Date: February 18, 2015

To: Washington State Legislature

From: ***The Intolerable Acts ACTION CENTER***

Jeff Lewis, Co-founder, National Director, Patriot Coalition

Richard D. Fry, General Counsel, Patriot Coalition

Dan Johnson, Founder, People Against the NDAA (PANDA)

Re: INTOLERABLE ACTS BY THE FEDERAL GOVERNMENT IN VIOLATION OF THE U.S. CONSTITUTION AND BILL OF RIGHTS.

Honorable Members of the Washington Legislature,

As proclaimed in the Declaration of Independence, our "unalienable Rights" are endowed by our Creator, not man, and as such, no man or government has the authority to usurp them. The U.S. and Washington Constitutions were ordained to protect these "unalienable Rights."

The U.S. Constitution, Article III, Section 2, Clause 3, states:

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

The U.S. Constitution, Article III, Section 3 states:

"Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

On September 12, 2012, Federal Judge Katherine Forrest, placed a permanent injunction against the "indefinite detention" provisions of the 2012 NDAA as unconstitutional (Hedges v. Obama, Case 1:12-cv-00331-KBF), yet the Administration and the bill's architects in Congress continue to argue in federal court to the contrary.

In Judge Forrest's ruling, she states,

"A long line of Supreme Court precedent adheres to that fundamental principle in unequivocal language. Although it is true that there are scattered cases--primarily decided during World War II--in which the Supreme Court sanctioned undue deference to the executive and legislative branches on constitutional questions, those cases are generally now considered an embarrassment (e.g., Korematsu v. United States, 323 U.S. 214 (1944) (upholding the internment of Japanese Americans based on wartime security concerns)), or referred to by current members of the Supreme Court (for instance, Justice Scalia) as "wrong" (e.g., Ex parte Quirin, 317 U.S. 1 (1942) (allowing for the military detention and execution of an American citizen detained on U.S. soil))."

As legislators you have each taken an oath, as required by the United States Constitution's Article VI, Clause 3, to support the United States Constitution.

Having taken that oath, your duty is to actively defend our God-given Rights against all usurpations, be they of foreign or domestic sources.

We the People are gravely concerned about the overreach of the federal government as exemplified by the numerous usurpations of the U.S. Constitution through various provisions of the National Defense Authorization Act for Fiscal Year 2012 signed into law by President Barack Obama on December 31, 2011, to wit: sections 1021 and 1022.

The Intolerable Acts *ACTION CENTER* legal team has identified numerous provisions of the U.S. Constitution and Bill of Rights directly violated by sections 1021 and 1022 of the 2012 National Defense Authorization Act.

In September, 2011, President Obama ordered the assassination of Anwar Awlaki, a U.S. citizen, by Predator Drone in violation of Mr. Awlaki's Constitutional rights. Two weeks later, Mr. Awlaki's son, also in Yemen, was assassinated by Predator Drone on order of President Obama.

No charge. No trial - Just summary execution. These assassinations were carried out prior to the passage of the 2012 NDAA under plenary authority claimed by Presidents Bush and Obama.

The U.S. Supreme Court affirmed over 150 years ago that it is unconstitutional to use "indefinite military detention" and trial by military tribunal against a U.S. citizen who is not part of the armed forces of the United States, and not "*in the Militia, when in actual service in time of War or public danger;…*"

In Enemy Combatant Status: No More Pernicious Doctrine, Yale Law grad Stewart Rhodes writes, "*The Article III Treason Clause provides the only constitutional trial remedy for those who make war against their own nation or give aid and comfort to its enemies. Up to the Civil War, in every rebellion, from Shay's rebellion, to the Whiskey Rebellion, to Aaron Burr's attempt to raise an Army against the U.S., to John Brown's attack on Harper's Ferry, each person tried for their actions of taking up arms against their nation or aiding the enemy were tried for treason, before a jury, in a civilian court. None of them were brought before a military tribunal. If the Founders had intended to give the military jurisdiction over such people, what was the point of the Treason Clause?" (The Warrior, the Journal of Gerry Spence's Trial Lawyers College, 2005 Summer edition)*

Members of Congress that voted for granting the President dictatorial power in his capacity as Commander-in-Chief have argued that it was necessary in the interest of national security.

Although Congress has declared "*the whole world is the battlefield, including the homeland*," the U.S. Constitution doesn't permit applying military law, or the "law of war" against a U.S. citizen anywhere in the world, or against any person in the United States, its territories, or protectorates. What is authorized is to charge them with treason under Article III, Section 3.

Washington warned us against usurpations of the Constitution in his 1796 Farewell Address:

"If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

The 5th Amendment in the Bill of Rights states,

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;…"

The 6th Amendment in the Bill of Rights states,

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."

U.S. Supreme Court Justice Davis, in *Ex Parte Milligan (71 U.S. 2, Syllabus)*, stated,

"Time has proven the discernment of our ancestors, for even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper, and that the principles of constitutional liberty would be in peril unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of

men, at all times ***[p121]*** *and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false, for the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority."*

The U.S. Supreme Court ruled in *Ex Parte Milligan (71 U.S. 2, Syllabus)*, **that**,

"Military commissions organized during the late civil war, in a State not invaded and not engaged in rebellion, in which the Federal courts were open, and in the proper and unobstructed exercise of their judicial functions, had no jurisdiction to try, convict, or sentence for any criminal offence, a citizen who was neither a resident of a rebellious State nor a prisoner of war, nor a person in the military or naval service. And Congress could not invest them with any such power." ….It can serve no useful purpose to inquire what those laws [of war] and usages are, whence they originated, where found, and on whom they operate; they can never be applied to citizens in states which have upheld the authority of the government, and where the courts are open and their process unobstructed." *(Emphasis added)*

Article VI, Clause 2 of the U.S. Constitution clearly states that only those laws enacted in pursuance of the Constitution are to be considered "supreme Law of the Land." The 2012 NDAA was not passed "in Pursuance" of the Constitution. Any state or local NDAA resolution or legislation should recognize the "indefinite detention" provisions of the 2012 NDAA as unconstitutional, just as acts of Congress to "infringe" upon the 2nd Amendment right to keep and bear arms would be. Interposition on behalf of the people is needed.

