



April 22, 2010

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## From the President's Desk

Last week's third annual Constitutional Champion Awards Dinner was a tremendous success. Over 350 people joined us at the Mayflower Hotel to hear from Attorney General Eric Holder and to show their support as Ambassador Thomas Pickering and George Kendall received their much-deserved Constitutional Champion awards. I appreciate their presence and outstanding remarks, as well as those of our other speakers and presenters: Stephen Bright, Albert Mora, and Dahlia Lithwick. Finally, I want to express my thanks to the many law firms, companies, organizations, and individuals that contributed to the event, and to our work throughout the year. We are enormously grateful for your support.

If you were unable to attend, please see the summary below that includes links to pictures of the event and a slide show shown during the dinner. A video of the event will be available shortly.

## Employment Opportunity at the Constitution Project

The Constitution Project is currently accepting applications for the following full-time position:

- Director of Communications and Outreach

If you are interested in applying, or know of anyone who may be, please visit:

<http://www.constitutionproject.org/newsdetail.asp?id=470>

## Upcoming Event

On May 12, the Constitution Project will join with Bing Stanford, the local Stanford University alumni chapter, in cosponsoring an event marking Pulitzer Prize-winning Professor Jack Rakove's newest book, [\*Revolutionaries: A New History of the Invention of America\*](#). The event will take place at Bing Stanford's building, at 2661 Connecticut Avenue NW in Washington DC. The reception will begin at 6:30 p.m., with a discussion to follow at 7:00 p.m. Books will be available for purchase.

If interested in attending, RSVP to Meghvi Roig at [meghvi@stanford.edu](mailto:meghvi@stanford.edu) or (202) 332-6235.

## News

### Constitution Project's 2010 Constitutional Champion Awards Dinner

If you were unable to attend this year's dinner, or would like to see photos taken at the event, as well as a slide show of recent Constitution Project events, go to:

<http://www.constitutionproject.org/detail.asp?id=25>

The dinner, along with the remarks made by the attorney general, was widely covered by a variety of publications, including [\*The Wall Street Journal\*](#), [\*The Washington Post\*](#), [\*Legal Times\*](#), [\*Politico\*](#), [\*FOX News\*](#), [\*Reuters\*](#), and [multiple blogs](#).

A video of the Awards Dinner will be made available in the coming days; please check back at the above URL.

### Constitution Project Expresses Disappointment in Supreme Court Refusal to Hear *Hood* Case

On Monday, the Supreme Court declined to hear the case of Charles Dean Hood, who has long protested that his constitutional right to a fair trial was violated because of an admitted affair between the prosecutor in his case and the judge presiding over his trial. Mr. Hood was sentenced to death in 1990 for a double murder.

Former Texas Governor Mark White and Judge William S. Sessions, a former federal judge in Texas and former Director of the FBI, released a [joint statement](#) expressing disappointment in the Court's decision. The refusal to hear the case, they stated, "means that the manifest unfairness

that occurred in Mr. Hood's case will remain unaddressed by any court, and the injustice will go unremedied. The relationship between the judge and prosecutor in this case breached every standard of fairness that we rightfully expect from our country's criminal justice system, casting grave doubt on the impartiality of the trial in this case and tarnishing the reputation of the judiciary and our criminal justice system as a whole." Former Governor White serves as co-chair of the Constitution Project's Death Penalty Committee. Judge Sessions is also a member of that committee, as well as a member of our Board of Directors.

In February, the Constitution Project organized an [amicus brief](#) filed in the U.S. Supreme Court on Mr. Hood's behalf, from 21 former judges, government officials, and prosecutors. Governor White and Judge Sessions were signatories to the brief.

Monday's decision in *Charles Dean Hood v. State of Texas* is unrelated to a separate order in February by the Texas Court of Criminal Appeals, ordering a new sentencing hearing for Mr. Hood.

