

Introduced by: Councilmember Seamens

**CITY OF TAKOMA PARK, MARYLAND  
RESOLUTION 2012-28**

**URGING MONITORING AND REPEAL OF INDEFINITE DETENTION PROVISIONS  
OF THE NATIONAL DEFENSE AUTHORIZATION ACT**

WHEREAS, the Constitution of the United States is the foundation of our nation's rights and freedom, and the basis of our representative democracy; and

WHEREAS, the indefinite military detention without trial of any person, including U.S. citizens, could be allowed by Sections 1021 and 1022 of the National Defense Authorization Act (NDAA); and

WHEREAS, the indefinite military detention of any person without trial violates the Fifth and Sixth Amendments of the Constitution of the United States, Article III of the Constitution of the United States; and

WHEREAS, there is substantial public debate and uncertainty whether Sections 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) could be read even to repeal the Posse Comitatus Act and authorize indefinite military detention without charge or trial within the United States of U.S. citizens, in addition to legal permanent residents and others; and

WHEREAS, the NDAA erodes the ideals of presumed innocence and right to a fair trial on which our nation was founded, and which generations of activists and military servicemen and women have fought to preserve; and

WHEREAS, the City of Takoma Park re-affirms its gratitude for the supreme sacrifice of those in the Armed Forces who have died in battle in the name of those same cherished rights and liberties; and

WHEREAS, the NDAA's detention provisions could be interpreted, under Humanitarian Law Project v. Holder, to allow the targeted detention of activists, journalists and other Americans exercising their First Amendment rights despite the crucial role of Free Speech in preserving liberty; and

WHEREAS, the NDAA's detention provisions do not authorize inhumane treatment of prisoners, but could indirectly enable unlawful torture and inhumane treatment by removing accountability, and by creating a means to detain suspects whose criminal convictions are in doubt because evidence was obtained through torture; and

WHEREAS, the detention provisions could force U.S. military service members to serve as domestic jailers, a role for which they are neither trained nor equipped, nor is ever appropriate; and

WHEREAS, no president has the power to take the country into war, except as James Madison wrote, "to repel a sudden attack on the United States," and Congress decides whether and when to use military power, and by contrast the 2001 Authorization for Use of Military Force threatens to be used for endless war and endless indefinite detention without charge or trial; and

WHEREAS, the City of Takoma Park has an extensive history of protecting its residents' civil rights and liberties.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:

1. We strongly affirm our loyalty to the rights and liberties enshrined within the Constitution of the United States, including the Fifth Amendment right to due process and the Sixth Amendment right to trial.

2. It is the sense of the City Council that Congress should repeal Sections 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81).

3. It is the sense of the City Council that the National Defense Authorization Act and the Authorization for Use of Military Force (Public Law 107-40) do not now, and should never, authorize the Armed Forces of the United States to investigate, arrest, detain, or try any person within the United States, or to militarily detain without charge or trial civilians not captured on any battlefield, and that the Authorization for Use of Military Force expires upon the end of combat operations in Afghanistan by the Armed Forces of the United States, but that: (i) Congress retains the authority to declare war or authorize the use of military force, consistent with Article I of the Constitution; and (ii) The President retains the authority under Article II of the Constitution to deploy the Armed Forces to repel a sudden attack on the United States, its territories or possessions, or its Armed Forces.

4. We request that our United States Congressman and Senators monitor the implementation of the NDAA and actively work for the repeal of the NDAA's detention provisions to restore fundamental rights and liberties embodied in the Constitutions of the State of Maryland and the United States. To that end, the Mayor shall send copies of this resolution to our U.S. Congressman and Senators, the U.S. Senate Committee on the Judiciary, the U.S. Senate Select Committee on Intelligence, the U.S. House of Representatives Committee on the Judiciary, the U.S. House of Representatives Permanent Select Committee on Intelligence, the U.S. Attorney General, and the President of the United States.

Adopted this 21st day of May, 2012.

Attest:

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Jessie Carpenter, CMC  
City Clerk