

MARCH 2011

## On My Mind: Monthly Message from TCP President Virginia Sloan

Wald

The Constitution Project's 4th annual *Constitutional Champions Award* gala reception will take place on April 14th, a little more than a month away. If you haven't [registered](#) yet, please do so before the March 31st deadline. We expect a full house!

This year, we are so pleased to honor Judge Patricia McGowan Wald. Judge Wald served for two decades on the U.S. Court of Appeals for the District of Columbia—the first woman appointed to that bench. She has also served in the Executive branch and on the International Criminal Tribunal for the former Yugoslavia. Given her long and vital service to our country, as well as her dedication to safeguarding the Constitution, the decision to bestow our annual award on Judge Wald was both an obvious and unanimous one.

We are also excited to announce that this year's festivities will have a new look and taste. We will transport our guests to their favorite farmer's market by showcasing the region's organic, seasonal and sustainable products in a delicious buffet menu. They will enjoy their meal—and the stunning views of the Capitol—from the rooftop of the Jones Day law office building.

Our annual event is important to TCP, not only because it enables us to highlight the work of trailblazers like Judge Wald, but also because the funds we raise make it possible for us to continue to serve as a leading bipartisan voice for safeguarding the Constitution. With your help, we have established a track record for bringing the left and right together to preserve constitutional safeguards and individual rights in the post 9/11 world. We have educated policymakers and the public about smart solutions to the problems confronting our broken criminal justice system. And we have spoken out in support of government transparency and accountability.

But in order to continue this crucial work, we need your help. Please [register](#) to attend this wonderful celebration and/or serve as a sponsor. I look forward to seeing you on April 14th!

## Seminal Report on Criminal Justice Reform Released

On February 10th, a diverse coalition of over 40 criminal justice organizations, facilitated by TCP, released [Smart on Crime: Recommendations for the Administration and Congress](#), among the most comprehensive reports ever published to address the problems facing America's criminal justice system. Nearly 100 detailed policy [recommendations](#) across 16 criminal justice areas were developed to spur action by the Administration and Congress. In the Coalition's [announcement](#), Virginia Sloan, TCP President, noted, "*Smart on Crime* contains an ever-increasing and bipartisan consensus on how to fix the problems that have for too long plagued the system."

A *Smart on Crime* [Web site](#) was also created to provide policymakers, media and the public with easy access to the report. In videotaped [interviews](#), several *Smart on Crime* report contributors shared their unique insights on how to fix the system of justice about which they care so passionately. Media outlets, including the [Legal Times](#), reported on the release of the publication.

TCP and our partners distributed the report to members of Congress and executive branch officials. And in the months ahead, we are planning to host a Capitol Hill briefing that will feature policymakers and practitioners with experience on the front lines of criminal justice reform.

## Distinguished Panel Looks at Future of Guantanamo

On February 24th, TCP hosted a panel discussion in New York City on the future of the Guantanamo detention policies, entitled *Guantanamo without End?* The audience heard from a distinguished group of panelists that included: Steven A. Engel, a Partner at Dechert LLP and the former Deputy Assistant Attorney General for the U.S. Department of Justice's Office of Legal Counsel; Eugene R. Fidell, President, the National Institute of Military Justice; Jonathan Hafetz, Associate Professor of Law, Seton Hall University School of Law; Hon. James Robertson, U.S. District Judge for the District of Columbia (ret.); and Nancy Soderberg, former alternate representative to the United Nations with the rank of Ambassador.

TCP Counsel Mason C. Clutter moderated a lively discussion and question-and-answer session that addressed the current status of the law, reports of an executive order to include periodic review for the detainees remaining at Guantanamo, pending *habeas* litigation, and the policy implications of the U.S. enforcing a system of indefinite detention without charge. We would like to extend special thanks to TCP Board member Paul Saunders, Of Counsel at Cravath, Swaine & Moore LLP, who made available the facility, services, and staff for the forum.

## TCP Submits Comments to Federal Trade Commission on Data Privacy

The Federal Trade Commission (FTC) has released a preliminary staff report entitled *Protecting Consumer Privacy in an Era of Rapid Change: A Proposed Framework for Businesses and Policymakers*. The FTC is seeking public comments on its report, specifically on how corporations and businesses should incorporate protections for consumers' privacy and interests, while using innovations that rely on consumer information to develop beneficial new products and services. The FTC staff proposal seeks to ensure that "the growing, changing, thriving information marketplace is built on a framework that promotes privacy, transparency, business innovation, and consumer choice."

On February 17th, we filed written comments with the FTC, supporting many aspects of the proposed privacy framework and setting forth areas where we recommended further safeguards. TCP's comments reflected the recommendations in our recent report entitled *Principles of Government Data Mining: Preserving Civil Liberties in the Information Age*. TCP's comments included support for the FTC's dual focus on the need for companies to incorporate privacy protections throughout their operations and on the importance of increasing the transparency of data practices.

## Proper Reach of Material Support Laws Remains in Dispute

TCP and KARAMAH hosted a [videotaped](#) panel lecture on February 24th entitled *Constitutional Pitfalls of Material Support Laws*. Senior Counsel Sharon Bradford Franklin moderated the panel, which included David Cole, Professor, Georgetown University Law Center and co-chair of TCP's Liberty and Security Committee; Kay Guinane, Program Manager, Charity and Security Network; and Dr. Azizah Y. al-Hibri, the Chair of KARAMAH and a member of the Liberty and Security Committee. The large and diverse audience included members of the NGO community, policymakers, Department of Justice staff and students.

TCP has long expressed concerns that U.S. material support laws sweep too broadly and threaten First Amendment rights and allow the government to designate groups as "foreign terrorist organizations" without providing evidence or a chance for the group to respond. Last year, we issued a report, including recommendations for reform entitled [Reforming the Material Support Laws: Constitutional Concerns Presented by Prohibitions on Material Support to "Terrorist Organizations"](#).

## TCP is Hiring

TCP seeks a high-energy individual with strong communication skills and a proven record of identifying new donors to join our team as a [Development Coordinator](#). Please visit our website to view other [employment opportunities](#).

## Interview Focuses on Constitution as Basis of American Greatness

Every month we showcase a videotaped [interview](#) on our Web site with a national leader on criminal justice or rule of law issues. This month, Mickey Edwards, Vice President and Director of the Aspen Institute, former Republican member of Congress, and longtime member of TCP's Board, shares his thoughts on how our Constitution makes us unique among nations of the world. View previous [interviews](#) with TCP Board chair Stephen Hanlon, TCP Board Members Judge William S. Sessions and Mariano-Florentino Cuellar, and FAIMM president Julie Stewart.

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