



In This Issue

[Task Force on Detainee Treatment Holds Events in Philadelphia, San Francisco](#)

[TCP Calls on Congress to Provide Critical Resources for the Federal Courts](#)

[Accepting Submissions for Paul Saunders Web Forum on Recess Appointments](#)

[Tech Companies, Privacy Advocates Back Surveillance Transparency Legislation](#)

[Bromwich, Rudin to Co-chair Committee on DNA Collection](#)

[Vladek to Serve as Co-Editor-in-Chief for New National Security Blog](#)

[TCP Young Professional Committee Co-Chair Recognized as 2013 "99 Under 33."](#)

[Newsmakers in Brief](#)



[Donate Now](#)

Greetings!

On September 17, The Constitution Project celebrated Constitution Day by presenting its annual Constitutional Commentary Award to the acclaimed filmmaker Ken Burns and his colleagues, Sarah Burns and David McMahon, for their documentary, "[The Central Park Five](#)." The movie tells the harrowing story of five teenagers from Harlem who were wrongly convicted of an infamous rape in New York City's Central Park in 1989, in large part based on false confessions.

Conservative columnist George Will called the film "a meticulous narrative of a gross miscarriage of justice." TCP presents the award annually to the author or producer of an outstanding work that has improved the quality of public discourse through insightful, articulate analysis of a contemporary constitutional issue.

The event also featured a panel discussion, moderated by NPR's Carrie Johnson, focusing on false confessions. Mr. Burns was joined by Shawn Armbrust, Executive Director, Mid-Atlantic Innocence Project; Professor Saul Kassin, Distinguished Professor of Psychology at John Jay College of Criminal Justice; and James Trainum, Retired Detective, Metropolitan Police Department of the District of Columbia. The panelists discussed the phenomenon of innocent people confessing to crimes they did not commit, the pressures police and prosecutors can exert on suspects and the institutional policies that can be adopted by law enforcement agencies to help address the problem. The entire event, which was streamed live to universities across the country and covered by [The Hill](#) and [Tufts Daily](#), is now available on our [digital media page](#).

I am grateful to everyone who helped make the event such a success, especially our co-sponsors at Arent Fox, LLP, and the Center for the Constitution at James Madison's Montpelier.

Sincerely,

Virginia Sloan
President, The Constitution Project



Task Force on Detainee Treatment Holds Events in Philadelphia, San Francisco

Counter-Terrorism Policies & Practices

On September 24, two members of TCP's bipartisan, blue-ribbon [Task Force on Detainee Treatment](#) joined Jeffrey Rosen, the [National Constitution Center's](#) President and CEO, in Philadelphia for an in-depth discussion about America's pre- and post-9/11 actions related to the capture, detention, and interrogation of suspected terrorists. Task Force members Ambassador James R. Jones and General David R. Irvine participated in the conversation. Local [CBS affiliates](#) and [WMMR](#) covered the event. Look for an audio recording of the exchange on our digital media page in the near future.

The Commonwealth Club of California will host Ambassador Thomas Pickering, another Task Force member, for a similar conversation in San Francisco on October 21. Anyone interested in attending that event should [RSVP](#) on the Club's website. In the wake of President Obama's recently renewed pledge to close the Guantánamo Bay prison - and amidst ongoing scrutiny of detainee treatment there - we hope these timely conversations will encourage continued public dialogue about our past, and in some cases current, treatment of prisoners in Guantánamo Bay, Afghanistan, Iraq, and elsewhere.

[Back to Top](#)

TCP Calls on Congress to Provide Critical Resources for the Federal Courts

Right to Counsel

TCP continued its advocacy efforts to increase funding for federal public defenders, whose budgets were cut deeply by the "sequestration" of federal funds. TCP government affairs counsel Christopher Durocher told the [Huntsville Times](#), in a story published on September 8, that federal budget cuts have not been spread evenly throughout the criminal justice system. While federal defenders, paid by the Judicial Branch, have had to take unpaid furloughs, lawyers on the other side - prosecutors paid out of the Department of Justice budget - did not. Mr. Durocher was also interviewed for a September 3 story in the [Richmond Times-Dispatch](#).

