

THE RUTHERFORD INSTITUTE

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April 6, 2012

The Honorable Robert F. McDonnell
Office of the Governor
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Re: HB 1160

Dear Governor McDonnell:

As the president of The Rutherford Institute¹, an organization committed to safeguarding the rights of Americans as protected by the United States Constitution, including the prohibition against unreasonable searches and seizures by government agents, I urge you to sign into law HB 1160.² The bill, which currently sits on your desk, would prohibit all agencies of the Commonwealth of Virginia, as well as members of the Virginia National Guard, from aiding "an agency of the armed forces of the United States in the conduct of the investigation, prosecution, or detention of any citizen... as provided by the National Defense Authorization Act for Fiscal Year 2012."³

The NDAA 2012, the mammoth defense bill passed by the United States Congress in late 2011 and signed by President Barack Obama on New Year's Eve, contains a provision allowing for the indefinite detention of American citizens by the armed forces.⁴ While President Obama claims that he will not exercise the power of arbitrary military detention of American citizens, his unease is no cure for the systemic dismantling of Americans' civil liberties currently taking place at the federal level. As Governor, you have sworn to uphold both the US Constitution and the Constitution of Virginia, and thus are in the unique position of being able to affirm Virginia's commitment to constitutional governance by signing this bill.

¹ The Rutherford Institute is a non-profit civil liberties organization that provides free legal representation to individuals whose civil rights are threatened or infringed.

² HB 1160, <http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+HB1160ER+pdf>.

³ HB 1160, <http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+HB1160ER+pdf>.

⁴ Sherfinski, David. "Virginia bill OK'd bucking U.S. law on citizen detention." *The Washington Times*, March 8, 2012. <http://p.washingtontimes.com/news/2012/mar/8/virginia-bill-okd-bucking-us-law-on-citizen-detent/?page=all>.

As has been observed over the past ten years, the federal government has taken a keen interest in erecting a state of surveillance and compliance, which is evidenced by events such as the passage of the USA PATRIOT Act, the erection of a massive domestic surveillance network under the authority of the National Security Agency⁵, and most recently, legislation authorizing the use of aerial drones to scan the skies of America.⁶ The provision of the NDAA 2012 allowing for the indefinite detention of Americans is one in a long line of federal government abuses in the years since 9/11. By signing this bill into law, you can communicate that Virginians have had enough.

Interest groups as politically diverse as the American Civil Liberties Union and the John Birch Society are in opposition to the offending provision of the NDAA 2012, and HB 1160 has near unanimous support in the Virginia legislature.⁷ To veto the measure would not only be a disservice to the constitutional rights of Virginians, but would go against the popular will of the people of Virginia. I urge you to sign the bill, and take a stand against the unconstitutional provisions of the NDAA 2012 and affirm the Commonwealth of Virginia's commitment to liberty and the law.

Sincerely yours,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke, positioned over the typed name and title.

John W. Whitehead
President

⁵ Bamford, James. "The NSA Is Building the Country's Biggest Spy Center (Watch What You Say)." *Wired*, March 15, 2012. http://www.wired.com/threatlevel/2012/03/ff_nsadatacenter/all/1 (accessed April 6, 2012).

⁶ Glor, Jeff. CBS News, "Drone use in the U.S. raises privacy concerns." Last modified April 5, 2012. Accessed April 6, 2012. http://www.cbsnews.com/8301-505266_162-57409759/drone-use-in-the-u.s-raise-privacy-concerns/.

⁷ Sherfinski, David. "Virginia bill OK'd bucking U.S. law on citizen detention." *The Washington Times*, March 8, 2012. <http://p.washingtontimes.com/news/2012/mar/8/virginia-bill-okd-bucking-us-law-on-citizen-detent/?page=all>.