



Supreme Court of California

350 MCALLISTER STREET
SAN FRANCISCO, CA 94102

(415) 865-7060

RONALD M. GEORGE
CHIEF JUSTICE OF CALIFORNIA

July 27, 2005

BY FACSIMILE – 202-228-3900
(original to follow by mail)

Honorable Diane Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Re: Senate Bill 1088

Dear Senator Feinstein:

I appreciate the opportunity to communicate with you concerning Senate Bill 1088. As you are aware, California's judicial system is the largest in the nation, and we have considerable experience with habeas corpus matters in both capital and non-capital cases. It appears from my preliminary review that Senate Bill 1088, in both its original form and in the amendments that I have seen to date, would dramatically alter the historical availability of federal habeas corpus review for state criminal defendants. The Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), enacted 9 years ago, made substantial changes to federal habeas corpus proceedings. Specific problems with that Act may weigh in favor of carefully considering whether amendments should be made. The proposed changes in Senate Bill 1088 appear to go further, however, and would change substantially many of AEDPA's provisions. Because of the breadth of the changes to traditional habeas corpus review, I believe that thoughtful and in-depth consideration of the effect of the bill on the administration of justice, the role of the judiciary, and the relationship between state and federal courts would be very beneficial to the process.

It has taken many years for the scope and interpretation of AEDPA to be settled by the courts, but most areas of controversy have now been settled. Wholesale changes to habeas corpus practices, as proposed in Senate Bill 1088, inevitably will give rise to many years of court challenges and consequent uncertainty in the state and federal courts.

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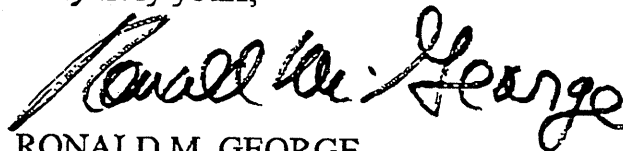
It would seem useful for the Senate to have the opportunity to consult with and hear from those deeply involved in these matters in order to make the best decisions about useful changes to the process.

I am the immediate past president of the Conference of Chief Justices, an organization comprising the Chief Judicial officers of all the states and territories of the United States. I have been unsuccessful in contacting the president of the organization today, but I am confident that the Conference, which will be meeting from July 31 through August 3, would be most interested in having an opportunity to carefully review and comment upon Senate Bill 1088 from our vantage point as leaders of our respective court systems. I would therefore ask that you request the Senate Judiciary Committee to postpone action on the bill until sometime in September to permit the Conference of Chief Justices to comment upon its provisions, and to offer the Senate Judiciary Committee an opportunity to hear from other informed and concerned individuals and organizations.

I would be pleased to offer additional information concerning the operation of habeas corpus proceedings in California and our relationship with the federal courts, if that would be of assistance. My reason for writing you today is to further a goal that I am confident is shared by all those engaged in this process: establishing procedures to ensure that criminal cases, including death penalty matters, are handled in a fair, efficient, and expeditious manner, cognizant of the interests of victims and their loved ones as well as defendants.

Thank you again for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Ronald M. George". The signature is written in dark ink and is positioned above the printed name.

RONALD M. GEORGE

cc: Chief Justice Shirley Abrahamson (Wisconsin)