On September 17, TCP, along with 26 other nonpartisan groups that support fair courts and civil rights, sent a [letter urging Congress](#) to provide appropriate resources for the federal judiciary. The groups noted that sequestration has led to budget cuts of \$350 million for the federal courts. This has resulted in a nearly 10 percent cut in funding for Federal Defender offices, causing many offices to lay off employees and requiring remaining employees, in some instances, to take up to 20 furlough days each. Slashing the budgets of the court system threatens fundamental constitutional rights, including the right to counsel, jury trials and due process, as well as statutory rights, such as the right to a prompt trial. The groups warned that if Congress fails to increase funding for Federal Defender services in the next fiscal year, which begins on October 1, further staffing cuts and furloughs in Federal Defender Offices will be both necessary and disastrous.

[Back to Top](#)

Accepting Submissions for Paul Saunders Web Forum on Recess Appointments

TCP recently launched an [open web forum](#) centered on *NLRB v. Noel Canning*, an upcoming Supreme Court case that will tackle the issue of the Recess Appointments Clause, and more broadly the relative merits of political compromise and judicial resolution. Former Senate Legal Counsel and General Counsel of the Select Committee on Intelligence [Michael Davidson](#), [Dr. Norman Ornstein](#) of the American Enterprise Institute, and law professor [Peter M. Shane](#) have all offered their views on this critical separation of powers case and the underlying issues. The Forum allows contributors to react and respond to both the Solicitor General's brief (filed on September 13 and posted [here](#)) and the Respondent's brief (due November 18), as well as briefs filed by their supporting *amici*. We [welcome submissions](#) offering a variety of perspectives and we will post contributions on a rolling basis.

The Forum, which will address other controversial issues in the future, is named to honor Paul Saunders, who served on TCP's Board of Directors from 1999 to 2011, and as its chair from 1999 to 2006. Mr. Saunders is of counsel to Cravath, Swaine & Moore's Litigation Department, having retired from the firm in August, 2010.

[Back to Top](#)

Tech Companies, Privacy Advocates Back Surveillance Transparency Legislation

Government Surveillance & Searches

On September 30, TCP joined a broad coalition of Internet companies and advocates for free speech and privacy rights in supporting two bills that substantially increase transparency of government surveillance of the Internet. In a [letter delivered](#) to the leaders of the U.S. Senate and House Judiciary Committees, the coalition expressed strong support for Senator Al Franken's Surveillance Transparency Act of 2013 (S. 1452) and Representative Zoe Lofgren's Surveillance Order Reporting Act of 2013 (H.R. 3035), each of which would clarify that companies have the right to publish basic statistics about the government's demands for user data that they receive-including demands under the Foreign Intelligence Surveillance Act.

According to those signing the letter, "such transparency is important not only for the American people, who are entitled to have an informed public debate about the appropriateness of that surveillance, but also for international users of U.S.-based service providers who are concerned about privacy and security."

In addition to TCP, signatories include Apple, Facebook, Google, LinkedIn, Microsoft, Twitter and Yahoo, as well as the ACLU, Americans for Tax Reform, the Center for Democracy and Technology, the Competitive Enterprise Institute and the Reporters Committee for Freedom of the Press. The letter asks the committee leaders to hold hearings on the transparency issue and quickly move the bills forward.

[Back to Top](#)

Bromwich, Rudin to Co-chair Committee on DNA Collection

Criminal Justice

A former Justice Department Inspector General and leading geneticist will co-chair TCP's [new committee](#) to explore best practices for DNA collection by law enforcement agencies at the federal, state, and local levels - deliberations made more timely by a recent Supreme Court decision.

Michael R. Bromwich, who served as Inspector General for the Department of Justice from 1994 to 1999, is the founder and managing principal of The Bromwich Group. Dr. Norah Rudin is a forensic

DNA consultant with twenty years of private sector experience, including extensive consulting with law enforcement agencies. The Committee includes former Directors of the CIA and FBI, retired federal judges, and other experts in the field.

In June, the U.S. Supreme Court handed down its decision in [Maryland v. King](#), which held that a Maryland statute authorizing the routine collection of DNA samples from those arrested for certain felonies did not violate Fourth Amendment protections against unreasonable searches. This decision establishes a constitutional baseline for the practice, but it also leaves a host of questions unanswered. While the Maryland law upheld by the Court includes significant procedural protections, many jurisdictions across the country that collect DNA samples lack similar safeguards.

