

November 29, 2012

Re: Opposition to Feinstein Amendment 3018 to the NDAA

Dear Senator:

We write as a broad array of organizations in the civil rights, human rights, civil liberties, and immigrant rights fields to urge you to oppose Amendment 3018, submitted by Senator Feinstein as an amendment to the National Defense Authorization Act (NDAA). We greatly appreciate the leadership of Senator Feinstein and many other senators in working last year to try to fix some of the NDAA's detention provisions. Unfortunately, the Feinstein amendment fails to address a central concern raised in the public debates: the specter of the military being used to police our streets and detain individuals on U.S. soil. The bill also unintentionally reinforces the false and discriminatory notion that due process protections are only afforded to some – not all – persons within the United States. For these reasons, while we very much want to work with the sponsors of the amendment and are open to supporting a revised version of the Feinstein amendment, we oppose the amendment in its current form.

The constitutional requirements of due process of law apply to all persons within the United States. The 5th Amendment to the Constitution states that “No *person* shall be...deprived of...liberty...without due process of law.” Moreover, we are very concerned that the Feinstein amendment implicitly authorizes domestic military detention. By seeking to protect only United States citizens and legal permanent residents, the amendment could be read to imply that indefinite military detention of any other persons apprehended within the United States was authorized in 2001 and was lawful. In addition, the clause “unless an Act of Congress expressly authorizes such detention” could be read to imply that there are no constitutional obstacles to Congress enacting a statute that would authorize the domestic military detention of any person in the United States.

We greatly appreciate the efforts of many senators to address concerns with the NDAA both before and since its enactment. However, we must oppose the Feinstein amendment to the NDAA for the aforementioned reasons. We hope to be able to work with you to draft legislation that we could support.

Thank you for consideration of our views.

Sincerely,

American Civil Liberties Union
Amnesty International
Asian Law Caucus, Member of Asian American Center for Advancing Justice
Appeal for Justice
Bill of Rights Defense Committee
Center for Constitutional Rights
Center for Victims of Torture

Commission on Social Action of Reform Judaism
Constitution Project
Council on American-Islamic Relations
Defending Dissent
Disciples Justice Action Network
Human Rights First
Human Rights Watch
Japanese American Citizens League
Liberty Coalition
National Association of Criminal Defense Lawyers
Open Society Policy Center
Physicians for Human Rights
Rabbis for Human Rights
Refugee and Immigration Ministries of Disciples Home Missions, Christian Church (Disciples of Christ)