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Greetings!

I am pleased to let you know that The Constitution Project has formed a new Criminal Justice Advisory Committee (CJAC), comprising seven distinguished individuals with collective professional experience that spans the criminal justice system. Although we have longstanding committees with significant expertise in expanding the right to counsel, recommending vital reforms to the death penalty, and reforming criminal sentencing, TCP has been increasingly asked to take positions or issue statements concerning various criminal justice issues outside these topic areas.



The new CJAC will advise TCP staff about broad criminal justice policy, as well as potential new projects and requests for assistance. For example, over the past month, it has advised us on diverse issues such as extremely high prison phone rates and the practices of the Office of the Pardon Attorney, and allowed TCP to take a position on these important matters.

The current members of the CJAC are as follows:

- **Mariano-Florentino Cuellar**, Professor of Law and Deane F. Johnson Faculty Scholar, Stanford Law School; Former Special Assistant to the President of the United States for Justice and Regulatory Policy
- **Nancy Gertner**, Professor of Practice, Harvard Law School; Former Judge, United States District Court for the District of Massachusetts
- **Miriam Gohara**, Resource Counsel, Federal Capital Habeas Project
- **Harry Shorstein**, Shorstein & Lasnetski, LLC; Former State Attorney for the 4th Judicial Circuit of Florida
- **Larry Thompson**, John A. Sibley Professor in Corporate and Business Law, University of Georgia; Deputy Attorney General of the United States under President George W. Bush; Former United States Attorney, Northern District of Georgia
- **John Van De Kamp**, Of Counsel, Dewey LeBoeuf; Former Attorney General, State of California; Former Los Angeles County District Attorney; Former Federal Public Defender, Central District of California

- **Michael A. Wolff**, Professor of Law and Co-Director of the Center for the Interdisciplinary Study of Law, Saint Louis University School of Law; Former Chief Justice, Supreme Court of Missouri

We are delighted these outstanding experts are providing us with guidance, allowing TCP to become even more involved and more influential in criminal justice reform than we have been in the past.

Sincerely,



Virginia Sloan
President, The Constitution Project

Government Report Shows Indigent Defense Gets Shortchanged on Federal Grants

Indigent Defense

Almost none of the money that the federal government provides to state and local governments for justice system improvements goes to helping to defend poor people, a new study from the Government Accountability Office shows. According to [the report](#), almost half the money block granted to the states under the Byrne Justice Assistance Grant Program--the principal source of federal dollars to support state and local criminal justice programs--goes to fund law enforcement and prosecution activities, with less than one percent being used for public defenders or other private lawyers appointed to assist those who cannot afford legal representation on their own. This bears out claims that supporters of indigent defense have made for years that there is an enormous disparity between federal support for prosecutors and law enforcement on the one hand, and indigent defense services on the other. In response to the report, TCP President Virginia Sloan issued a [public statement](#) in which she set forth ideas for correcting this disparity. TCP's seminal report on problems in the indigent defense system, [Justice Denied: America's Continuing Neglect of our Constitutional Right to Counsel](#), provides a number of recommendations to improve access to quality counsel.

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Groups Point to Privacy Problems in Senate Cybersecurity Bills

Privacy and Technology

Privacy and civil liberties groups from across the ideological spectrum wrote to Congress in May expressing their deep concerns with the [Cyber Security Act of 2012](#) (S.2105), sponsored by Senators Lieberman and Collins, and with [the SECURE IT Act of 2012](#) (S.2151), whose lead sponsor is Senator McCain. Over 30 groups joined each letter, urging senators to vote against the bills in their current forms and to support significant amendments addressing fundamental privacy and civil liberties concerns identified in their letters.

The bills, which are expected to be debated by the Senate later this year, are meant to improve

cybersecurity by allowing companies -- such as Facebook, Microsoft, and Verizon -- to share information about their customers with the government, in an effort to collaboratively identify and address cyber threats. However, TCP believes the bills incorporate neither sufficient privacy safeguards, nor adequate oversight or accountability provisions. TCP's views are rooted in its bipartisan Liberty and Security Committee's report, [Recommendations for the Implementation of a Comprehensive Constitutional Cybersecurity Policy](#).