The Committee on DNA Collection will survey the collection and storage policies and practices that jurisdictions currently have in place or are contemplating, identify the privacy and civil liberties concerns they raise, and fashion policy recommendations to better ensure the transparency and security of collection programs whenever government agencies choose to deploy this powerful law enforcement tool. We are grateful to the law firm of Jones Day, and to our board member Lawrence Rosenberg, a partner at the firm, for providing legal guidance and support for the Committee's work.

[Back to Top](#)

Vladek to Serve as Co-Editor-in-Chief for New National Security Blog

Current Events

[Just Security](#) is an online forum for the rigorous analysis of U.S. national security law and policy. It has recruited contributors with significant government experience, civil society attorneys, academics, and other leading voices, including Steve Vladek, American University law professor and TCP's Supreme Court Fellow, who will serve as the blog's co-Editor-in-Chief. *Just Security* is based at the Center for Human Rights and Global Justice at New York University School of Law. You can follow them on Twitter @just_security.

[Back to Top](#)

TCP Young Professional Committee Co-Chair Recognized as 2013 "99 Under 33."

Current Events

Diplomatic Courier and the Young Professionals in Foreign Policy have named John Paul Schnapper-Casteras, co-chair of The Constitution Project's Young Professional Committee, as one of the Top 99 Foreign Policy Leaders Under 33, or "99 Under 33," an international list recognizing the most influential young foreign policy leaders of their generation. The two organizations recognize each honoree's potential as a future leader as well as the distinctive impact on foreign policy the honoree has on his or her community today.

Schnapper-Casteras is an associate in the Litigation practice in the Sidley Austin, LLP Washington, D.C. office. His practice focuses on appellate representation, complex commercial litigation and criminal defense. A native of Seattle, Schnapper-Casteras is a regular commentator on international affairs. He also sits on the board of trustees of the American University of Iraq, Sulaimani, which aims to foster the next generation of leaders from Iraq and the broader region.

As co-chair to TCP's [Young Professionals Committee](#), Schnapper-Casteras works with TCP's staff and board to facilitate new partnerships for TCP with law firms, businesses, schools and other

institutions as well as cultivate and support the next generation of TCP's leaders. Schnapper-Casteras shares co-chair duties with John Dundon of Kirkland & Ellis LLP.

[Back to Top](#)

Newsmakers in Brief

Current Events

- TCP Scholar-in-Residence Louis Fisher, a renowned expert on what the Constitution says about the powers of the Executive and Legislative Branches to declare and wage war and a member of TCP's War Powers Committee, was extensively published in and interviewed by major media outlets about potential military action in Syria. He was quoted in stories in *The Washington Times* (on [September 3](#), [September 4](#), and [September 8](#)), [CNN](#), and [The Nation](#) on September 4, the [Boston Review](#) on September 10, and [Constitution Daily](#) on September 12. Finally, on September 13, [Roll Call](#) published Mr. Fisher's op-ed on a recent D.C. Circuit Court of Appeals decision involving a separation of powers dispute between Congress and the Executive Branch.
- [FoxNews.com](#) and Bloomberg News (paywall protected) interviewed former Congressman David Skaggs (D-CO), a co-chair of TCP's War Powers Committee, on the buildup toward possible military intervention in Syria. Skaggs and Fisher were among a group of distinguished members of the Committee who also wrote to [President Obama](#) and [Congress](#) in July to emphasize that offensive military action would require prior congressional approval.
- Professor Norman Lefstein of the Indiana University School of Law, who served as a reporter for TCP's [Justice Denied](#) report, wrote [an op-ed](#) titled "Essential Role of Private Lawyers in Defending the Poor," which was published September 19 in *The Hill* newspaper. Professor Lefstein mentioned the report's findings in his article. He also participated in a congressional briefing on September 17 hosted by Representatives John Conyers (D-MI) and Robert "Bobby" Scott (D-VA), discussing the funding crisis facing federal indigent defense. TCP co-sponsored the event with the American Bar Association, American Civil Liberties Union, Federal Bar Association, and National Legal Aid and Defenders Association.
- On September 23 and 26, TCP criminal justice policy counsel Liz Fasse was quoted on [Wisconsin Public Radio](#) about the legacy of *Gideon v. Wainwright* fifty years after the landmark decision. TCP's video, *Defending Gideon*, was narrated by Martin Sheen and details today's crisis in indigent defense. Visit our [resource page](#) for more details.

[Back to Top](#)

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