



## HABEAS CORPUS RESOURCE CENTER

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July 27, 2005

The Honorable Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, DC 20510

Re: The Streamlined Procedures Act (S. 1088)

Dear Senator Feinstein:

I understand that you might be interested in hearing my views on S. 1088. Although I welcome any opportunity to improve the quality of the administration of justice, I urge you to oppose this bill because it will undermine federal courts' ability to redress miscarriages of justice and protect vital constitutional rights.

The Habeas Corpus Resource Center ("HCRC") was created as a state agency in the California judicial branch, effective January 1, 1998, to provide timely, high-quality legal representation to indigent prisoners in death penalty habeas corpus proceedings before the California Supreme Court and the federal courts, recruit and train attorneys to expand the pool of private counsel qualified to accept appointments in death penalty habeas corpus proceedings, and serve as a resource to these attorneys. Since its creation, the HCRC has worked extensively with the California Supreme Court to improve the quality of representation to death row inmates and the timely and fair resolution of capital proceedings in the state and federal courts. Given the scope of the HCRC's mandate, the agency is uniquely positioned to identify, evaluate, and propose improvements to the criminal justice system.

Since the introduction of S. 1088, many judges, legislators, prosecutors, attorneys, scholars, and private citizens have expressed their concerns that the provisions will eviscerate the federal courts' ability to correct wrongful convictions and prevent executions of innocent persons and reward intentional, unconstitutional actions by state actors. I join their opposition to the bill and proposed amendments. The bill and the amendments are replete with sweeping provisions that eliminate *any* federal review of meritorious constitutional issues, and they contain no provision for excusing a failure to comply with the bill's rigid requirements, even when such failure

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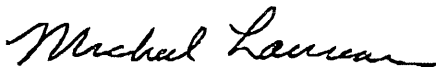
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resulted from intentional wrongdoing by state officials. Indeed, many of those persons wrongfully convicted who have been released as a result of federal habeas corpus proceedings would be denied access to the federal courthouse because of their inability to comply with the provisions of S. 1088.

Moreover, the bill will disrupt the timely resolution of capital cases in California. The Anti-Terrorism and Effective Death Penalty Act (AEDPA) substantially revised federal habeas corpus procedures, necessitating years of litigation regarding the proper application and interpretation of its provisions. Through that litigation, federal courts finally have resolved the effect of the AEDPA on federal habeas corpus proceedings, and the adjudication of California capital cases is now proceeding apace. The enactment of S. 1088 will spawn new rounds of litigation about the application and interpretation of the bill's complex provisions, producing gridlock in the federal courts and further delaying or precluding timely resolution of these cases. In short, rather than achieving the desired goal of expediting capital cases, S. 1088 will have the opposite effect for the over 200 California capital cases currently in the federal court.

Finally, the rushed timetable for consideration of the bill and amendments has precluded reasoned and thoughtful review of the far-reaching ramifications of these provisions. Indeed, although the proponents of the bill seek to correct perceived problems with the current judicial process, evidence to support their perceptions – or the effectiveness of the bill's provisions to rectify any such problems – is lacking. At the very least, before enacting wholesale revisions to well-established federal habeas corpus procedures, careful study should be conducted to evaluate both the perceived problems and the most effective methods for addressing any deficiencies. The HCRC stands ready to assist you in that effort or in any other manner you deem appropriate.

Sincerely,



Michael Laurence  
Executive Director

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