

MARCH 3, 2011

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.

DIVERSE COALITION PUBLISHES COMPREHENSIVE RESOURCE FOR CRIMINAL JUSTICE POLICY

In February, The Constitution Project released [Smart on Crime: Recommendations for the Administration and Congress](#), a comprehensive report providing almost 100 recommendations for federal criminal justice policy. This report, coordinated by The Constitution Project, is the result of contributions by over 40 organizations and individuals. The report explains the current challenges and what Congress and the Administration can do to improve policy in sixteen different subject areas, include overcriminalization, forensic science, indigent defense, the death penalty, sentencing, juvenile justice, reentry, and more. Responses from media, scholars, and policymakers have been overwhelmingly positive. For more information or to read the report, visit: www.besmartoncrime.org

CONFRONTING OVERCRIMINALIZATION & EXCESSIVE SENTENCING

The Constitution Project assisted the Washington Legal Foundation (WLF) in organizing signatories for its [amicus brief in United States v. Rubashkin](#) before the United States Court of Appeals for the Eighth Circuit. WLF filed the brief on its own behalf and on behalf of 18 law professors, former federal judges and prosecutors. WLF is a DC-based organization that "champions free market principles, limited and accountable government, individual rights, business civil liberties, and legal ethics." In June 2010, Sholom Rubashkin, a first-time, non-violent offender, was sentenced to 27 years in prison—effectively a life sentence for the 50-year-old Mr. Rubashkin—for financial fraud connected to his small business in Iowa. According to the *amicus* brief, Mr. Rubashkin's sentence is much greater than necessary to comply with the purposes of sentencing set forth by Congress. The Eight Circuit decision in the case is still pending.

RIGHT ON CRIME GROUP ADVOCATES COST-EFFECTIVE CRIMINAL JUSTICE REFORM

In January, a group of distinguished conservatives announced a new effort, [Right on Crime](#), which makes the conservative case for reforming the criminal justice system. The Right on Crime participants have put forth a Statement of Principles that provide guidelines for reducing corrections costs, shrinking government, helping victims, and promoting public safety. Signatories to the Right on Crime Statement of Principles include Constitution Project Board Members David Keene and Asa Hutchinson, along with former House Speaker Newt Gingrich, former U.S Attorney General and Constitution Project Sentencing Committee co-chair Edwin Meese, and many other leaders and scholars. In more evidence that the right and the left are coming together on criminal justice reform, there is significant overlap between the Smart on Crime and Right on Crime recommendations. To learn more about Right on Crime, visit: <http://www.rightoncrime.com/>.

ENCOURAGING OVERSIGHT OF THE DEATH PENALTY

In December, members of The Constitution Project's Clearinghouse joined an [*amicus brief submitted on behalf of John E. Green, Jr.*](#), who faces a possible death sentence if convicted of fatally shooting a Houston woman during a June 2008 robbery. Mr. Green's attorney's sought a hearing on the question of whether Texas's capital punishment system is unconstitutional in its application, due to its high risk of executing innocent people. After the trial court ordered the hearing, it was halted by the Texas Court of Criminal Appeals at the request of the Harris County District Attorney. The *amicus* brief, signed by 60 current and former prosecutors, judges, police chiefs, governors, death row exonerees and crime victims, was filed with the Texas Court of Criminal Appeals, and argued that the trial court should be allowed to proceed with the hearing. Unfortunately, on January 12, the appeals court ruled that the trial court did not have the authority to proceed with the hearing, permanently halting it.

ACCESS TO DNA EVIDENCE

As mentioned in the previous Clearinghouse newsletter, last year The Constitution Project (TCP) filed an [*amicus brief*](#), drafted by Holland & Knight, in the Florida Supreme Court in support of a petitioner, Paul Hildwin, who requested that the Court order that unidentified DNA samples found at the scene of the murder for which he was convicted be uploaded into a national and state DNA database, so that the samples could be compared against the other profiles there. The Supreme Court of Florida ordered an evidentiary hearing on the issue. On February 17, after the evidentiary hearing, the hearing judge ruled that the unidentified samples were fully eligible for comparison in state and federal DNA databases. The case now goes back to the Florida Supreme Court to determine whether the samples must be uploaded now that their eligibility has been determined.

PROTECTING THE WRIT OF HABEAS CORPUS

In February, legal scholars and former judges filed an *amicus* brief in the U.S. Supreme Court in support of *certiorari* in the case of *People v. Griffith*. The Seventh Circuit held that petitioner Evan Griffith's first federal *habeas* petition was barred pursuant to the statute of limitations provisions of the Antiterrorism and Effective Death Penalty Act (AEDPA). In so holding, the brief argues, the Seventh Circuit disregarded applicable Illinois law that deemed the petition timely filed. The *amicus* brief argues that the petition for *certiorari* should be granted in this case because the decisions below contradict Congress's intent in enacting AEDPA, the Court's previous interpretations of AEDPA's tolling rule, and the basic principles of judicial federalism.

Get Involved

What is the Clearinghouse & How can you be involved?

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 sign an *amicus* brief or a letter to a legislature, author an op-ed piece or letter to the editor, or provide legislative testimony about various criminal justice issues. For more information, contact Mary Schmid, Senior Counsel for the Criminal Justice Program: 202-580-6938, mschmid@constitutionproject.org.

Who else do you know who should be included in the Clearinghouse?

If you have suggestions of unlikely allies The Constitution Project 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. We're also always eager to identify other issues on which reform efforts are taking place, and to hear about news stories highlighting unique voices in the criminal justice reform debate, so please forward those along as you come across them.



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