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From the President's Desk

Troy Davis has been on death row in Georgia for nearly 18 years, with controversy surrounding his case ever since he was convicted. He was found guilty of killing an off-duty police officer in Savannah, Georgia in 1989, mainly on the basis of the testimony of nine eyewitnesses. But since his conviction, seven of those nine witnesses have recanted their original statements, another man has boasted of having committed the crime, and new witnesses have come forward to identify that man as the real perpetrator. Some of the original witnesses claim that the police pressured them into identifying Mr. Davis because they were eager to convict someone for killing one of their colleagues.

While there have been any number of hearings on *whether* the courts can hear the evidence, every court has decided that procedural obstacles bar their consideration of it. Therefore, not one court has actually ever heard the new evidence. Mr. Davis's life now hangs in the balance. The Supreme Court is scheduled to consider his latest - and likely last - appeal on June 25. We hope that the Court will grant his original petition for a writ of *habeas corpus*, thus allowing a court to finally hear the evidence. To execute Mr. Davis without doing so would be a stark failure of our nation's judicial system.

News

Constitution Project Welcomes the End of Unlawful Detention for Uighurs

News accounts Wednesday morning indicated the United States reached an agreement with Palau, a Pacific archipelagic nation, to accept the 17 Chinese Muslims, known as Uighurs, currently being held at the Guantanamo Bay detention facility. Conflicting news stories this morning now have some of the Uighurs being resettled in Bermuda. The Uighurs have been held at Guantanamo for nearly seven years now, but have long been recognized by the U.S. government as not being “enemy combatants,” nor as hostile to the U.S., dating back to the Bush administration.

Yesterday, the Constitution Project [praised their release](#) from detention, but noted that by relying solely on foreign nations to end the Uighurs’ detention, the United States has missed a great opportunity to accept responsibility and take its own steps to finally start closing the Guantanamo prison. On May 29, the Constitution Project and nine prominent conservatives released a [statement](#) calling for the release and settlement into the United States of the 17 Uighurs.

Obama Administration Transfers First Guantanamo Detainee Into U.S. to Face Charges

On Tuesday, the Obama administration transferred Ahmed Ghailani, a native Tanzanian held at Guantanamo Bay since September 2006, to the Metropolitan Correctional Center in Manhattan to face criminal charges for involvement in the 1998 East African embassy bombings. This marked the first transfer by the Obama administration of a Guantanamo detainee into the federal criminal justice system and an important step in restoring the United States’ commitment to the rule of law. The Constitution Project [welcomed the transfer](#) and the administration’s reliance on the federal criminal justice system to handle the prosecutions of those being detained at Guantanamo. We hope that members of Congress and all Americans will also support this effort to bring to justice to those detainees who warrant it.

Senate Judiciary Subcommittee Examines “Prolonged Detention”

President Obama raised the possibility of a “prolonged detention” policy in his address to the nation on national security issues last month. This week, on June 9, Senator Russ Feingold (D-WI) chaired a Senate Judiciary Subcommittee on the Constitution hearing to consider this proposal. In connection with the hearing, the Constitution Project [called on Congress](#) to restore the rule of law and oppose indefinite detention without charge for suspected terrorists. In rejecting the president’s proposal, Constitution Project President **Virginia Sloan** said that “[t]he detention facility must be closed and the policies ended. Whatever we call it,” she declared, “any new or continued system for indefinitely detaining suspected terrorists without charge undermines the fundamental principles enshrined in our Constitution and will continue to make our nation less safe.”

Constitution Project Committee Members Testify Before House Judiciary on State Secrets

On June 4, [two members](#) of the Constitution Project's Liberty and Security Committee testified in support of the State Secrets Protection Act before the House Judiciary Subcommittee on Constitution, Civil Rights, and Civil Liberties. **Patricia Wald**, former Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, as well as **Asa Hutchinson**, former member of Congress (R-AR), director of the Drug Enforcement Agency, and undersecretary for the Department of Homeland Security under President George W. Bush, testified in support of reform of the state secrets privilege. Hutchinson's [testimony](#) and his [OpEd](#) in *Jurist* argued that legislative reform is needed to restore the oversight role of courts and correct the recent transformation of the privilege from an evidentiary privilege to an immunity doctrine, which prevents a case from proceeding.

The Constitution Project also submitted its own statement in support of the House bill, as well as a statement by Liberty and Security Committee member **William S. Sessions**, former federal judge and director of the FBI. Earlier in the week, the Constitution Project sent a [letter](#) to the full Senate Judiciary Committee, urging the Senate to adopt its version of a reform bill and reject any amendments that would undermine it.

National Right to Counsel Committee Members Issue Urgent Call for Reforms

Three members of the Constitution Project's National Right to Counsel Committee appeared before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security at a hearing titled "Indigent Representation: A Growing National Crisis." Committee co-chairs [Rhoda Billings](#), former Chief Justice of the North Carolina Supreme Court, and [Robert M.A. Johnson](#), district attorney for Anoka County, Minnesota, and Committee member [Alan J. Crotzer](#), who was wrongfully convicted and spent over 24 years in prison before being exonerated by DNA evidence, highlighted the urgent need for reform of indigent defense systems nationwide. The Committee's report, "[Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel](#)," which makes 22 recommendations for systematic reforms nationwide, and is the most comprehensive examination of indigent defense systems in 30 years, was frequently cited by Subcommittee Chairman Bobby Scott (D-VA) during his opening remarks, and by the other witnesses at the hearing.

News in Brief

- **Bob Barr**, former member of Congress (R–GA) and U.S. Attorney in Georgia, and a current member of the Constitution Project’s Liberty & Security Committee, wrote an [OpEd](#) in the *New York Times* on the urgent need for Troy Davis to have his day in court. As noted above, Davis is facing execution for the 1989 murder of a police officer, even though seven of the nine witnesses against him have now recanted their statements and new evidence of his innocence has not been heard in court.
- Attorney General Eric Holder Jr. [vacated](#) a decision by former Attorney General Michael Mukasey that denied immigrants in deportation proceedings effective legal counsel. Holder restored the standard set forth in *Matter of Lozada*, which held that immigrants in these proceedings have a constitutional right to counsel under the due process clause of the Fifth Amendment.
- Recognizing the importance of an independent judiciary, the U.S. Supreme Court issued a [5-4 opinion](#) in *Caperton v. A.T. Massey Coal*. The case involved an elected state supreme court justice who did not recuse himself from a case involving a party who had donated millions of dollars to his campaign. The Court held that this was unconstitutional, and established a “probability of bias” standard to resolve future disputes.
- Gara LaMarche, President and CEO of The Atlantic Philanthropies, [highlighted](#) the Constitution Project’s “Justice Denied” report in his remarks at the Alliance for Justice’s 30th Anniversary Luncheon.

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.