



Written by [Joe Wolverton, II, J.D.](#) on February 24, 2012

## Leaders From Across Political Spectrum Unite to Oppose NDAA

Cosponsored by the [Tenth Amendment Center](#), the [Bill of Rights Defense Committee](#), and [Demand Progress](#), the hour-long teleconference featured statements by men and women of a variety of political stripes united in their opposition to the NDAA, specifically the provisions permitting the indefinite detention of American citizens.

Before chronicling the statements made by the able panel of participants, some background information on the frighteningly unconstitutional aspects of this new federal statute is in order.



The National Defense Authorization Act is an unprecedented, unconstitutional, and unchecked grant of dictatorial power to the President in the name of protecting the security of “the homeland.” Ron Paul described the measure as a “slip into tyranny,” one that will almost certainly accelerate “our descent into totalitarianism.”

What of the NDAA? Are there indeed provisions contained therein that so ferociously tear at the constitutional fabric of our Republic as claimed by those speaking at yesterday’s press conference?

In a word — yes.

This liberty-extinguishing legislation converts America into a war zone and turns Americans into potential suspected terrorists, complete with the full roster of rights typically afforded to terrorists — none.

A key component of this reconciled bill mandates a frightening grant of immense and unconstitutional power to the executive branch. Under the provisions of Section 1021, the President is afforded the absolute power to arrest and detain citizens of the United States without their being informed of any criminal charges, without a trial on the merits of those charges, and without a scintilla of the due process safeguards protected by the Constitution of the United States.

Further, in order to execute the provisions of Section 1021 described in the previous paragraph, subsequent clauses (Section 1022, for example) unlawfully give the President the absolute and unquestionable authority to deploy the armed forces of the United States to apprehend and to indefinitely detain those suspected of threatening the security of the “homeland.” In the language of this legislation, these people are called “covered persons.”

The universe of potential “covered persons” includes every citizen of the United States of America. Any American could one day find himself or herself branded a “belligerent” and thus subject to the complete confiscation of his or her constitutional civil liberties and nearly never-ending incarceration in a military prison.

After some introductory remarks by the event’s sponsors, the first of the invited speakers to address the



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media was Naomi Wolf. Wolf is known for having been a consultant to former Vice President Al Gore. In addition to her work in politics, she is an accomplished author and journalist.

It must be noted that Wolf's appearance at the press conference was evidence that the concern for the future of our Republic in a post-NDAA world spreads across the political spectrum and is not a conservative or liberal issue, but an American issue.

Describing the NDAA as "The worst thing I've seen in my lifetime," Wolf stated that as a mother she is "frightened for [her] children's future."

Wolf went on to posit, "Once you reach the tipping point when laws are passed to suspend the rule of law, history shows that that is the point of no return. Once government can take people without charge or trial, journalists, activists, and clergy aren't safe; no one is safe."

In closing, Wolf recounted that she has seen letters from members of Congress sent to constituents who have expressed fear of possible detention under the NDAA. Of these letters, Wolf said, "To my great distress, so many Congressmen are lying to the American people about what [the NDAA] meant. They denied that the NDAA gave power to the president to detain citizens without trial. They are form letters and they are filled with lies."

I can personally vouch for Wolf's assessment of these boilerplate shrug-offs costumed as congressional responses to citizens' inquiries into the constitutionality of the NDAA. I have received copies of these reassuring missives sent by members of Congress to a frightened electorate. These letters (form letters, mind you) communicate a gross and irresponsible misrepresentation of the most noxious provisions of the NDAA.

Specifically, these members of Congress (who have taken an oath to preserve, protect, and defend the Constitution) inform (rather, misinform) constituents that the NDAA prohibits the indefinite detention of American citizens. This is untrue. Read for yourselves the applicable section:

Section 1022 (b) APPLICABILITY TO UNITED STATES CITIZENS AND LAWFUL RESIDENT ALIENS.

(1) UNITED STATES CITIZENS.—The requirement to detain a person in military custody under this section does not extend to citizens of the United States.

Read the words very closely. This provision says that the military is not "required" to detain American citizens. That is hardly the same as saying that the military is "forbidden" from detaining American citizens. Congress is full of attorneys who know the importance of specificity of language. They know that vagary in language is contrary to good law. In fact, many laws are struck down by courts for being too vague. The point is: If these men and women, so many of whom are trained in the law, meant to forbid the military from arresting and detaining American citizens, then they could have done so. They chose not to. They chose to leave that option open.

Terms so ill-defined are ripe for the wresting and within the penumbras of these cleverly crafted provisions could be found lurking the tools of tyranny — wrenches that one day could force anyone branded as an enemy into a predetermined "terrorist" slot.

Next up was noted constitutional scholar, attorney, and member of the Reagan Justice Department, Bruce Fein.

Fein was eloquent in his recriminations of the various violations of civil liberties contained within the 565-page NDAA. Starting off on the right foot in his message, Fein recited to attendees Thomas Paine's



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famous definition of a patriot: "A patriot is a citizen who saves his country from his government."

