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VIA HAND DELIVERY

Honorable Arlen Specter  
Chairman  
Senate Judiciary Committee  
711 Hart Senate Office Building  
Washington, DC 20510

Honorable Patrick J. Leahy  
Ranking Minority Member  
Senate Judiciary Committee  
152 Dirksen Senate Office Building  
Washington, DC 20510

RE: Streamlined Procedures Act of 2005 (S. 1088)

Dear Chairman Specter and Senator Leahy:

We understand that S. 1088, the Streamlined Procedures Act, is scheduled for markup on Thursday, September 29. As individuals who have devoted many years of our professional lives to vigorous law enforcement, as well as to enforcement of the Bill of Rights, we urge the Committee to reject this bill and devote additional time to determine whether habeas corpus needs additional reforms and, if so, what those reforms should be.

We do not stand alone in our view that the bill is seriously misguided. Among numerous other thoughtful voices, the Judicial Conference of the United States and the Conference of State Chief Justices have urged the Committee to reject the bill and to give this important matter additional study.

Our opposition is informed not only by our experience as federal judges and as Directors of the Federal Bureau of Investigation, but also by our work as private practitioners, including participation in important habeas corpus cases. These cases remind us of the important role that habeas corpus has long played, and continues to play, in ensuring the necessary enforcement of key Bill of Rights protections for those convicted of crimes. They remind us that, while the vast

majority of state courts are as vigilant in protecting these rights as are the federal courts, there are occasions in which that is not the case, and in which federal review is critical to protecting against wrongful convictions and identifying the innocent. The many exonerations we have seen in recent years demonstrate the critical need for this kind of review. The Conference of State Chief Justices' resolution aptly describes the need for federal, as well as state, review.

We are convinced that S. 1088 will prohibit habeas review of claims of innocence and of wrongful conviction, if it becomes law. While Senator Specter's amendment made some valuable improvements in the bill as introduced, it does not remedy many of the serious deficiencies in the original bill. Moreover, if the intent of the sponsors is to expedite the habeas review process, we believe that this proposal will have just the opposite effect. It is only now that the courts are close to resolving the serious constitutional questions raised by the 1996 Anti-Terrorism and Effective Death Penalty Act. This radical reform of the habeas laws will most certainly create much more delay, not less.

As both the Judicial Conference and the Conference of State Chief Justices recognize, there is simply no persuasive evidence that such a radical reform is needed. The Streamlined Procedures Act, if adopted, would create serious injustices and systemic delays that will benefit no one – not the crime victims and their families who will face more frustration and delay as the courts struggle to resolve the new constitutional challenges to the law, not the innocent people who will languish in prison or even on death row because they are unable to seek relief, and not society, as the true perpetrators remain free to prey on our citizens.

We urge the Committee to reject S. 1088.



William H. Webster



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