

December 14, 2011

Contact HASC Communications Office, 202-225-2539

**FY12 NDAA CONFERENCE REPORT  
--- DETAINEE FACT SHEET---**

- **DETAINING AL-QAEDA, THE TALIBAN, AND ASSOCIATED FORCES.** This provision does not address or extend new authority to detain U.S. Citizens. What it does do is affirm that the military may lawfully detain individuals who are engaged in armed conflict with the United States, as stated by the Authorization of the Use of Military Force. This provision was part of H.R. 1540, which passed the House overwhelmingly in May. It was upheld by a separate floor vote during House consideration.
- **REQUIREMENT FOR MILITARY CUSTODY FOR FOREIGN AL-QAEDA TERRORISTS.** In cases such as the Christmas Day Bomber, where a foreign terrorist is caught in a plot to attack the United States, establishes a new requirement for military custody. This provision only applies to foreign individuals who are part of, or substantially supporting, Al Qaeda or associated forces AND have participated in the course of planning or carrying out an attack or attempted attack against the United States or its coalition partners. It is vital that terrorists bent on waging war against American freedom are treated according to the laws of war, not treated like simple criminals.
  - Provides a waiver for the President when such a requirement is not in the national security interests of the United States.
  - Facilitates greater intelligence gathering from foreign terrorists.
  - Explicitly exempts U.S. citizens from the requirement. Note: the President can not waive the U.S. citizen exemption.**

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COURTESY OF HOUSE ARMED SERVICES COMMITTEE  
CHAIRMAN BUCK MCKEON (R-CA)