

MEMORANDUM

TO: All Members of the House of Representatives

FROM: American Civil Liberties Union
Appeal for Justice
Bill of Rights Defense Committee
Center for Victims of Torture
Common Bond Institute
Council on American-Islamic Relations
Defending Dissent Foundation
DownsizeDC.org, Inc.
Friends Committee on National Legislation
GOProud
Gun Owners of America
Japanese American Citizens League
Just Foreign Policy
Liberty Coalition
Maryknoll Office for Global Concerns
National Religious Campaign Against Torture
Physicians for Human Rights
Presbyterian Church (USA) Office of Public Witness
Rabbis for Human Rights North America
The Rutherford Institute
Take Back Washington
Tenth Amendment Center
Union for Reform Judaism
Unitarian Universalist Service Committee
United Church of Christ Justice and Witness Ministries
United Methodist Church, General Board of Church and Society
Win Without War
Young Americans for Liberty

DATE: May 14, 2012

RE: Vote "YES" on the Amendment by Representatives Adam Smith (D-WA) and Justin Amash (R-MI) That Explicitly Bans Indefinite Detention and Military Commissions from the United States, and Repeals Section 1022 of Last Year's National Defense Authorization Act ("NDAA"); House Will Likely Vote on the Smith-Amash Amendment on Thursday or Friday

consideration of the National Defense Authorization Act for Fiscal Year 2012. This amendment will help protect American values and will be an important step in restoring the rule of law to our nation's detention policies.

- The amendment repeals section 1022 of last year's NDAA. Section 1022 requires military to put some civilian suspects into military detention. Although the Obama Administration waived application of section 1022 to many groups of potential suspects, it did not foreclose the possibility of section 1022 being applied to all categories of civilians, including even within the United States itself. The most certain way to avoid mistakes under section 1022 of last year's NDAA is to repeal it.

The SmithAmash amendment is fully consistent with the Constitution, with the Posse Comitatus Act of 1878, and with the ND Detention Act of 1971. It will reinforce the protections that most Americans assume apply within the United States.

Unfortunately, nothing in this year's NDAA detention provisions, as reported out of the House Armed Services Committee, affirms protection for persons in the United States. The habeas corpus provision in the reported bill does not address any of the concerns raised by your constituents last year. Nothing in last year's NDAA suspended anyone's habeas rights. Habeas provides a process for a judge to decide whether a person is being held lawfully, but on its own, it does not require that a judge find that a person must be charged with a crime. The committee reported bill does not address the concern raised by constituents—and fueled by several senators urging the military to indefinitely imprison persons in the United States—no president or government official should ever order the military to put persons in the United States into indefinite detention without charge or trial. The SmithAmash amendment addresses this concern; the committee reported version of this year's NDAA does not address it.

We strongly urge you to vote for the SmithAmash amendment to the NDAA next week. If you have any questions or concerns, please do not hesitate to contact any of our organizations.