

RESOLUTION NO. 12-11

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX OBJECTING TO THE MILITARY 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 US 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 5th and 6th amendments of the Constitution of the United States, Article III of the Constitution of the United States, and the Posse Comitatus Act; and

WHEREAS the NDAA corrodes 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 Town of Fairfax 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, under Humanitarian Law Project v. Holder, 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 could allow the recurrence of torture in military detention in violation of the Eighth Amendment; and

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

WHEREAS, , the FBI Director, the Defense Secretary, the Director of National Intelligence, the Department of Defense, and many of our nation's generals, admirals, and servicemen and women have opposed the NDAA's detention provisions; and

WHEREAS, the Town of Fairfax has an extensive history of protecting its residents' civil rights and liberties as embodied in its rejection of the USA PATRIOT Act, which led hundreds of other municipalities across the nation to emulate our example;

NOW, THEREFORE, BE IT RESOLVED that the Fairfax Town Council does hereby declare that 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;

Instruct all our Town of Fairfax agencies to decline requests by federal agencies acting under detention powers granted by the NDAA that could infringe upon residents' freedom of speech, religion, assembly, privacy, or rights to counsel.

Expect all federal and state law enforcement officials acting within the Town of Fairfax to work in accordance with local law, and in cooperation with the Fairfax Police Department, by allowing any detainees among Fairfax's residents or visitors access to a trial, counsel and due process, as provided by Article III of the Constitution of the United States;

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 California and the United States. To that end, the Mayor shall send copies of this resolution to our US Congressman and Senators, and the President of the United States.

The foregoing resolution was adopted at a regular meeting of the Fairfax Town Council of the Town of Fairfax, County of Marin, State of California, held on the 1st day of February, 2012, by the following vote:

AYES:
NOES:
ABSENT:

PAM HARTWELL-HERRERO, Mayor

Attest:

Town Clerk