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Safeguarding Liberty, Justice & the Rule of Law

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*Affiliations listed for
identification purposes only*

November 23, 2011

Via Facsimile (503) 378-6827

Governor John Kitzhaber
160 State Capitol
900 Court Street
Salem, Oregon 97301-4047

Dear Governor Kitzhaber:

I write to commend you on your decision to implement a moratorium on executions in the State of Oregon. Such a decision requires great courage, and I admire your refusal to endorse a system that is, in your words, arbitrary and unable to meet “basic standards of justice.”

As President of The Constitution Project, I have learned that there are Americans of all backgrounds, politics and religious philosophies who are strongly concerned about the administration of capital punishment in our nation. These concerned individuals include both those who believe that capital punishment may be appropriate in certain circumstances, as well as those who oppose it on moral grounds or because they believe it simply cannot be carried out in a fair and accurate manner.

Over 10 years ago, The Constitution Project convened a group of individuals to form a Death Penalty Committee comprising both capital punishment supporters and abolitionists. As you can see from the attached list, this bipartisan Committee includes individuals with a broad range of experience related to the justice system: former state and federal prosecutors, judges, law enforcement officials, policymakers, corrections officials, defense lawyers, victim advocates and others. The Committee members are united in their profound concern that procedural safeguards and assurances of fundamental fairness in the administration of capital punishment are deeply flawed.

Notwithstanding their philosophical and political diversity, the Committee members developed consensus recommendations about

how the death penalty could be more fairly administered.¹ In doing so, the Committee reached similar conclusions to those that you have reached: that “most [state capital punishment systems] pose almost as great a risk of arbitrary, capricious, and discriminatory application as three decades ago, when the Court called for reform in *Furman v. Georgia*”²; and that “[c]riminal trials and the ensuing convictions have unmistakably been shown to be fallible, even when our criminal justice system operates in good faith and apparent good order.”³

As you recognize, Oregon is in no way immune to the flaws in the administration of capital punishment, including arbitrariness and inaccuracy. Therefore, I congratulate you on your decision to halt executions until it is certain that the system can function in a fundamentally fair and 100% accurate manner. Please let me know if there is any way that The Constitution Project can assist you moving forward.

Sincerely,

A handwritten signature in black ink that reads "Virginia E. Sloan". The signature is written in a cursive, flowing style.

Virginia E. Sloan

¹ The Constitution Project Death Penalty Committee, *Mandatory Justice: The Death Penalty Revisited* (2006), available at <http://www.constitutionproject.org/pdf/30.pdf>.

² *Id.* at 40.

³ *Id.* at 46.