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# ADVOCACY EFFORTS OF THE CONSTITUTION PROJECT IN FURTHERANCE OF THE COMMITTEE’S RECOMMENDATIONS

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For almost 15 years, The Constitution Project (“TCP”) has tirelessly promoted pragmatic, bipartisan policies before the courts, policymakers, the media and the public. Through our Death Penalty Committee, and through our *Clearinghouse on Unlikely Allies for Criminal Justice Reforms* (the “Clearinghouse”), we have reached audiences far beyond the “usual suspects” with effective advocacy and education. The Clearinghouse is comprised of Death Penalty Committee members in addition to hundreds of former prosecutors, law enforcement, corrections officials, judges and others whose voices carry particular weight in the debate over reforms to the death penalty, as well as other criminal justice issues. TCP drafts and organizes letters, amicus briefs, advocacy statements and the like for Committee and Clearinghouse members who help us to promote these reforms.

What follows are just some examples of this work over that period of time.<sup>9</sup>

## Safeguarding Innocence and Preventing Wrongful Executions

The Death Penalty Committee – in this report and in prior reports – has issued a number of recommendations that seek to minimize the risk of wrongful conviction and execution. TCP’s work in this area has sought to prevent the serious miscarriages of justice that could be avoided through adherence to the Committee’s recommendations.

Members of the Death Penalty Committee advocated for the reconsideration of **Troy Anthony Davis**’ conviction and death sentence. In 2009, Committee and Clearinghouse members comprised the 27 former prosecutors and judges who served as amici in a brief to the U.S. Supreme Court successfully urging the Court to order an evidentiary hearing to consider new evidence that raised serious doubts as to Davis’ guilt. Over the next two years, Committee members spoke out publicly for clemency in the case. Numerous media outlets, including *The New York Times*, *Wall Street Journal* and MSNBC, highlighted the calls for clemency from Committee members Bob Barr, a former Republican congressman and U.S. Attorney from Georgia; Judge William S. Sessions, a former federal judge and director of the FBI; Mark White, a former Governor of Texas and co-Chair of the Death Penalty

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<sup>9</sup> Throughout this section, unless otherwise noted, the report refers to advocacy efforts made through both the Death Penalty Committee and the Clearinghouse as simply “TCP” efforts. Note, however, that TCP policy on the death penalty is only that which is developed through and adopted by our Death Penalty Committee.

Committee; and John Whitehead, head of the Rutherford Institute. Despite these efforts and those of allied organizations, the district court on remand refused to overturn the original guilty verdict, finding that Davis had not met the exceedingly high burden imposed by federal law that he prove his innocence by “clear and convincing evidence.” The State of Georgia executed Davis on September 21, 2011.

### Forensic Evidence and Labs

The Committee’s recommendations in this area call for enhanced preservation and testing of forensic evidence in capital cases, including, for example, reducing the barriers to new forensic testing for those on death row.

In April 2012, TCP sent a letter calling on U.S. Attorney General Eric Holder to investigate potentially faulty forensic evidence and flawed testimony by FBI analysts and to share its findings with affected defendants and their counsel. In May 2013, **Willie Jerome Manning**, who was sentenced to death in part based on faulty FBI forensic hair analysis, won a stay of execution from the Mississippi Supreme Court mere hours before his scheduled execution. This allowed his lawyers time to conduct DNA testing after the FBI informed the court of potential errors in agents’ testimony. In June 2013, Judge William S. Sessions authored a newspaper editorial (“OpEd”)<sup>10</sup> expressing concern about the reliability of testimony and forensic hair analysis in the case of **John Norman Huffington**, who was imprisoned for nearly 32 years in Maryland and had his conviction overturned by a judge after DNA testing revealed that the hair that was presented as key evidence against Huffington did not belong to him.

Clearinghouse and Committee members have been active in the case of **Hank Skinner**, a Texas death row inmate seeking post-conviction DNA testing of evidence. Committee members, including former Governor White, joined a letter to the district attorney and Governor Rick Perry requesting DNA testing for Skinner and a stay of execution until such testing had been performed. Governor White, along with Judge Sessions, also wrote an OpEd in the *Austin American-Statesman* calling for such testing.<sup>11</sup> After years of objecting to DNA testing, the State of Texas changed course in 2012 and consented to testing and in 2013, consented to additional testing.