Alexander Hamilton explained in Federalist 16, *"If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional, and void."* *(Emphasis added)*

Alexander Hamilton explained why nullification is automatic in Federalist 78:

"There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is executed, is void. No legislative act, therefore, contrary to the Constitution, can be valid."

***"When words lose their meaning, people lose their freedom."* -Confucius (551 BCE - 479 BCE)**

Honorable members of the Washington Legislature, either the Constitution says what it means, and means what it says, or our God-given Rights will become privileges to be given or taken away at the whims of those in power.

Former President Thomas Jefferson, advised in a letter to Thomas Richie, Dec. 25, 1820,

"…that against this every man should raise his voice, and more, should uplift his arm… That pen should go on, lay bare these wounds of our Constitution, expose the decisions seriatim, and arouse, as it is able, the attention of the nation to these bold speculators on its patience."

U.S. Supreme Court Chief Justice John Marshall explained in Marbury v. Madison, 1803:

- *"It is also not entirely unworthy of observation that, in declaring what shall be the supreme law of the land, the Constitution itself is first mentioned, and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank."*
- *"Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument."* *[Emphasis added]*

Samuel Adams, referred to as the 'Father of the American Revolution,' advised us,

> *"If ever a time should come, when vain and aspiring men shall possess the highest seats in Government, our country will stand in need of its experienced patriots to prevent its ruin."*

We submit to you that such a time has come, and "*We the People*" need you to take any and all actions within your constitutional authority to interpose against these intolerable acts and restore constitutional governance within your respective jurisdictions.

For God & Country,

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The 2012 National Defense Authorization Act (NDAA) violates numerous provisions of the Constitution of the United States and the Constitution of Washington, including, but not limited to, the following:

U.S. Constitution, Article I, Section 9, Clause 2

U.S. Constitution, Article II, Section I, Clause 8

U.S. Constitution, Article III, Section 2, Clause 3

U.S. Constitution, Article III, Section 3

U.S. Constitution, Article VI, Clause 2

U.S. Constitution, 1st Amendment

U.S. Constitution, 4th Amendment

U.S. Constitution, 5th Amendment

U.S. Constitution, 6th Amendment

U.S. Constitution, 8th Amendment

U.S. Constitution, 9th Amendment

U.S. Constitution, 10th Amendment

U.S. Constitution, 14th Amendment, Section 1

Washington Declaration of Rights, Article I, Section 3

Washington Declaration of Rights, Article I, Section 5

Washington Declaration of Rights, Article I, Section 7

Washington Declaration of Rights, Article I, Section 10

Washington Declaration of Rights, Article I, Section 13

Washington Declaration of Rights, Article I, Section 14

Washington Declaration of Rights, Article I, Section 21

Washington Declaration of Rights, Article I, Section 22

"In matters of power, let no more be heard of the confidence in man, but bind them down from mischief with the chains of the Constitution."

REFERENCES AND SOURCE DOCUMENTS

NDAA Resolutions for State Legislators, County Commissioners, Sheriffs, City Councils, etc...
http://theintolerableacts.org/wordpress/ndaa-resolutions/

HR1540 Conference Report as Approved by the United States Congress
http://www.gpo.gov/fdsys/pkg/CREC-2011-12-12/pdf/CREC-2011-12-12-pt1-PgH8356-5.pdf
Alternate source: http://patriotcoalition.com/docs/HR1540conf.pdf

Authorization of Use of Military Force (See bottom of page 6 for final version as signed into law.)
http://patriotcoalition.com/docs/Authorization-of-Use-of-Military-Force.pdf

President Obama's Signing Statement: Dec. 31, 2011
http://www.whitehouse.gov/the-press-office/2011/12/31/statement-president-hr-1540

Declaration of Independence: (See Freedom Documents tab)
http://nccs.net/freedom_defined/index.htm?const.html&2

Constitution of the United States of America: (See Freedom Documents tab)
http://www.nccs.net/freedom_defined/index.htm?const.html&2

House Voting Record for final version of 2012 NDAA
http://clerk.house.gov/evs/2011/roll932.xml

Senate Voting Record for final version of 2012 NDAA
http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=1&vote=00230

2012 NDAA, SECTIONS: 1021, 1022,1023
http://patriotcoalition.com/docs/NDAA FOR FISCAL YEAR 2012 (1021-1022-1023).doc

Judge Katherine Forrest places permanent injunction against NDAA in Hedges v. Obama
http://theintolerableacts.org/docs/Hedges-v-Obama-Permanent-Injunction.pdf

THE INTOLERABLE ACTS ACTION CENTER
THEINTOLERABLEACTS.ORG

The Intolerable Acts ACTION CENTER is a project of Patriot Coalition. The project logo is derived directly from American history, particularly that relating to abuses of the colonists by King George. The "skull and crossbones" image is from a 1765 Stamp Act protest cartoon, which pre-dates the "*Intolerable (Coercive) Acts*" and is super-imposed over the actual hand-written Bill of Rights as

proposed by the 1st Congress and sent to the States for ratification.