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### Greetings!

Welcome to the Clearinghouse of New Voices for Criminal Justice Reform Bulletin. Through this newsletter, The Constitution Project (TCP) updates you on the "unlikely allies" speaking out in favor of criminal justice reforms like the right to counsel, revisions to criminal sentencing laws, and other issues.

Those speaking out include current and former prosecutors, judges, police officers, victim advocates, conservatives, and Republicans. These individuals are particularly persuasive, as they are not the usual suspects calling for reform of the criminal justice system. TCP's Clearinghouse works to promote the voices of these unlikely allies to effect a variety of criminal justice reforms.

## Federal Criminal Discovery Reform

A panel of criminal justice system experts is calling on Congress to pass legislation ensuring federal prosecutors adhere to their constitutional obligations outlined in *Brady v. Maryland* to disclose favorable information to defendants. So far, TCP's [Call for Congress to Reform Federal Criminal Discovery](#) has been endorsed by close to 150 former federal prosecutors, law enforcement officers, judges and defense lawyers, all with substantial professional experience within the criminal justice system. For more information, [click here](#) or read articles from [The Hill](#) or [Legal Times](#) discussing the statement. Just this week, the Senate Judiciary held [a hearing](#) on the need for legislative reform of criminal discovery laws, with testimony from Senator Lisa Murkowski (R-AK) -- the primary sponsor of a reform bill introduced in March -- and others. TCP sent [this letter](#) to Committee members urging them to clarify federal prosecutors' obligations through legislation.

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## Innocence & Wrongful Convictions

TCP recently organized a group of more than 30 former judges, prosecutors, and senior law enforcement officials to file [an amicus brief](#) in *Wolfe v. Clarke*, a case involving both innocence claims and *Brady* violations. Justin Wolfe was sentenced to death in Virginia state court, and his *habeas* petition is now before the Fourth Circuit. The *amici* argued that his conviction must be reversed based on the pervasive violations of his constitutional *Brady* rights. Additionally, there is compelling evidence suggesting that Wolfe had no involvement whatsoever in the murder for which he was convicted. We are currently awaiting a decision from the Fourth Circuit.

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## Sentencing Reform

Sholom Rubashkin was sentenced to 27 years in prison for a first-time, non-violent offense, and his lengthy sentence has received a substantial amount of attention. [Six former U.S. Attorneys General](#) and numerous other public officials, former law enforcement, prosecutors and judges have spoken out against the excessiveness of the sentence in the case, yet the Eight Circuit recently affirmed his conviction and sentence. Rubashkin has filed a *cert* petition seeking review of his case by the U.S. Supreme Court. In support of that *cert* petition, 86 former DOJ officials, federal prosecutors and judges--many recruited by TCP--filed [an amicus brief](#) in May 2012 drafted by former U.S. Solicitor General Seth Waxman.

Successful bipartisan efforts continue in states across the country leading to reform of sentencing laws and reentry policies. For example, Georgia Governor Nathan Deal just signed a law that will reduce sentences for many low-level nonviolent offenders. (See this [recent ACLU report](#) for more examples from other states.) Prominent conservatives weighed in on the legislation before its passage, like former American Conservative Union chair and TCP Board member David Keene in [this op-ed](#) in support of the legislation. Former Republican Congressman Bob Barr also authored [this piece](#) calling on the legislature to include a safety valve for excessive mandatory minimum sentences in the bill; while the legislation ultimately failed to include a safety valve provision, the [safety valve issue](#) could be addressed in a subsequent bill.

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## Death Penalty

Two notable former public officials have recently spoken out about the application of the death penalty in the United States. President Jimmy Carter penned [an op-ed](#) in which he announced that he was now opposed to the death penalty, stating that "overwhelming ethical, financial, and religious reasons" caused him to believe abolition was appropriate. Additionally, former Texas Governor Mark White recently authored [an opinion piece](#) discussing the problem with uncertainty and the death penalty in light of a recent report that Texas had more likely than not executed an innocent individual in 1989. The report, *Los Tocayos Carlos*, was authored by Columbia law professor James Liebman and his students and is available [here](#).

Also, last week, nine former federal judges organized by TCP filed [an amicus brief](#), authored by *pro bono* counsel at Jones Day, in the case of Carlos Trevino, a Texas death row inmate. The judges urged the U.S. Supreme Court to grant *cert* in this case, based on the serious *Brady* violations that had occurred in the case--Trevino's attorneys never received an exculpatory statement made by Trevino to law enforcement. Further, the Fifth Circuit based their decision denying Trevino's petition on facts beyond the record that the judges had collected through their own independent investigation.

In December 2011, former judges and prosecutors from New Jersey, Delaware and Pennsylvania joined a letter requesting clemency for Delaware death row inmate Robert Gattis. While Gattis had admitted that he committed the murder for which he was convicted, he had shown extreme remorse and been a model prisoner for years. Further, mitigating evidence that should have been presented at trial was never presented. Ultimately, Delaware Governor Jack Markell did grant clemency to Gattis, commuting his sentence to life without parole.

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## Right to Counsel

TCP organized [an amicus brief](#) filed in the Florida Supreme Court in a challenge to caseloads

brought by the Miami-Dade Public Defender. The brief, authored by *pro bono* attorneys at Greenberg Traurig, was joined by former Florida judges - including former Florida Supreme Court justices like Harry Anstead, Leander Shaw, and Gerald Kogan (co-chair of TCP's Death Penalty Committee) - as well as Florida prosecutors and other prominent Floridians. The Florida Supreme Court heard oral argument in the case last week, but has not yet ruled on whether the Public Defender's caseload must be reduced.

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## Prison Conditions

A number of liberal and conservative groups and individuals have joined [a letter](#) urging the FCC to reduce exorbitant prison phone rates. These rates, which can be as high as \$10-17 for a 15-minute collect call or \$250 per month for a weekly one-hour call, reduce the chance that prisoners will maintain contact with their families and support networks -- a crucial factor to successful reentry into society after their sentences are completed. The "odd bedfellows" who support this reform were the subject of [an article](#) in the Legal Times.

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## Get Involved

### How can you be involved in the Clearinghouse?

The goal of the Clearinghouse is to promote the voices of those traditionally viewed as unlikely allies to criminal justice reform, like judges, prosecutors, corrections officials, and conservatives, by matching them to criminal justice reform campaigns on the federal and state levels. Members of the Clearinghouse may be asked to join an *amicus* brief or sign a letter to policymakers, author an op-ed piece, or provide legislative testimony about various criminal justice issues.

For more information, contact Mary Schmid Mergler, Senior Counsel for the Criminal Justice Program: 202-580-6938 or [mschmid@constitutionproject.org](mailto:mschmid@constitutionproject.org).

### Do you have suggestions for new Clearinghouse members?

If you have suggestions of other individuals that TCP should contact-former prosecutors with whom you used to work, former judges who sat with you on the bench, prison officials, state and federal legislators, conservatives, and others who would lend particular influence to efforts to reform the criminal justice system-please pass their names along to us.

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