### **Constitution Project Welcomes 2009 Report on Government Classification System for National Security Information**

On April 15<sup>th</sup>, the National Archives and Records Administration's Information Security Oversight Office (ISOO) released to the president its 2009 annual report examining the government's system for classifying and declassifying national security information. ISOO's yearly report is a critical oversight tool that promotes transparency and helps the government and the public assess how well federal agencies are carrying out the requirements set forth in the Executive Order on classified national security information. The Constitution Project [welcomed](#) this report for shedding light on the classification system and highlighting problem areas that must be addressed to rein in excessive secrecy.

In particular, the Constitution Project called on the government to address several specific problems highlighted in the report, including: the vast disparities among agencies with respect to their numbers of original classification decisions; the widespread use of "derivative" classifications by personnel who lack the training and oversight provided to original classifiers; and the widespread failure to properly classify documents.

### **Constitution Project Sends Letters to Senate Judiciary Committee Rejecting Attacks on Goodwin Liu for His Views on the Death Penalty**

On April 13<sup>th</sup>, the Constitution Project sent [a letter](#) to the Senate Judiciary Committee that rebutted recent attacks on Professor Goodwin Liu, President Obama's nominee to the United States Court of Appeals for the Ninth Circuit, regarding his views on the death penalty. The letter was signed by 27 former judges and prosecutors. While not taking a position on Professor Liu's nomination, the signatories to the letter, including both supporters and opponents of capital punishment, agreed with Professor Liu that an appellate judge should ensure that the fundamental due process

rights of those sentenced to death have not been violated. They also called such a commitment to ensuring fairness in death penalty cases "commendable and vital" in a judicial nominee.

The former judges and prosecutors also rejected the analysis submitted to the Judiciary Committee by the Criminal Justice Legal Foundation, which alleged that, if confirmed, Professor Liu would advance an "anti-death penalty agenda." At the Constitution Project's request, attorney John Freedman at Arnold & Porter LLP conducted an independent examination of Professor Liu's record and determined that Professor Liu "takes no position on the death penalty... other than to state that he believes 'the Supreme Court has the ultimate responsibility for ensuring fairness in the administration of the death penalty.'"

Senate Judiciary Committee Chairman Patrick Leahy (D-VT) cited the Project-organized letter during the committee's hearing on Professor Liu's nomination on April 16<sup>th</sup>.

A week before the former judges and prosecutors sent their letter, two co-chairs of the Constitution Project's Death Penalty Committee, former Texas Governor Mark White and former Chief Justice of the Florida Supreme Court Gerald Kogan [sent a similar letter](#) to the Senate Judiciary Committee, applauding Professor Liu's commitment to ensuring the constitutional rights of those facing the death penalty.

### **Constitution Project Updates: Staff, Board of Directors, Policy Advisory Committee, and Death Penalty Committee**

The Constitution Project is pleased to announce several new staff members who have joined our ranks, as well as several additions to our Board of Directors, our Policy Advisory Committee, and our Death Penalty Committee. First, the Project's Criminal Justice Program was bolstered by recent additions. **Mary Schmid**, formerly a litigation associate at Baker Botts L.L.P. in Washington, DC, is our new Criminal Justice Senior Counsel; **Christopher Durocher**, formerly a litigation associate for Mayer Brown LLP and senior associate at the Alexandria, VA-based law firm of Obadal, Filler, MacLeod & Klein, PLC, is our new Government Affairs Counsel; and **Mason Clutter**, formerly a Research Associate on national security law issues for Yale Law School's National Litigation Project, is the new Senior Associate.

There are two new members of the Project's Board of Directors. **Judge Timothy Lewis** served on the U.S. Court of Appeals for the Third Circuit, was also a federal prosecutor, and now co-chairs the appellate practice group at Schnader Harrison Segal & Lewis LLP. Judge Lewis is also a co-chair of our National Right to Counsel Committee. **Judge William S. Sessions**, former Director of the FBI and former Chief Judge of the U.S. District Court for the Western District of Texas, is an honorary co-chair of our National Right to Counsel Committee, a member of our Death Penalty and Liberty and Security Committees, and the first recipient of our Constitutional Champion Award.

