

Understanding NDAA 2012

NDAA 2012 (H.R. 1540) allows Americans to be classified as unlawful enemy combatants and indefinitely detained by the military, without access to an attorney or a trial by jury, on orders of the executive branch. Amendments to exclude American citizens were rejected by the Obama administration and senate vote (See numerous links below).

Our Congressmen have declared that America is part of the battlefield. As such, President Obama and congress believe the laws of war apply to us. The last time America was declared a military zone President Roosevelt authorized the internment of Americans with Executive Order 9066, issued February 19, 1942.

Sections 1021 and 1022 of the NDAA 2012 allow the indefinite military detention of Americans without due process. Congress needs to repeal sections 1021 and 1022. Call your congressmen today - contact and voting information below.

NDAA 2012 is unconstitutional. Sections 1021 and 1022 repeal the 4th, 5th, 6th, 8th, and 14th amendments to the Constitution. The Constitution is the supreme law of the land and declares our right to due process. No law can supersede it. We have a right to our day in court with a jury of our peers.

U.S. Constitution Article III Section 2

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.

From Oath Keepers:

We will NOT obey any order to detain American citizens as “unlawful enemy combatants” or to subject them to trial by military tribunal.

One of the causes of the American Revolution was the denial of the right to jury trial, the use of admiralty courts (military tribunals) instead, and the application of the laws of war to the colonists. After that experience, and being well aware of the infamous Star Chamber in English history, the Founders ensured that the international laws of war would apply only to foreign enemies, not to the American people. Thus, the Article III Treason Clause establishes the only constitutional form of trial for an American, not serving in the military, who is accused of making war on his own nation. Such a trial for treason must be before a civilian jury, not a tribunal.

The international laws of war do not trump our Bill of Rights. We reject as illegitimate any such claimed power, as did the Supreme Court in Ex Parte Milligan (1865). Any attempt to apply the laws of war to American civilians, under any pretext, such as against domestic “militia” groups the government brands “domestic terrorists,” is an act of war and an act of treason.

<http://oathkeepers.org/oath/2009/03/03/declaration-of-orders-we-will-not-obey/>

Our Declaration of Independence also states our right to trial by jury.

Senator Graham said that America is part of the battlefield, and as such, Americans can be captured, interrogated, and killed with no due process. Senators Graham, Kyl, and McCain say the law of war (military law) applies to us.

The senators argue the 2001 AUMF (2001 Authorization to Use Military Force) is in accordance with 1971 Non-Detention Act and allows Americans to be detained indefinitely without access to an attorney.

Non - Detention Act 1971:

No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress

The senators say the act of congress that allows us to be detained indefinitely is the AUMF 2001. So, no, the paragraph below from NDAA 2012 Section 1021 (d) does not protect you. We are talking about the law of war applied to American citizens, not criminal law, which includes due process. You can now be considered an unlawful enemy combatant.

(d) CONSTRUCTION.—Nothing in this section is intended to limit or expand the authority of the President or the scope of the Authorization for Use of Military Force.

Senator Kyl on the section D amendment:

Unfortunately, on December 1, when the defense bill was considered on the Senate floor, an amendment was approved that added language providing that the bill does not expand or contract "existing law or authorities." I opposed this meaningless amendment.

<http://files.meetup.com/1275333/Letter%20from%20Senator%20Kyl%20NDAA%202012.jpg>

Senator Graham: Under domestic criminal law, we can't hold someone indefinitely. The only way to do that legally is under the law of war.

<http://files.meetup.com/1275333/Senate-NDAA-Debate%20Dec.%201st%20-%20kyl%2C%20levin%2C%20graham.pdf>

Senator Kyl - I ask unanimous consent to have printed in the Record a statement that makes very clear where military detention is necessary: to allow intelligence gathering that will prevent future terrorist attacks against the American people.

There being no objection, the material was ordered to be printed in the Record, as follows: Wartime Detention of Enemy Combatants--Including U.S. Citizens Who Join the Forces of the Enemy--Is An Established Practice That Is Clearly Constitutional.

Senator Kyl goes on to say:

Nothing precludes the United States, the executive branch, from thereafter deciding to try the individual as a criminal in the criminal courts with all the attendant rights of a criminal. But until that determination, it cannot be denied that the executive has the authority to hold people as military combatants, gather intelligence necessary, and hold that individual until the cessation of hostilities.

In military custody, by contrast, not only are there no lawyers for terrorists. The indefinite nature of the detention--it can last as long as the war continues--itself creates conditions that allow effective interrogation. It creates the relationship of dependency and trust that experienced interrogators have made clear is critical to persuading terrorist detainees to talk. Navy Vice-Admiral Lowell Jacoby, who at the time was the Director of the Defense Intelligence Agency, explained how military custody is critical to effective interrogation in a declaration that he submitted in the Padilla litigation. He emphasized that successful non-coercive interrogation takes time--and it requires keeping the detainee away from lawyers.

