



**VOTE “NO” ON GOODLATTE
AMENDMENT (#11)---JEOPARDIZES
EXISTING PROTECTIONS OF AMERICAN
CITIZENS IN THE UNITED STATES ITSELF
AGAINST INDEFINITE IMPRISONMENT
BY THE MILITARY.**

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**ENDANGERS AMERICAN CITIZENS; DOES
NOT PROTECT ANYONE.**

URGENT—VOTE “NO” THIS AFTERNOON.

June 13, 2013

RE: Vote “NO” on Goodlatte Amendment (#11) to the National Defense
Authorization Act

Dear Representative:

The American Civil Liberties Union strongly urges you to vote “NO” this afternoon on the Goodlatte Amendment (#11) to the National Defense Authorization Act. The Goodlatte amendment inadvertently endangers protections of American citizens, rather than enhancing protections. It would create a new risk of indefinite military imprisonment of American citizens in the United States itself---and leave citizens with a new and uncertain habeas standard, while jeopardizing the current complete ban on the military being used to imprison anyone here at home.

The Goodlatte amendment is a dangerous amendment. Instead of reinforcing a ban on the military imprisoning citizens in the United States without charge or trial, it does the opposite. It appears to implicitly authorize the military to indefinitely imprison United States citizens on American soil, by premising both of its subsections on the Authorization for Use of Military Force (AUMF) being applicable to the detention of “any United States citizen apprehended inside the United States.” Right now, the AUMF does not authorize such detention, but the Goodlatte Amendment could dangerously imply that it does. Congress should be barring the use of

the military to indefinitely detain persons in the United States itself (as the Smith-Gibson amendment does); the House should not implicitly authorize the indefinite detention without charge or trial of American citizens picked up at home.

Under the Goodlatte amendment, **AMERICAN CITIZENS WITHIN THE UNITED STATES ITSELF WILL BE IN GREATER DANGER** of being imprisoned by the military without charge or trial. American citizens picked up in the United States itself—like everyone else picked up here—are already protected against indefinite imprisonment by the military. What the House should do is reinforce the ban on any president being able to use the military to put persons picked up in the United States itself into indefinite detention without charge or trial. The Goodlatte Amendment does the exact opposite and could open the door to a president using the military to imprison without charge or trial American citizens here at home.

In addition, the changes in habeas procedure would create great uncertainty in habeas cases. The Constitution does not permit greater basic due process rights to citizens than to non-citizens, when the Constitution applies. The result of the Goodlatte Amendment's citizen-only rules for habeas would likely be either 1) a court would refuse to apply a higher level of review to habeas petitions by citizens, or 2) a court would apply the same higher level of review to habeas petitions filed by non-citizens, including at Guantanamo. Congress should carefully review any significant changes to habeas protections before passing them through the House. Passing this provision would be a serious and dangerous mistake.

Please let me know if you have any questions about this amendment. Thank you.

Sincerely,

Laura W. Murphy
Director

Christopher E. Anders
Senior Legislative Counsel

