is funded by the U.S. Department of Health and Human Services Administration for Developmental Disabilities. ■



2008 Election calendar

August 12: Primary Election

July 14

Last day to register for the Primary

Last day to change or withdraw from Party affiliation*

August 2 – 8

Early Voting (with approval of county commissioners)

August 5

Last day to apply for a mail-in ballot to be sent by mail to the voter

August 8

Last day to apply for a mail-in ballot if the ballot is not to be mailed to the voter

November 4: General Election

October 6

Last day to register for the General Election

October 20 – 31

2008 Early Voting

October 28

Last day to apply for a mail-in ballot to be sent by mail to the voter

October 31

Last day to apply for a mail-in ballot if the ballot is not to be mailed to the voter

**For the Primary Election, unaffiliated voters may declare party affiliation at their polling place in order to vote in that party’s primary.*

The Legal Center needs your voice

Please help us plan by completing our consumer-input survey. What is the most important issue that individuals with disabilities and older people face in your community? What are the barriers that keep individuals with disabilities from achieving more independence? What would you like The Legal Center to do to address your concerns? The Legal Center has limited resources, and your voice is important in helping us set priorities as we continue our efforts to advance the rights of people with disabilities and older people. Call us at 303.722-0300 or 1.800.288.1376 or 303.722.3619 TTY to request a “consumer-input survey.” If you prefer, email us at tlcmail@thelegalcenter.org or visit www.thelegalcenter.org and click on Priorities Survey. ■

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