



# NDAA detention provisions go far

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Because the NDAA's detention provisions effectively suspend due process. Sections 1021 and 1022 allow the military to detain anyone whom it -- without judicial review -- decides "substantially support[s]" al Qaeda or "associated forces" until the "end of hostilities."

The NDAA even allows the military to ship off "covered persons" (including US citizens) and hold them overseas indefinitely. "[The NDAA] enshrines extraordinary rendition into law," said Fairfax, California City Councilmember Larry Bragman (G). "We must resist. We must oppose. We must reverse."

According to Rhode Island state Rep. and Marine Corps veteran Dan Gordon (R), "There is no definition of the term 'belligerent' and who gets to make that determination. That is a problem."

The NDAA's detention provisions place enormous power in the president's hands. They empower our government to ignore constitutionally guaranteed First, Fourth, Fifth and Sixth Amendment rights. The authority to arbitrarily detain anyone on the basis of mere suspicion is the very definition of authoritarianism.

The NDAA's apologists believe our government would exercise such extreme powers only against real terrorists. History reveals their confusion.

In 1942, President Franklin D. Roosevelt authorized a military detention program that kidnapped over 100,000 Japanese-Americans and Japanese citizens, forcing their relocation to internment camps. Our government also caged around 11,000 Americans of German ancestry and some 3,000 Italian-Americans, none of whom presented a security threat.

Nor are these abuses confined to the past. Roughly a quarter of those housed at Communication Management Units in the Midwest, for instance, are young white men from the Pacific Northwest convicted of terrorism for acts of environmentally-motivated vandalism. The Animal Enterprise Terrorism Act even allows the government to treat undercover investigation of factory farms as an act of terror.

Our Founders left us a Constitution precisely to prevent these kinds of abuses. Representatives Smith & Amash, inspired by their example, aim to

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restore basic due process rights for every person on American soil and ensure a civilian trial for those accused:

[T]rial and proceedings shall have all the due process as provided for under the Constitution of the United States. No person detained, captured, or arrested in the United States...may be transferred to the custody of the Armed Forces for detention....

These principles should not be controversial in a nation heralded as the "land of the free."

Congress will also consider other measures claiming to fix the NDAA. Two, introduced by Representatives Ron Paul (R-Tex.) and Jerrold Nadler (D-N.Y.), are worthwhile but have not mustered enough support to force a vote. Two others, one from Reps. Scott Rigell (R-VA) and Jeff Landry (R-LA), and another from Senator Diane Feinstein (D-Calif.) and Rep. John Garamendi (D-Calif.), are counterproductive and could wreak even greater constitutional havoc than the NDAA itself.

In contrast, the Smith-Amash proposal is carefully tailored to preserve constitutional liberty. It would prohibit the military from seizing or detaining individuals in the U.S., while also closing the door on the Bush administration's use of the 2011 Authorization to Use Military Force in Afghanistan (AUMF) as a basis for domestic military detention.

As Americans, we should not trust any president with the powers authorized by the NDAA. Not President Obama. Not President Bush. Not the next president. Not any future president. Yet, last December, Congress gave every future president this unchecked executive power.

Our defense must not come at the expense of our freedom. Representatives Smith & Amash -- like "We the People of the United States" clamoring across the country -- aim to unite our divided nation under the liberty promised by our Constitution. Everyone who has taken the oath of office owes them a vote.

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