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### Greetings!

A person who represents him or herself in court has a fool for a client. That's been a common expression among lawyers for years. Fifty years ago, however, people had no choice when they headed into criminal court. If they did not have the money to hire a lawyer, they were forced to represent themselves -- very often, to their detriment.

That was supposed to change when the U.S. Supreme Court issued its landmark decision in ***Gideon v. Wainwright***, which recognized that the Constitution guarantees all Americans the right to counsel in felony criminal cases and that, if a criminal defendant does not have the resources to hire an attorney, the government has an obligation to provide one. On April 18, 2013, The Constitution Project will celebrate the 50th anniversary of this historic case by honoring four luminaries associated with it. We will present our annual Constitutional Champions awards to **Abe Krash**, an Arnold & Porter attorney who represented Mr. Gideon; **Bruce Jacob**, who represented Florida in the Supreme Court against Mr. Gideon and now advocates for reform; **Walter Mondale**, then-Minnesota Attorney General who organized an *amicus* brief in Mr. Gideon's favor; and **Anthony Lewis**, a Pulitzer Prize winner who wrote "Gideon's Trumpet," extolling the case for protecting a criminal defendant's rights.



At our Gala, we will also show clips from a new video produced by TCP and narrated by **Martin Sheen**, perhaps best known for his portrayal of President Josiah Bartlet on "The West Wing." The video will not only highlight *Gideon*, but also the nationwide indigent defense crisis we face today. If you are interested in attending the Constitutional Champions Gala on April 18, please [order your tickets](#) today. If you or your organization would like to help sponsor the event, please contact Messellech Abebe, Director of Development, at [mabebe@constitutionproject.org](mailto:mabebe@constitutionproject.org) or call her at 202.580.6942. I hope you will join us for what promises to be a very special evening.

Sincerely,



Virginia Sloan  
President, The Constitution Project

## TCP Files *Amicus* Brief Highlighting Deficiencies in Alabama's Indigent Defense System

Right to Counsel

On January 21, TCP moved to file an [amicus brief](#) in the U.S. District Court for the Northern District of Alabama in support of Alabama death row inmate Cory Maples, arguing that Maples is entitled to relief based on the ineffective representation he received during his capital murder trial. Noting that Alabama ranked last in the country in terms of compensation for court-appointed capital defense attorneys at the time of Maples' trial, TCP's brief argues that Alabama's deficient indigent defense system resulted in his constitutionally inadequate representation. Maples' attorneys themselves admitted their inadequacies to the jury, claiming they were "stumbling in the dark" while representing Maples. TCP has previously filed three *amicus* briefs in support of Maples in his attempt to have his ineffective assistance of counsel claims heard by the courts despite his missing a key filing deadline because his attorneys, without telling anyone, abandoned their representation of him.

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## Webinar Co-Hosted by TCP Explores Federal Advocacy After the "Obamacare" Decision

Current Events

On January 31, TCP and Arnold & Porter hosted a webinar to explore how the Supreme Court's decision in the Affordable Care Act ("Obamacare") case might affect Congress' ability to act through its commerce clause, taxing and spending powers. The webinar featured Robert Weiner, a senior partner at the law firm of Arnold & Porter who previously served as Associate Deputy Attorney General at the Department of Justice, overseeing the defense of Obamacare from the outset of litigation through the arguments at the Supreme Court.

The Supreme Court's decision raised questions about the constitutionality of existing and proposed federal programs that seek to promote federal policies by threatening to withhold funds unless the states meet certain requirements. For example, to what extent can the federal government tie federal educational funds to state accommodation of children with disabilities; tie law enforcement grants to state provision for indigent defense; or tie highway funding to drivers' license eligibility criteria? The [memorandum](#) Mr. Weiner and his colleagues prepared for TCP on this important subject is available on TCP's website, and audio from the webinar will be posted there soon.

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## Second Circuit Grants TCP Request to File *Amicus* Brief in *Hedges*

Counter-Terrorism Policies and Practices

The U.S. Court of Appeals for the Second Circuit granted a request by TCP and the Center for

National Security Studies to file an [amicus brief](#) in *Hedges et al v. Obama*. Earlier this year, the district court issued an injunction in the case prohibiting the government from enforcing Section 1021 of the National Defense Authorization Act of 2012 (FY2012 NDAA), which provides for military detention of certain individuals. The Second Circuit stayed that decision pending resolution of the government's appeal. The brief raises an argument overlooked by the district court and not addressed by the parties, namely that neither the FY2012 NDAA nor the 2001 Authorization for the Use of Military Force (AUMF) adopted in the aftermath of the 9/11 attacks provides the executive with the authority to place individuals in military detention without charge or trial if the individuals are arrested in the United States. The Second Circuit will hear oral argument in the case on February 6th.

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## TCP Scholar-in-Residence Questions Drone Secrecy Rationale

### Classification & Secrecy

In a January 21 [op-ed](#) published in *The National Law Journal*, TCP's Scholar-in-Residence and well-regarded expert on the Constitution's separation of powers, Louis Fisher, criticized a recent federal court decision that denied plaintiffs access to the legal memos used by the Obama administration to support its drone attacks on terrorist targets. Fisher wrote, "Legal opinions that authorize targeted killings, including those of U.S. citizens, need to be made public. No plausible case can be made for withholding legal reasoning. With secret legal memos, government functions by fiat. The dominant force is not law but executive will over democracy and the constitutional system of checks and balances."

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## TCP Newsmakers

### Current Events

- TCP Board member and former congressman **Mickey Edwards** (R-OK) [was interviewed](#) on WHYY Radio about his new book, ["The Parties Versus the People: How to Turn Republicans and Democrats into Americans."](#) He explained why he believes our current political system discourages compromise and undermines democracy.
- **Retired Brigadier General David Irvine**, a member of TCP's Task Force on Detainee Treatment, was [interviewed](#) on the Leslie Marshall Show. He was asked about the movie "Zero Dark Thirty" and its portrayal of torture as an effective means of interrogation. Irvine taught prisoner-of-war interrogation and military law at the Sixth U.S. Army Intelligence School.
- **Morton Rosenberg**, a TCP fellow, was [interviewed](#) on Federal News Radio about the recent D.C. Circuit decision invalidating the recess appointments last year of four members to the National Labor Relations Board.
- On January 30, **Sharon Bradford Franklin**, TCP's senior policy counsel in the Rule of Law program, [participated](#) in a panel discussion on Huffington Post Live about cybersecurity, including the Pentagon's plans to expand its cybersecurity operations and the surveillance risks created by government cybersecurity programs.

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