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November 9, 2005

Honorable Arlen Specter  
United States Senate  
711 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Specter:

On behalf of the National Institute of Military Justice (and as a retired Lieutenant Commander in the U.S. Coast Guard Reserve), I am writing to express NIMJ's strong opposition to Senator Graham's amendment to the Defense Authorization Bill, withdrawing federal court authority to grant writs of habeas corpus on the petition of non-citizens in military custody as enemy combatants.

The proposed amendment would sanction unreviewable Executive detention that cannot be harmonized with our Nation's longstanding adherence to the rule of law. Military detention without due process is antithetical to our fundamental values, values that our men and women in uniform put their lives on the line to protect.

The practical effect of the amendment would be to validate actions by non-democratic countries around the world. Some of these countries may try to jail our

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citizens (including but not limited to GIs) on trumped-up grounds and then deny them access to judicial forums in which they might at least try to gain their freedom or fairer treatment. We should not take a step we would be unwilling to see others apply to our fellow citizens. We disable ourselves from objecting to flagrant lawlessness elsewhere when we shut the doors to our courts, which are the jewel in the crown of our democracy.

I will only add that oftentimes when NIMJ considers taking a position on a matter of public policy our directors and advisors have a range of views. That is one of our strengths as an organization. On this one, we are emphatically of one mind.

Very respectfully,

A handwritten signature in black ink that reads "Eugene R. Fidell". The signature is written in a cursive, slightly slanted style.

Eugene R. Fidell