### Access to Justice

The Death Penalty Committee remains concerned that procedural obstacles present one of the most serious impediments to ensuring fairness and correction of error in death penalty

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<sup>10</sup> William S. Sessions, *DNA: A test for justice*, BALTIMORE SUN, JUNE 10, 2013, at <http://www.baltimoresun.com/news/opinion/oped/bs-ed-dna-testing-20130610,0,3043418.story#ixzz2hoIVc2ja>.

<sup>11</sup> Mark White & William S. Sessions, *White, Sessions: Innocence commission needed in Texas*, AUSTIN AMERICAN-STATESMAN, MARCH 12, 2013, at <http://www.statesman.com/news/news/opinion/white-sessions-innocence-commission-needed-in-texa/nWpsD/>.

cases. While this is an area of law that is extraordinarily complex, TCP has sought to limit the application of draconian procedural hurdles such as “default,” “exhaustion” and undue deference to state court decisions based on erroneous application or interpretation of federal law.

In October 2012, TCP filed an amicus brief with the U.S. Supreme Court on behalf of **Michael Anthony Peak**, arguing that the Court should accept review of the case to clarify that the Antiterrorism and Effective Death Penalty Act does not prevent a federal court from considering a habeas corpus petition when a state court fails to apply clearly established federal law. In early 2013, the Court declined to review the case.

In May 2011, TCP and the Cato Institute filed an amicus brief with the U.S. Supreme Court on behalf of **Cory Maples**, arguing that his federal habeas corpus petition should be considered notwithstanding his procedural default because his failure to meet a critical filing deadline was the result of his counsel abandoning representation of him. The Court held that “cause” existed to excuse Maples’ procedural default, although the question of resulting prejudice was left for consideration on remand. TCP subsequently filed an amicus brief in January 2013 in the U.S. District Court for the Northern District of Alabama in support of Maples, arguing that he is entitled to relief based on the ineffective representation he received during his capital murder trial. The brief noted that Alabama ranked last in the country in terms of compensation for court-appointed capital defense and that Alabama’s deficient indigent defense system resulted in Maples’ constitutionally inadequate representation.

In December 2009, then-TCP Board Chair Stephen Hanlon and Death Penalty Committee Co-Chair Gerald Kogan testified before the U.S. House of Representatives’ Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties on the urgent need to restore full habeas corpus rights in death penalty cases. Both highlighted the increased restrictions on the availability of federal habeas review, which make it nearly impossible to correct serious constitutional violations in many death penalty cases.

## **Custodial Interrogations**

The Death Penalty Committee has long been concerned about the dangers of custodial interrogation techniques that could, even inadvertently, lead to false confessions. For this reason, the Committee continues to call upon jurisdictions to adopt safeguards, including videotaping custodial interrogations, to reduce the risk of false confessions and provide juries with the full context of any statements a defendant may have made during an interrogation.

In September 2013, TCP held a Constitution Day event that was simulcast to law school and colleges throughout the country focusing on the causes and consequences of false confessions in both capital and non-capital cases. The event featured a panel discussion, moderated by NPR's Carrie Johnson, focusing on false confessions. Renowned filmmaker Ken Burns, who co-produced the documentary "The Central Park Five" about four young men who were coerced into confessing to a crime they did not commit due to improper interrogation techniques, 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. Many of the recommended safeguards that were discussed at this event are reflected in this report.

### Ensuring Reliable Eyewitness Testimony

The Death Penalty Committee has always been concerned about the importance juries place on eyewitness testimony, particularly given the well-documented unreliability of eyewitnesses. Recommendations to address this concern, which were included in the Committee's original reports, have since been expanded as a result of increased evidence regarding both the inaccuracies affecting eyewitness testimony and the effects of such testimony on juries.

