



Oxford, Mass., Adopts Anti-NDAA Resolution

A congressman other than Justin Amash has come out against the indefinite detention provisions of the National Defense Authorization Act (NDAA).

On November 8, senior Democratic Whip Representative James P. McGovern (D-Mass.) sent a letter to leaders of the town of Oxford, Massachusetts, praising them for their passage of a resolution repealing sections of the NDAA that permit the president of the United States to order the indefinite detention of American citizens, denying them their constitutionally protected right of due process.



“I commend the Town of Oxford for its recent action in support of repealing Sections 1021 and 1022 of the Fiscal Year 2012 National Defense Authorization Act (NDAA),” McGovern wrote.

In October, citizens of Oxford, Massachusetts, almost unanimously passed the [Oxford Restoring Constitutional Governance Resolution](#). In addition to outlawing the indefinite detention of residents of the city, the resolution states:

It is unconstitutional, and therefore unlawful for any person to:

- a. arrest or capture any person in Oxford, or citizen of Oxford, within the United States, with the intent of “detention under the law of war,” or
- b. actually subject a person in Oxford, to “disposition under the law of war,” or
- c. subject any person to targeted killing in Oxford, or citizen of Oxford, within the United States.”

Unlike other cities where councilmen vote on resolutions, in Oxford, Massachusetts, citizens are empowered to consider and enact ordinances. In the case of the anti-NDAA resolution, 95 percent of those voting approved the measure.

[People Against the NDAA \(PANDA\) reports:](#)

Marla Zeneski, the Oxford resident who sponsored the resolution, along with the support of Worcester Tea Party Co-Founder Ken Mandile and PANDA Massachusetts, said:

“It took a long time and a big effort to gather these signatures due to the way our town is laid out as there is no single ‘common’ location where people of Oxford gather. But we persevered and I am so happy with the outcome! We are the first town in MA to pass this very important Resolution.”

And:

Benjamin Selecky, Team Leader for PANDA Massachusetts, praised the resolution and the efforts of local activists:

“Special thanks to everyone that helped Take Back the Town of Oxford. It was a team effort, and



Written by [Joe Wolverton, II, J.D.](#) on November 21, 2013

everyone's contribution was critical to accomplishing the mission. As we celebrate the victory, let us not lose sight of the long road ahead of us. There is work that still needs to be done, but together, we will restore constitutional governance to the Commonwealth of Massachusetts."

President Barack Obama signed the latest National Defense Authorization Act (NDAA) into law on January 2, 2013, renewing the power to apprehend and detain Americans indefinitely granted in the previous year's version.

As for the most unconstitutional parts of the NDAA 2012 that remain in effect, a bit of history is in order. On December 31, 2011, with the president's signing of that law, the writ of habeas corpus — a civil right so fundamental to Anglo-American common law history that it predates the Magna Carta — is voidable upon the command of the president of the United States. The Sixth Amendment right to counsel is also revocable at his will.

One of the most noxious elements of the NDAA is that it places the American military at the disposal of the president for the apprehension, arrest, and detention of those suspected of posing a danger to the homeland (whether inside or outside the borders of the United States and whether the suspect be a citizen or foreigner). The endowment of such a power to the president by the Congress is nothing less than a de facto legislative repeal of the Posse Comitatus Act of 1878, the law forbidding the use of the military in domestic law enforcement.

Furthermore, a key component of the NDAA 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.

Also, 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.

Other states and towns around the country should consider following Oxford's example in shielding citizens from the NDAA as the annual renewal of the legislation is underway on Capitol Hill.

On June 14, [by a vote of 315-108](#), the House of Representatives passed the [Fiscal Year 2014 version of the NDAA](#) (HR 1960). Several amendments to the defense spending legislation were proposed, many of which were approved either by voice vote or en bloc. The first method of voting requires no report on how individual members voted, while the second method aggregates amendments, allowing them to be voted on in groups.

A few of the amendments represent significant improvements to the NDAA of 2012 and 2013. The acts passed for those years infamously permitted the president to deploy U.S. military troops to apprehend and indefinitely detain any American he alone believed to be aiding enemies of the state.



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While the 2014 iteration doesn't go far enough in pushing the federal beast back inside its constitutional cage, there are at least a few congressmen willing to try to crack the whip and restore constitutional separation of powers and shore up a few of the fundamental liberties suspended by the NDAA of the past two years.

First, there is the amendment offered by Representative Trey Radel (R-Fla.). Radel's amendment requires the Department of Defense to submit to the Congress a report every year containing: (1) the names of any U.S. citizens subject to military detention, (2) the legal justification for their continued detention, and (3) the steps the Executive Branch is taking to either provide them some judicial process, or release them.

Radel's amendment was passed by voice vote.

Next, an amendment offered by Representative Bob Goodlatte (R-Va.) would require the federal government, in habeas proceedings for U.S. citizens apprehended in the United States pursuant to the Authorization for the Use of Military Force (AUMF), to prove by "clear and convincing evidence" that the citizen is an unprivileged enemy combatant and there is not presumption that the government's evidence is accurate and authentic.

The House approved the Goodlatte amendment by a vote of 214-211.

Finally, an amendment by Representative Paul Broun (R-Ga.) forbids the Department of Defense from killing a citizen of the United States by a drone attack unless that person is actively engaged in combat against the United States.

This trio of amendments represents a laudable attempt to restrain the power of the executive. As constitutionalists and civil libertarians are aware, recent occupants of the Oval Office have usurped sweeping unconstitutional powers, including the authority to target Americans for indefinite detention, to withhold from them their unalienable rights, and to kill American citizens who have been charged with no crime and been given no opportunity to defend themselves from the accusations that qualified them for summary assassination.

Despite these small victories in the battle to restore constitutionally protected liberty, the debate on the 2014 NDAA provided several examples of members of Congress violating their oaths of office by shrinking the scope of basic rights and expanding the power of the president to act as *de facto* (and now, *de jure*) judge, jury, and executioner.

As in so many other cases, the fundamental civil liberties protected by the Constitution will have to be preserved not by Congress, but by states and communities determined to undo the damage done by a federal government that acts where it has no authority.

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