Recent additions to the Project's Policy Advisory Committee include: **Rosemary B. Freeman** of Publicworks, **Alberto Mora**, Vice President, Secretary and General Counsel of Mars, **Corey Owens** of Facebook, and **Suzanne Spaulding** of Bingham McCutchen LLP.

We have a number of new members of our Death Penalty Committee as well. **Former Texas Governor Mark White** will join Gerald Kogan and Beth Wilkinson as co-chairs of the Committee, while **Bob Barr**, former Republican member of Congress and U.S. Attorney from Georgia, **Asa Hutchinson**, former Undersecretary in the Department of Homeland Security and former Republican member of Congress from Arkansas, and **Peter Keisler**, former Acting Attorney General, Assistant Attorney General for the Civil Division, Principal Deputy Associate Attorney General, and Acting Associate Attorney General of the United States, all in the George W. Bush administration, have joined as committee members.

## News in Brief

- This morning, the House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies held a hearing to examine the Department of Justice's Office of Justice Programs' budget priorities. In the lead-up to today's hearing, Constitution Project President Virginia Sloan submitted [testimony to the Subcommittee](#) calling for parity in the funding of law enforcement, prosecution, and indigent defense in our legal system. She wrote, "[a]s currently designed and utilized, the [Byrne Justice Assistance Grant] program exacerbates already existing resource imbalances between prosecutors and indigent defenders by furnishing funding to the states for prosecution and law enforcement functions, as well as for training and technical assistance for prosecutors and law enforcement agencies, without requiring analogous support for state-based indigent defense services....When states have to make deep cuts in their indigent defense programs, the federal government must step in to ensure defendants' federal constitutional right to effective counsel. Today, states across the country cannot afford to provide citizens accused of crimes constitutionally adequate legal representation; therefore, it is time for the federal government to help fill the void."
- In testimony before the Senate Judiciary Committee on April 14<sup>th</sup>, Attorney General Eric Holder said the Obama administration has not ruled out the possibility of trying alleged 9/11 mastermind Khalid Sheikh Mohammed and four others in a federal court in New York. Over the past few months, some members of Congress have sought to force the administration to try suspected terrorists only in military tribunals. In January, New York City Mayor Michael Bloomberg and New York State officials petitioned the administration to reconsider its decision to try KSM and other alleged 9/11 plotters in federal district court in Manhattan. The attorney general's testimony made clear that to date, the

administration has not abandoned its original plan to try these individuals in a civilian court in New York. When the attorney general first announced they would be tried in our traditional federal courts, the Constitution Project [welcomed that decision](#).

- In a letter sent last month but released on April 12<sup>th</sup>, Senate Judiciary Committee Chairman Patrick Leahy [urged Attorney General Holder](#) to implement key civil liberties protections when using Patriot Act authorities. Senator Leahy encouraged the attorney general to voluntarily implement key oversight and civil liberties safeguards, including when using the authorities to access business and personal records and to issue national security letters.
- Bob Barr, former Republican member of Congress from Georgia and a member of the Project's Death Penalty Committee, wrote [a column](#) for the April 12<sup>th</sup> *Atlanta Journal-Constitution*, in which he rejected criticism of Professor Goodwin Liu's stance on the death penalty, stating, "[w]hile there may be many reasons to oppose Liu's confirmation, his concern for due process in capital cases should not be among them. And in fact, his views are shared by many scholars, lawyers, and public officials from across the ideological spectrum."
- Colonel Lawrence Wilkerson, former chief of staff to Secretary of State Colin Powell and a member of the Constitution Project's Liberty and Security Committee, submitted a declaration [in support of a Sudanese man](#) who was held at Guantánamo Bay from March 2003 until December 2007. The detainee claims that he was tortured while in custody and filed a lawsuit on April 8<sup>th</sup> seeking damages. In his declaration, Col. Wilkerson states that President Bush, Vice President Cheney, and Defense Secretary Rumsfeld were aware that innocent people were being held at Guantanamo but for political reasons did not push for their release.

More information is available on the [Constitution Project's web site](#), including how to [subscribe to our newsletter](#) and a way for you to [show your financial support](#).