As discussed earlier, TCP worked to prevent the execution of **Troy Anthony Davis**, who had been convicted and sentenced to death based almost entirely on the testimony of nine eyewitnesses, seven of whom later recanted their testimony. In an OpEd published in the *Atlanta Journal-Constitution* in September 2011, Judge Sessions concluded, "that the evidence in this case – consisting almost entirely of conflicting stories, testimonies and statements – is inadequate to the task of convincingly establishing either Davis' guilt or his innocence."<sup>12</sup>

In May 2010, TCP filed an amicus brief with the U.S. Supreme Court in support of a petition for *certiorari* in the case of **Darick Demorris Walker**. Walker was convicted and sentenced to death based largely on the testimony of one witness who it was discovered after trial did not see but only heard the perpetrator shoot the victim. In its brief, TCP cited the Death Penalty Committee's observation that "the power of the testimony of even a single eyewitness, combined with the demonstrated fallibility of such evidence" makes it critical

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<sup>12</sup> William S. Sessions, *Should Davis be Executed? No.*, ATLANTA-JOURNAL CONSTITUTION, SEPT. 15, 2011, at <http://www.ajc.com/news/news/opinion/should-davis-be-executed-no/nQLqc/>.

that prosecutors limit their reliance on a sole eyewitness and turn over to defense counsel any evidence tending to impeach the eyewitness's credibility. The Supreme Court denied Walker's petition for *certiorari*.

## Reserving Capital Punishment for the Most Heinous Offenses and Culpable Offenders

The Committee supports narrowing the class of offenders and offenses eligible for capital punishment to ensure the fair and proportionate administration of justice. This includes supporting enforcement of the prohibition on the execution of persons with intellectual disability and eliminating the punishment's application to those who did not intentionally take the life of another.

In December 2013, over 40 Clearinghouse members, including former judges and law enforcement officials, filed an amicus brief with the U.S. Supreme Court to support Florida death row inmate **Freddie Lee Hall's** petition for a writ of habeas corpus. The brief argued that Florida's method of determining whether Hall is a person with an intellectual disability – and thus is ineligible for the death penalty – runs afoul of previous Court precedents and threatens to undermine public confidence in the fair and equal administration of the death penalty. At the time of publication of this report, a decision had not been rendered in the case.

In partnership with the Tennessee Criminal Defense Lawyers Association, TCP filed an amicus brief in March 2013 at the Tennessee Supreme Court in the case of *State v. Pruitt*. The brief argued, consistent with the Death Penalty Committee's recommendations, that imposing a death sentence on a defendant who never formed the intent to kill violates the proportionality principle of the federal and Tennessee constitutions because of its exceeding rarity. At trial, Pruitt had been sentenced to death for murder in the course of a robbery in which Pruitt, unarmed, stole a car and assaulted the victim by throwing him to the ground. The victim later died from the injuries sustained during the robbery. The Tennessee Supreme Court ultimately upheld the death sentence in Pruitt's case. However, in a dissenting opinion, two justices said they would have modified the death sentence to life in prison without parole due to the disproportionate application of capital punishment in Pruitt's case. In April 2014, TCP filed a brief for *certiorari* with the U.S. Supreme Court asking it to review the death sentence in Pruitt's case.

In 2012, Committee member and evangelical Christian leader David Gushee sent a letter to the Georgia Board of Pardons and Paroles, asking them to grant clemency to Georgia death row inmate **Warren Hill**. Hill has been unable to meet Georgia's extraordinarily high burden – beyond a reasonable doubt – to show that he is intellectually disabled and thus

ineligible for the death penalty. A Georgia court granted a stay of the execution in 2012. At a second execution date in early 2013, the U.S. Court of Appeals for the Eleventh Circuit granted a stay and noted that all doctors who had examined Hill now believe him to be intellectually disabled (including those who had testified for the prosecution that he was not intellectually disabled at the original trial). On rehearing, the Eleventh Circuit refused to consider Hill's intellectual disability claim under a lower standard of proof (adopted by all other states that have the death penalty), and the U.S. Supreme Court denied *certiorari*. Although a Georgia state house committee held a hearing on whether to change the standard, no legislation has yet been proposed that would do so. Hill remains on death row pending Georgia Supreme Court review of a challenge to a Georgia law that keeps secret the identities of those who make and supply lethal injection drugs.

### Ensuring Effective Counsel

One of the primary findings of TCP's Death Penalty Committee is that there is a crisis in providing competent, well-resourced lawyers in capital cases, and that this situation must change. TCP's advocacy efforts have sought to improve defense services in death penalty cases, consistent with the Committee's recommendations, in numerous ways.

