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From the President's Desk

When President Obama took office, some people wondered whether an organization like the Constitution Project, whose mission is to protect and defend constitutional safeguards, would still be needed. After all, they said, our new president is a former professor of constitutional law. He promised to restore constitutional rights, and he sent a powerful message to the country and the world during the first week of his presidency by ordering the closure of Guantanamo Bay, reviewing detention options, and ensuring lawful interrogations.

In a [statement](#) issued today, the members of the Constitution Project's Board of Directors, on which I serve, noted that we joined with other constitutionalists in applauding these executive orders as a declaration of our nation's most fundamental values. However, the Board statement also notes that "we are concerned that decisions now being made will both create unfortunate legal precedent and cause great suffering for people who are adversely affected. We are apprehensive about what these decisions say about our country's commitment to the rule of law and to our constitutional values... We will continue to call President Obama and the new Congress to account."

The Constitution Project's staff issued an [accompanying document](#) describing the particular actions of concern to the Board. Those actions relate to the detention of accused terrorists, access to DNA evidence, presidential signing statements, the state secrets privilege, warrantless wiretapping, and extraordinary rendition.

Upcoming Events

Annual Constitutional Champions Awards Dinner—Today!

Our annual awards dinner will take place today at the Renaissance Mayflower Hotel in Washington, D.C. Please join us in honoring **Alberto Mora**, former General Counsel, Department of the Navy, and **Craig Watkins**, District Attorney for Dallas County, Texas. Mr. Mora led a multi-year effort within the Department of Defense to [oppose coercive interrogation techniques](#) at Guantanamo Bay. Mr. Watkins created a “conviction integrity unit” within the District Attorney’s office that uses DNA evidence to [investigate claims of wrongful conviction](#). The unit’s work resulted in six exonerations in the last two years. The Capitol Steps will provide entertainment following dinner. We hope to see you there!

Right to Counsel Report Launch

The [National Right to Counsel Committee](#) will release its much-anticipated report at a Washington news conference on Tuesday, April 14th. The National Right to Counsel Committee, sponsored by the Constitution Project, was created in 2004 to examine the ability of the American justice system to provide adequate counsel to individuals in criminal and juvenile delinquency cases who cannot afford lawyers. Titled “Justice Denied: America’s Continuing Neglect of Our Constitutional Right to Counsel,” the report details the failures of that system and recommends twenty-two urgently needed reforms to fix them.

The [bipartisan committee](#) is co-chaired by Rhoda Billings (Wake Forest Law School and former Chief Justice of the North Carolina Supreme Court), Robert M.A. Johnson (District Attorney, Anoka County, MN and former president of the National District Attorneys Association) and Timothy K. Lewis (Co-Chair, Appellate Practice Group, Schnader Harrison Segal & Lewis LLP; and former judge, U.S. Court of Appeals for the Third Circuit). Honorary co-chairs for the bipartisan committee are former Vice President Walter Mondale and former FBI Director William S. Sessions.

Watch our website for details of the news conference on April 14.

News

National Security Court Panel Discussion a Success

On March 20, the Constitution Project co-hosted [*Bringing Detainees to Justice and Justice to Detainees: Remaining Questions about Detention and Trials after Obama's Executive Orders*](#), a panel discussion addressing proposals for national security courts. At the event, the Constitution Project and co-sponsors the Georgetown Center on National Security and the Law and Human Rights First brought together a group of expert panelists to answer some of the open questions that the Obama administration must address concerning the detention and trials of accused terrorists. The panel engaged in a detailed discussion of the legal and strategic implications of national security courts. Several members of the panel emphasized the ability of Article III courts to effectively handle the challenges that terrorism cases present. The Constitution Project has previously condemned proposals for national security courts and preventive detention in its report "[A Critique of National Security Courts](#)." You can watch video of the program [here](#). A transcript of the program is available [here](#).

Letter to the Editor: Judging 'State Secrets'

In a [Letter to the Editor](#) in Friday's *Washington Post*, Constitution Project Senior Counsel **Sharon Bradford Franklin** defended the need for reform in the use of the state secrets privilege. Sharon noted that contrary to the impression created by the *Post*'s March 25 [front-page story](#) on the Obama administration's approach to handling state secrets, the choice is not between protecting classified information through the "state-secrets privilege" and full public disclosure. Instead, she argued, we need an effective states-secrets doctrine that ensures independent judicial review of key pieces of evidence. The Constitution Project's statement [Reforming the State Secrets Privilege](#) provides further details about the need for and the paths to this urgently needed reform.