The worst of the creeping dictatorship evinced by the enactment of the NDAA, Fein said, "was on display yesterday at Yale Law School when a representative from the Pentagon told students that the president has the unilateral power to kill anyone based on secret information." "There was no reaction," Fein lamented.

Then declaiming the encroaching despotism, Fein asked rhetorically, "How many times did we hear from the neocons that we had to fight overseas to prevent fighting at home?" Fein's accurate answer is chilling: "Now Lindsey Graham is saying that the battlefield is here. That means predator drones can be used here the same as they are used in Pakistan or Yemen."

On the topic of unmanned predator drones, Fein reminded reporters that the "NDAA also funded the domestic drone program. There are reportedly 30,000 ready to be deployed in the skies of the United States." "The federal government is eager to send these predator drones," he stated.

Reciting the history of abuses suffered by our ancestors under King George III of Great Britain, Fein, now a member of the Ron Paul 2012 campaign, claimed, "We've turned into the mirror image of George III or worse."

Furthermore, Fein summoned the specter of the manipulation of the political system that facilitated the rise to power of Adolf Hitler: "We are moving toward Nazi Germany on the installment plan," he warned.

Fein's remarks are a reminder that Americans of this generation have likely forgotten that there is a historical precedent for such a law. In 1933, the German Reichstag passed the Enabling Act. Through the enactment of this law, Adolf Hitler was given the expansive powers that effectively established his dictatorship. And as is the case with the National Defense Authorization Act, various provisions of the Enabling Act authorized Hitler to act without the interference of the Reichstag.

There is something to be learned from the formal name of the Enabling Act. It was "Gesetz zur Behebung der Not von Volk und Reich," which translated means "Law to Remedy the Distress of the People and Reich." The American Congress, by passing the National Defense Authorization Act, granted similar powers to the President as those granted by the German Reichstag to Adolf Hitler and for much the same stated reason: the protection of the people.

Finally, Fein suggested the solution to this slide toward dictatorship: "Sometimes, when the tyranny is vicious enough, there is only one remedy and that is explained in the Declaration of Independence."

Happily, the final few presenters were state and local leaders who have introduced legislation in one form or another nullifying all or part of the NDAA in their respective jurisdictions.

First, Washington State Representative Matt Shea and his House colleague and cosponsor of the NDAA-nullifying bill in the Evergreen State, Jason Overstreet. Shea, an Army veteran and practicing attorney, explained that [their resolution](#) declares that NDAA will not be lawful in Washington. He claimed that he and his cosponsors were able to identify at least "11 violations of the U.S. Constitution in the NDAA."

Next, Shea rightly pointed out: "President Obama in his signing statement implied that it did indeed authorize the indefinite detention of Americans." That signing statement can be read [here](#). There would be no need to promise not to detain Americans if such a power was not granted in the first place.

Following Shea and Overstreet, the press was delighted to hear from Bill Dwight, the President of the Northampton, Massachusetts city council. This historic town — home of Smith College that counts



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Woodrow Wilson as a former Mayor — has recently enacted a resolution calling on the federal government to repeal the NDAA and forbidding its enforcement by town officials.

"We're witnessing the frequent accommodation of the death by a thousand cuts of the Bill of Rights," and "this is unacceptable," said Dwight.

Dwight, whose town was the first to pass legislation against the Patriot Act, continued, saying, "We have no higher calling than to protect the Constitution which is clearly in jeopardy. We [the Northampton City Council] have made it known that this will not stand."

The final speaker was El Paso County, Colorado commissioner, [Peggy Littleton](#). Littleton's county has passed a resolution opposing the NDAA's suspension of habeas corpus. In fact, her county was the first to do so.

When asked why she felt compelled to stand up to the federal government, Littleton declared, "I felt it incumbent to be proactive to protect our counties and Tenth Amendment rights."

Littleton concluded her remarks with a frightening question: "Who is to say that those who carry Bibles or have personal firearms will not one day be considered as someone committing a 'belligerent act'?"

In order to sharpen the teeth of these nullifying bills and resolutions, however, local and state elected officials must make sure that their proposals serve to criminalize the participation by state officials in the execution of the indefinite provisions of the NDAA. This means that state military forces and law enforcement must be forbidden from assisting the federal government in the apprehension or temporary detention of American citizens residing within their sovereign borders.

Any violation of this proscription would result in the filing of criminal charges against the violators based on the provisions of the state law nullifying the NDAA.

To that end, I asked Washington State Representatives Shea and Overstreet why their bill does not criminalize the participation by Washington State officials or law enforcement with the most noxious provisions of the NDAA rather than just call for its repeal.

"We had a criminal provision that we left out of the bill because we want to bring it up as a separate bill or amendment so that we can have a separate debate on that issue. I agree that it must be part of the fight against the NDAA," Shea responded.

Perhaps most importantly, each of the speakers promised to carry on the crusade against the NDAA and all other unconstitutional attempts by the federal government to rob Americans — liberal or conservative — of their civil liberties.



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