In 2013, mandatory cuts to the federal budget, known as sequestration, cut nearly 10 percent from federal public defenders' budgets and resulted in layoffs and up to 20 days of furlough in many federal defender offices. Federal public defenders, who represent capital and non-capital defendants and were already stretched to the maximum by daunting caseloads, were asked to provide constitutionally guaranteed representation without adequate resources to federal criminal defendants unable to afford a lawyer. TCP, working with federal defenders, private attorneys and a broad coalition of advocacy organizations, successfully convinced Congress of the critical need to prioritize federal defender funding, resulting in an increase in funding for 2014 (despite continued budget shortfalls for many other federal programs).

In April 2013, Senator Patrick Leahy (D-VT), Chair of the Senate Judiciary Committee, introduced the Justice for All Reauthorization Act. The legislation requires states seeking federal criminal justice grants to submit strategic plans, developed in conjunction with stakeholders from *all* segments of the criminal justice system (including the indigent defense community), and provides technical assistance to states seeking to improve their indigent defense systems. The bill also contains improvements to federal programs that encourage states to make post-conviction DNA testing available in capital cases and improve their ability to accurately process forensic evidence. The bill also includes an exception to the Capital Representation Improvement Grant's requirement that states allocate funding for training on capital litigation equally between prosecutors and public defenders. The amendment would change the current statutory requirement to allow the Attorney General, upon a showing of

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good cause, to determine a fair allocation of the funds. TCP worked closely with the Judiciary Committee and the Department of Justice to help secure these provisions.

Nine former federal judges who are members of TCP's Clearinghouse filed an amicus brief in July 2012 urging the U.S. Supreme Court to hear the Texas death penalty case of **Trevino v. Thaler**. The judges urged the Court to grant *certiorari* due, in part, to the fact that the lower federal court based its decision denying Trevino relief on his ineffective assistance of counsel claim on facts uncovered by the court's own investigation that went beyond the record in the case. The Supreme Court agreed to hear the case and in May 2013 it ruled in Trevino's favor by reversing the Fifth Circuit's holding and remanding the case to the district court.

In November 2012, citing the Death Penalty Committee's recommendations on counsel, TCP filed an amicus brief with the U.S. Supreme Court in the case of **Boyer v. Louisiana**, arguing that if a state neglects its obligation to provide adequate funds for the representation of a capital defendant – as it did with Jonathan Boyer – the delay in reaching trial should be attributed to the state. Despite originally accepting *certiorari*, the Court later dismissed the case as improvidently granted, avoiding the central question in the case.

Since 2005, TCP has been working to ensure that the Department of Justice adopts robust regulations regarding the appointment of competent counsel to death row inmates during state post-conviction review in those states seeking to “fast track” federal habeas corpus review. Along with our allies, TCP has pushed aggressively for regulations that contain meaningful requirements for a state's proposed plan to provide post-conviction counsel for death row inmates. This includes ensuring that counsel has relevant experience litigating capital cases and is provided adequate resources to effectively represent his or her client. As of the writing of this report, the Justice Department has issued regulations, but their implementation has been delayed under a temporary restraining order pending resolution of substantive and procedural challenges to the regulations.

## Duty of Judge and Jury

The Death Penalty Committee recommendations in this area have focused on the roles and obligations of both judges and juries in the fair and accurate administration of a capital case.

TCP has supported efforts to ensure that judges do not place limits on a jury's ability to consider mitigating evidence in death penalty cases. For example, in September 2010, TCP Clearinghouse and Death Penalty Committee members, including former prosecutors, judges and state officials, filed an amicus brief with the U.S. Supreme Court on behalf of **William Glenn Boyd** who is currently on death row in Alabama. The brief challenged the



Eleventh Circuit's *Dobbs* rule, which denies capital defendants an individualized sentencing determination if a particular aggravating factor is present in their case. The brief argued that an individualized determination is constitutionally demanded in capital cases. The Court ultimately denied *certiorari* in the case.

In July 2011, former Florida judge and Committee member O.H. Eaton, Jr. wrote an OpEd in *The Birmingham News* calling for Alabama's legislature to make it impermissible for a judge to overrule a jury's decision to recommend life in prison and to instead impose a death sentence.<sup>13</sup> Judge Eaton observed that "a system of judicial override creates a system in which geography, race, timing of trial and the individual judge, rather than the seriousness of the crime, determine whether one will be sentenced to death."