Sharon Bradford Franklin Speaks to International Association of Chiefs of Police

On March 31, Sharon Bradford Franklin made a presentation to the Public Safety Technology and Policy Symposium in Las Vegas, Nevada. The [International Association of Chiefs of Police](#) hosted a daylong conference focusing on the complex issues associated with the rise of surveillance technologies. Sharon, a member of the Policy Forum session, spoke to the challenge of balancing law enforcement needs with privacy and civil liberties concerns. In particular, she presented the four core recommendations and further guiding principles that communities should follow, as detailed in our report [Guidelines for Public Video Surveillance](#). She also highlighted the Constitution Project's continuing role in providing practical guidance to state and local governments that are considering or have already established public video surveillance systems.

New Development in Uighurs' Litigation

In an attempt to pressure the Obama administration to release their clients, lawyers filed a [motion](#) in D.C. Circuit Court asking that Secretary of Defense **Robert Gates** be held in contempt for failure to release Chinese Muslims, known as Uighurs, currently being detained at Guantánamo. The motion covers five individuals whom the Circuit Court ordered released or transferred last year, yet still remain at Guantánamo. Last month, the D.C. Circuit Court [ruled](#), in the case of *Kiyemba v. Obama*, that it could not force the executive branch to release the Uighurs into the United States. Despite this ruling, President Obama still has the independent authority to release the detainees. In November, the Constitution Project coordinated a [statement](#) of ten prominent conservatives calling for the Administration to end the Uighurs' indefinite detention.

Amnesty International USA Immigration Detention Report

On March 25, Amnesty International USA released [Jailed Without Justice](#), a report focusing on alleged human rights violations associated with immigration detention in the United States. The Constitution Project's Liberty and Security Committee is working on a report focusing on the constitutional and policy issues associated with immigration detention and access to counsel for non-citizens in removal proceedings. This report will be the second issued by the Committee on immigration issues. The first, [The Use and Abuse of Immigration Authority as a Counterterrorism Tool: Constitutional and Policy Considerations](#), examined some of the immigration initiatives and reforms adopted in the name of national security after the attacks of September 11, 2001.

News in Brief

- **Thomas R. Pickering**, former ambassador to the United Nations, and **William S. Sessions**, former director of the Federal Bureau of Investigations, urged President Obama to form a nonpartisan commission to investigate post-September 11 policies related to the detention, treatment, and transfer of detainees, in a March 23, 2009 *Washington Post* [article](#). Both Ambassador Pickering and Judge Sessions are members of the Constitution Project's Liberty and Security Committee.

- Yesterday, the U.S. Supreme Court held in [Harbison v. Bell](#) that federal law authorizes federally appointed counsel to represent their clients in state clemency proceedings and entitles them to compensation for that representation. Justice Stevens wrote the majority opinion, which Justices Kennedy, Souter, Ginsburg, and Breyer joined. The Constitution Project filed an [amicus brief](#) in the case, arguing that throughout its jurisprudence, the Court has widely recognized and relied upon clemency as a backstop to any fallibility in the criminal justice system. The clemency process serves as an error correction means of last resort at the end of the *habeas* process, which may reveal and allow state officials to consider evidence no court has ever been able to examine. The clemency process also permits the state executive to weigh the state's interest in mitigating a sentence, in an exercise of mercy that no court can undertake. The Constitution Project's Death Penalty Committee recommended that each jurisdiction should provide competent and adequately compensated counsel at all stages of capital litigation. [Mandatory Justice: The Death Penalty Revisited](#), Recommendation 2 (2006).

- On March 26, 2009, Senator Jim Webb (D-VA) introduced bipartisan legislation, the [National Criminal Justice Commission Act of 2009](#), to create a blue-ribbon commission to review America's criminal justice system and provide recommendations for reform. The commission would be comprised of experts in fields including criminal justice, law enforcement, public health, national security, prison administration, social services, prisoner reentry, and victims' rights. Senator Arlen Specter (R-PA) and Lindsey Graham (R-SC) are just a few of the bill's co-sponsors. This is a badly-needed first step to the kinds of reforms described in [Smart on Crime: Recommendations for the Next Administration and Congress](#), the transition document facilitated by the Constitution Project on behalf of 30 expert organizations and individuals.

- Justice **Sandra Day O'Connor** launched [Our Courts](#), a web-based [civic education effort](#) aimed at inspiring students to be active participants in our democracy. In her [video introduction](#) to the site, Justice O'Connor stresses the need for an independent judiciary: "The Founders of our Constitution and our government created three equal branches of government. Like superheroes, each branch of government has special powers, but each one also has certain weaknesses."

The Constitution Project's unique mission is to promote and defend constitutional safeguards. We create coalitions of respected leaders from across the political spectrum, advancing their consensus recommendations for policy reforms. Since the Constitution Project's founding in 1997, our advocacy and public education efforts, influential *amicus curiae* briefs, and respected scholarship have helped to create public support for those reforms.