

RESOLUTION

RE: STATEMENT OF OPPOSITION TO THE AUTHORITY AFFIRMED IN SECTION 1021 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

WHEREAS, the Board of County Commissioners of Weld County, Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

WHEREAS, on December 31, 2011, President Obama signed into law the National Defense Authorization Act for Fiscal Year 2012 ("NDAA"), and

WHEREAS, Subsection 1021(a) of the NDAA "affirms that the authority of the President to use all necessary and appropriate force pursuant to the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note) includes the authority for the Armed Forces of the United States to detain covered persons . . . pending disposition under the law of war," and

WHEREAS, the term, "Covered Persons," under Subsection 1021(b), is defined to include:

- (1) A person who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored those responsible for those attacks, or
- (2) A person who was a part of or **substantially supported** al-Qaeda, the Taliban, or **associated forces** that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces (emphasis added), and

WHEREAS, Subsection 1021(c) authorizes that the disposition of a "Covered Person" under the law of war as described in Subsection 1021(a) may include the following:

- (1) Detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force, or
- (2) Trial under chapter 47A of title 10, United States Code (as amended by the Military Commissions Act of 2009 (title XVIII of Public Law 111-84)), or
- (3) Transfer for trial by an alternative court or competent tribunal having lawful jurisdiction, or
- (4) Transfer to the custody or control of the person's country of origin, any other foreign country, or any other foreign entity, and

WHEREAS, the highlighted terms in the above-stated definition of "Covered Persons" in Section 1021(b) remain vague and undefined and, therefore, allow for an interpretation by members of the Armed Forces of the United States that may include Citizens of the United States, and

WHEREAS, such interpretation allows for the detention of U.S. Citizens on United States soil by members of the Armed Forces of the United States, with disposition of said U.S. Citizens in accordance with the directives included in Subsection 1021(c), and

cc: Cary Sooter, Jeff Analisa, Gardner, Melzer, Hare, Romano
2-8-12

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WHEREAS, such authority to detain U.S. Citizens on U.S. soil has traditionally been reserved for and limited to actions taken by Federal, State, or local civilian law enforcement personnel in the course of enforcing Federal, State or local laws enacted by legislative and/or executive officials elected by the People of such jurisdictions, rather than by members of the Armed Forces of the United States acting pursuant to directive of the President, and

WHEREAS, the Board of County Commissioners opposes the authority affirmed in Section 1021 of the NDAA for the reason that the Board believes the authority to detain U.S. Citizens on U.S. soil must be reserved for and limited to actions taken by Federal, State, or local civilian law enforcement personnel in the course of enforcing Federal, State or local laws enacted by legislative and/or executive officials elected by the People of such jurisdictions, rather than by members of the Armed Forces of the United States acting pursuant to directive of the President.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Weld County, Colorado, that the Board hereby opposes the authority affirmed in Section 1021 of the NDAA for the reason that the Board believes the authority to detain U.S. Citizens on U.S. soil must be reserved for and limited to actions taken by Federal, State, or local civilian law enforcement personnel in the course of enforcing Federal, State or local laws enacted by legislative and/or executive officials elected by the People of such jurisdictions, rather than by members of the Armed Forces of the United States acting pursuant to directive of the President.

The above and foregoing Resolution was, on motion duly made and seconded, adopted by the following vote on the 6th day of February, A.D., 2012.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST: Barbara Kirkmeyer

Weld County Clerk to the Board

Sean P. Conway
Sean P. Conway, Chair

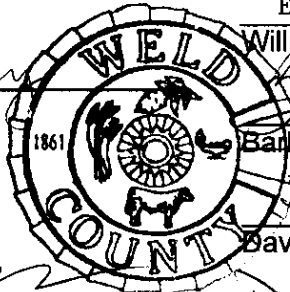
EXCUSED

BY: Joseph Disney
Deputy Clerk to the Board

William F. Garcia
William F. Garcia, Pro-Tem

Barbara Kirkmeyer
Barbara Kirkmeyer

APPROVED AS TO FORM:
[Signature]
County Attorney



David E. Long
David E. Long

Douglas Rademacher
Douglas Rademacher

Date of signature: 2-8-12