### Explaining and Guaranteeing the Availability of Life Without Parole

Since 2001, the Death Penalty Committee has recommended that an alternative sentence of life without parole be made available in every capital case. In July 2005, Governor Rick Perry signed a reform bill that would provide life without the possibility of parole as an alternative to a death sentence. Then-Death Penalty Committee member Paula Kurland, along with other family members of crime victims, played a critical role in convincing Texas legislators to support the bill. The measure's author, Texas State Senator Eddie Lucio, Jr., credited Kurland and other victims' advocates with helping pass the bill. The introduction of this alternative sentence, along with other factors, have contributed to a precipitous decline in death sentences in Texas.

### Role of Prosecutors

The Death Penalty Committee has issued a range of recommendations concerning the exercise of prosecutorial discretion in death penalty cases, as well as the duty of prosecutors to ensure the fair enforcement of the law. As prosecutors are the cornerstone of the justice system, the Committee's recommendations in this area are promoted through both policy advocacy and through support for those litigating capital cases.

A federal district court judge in December 2012 ordered that Virginia release death row inmate **Justin Wolfe**, citing that prosecutor misconduct, which included the coercion of a key witness in the case and the withholding of exculpatory evidence in violation of the Constitution, irrevocably tainted the case. In January 2013, a federal appeals court ruled that it would hear additional arguments in the case and TCP Clearinghouse members submitted

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<sup>13</sup> O.H. Eaton, Jr., *Other Views: Alabama judges, not juries, should decide death sentences*, THE BIRMINGHAM NEWS, JULY 22, 2011, at [http://blog.al.com/birmingham-news-commentary/2011/07/post\\_31.html](http://blog.al.com/birmingham-news-commentary/2011/07/post_31.html).



an amicus brief, as well as a letter calling on the court to replace the special prosecutor in the case. TCP made the request out of concern that the special prosecutor did not carefully examine the evidence to reach an independent conclusion about the case, but instead relied on the earlier deliberation of the prosecutors whose misconduct and errors in judgment left Wolfe on death row for more than a decade.

Based on the Death Penalty Committee's longstanding recommendation that foreign nationals who are not provided with their consular notification rights under the Vienna Convention should not be eligible for the death penalty, TCP supported a federal legislative proposal that would provide foreign nationals currently on death row the opportunity to seek judicial review of violations of their right to consular notification and access. The legislation also would provide for review and appropriate remedies in future cases in which violations of the right to consular access allegedly occurred, if the foreign national is facing capital charges in a U.S. court. First introduced in June 2011 and most recently included in a bill introduced in July 2013, TCP continues to advocate for passage of such legislation by the U.S. Congress.

Relatedly, in January 2014, TCP condemned Texas's execution of Mexican national, **Edgar Tamayo**, who had been denied consular access after his arrest. Governor Mark White weighed in on the issue in an OpEd in the *Austin American-Statesman*.<sup>14</sup> White's position was noted in *The New York Times* and *The Los Angeles Times*, as well as on CNN and MSNBC, along with various other media outlets.<sup>15</sup> This followed previous efforts in 2011 urging the Governor of Texas and its Board of Pardons and Paroles to stay the execution of **Humberto Leal Garcia**. Leal, a Mexican national, had also been denied consular access. Unfortunately, despite calls from the Obama Administration, the Mexican government, former U.S. diplomats, retired military officials and TCP Clearinghouse voices (including former judges and prosecutors) urging the Texas Governor and Board to stay the execution, on July 7, 2011, Texas executed Leal.

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<sup>14</sup> Mark White, *Perry, Abbott should be true to their word in handling Tamayo case*, AUSTIN AMERICAN-STATESMAN, JAN. 14, 2014, at <http://www.constitutionproject.org/documents/perry-abbott-should-be-true-to-their-word-in-handling-tamayo-case/>.