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Senate Committee Approves Privacy Board Picks

Transparency and Accountability

On May 17, the Senate Judiciary Committee voted to approve all five nominees to the Privacy and Civil Liberties Oversight Board (PCLOB). Created as an independent board in 2007 based on the recommendations of the 9/11 Commission, the PCLOB is intended to play a vital role in overseeing the privacy and civil liberties implications of national security programs and policies. TCP strongly supported the PCLOB's creation and has been a vocal advocate for getting the board up and running. However, since the 2007 legislation was enacted, the independent board has not yet come into existence.

Most recently, TCP helped organize [a letter](#) from a number of leading conservatives to members of the Senate urging them to quickly act on the confirmation of the board members. Signatories of the letter include former Republican congressmen, Asa Hutchinson and Mickey Edwards; former Director of the FBI, William S. Sessions; and former chairman of the American Conservative Union, David A. Keene. All four serve on TCP's Board of Directors. Sharon Bradford Franklin, TCP's senior policy counsel, and Mr. Hutchinson, also explained the importance of the board in a [May 29 interview](#) on NPR's *All Things Considered*.

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TCP Joins Groups Urging Homeland Security to Dismantle "Special Registration" Program

Immigration

In 2002 and 2003, the Justice Department initiated a special registration program that required nonimmigrant male aliens age sixteen and older from twenty-four predominantly Arab and Muslim countries to be fingerprinted, photographed and interviewed under oath. Under this program, called National Security Entry-Exit Registration System (NSEERS), or "Special Registration," more than 80,000 noncitizens living in the United States were subject to special registration. TCP has long called for the program's termination. Although the Department of Homeland Security (DHS) effectively suspended it last year, the program's framework remains in place and DHS recently issued a memo clarifying its policy on how to treat individuals previously subject to Special Registration but who failed to comply. A group of organizations, including TCP, [sent a letter](#) to DHS Secretary Janet Napolitano urging DHS to dismantle NSEERS entirely, remove any residual penalties suffered by anyone the program affected, and discontinue using data collected through NSEERS.

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TCP Newsmakers in Brief

Current Events

- On May 18, The Huffington Post published Ms. Sloan's op-ed, "[Justice Department Must 'Step Up' on Flawed Forensic Evidence,](#)" in which she argued, "When there is reason to believe that criminal convictions are unreliable, whether because of improper testimony by examiners or because forensic science is no longer believed to be credible, the government absolutely has a duty to reexamine those convictions to ensure that no individual has lost his or her liberty or rights unfairly."
- Former Texas governor Mark White, who serves as co-chair of TCP's Death Penalty Committee, wrote [an op-ed](#) about the state's execution of Carlos DeLuna that was published in the *Houston Chronicle* on May 19. A [new report](#) by Columbia Law professor James Liebman and his students casts doubt on whether Mr. DeLuna was guilty of the murder for which he was executed in 1989. Two days after Gov. White's op-ed was published, The University of Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law announced the establishment of the first [National Registry of Exonerations](#), the largest collection of such cases ever assembled.
- TCP Scholar-in Residence Louis Fisher will participate in a panel discussion titled, "Congressional Gridlock and the Executive: A Battle Over Nominations, Recess Appointments, and the Use of the Filibuster" on June 16 at the American Constitution Society's National Convention in Washington, DC. Registration and schedule details for the event can be [found online](#).
- On May 3, Sharon Bradford Franklin moderated a panel on "Location Tracking by the Government After *Jones*," at the 2012 State of the Mobile Net Conference. On May 10th, she spoke on a panel on "Building Peace in an Era of Counter-Terrorism: A Community Conversation about Change Strategies for Material Support Laws," at the Alliance for Peacebuilding's 2012 Annual Conference.
- On May 14, TCP joined a coalition of immigration, civil rights, civil liberties, faith-based, and community organizations in urging the Senate Subcommittee on Homeland Security Appropriations to support the Department of Homeland Security's request for reduced funding for immigration detention beds and to recommend greater spending on alternatives to detention. Both measures are appropriate steps toward reducing what has become a costly over-reliance on detention of non-citizens.

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