<http://files.meetup.com/1275333/Senate-NDAA-Debate%20Dec.%201st%20-%20kyl%2C%20levin%2C%20graham.pdf>

"I consider Trial by Jury as the only anchor yet imagined by man, by which a government can be held to the principles of its constitution". Thomas Jefferson

How your congressmen voted:

House

<http://www.govtrack.us/congress/vote.xpd?vote=h2011-932>

Senate

<http://www.govtrack.us/congress/vote.xpd?vote=s2011-230>

Contact your congressmen

Senators: http://www.senate.gov/general/contact_information/senators_cfm.cfm

Representatives

<http://www.house.gov/representatives/>

Text of 2001 AUMF

http://en.wikipedia.org/wiki/Authorization_for_Use_of_Military_Force_Against_Terrorists

Non Detention Act 1971

http://en.wikipedia.org/wiki/Non-Detention_Act

Obama Rejected Exclusion of Americans from NDAA 2012:

<http://www.youtube.com/watch?v=kKfyao7ABME>

Obama Signing Statement:

I want to clarify that my Administration will not AUTHORIZE the indefinite military detention without trial of American citizens.

<http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2011/12/31/National-Politics/Graphics/Obama-NDAA-signing-statement.doc.pdf>

Senators Confirm that NDAA 2012 Detains Americans:

Senate Hearing - Dec. 1st

<http://files.meetup.com/1275333/Senate-NDAA-Debate%20Dec.%201st%20-%20ky!%2C%20levin%2C%20graham.pdf>

Senator Feinstein

<http://www.youtube.com/watch?v=-z1J1gkVOfM>

Senator Rand Paul

<http://www.youtube.com/watch?v=GDx062cpWKE>

Senators Graham, Carl Levin

<http://www.youtube.com/watch?v=l3PtkO291I8>

Rep. Moran

<http://www.youtube.com/watch?v=eX71KJWYi2A>

Senator Graham:

<http://www.youtube.com/watch?v=51F4kdE1jP4>

<http://www.youtube.com/watch?v=8ejw7WUb310>

<http://www.aclu.org/blog/national-security/senators-demand-military-lock-american-citizens-battlefield-they-define-being>

Senator Merkley

<http://www.youtube.com/watch?v=KDskApesG3YS>

Senator Durbin

http://www.youtube.com/watch?v=Ukoef7Tebko&feature=channel_video_title

Senator Feinstein's Failed Amendments:

AMENDMENT PURPOSE:

To limit the authority of the Armed Forces to detain citizens of the United States under section 1031.

<http://www.votesmart.org/bill/14187/prohibits-detention-of-us-citizens-without-trial#37420>

<http://fellowshipofminds.wordpress.com/tag/mark-udall/>

TEXT OF Failed Udall AMENDMENT (Senate - November 17, 2011):

At the end of section 1031, add the following:

(f) Extension to United States Citizens and Lawful Resident Aliens. The authority of the Armed Forces of the United States to detain covered persons under this section extends to citizens of the United States and lawful resident aliens of the United States, except to the extent prohibited by the Constitution of the United States.

<http://thomas.loc.gov/home/thomas.php>

Senator Rand Paul's Failed Amendment - Nov. 17th, 2011 SA 1062 as follows:

Strike section 1031.

<http://thomas.loc.gov/home/thomas.php>

H.R. 1540 Wording - Page 653 Sect. 1021 and 1022

<http://www.lawfareblog.com/wp-content/uploads/2011/12/NDAA-Conference-Report-Detainee-Section.pdf>

Original bill Page 359 - (S. 1867 - NDAA 2012) - Indefinite Detention -Sect. 1031 and Sect. 1032

<http://www.gpo.gov/fdsys/pkg/BILLS-112s1867pcs/pdf/BILLS-112s1867pcs.pdf>

NDAA Articles:

<http://oathkeepers.org/oath/2012/01/19/what-congress-must-do-to-fix-the-damage-of-ndaa-and-deny-the-u-s-government-the-power-to-wage-war-on-americans/?cp=1#comment-55123>

<http://blog.chron.com/youngamericanmuslim/2012/01/caution-according-to-the-ndaa-you-could-be-a-terrorist/>

http://www.salon.com/2011/12/16/three_myths_about_the_detention_bill/singleton/

<http://www.bakersfield.com/opinion/community/x2117244914/Controversial-law-lays-waste-to-much-of-the-Bill-of-Rights>

Posse comitatus

<http://www.law.cornell.edu/uscode/18/1385.html>

<http://www.homelandsecurity.org/journal/articles/trebilcock.htm>

Codified - Arrange (laws or rules) into a systematic code.