

## THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

Dear Friend of TCP,

Mark your calendar for two exciting events coming up this month. On October 14, TCP and Google are hosting a discussion on [post-collection reforms](#) to limit the ways law enforcement can gain access to data gathered by intelligence surveillance, often without a warrant. A panel of experts from government, academia and the advocacy community will examine what sensible reforms we could adopt to create effective due process restrictions on law enforcement use of intelligence surveillance without rebuilding the "wall" between the two that was removed in response to the 9/11 attacks.



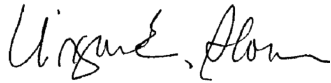
Then, on October 25, TCP and the Levin Center at Wayne State University Law School will host a conversation about [congressional oversight](#) of the executive branch. There is a constant tension between Congress's constitutional responsibility to oversee the workings of the executive branch -- and in doing so, its need to have a timely, complete understanding of motives and actions -- and the president's claims of executive privilege and deliberative process in order to protect the inner workings of the White House.

With a new president and a new Congress set to begin next year, it is a meaningful time to review the rights, rules, and principles that govern this inter-branch tug of war, and to contemplate the path forward. TCP will also release an updated and expanded version of its ground-breaking handbook, "When Congress Comes Calling."

These events are free and open to the public, but seating is limited. If you are interested in attending one of these events, or both, [register on our](#)

[website](#) now!

Sincerely,



Virginia Sloan  
President

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## Experts Urge Obama to Tighten Curbs on Transfer of Military Gear to Local Police

Policing Reform

On September 8, TCP's [Committee on Policing Reforms](#) -- a bipartisan group comprising former law enforcement and military officers, prosecutors, judges, and experts in criminal law -- [issued a report](#) that examines the constitutional and policy concerns raised by law enforcement's use of military equipment and tactics. The report calls on the Obama administration to impose stronger limitations on the federal programs providing tactical military equipment to state and local police, such as adding flash bang grenades and long range acoustical devices to the list of prohibited items, and requiring law enforcement agencies to demonstrate military equipment would be used only in limited and narrowly-tailored circumstances. TCP President Virginia Sloan [expressed disappointment](#) that the interagency Law Enforcement Equipment Permanent Working Group did not go further in expanding the list of prohibited and controlled items that may be transferred to local police when it issued revised rules on September 30.

The report also urged greater transparency and accountability in the transfer of military equipment to civilian law enforcement. Among its 25 recommendations, the group urged the Obama administration to adopt a requirement that any police force wanting to receive items on the controlled equipment list should first have to show evidence of approval of its acquisition from the appropriate civilian governing body, such as a governor or a city council. In addition, the group asked the administration to require the collection and public disclosure of detailed data on the use of military equipment for tactical purposes, as well as the deployment of SWAT teams, for any state or local police force seeking to acquire military equipment.

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## **Groups Call for Stronger Congressional Oversight of the Intelligence Community**

Government Surveillance & Searches

More than 30 organizations joined TCP in calling on the House of Representatives to renew its commitment to provide a meaningful check on the executive branch and reform how it conducts oversight over intelligence matters. In a [September 13 letter](#) to Speaker Paul Ryan and Minority Leader Nancy Pelosi, the groups said that the House should, when the 115th Congress convenes in 2017, update its rules to enhance opportunities for oversight by all members of Congress, and especially members of the House Permanent Select Committee on Intelligence and members of other relevant committees of jurisdiction. They urged that a select committee review how Congress engages in oversight of the intelligence agencies.

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## **Grewal Updates Right-to-Counsel Advocates on Federal Legislation**

Right to Counsel

The R2C National Consortium invited TCP Senior Counsel Madhu Grewal to make a presentation on federal legislation affecting right-to-counsel issues and national reform efforts as part of its September quarterly webinar. The webinar also included a discussion by Andy Davies from the New York Office of Indigent Legal Services about how indigent defense research can affect change, and a presentation by Allison Gibbs and Josh Spickler from Just City on how community organizations can help bolster indigent defense advocacy efforts. A [recording of the webinar](#) is available.

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# Coalition Opposes Ban on Transfers from Guantanamo

Counter-Terrorism Policies & Practices

A coalition of 15 human rights, civil liberties, and religious organizations joined TCP to strongly urge members of the House to oppose H.R. 5351, a bill introduced by Representative Jackie Walorski (R-Ind.), which would -- for the first time ever -- impose a complete ban on all transfers out of Guantanamo until the National Defense Authorization Act for fiscal year 2017 is signed into law or until President Obama's term in office ends. In a [September 15 letter](#), the groups noted that "[n]ot only would the bill block all transfers of Guantanamo detainees to the United States, even for purposes of prosecution in federal criminal court, but it also would ban the resettlement or repatriation of detainees cleared by the United States for transfer to foreign countries." The bill passed the House, but has not yet been considered by the Senate.

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# Hawkins Speaks at Georgetown Conference

Counter-Terrorism Policies & Practices

On September 14, TCP Senior Counsel Katherine Hawkins spoke on panel discussing government national security secrecy and human rights. Other panelists included the lead investigator of the Senate torture report, a former CIA officer and an investigative journalist. The "Defending Human and Civil Rights in a Growing National Security State" conference was organized by the Military Commissions Defense Organization and the Prince Alwaleed bin Talal Center for Muslim Christian Understanding at Georgetown University.

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# TCP Brief on War Powers Draws Comment

Checks & Balances

The National Law Journal published an [opinion piece](#) in its September 12 issue from TCP Scholar-in-Residence Louis Fisher on the lawsuit filed by Captain Nathan Michael Smith asking a federal district court to decide whether President Obama may engage in a war against the Islamic State without first receiving express approval from Congress. Earlier in the year, TCP submitted a [friend-of-the-court brief](#) backing Capt. Smith's position. A co-signer on that brief, Michael J. Glennon, who is a professor at the Fletcher School of Law and Diplomacy at Tufts University and a member of TCP's [War Powers Committee](#), also [commented on the case](#) in a publication

of the Council on Foreign Relations.

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