MYTH: "The Smith-Amash Amendment to the FY13 NDAA would protect Americans from indefinite detention."

FACT: The Smith-Amash Amendment would tie the hands of our military and prevent them from being able to apprehend terrorists.

Congressman Lankford voted against the proposed Smith-Amash Amendment to the FY13 NDAA when it failed to pass the House in a vote of 182-238. Members raised concerns that this amendment could incite foreign terrorists, like al Qaeda and the Taliban, to attack us. The safety and security of our country could be jeopardized if Congress required al Qaeda terrorists captured in the U.S. to receive trial in a federal court. Additionally, it would have granted Miranda Rights to all suspects and would have given foreign terrorists full protection under the law. These provisions would incentivize them to attack us here at home, risking the safety and security of all American citizens. Below is the text of the amendment as proposed to the House:

AMENDMENT TO THE RULES COMMITTEE PRINT OF H.R. 4310
OFFERED BY MR. SMITH OF WASHINGTON

At the end of subtitle D of title X, add the following new section:

SEC. 1044 - DISPOSITION OF COVERED PERSONS DETAINED IN THE UNITED STATES PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE.
(a) SHORT TITLE.—This section may be cited as the ''Due Process and Military Detention Amendments Act''.

(b) DISPOSITION.—Section 1021 of the National Defense Authorization Act for Fiscal Year 2012 is amended—

(1) in subsection (c), by striking ''The disposition'' and inserting ''Except as provided in subsection (g), the disposition''; and
(2) by adding at the end the following new subsections:
''(g) DISPOSITION OF PERSONS DETAINED IN THE UNITED STATES.—
''(1) PERSONS DETAINED PURSUANT TO THE AUTHORIZATION FOR USE OF

MILITARY FORCE OR THE FISCAL YEAR 2012 OR 2013 NATIONAL DEFENSE AUTHORIZATION ACTS.—In the case of a covered person who is detained in the United States, or a territory or possession of the United States, pursuant to the Authorization for Use of Military Force, this Act, or the National Defense Authorization Act for Fiscal Year 2013, disposition under the law of war shall occur immediately upon the person coming into custody of the Federal Government and shall only mean the immediate transfer of the person for trial and proceedings by a court established under Article III of the Constitution of the United States or by an appropriate State court. Such trial and proceedings shall have all the due process as provided for under the Constitution of the United States.

''(2) PROHIBITION ON TRANSFER TO MILITARY CUSTODY.—No person detained, captured, or arrested in the United States, or a territory or possession of the United States, may be transferred to the custody of the Armed Forces for detention under the Authorization for Use of Military Force, this Act, or the National Defense Authorization Act for Fiscal Year 2013.

''(h) RULE OF CONSTRUCTION.—This section shall not be construed to authorize the detention of a person within the United States, or a territory or possession of the United States, under the Authorization for Use of Military Force, this Act, or the National Defense Authorization Act for Fiscal Year 2013.''.

(c) REPEAL OF REQUIREMENT FOR MILITARY CUSTODY.—

(1) REPEAL.—Section 1022 of the National Defense Authorization Act for Fiscal Year 2012 is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 1029(b) of such Act is amended by striking ''applies to'' and all that follows through ''any other person'' and inserting ''applies to any person''.