<sup>15</sup> See Norman J. Ornstein, *Disarming the White House*, N.Y. TIMES, JAN. 21, 2014, at <http://www.nytimes.com/2014/01/22/opinion/disarming-the-white-house.html?emc=eta1>; Molly Hennessy-Fiske, *Planned execution in Texas draws high-profile protests*, L.A. TIMES, JAN. 21, 2014, at <http://www.latimes.com/nation/la-na-texas-execution-20140122,0,4006879.story#ixzz2r9pNReY9>; Catherine E. Shoichet & Elwyn Lopez, *Mexico to Texas on convicted cop killer: Don't execute our citizen*, CNN, JAN. 22, 2014, at <http://www.cnn.com/2014/01/20/justice/mexico-texas-tamayo-execution/>; Trymaine Lee, *SCOTUS refused to halt execution of Mexican citizen in Texas*, MSNBC, JAN. 22, 2014, at <http://www.msnbc.com/msnbc/mexican-citizen-set-die-texas>.

## Safeguarding Racial Fairness and Proportionality

The Death Penalty Committee has long called for reforms to combat the overwhelmingly disproportionate application of the death penalty based on race. These include creating safeguards in the process by which prosecutors determine which cases are charged capitally and empowering courts to review cases in light of other similarly situated defendants to determine whether there is a pervasive, systemic application of the death penalty in a racially disproportionate manner.

In August 2013, former senior United States military officials who are members of TCP's Clearinghouse filed an amicus brief with the North Carolina Supreme Court in support of **Marcus Reymond Robinson**, who was seeking to overturn his death sentence under the North Carolina Racial Justice Act. The military officials argued that racial sensitivity training programs, like those used in the military, are an effective tool to combat racial bias, and that the prosecutor's failure to participate in such training should be considered by a court in deciding whether race was a factor in seeking the death penalty. At the time this report was published, the case was still pending before the North Carolina Supreme Court.

## Executive Clemency

The Death Penalty Committee recognizes that, due to the many obstacles impeding the fairness of the administration of the death penalty, executive clemency is a critical last resort. Clemency allows the executive branch, including the President of the United States, state governors and boards of pardon, to override a death sentence in cases where serious injustices may exist but where courts, for various reasons, have been unable to provide relief.

In May 2013, former prosecutors who are Clearinghouse members urged Colorado Governor John Hickenlooper to commute **Nathan Dunlap**'s death sentence to life in prison without the possibility of parole. This letter called on the Governor to act in light of the fact that the jury was not informed that Dunlap suffers from a serious mental illness and was given no opportunity to consider the effects of that illness on Dunlap's moral culpability. On May 22, 2013, the Governor announced an indefinite stay of execution.

Members of the Death Penalty Committee and Clearinghouse also comprised the 31 former judges and prosecutors who signed a letter to Ohio Governor Ted Strickland in August 2010 in support of clemency for **Kevin Keith**. TCP urged the Governor to grant clemency in light of the failure of any court of law to cumulatively consider exculpatory evidence that was suppressed during Keith's trial, including faulty eyewitness and forensic evidence and the

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confession of an alternative suspect. The letter was cited in an article in the *New York Times*<sup>16</sup> that discussed the unlikely allies supporting clemency for Keith and on September 2, 2010, Governor Strickland commuted Keith's sentence to life in prison without parole.

## Execution Procedures

Since the release of the Death Penalty Committee's most recent report in 2005, execution procedures, particularly the use of lethal injections, have come under greater scrutiny. For this reason, the Committee has adopted new recommendations in this report to address these concerns. Committee co-chair Gerald Kogan has previously spoken out about some of the dangers associated with lethal injection. In a June 2008 OpEd in the *St. Petersburg Times*, Justice Kogan supported Florida Governor Jeb Bush's moratorium on the death penalty after a 2006 execution "was botched so badly that it took twice the normal dosage of the lethal chemical cocktail and more than half an hour" to execute the prisoner.<sup>17</sup>

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<sup>16</sup> Bob Driehaus, *Unusual Alliance Protests Execution*, N.Y. TIMES, AUG. 9, 2010, at [http://www.nytimes.com/2010/08/10/us/10deathrow.html?\\_r=1&ref=us](http://www.nytimes.com/2010/08/10/us/10deathrow.html?_r=1&ref=us).

<sup>17</sup> Gerald Kogan, *Florida's justice system fails on many fronts*, TAMPA BAY TIMES, JUNE 30, 2008, at <http://www.tampabay.com/opinion/essays/floridas-justice-system-fails-on-many-fronts/652532>.