Congress of the United States
Washington, DC 20515

December 12, 2011

The Honorable Howard "Buck" McKeon
Chairman
U.S. House Armed Services Committee
2120 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Adam Smith
Ranking Member
U.S. House Armed Services Committee
2120 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Carl M. Levin
Chairman
U.S. Senate Armed Services Committee
SR-228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable John McCain
Ranking Member
U.S. Senate Armed Services Committee
SR-228 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman McKeon, Chairman Levin, Ranking Member Smith, Ranking Member McCain:

We write to raise serious concerns regarding three sections of the fiscal year 2012 National Defense Authorization Act (NDAA).

The House-passed version of the NDAA, H.R. 1540, contains Section 1034, an expansive authorization for detention of and use of military force against broadly defined adversaries substantially exceeding the scope of such authorizations already in law. The expanded authority has no geographical limits, provides authority for open-ended armed conflict, and is unacceptably broad. We strongly object to the inclusion of this language in the final authorizing bill.

The Senate-passed version of the NDAA, S. 1867, contains Section 1031, which authorizes indefinite military detention of suspected terrorists without protecting U.S. citizens' right to trial. We are deeply concerned that this provision could undermine the Fourth, Fifth, Sixth, Seventh, and Eighth amendment rights of U.S. citizens who might be subjects of detention or prosecution by the military.

Furthermore, Section 1032 of S. 1867 would require that suspected foreign terrorists be taken into custody by the military instead of civilian law enforcement authorities. This would deny civilian law enforcement authorities the flexibility necessary to conduct effective counterterrorism operations. Respected bipartisan members of the national security community -- including the Secretary of Defense, the Director of National Intelligence, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, and the head of the Justice Department's National Security Division -- oppose this provision. We also strongly oppose its inclusion in the NDAA.

As you know, President Barack Obama has issued a veto threat because of these provisions. We urge you to make appropriate changes so that Congress can provide essential resources to our armed forces while ensuring we have the flexibility to confront terrorism as effectively as possible.

Sincerely,

HANK JOHNSON
Member of Congress

MARTIN HEINRICH
Member of Congress

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JOHN CONYERS
Member of Congress

ALCEE HASTINGS
Member of Congress

JEROLD NADLER
Member of Congress

JUDY CHU
Member of Congress

BARBARA LEE
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