

Happy New Year: Don't Bother Asking for an Attorney When You're Detained

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Global Research, January 02, 2012

[Indian Country](#) 2 January 2012

Region: [USA](#)

Theme: [Law and Justice](#), [Police State & Civil Rights](#)

The headlines said it all. The [Huffington Post](#) teaser shouted: HAPPY NEW YEAR: YOU CAN NOW BE DETAINED INDEFINITELY while [Infowars](#) proclaimed a more sedate: Happy New Year: Obama Signs NDAA, Indefinite Detention Now Law of the Land.

The NDAA is the \$662 billion [National Defense Authorization Act](#) that President Obama signed into law on New Year's Eve. In addition to funding the United States' ongoing wars and the [900 military bases it maintains in 130 countries](#), the bill provides for the U.S. president to have draconian worldwide authority to have the military seize anyone suspected of "terrorism" or providing aid to terrorists or "associated forces" anywhere in the world, including U.S. citizens on American soil, and detain them without charge or trial indefinitely. "It's a little New Year's present to our constitutional republic," Alex Jones says angrily in a [YouTube video](#).

[Amnesty International](#) announced it would join over 45 other organizations to protest the NDAA and the military prison at [Guantanamo](#) in front of the White House on January 11 - the 10th anniversary of the "war on terror" prison. More information is available [here](#).

The December 31 signing came after weeks of conflicting claims by the White House and the Senate, which [approved](#) the final version of the revised NDAA by a vote of [86-13](#) on December 15 - ironically, Bill of Rights Day. Obama had promised to veto an earlier version of the bill, claiming he "strongly objects" to the military custody provisions because "applying this military custody requirement to individuals inside the United States, as some Members of Congress have suggested is their intention, would raise serious and unsettled legal questions and would be inconsistent with the fundamental American principle that our military does not patrol our streets." He later changed his mind and agreed to sign the bill after revisions shifted the ultimate authority for detaining people from the State Department to the presidency. Meanwhile, in a [C-Span video](#) of a Senate debate on the bill, [Sen. Carl Levin](#) (D-Mich.) revealed it was the Obama administration that asked the [U.S. Senate Armed Services Committee](#) to remove language from the bill that would have prohibited U.S. citizens' military detention without due process. Levin is chairman of the committee and drafted the NDAA with [Sen. John McCain](#) (R-Ariz.).

The president issued a [signing statement](#) with the bill in which he claimed "serious reservations with certain provisions that regulate the detention, interrogation, and prosecution of suspected terrorists." The reservations do not center around constitutional rights regarding due process or international human rights laws concerning detention and interrogation, but rather over concerns that "some in Congress continue to insist upon

restricting the options available to our counterterrorism professionals and interfering with the very operations that have kept us safe.”

Those operations may include killing or capturing American militants such as [Anwar Al Awlaki](#), who was killed in Yemen on September 20, 2011, by a missile fired from an American drone, according to a [Reuters](#) report. “American militants like Anwar al-Awlaki are placed on a kill or capture list by a secretive panel of senior government officials, which then informs the president of its decisions, according to officials,” the report says. “There is no public record of the operations or decisions of the panel, which is a subset of the White House’s National Security Council, several current and former officials said. Neither is there any law establishing its existence or setting out the rules by which it is supposed to operate... The role of the president in ordering or ratifying a decision to target a citizen is fuzzy. White House spokesman Tommy Vietor declined to discuss anything about the process.

Obama says the NDAA only affirms the executive branch’s existing authority to detain persons covered by the 2001 [Authorization for Use of Military Force](#) (AUMF). That bill, however, limited use of the military specifically to those responsible for the 9/11 attacks. The NDAA expands that authority to anyone suspected of terrorism or aiding terrorists or “associated forces” without defining the terms. However, the president promises not to use the power against U.S. citizens. “I want to clarify that my Administration will not authorize the indefinite military detention without trial of American citizens. Indeed, I believe that doing so would break with our most important traditions and values as a Nation. My Administration will interpret (the NDAA) in a manner that ensures that any detention it authorizes complies with the Constitution, the laws of war, and all other applicable law.” His statement, however, only applies to how his administration would use the authorities granted by the NDAA, and would not affect how the law is interpreted by subsequent administrations.

Obama’s signing of the bill unleashed a backlash of criticism from civil and human rights organizations, social justice and civil libertarian commentators.

“Trust me” is not enough of a safeguard, [Amnesty International](#) said in a statement. “The bill places enormous power in the hands of future Presidents, and the only answer the President has is to say ‘trust me.’ Once any government has the authority to hold people indefinitely, the risk is that it can be almost impossible to rein such power in. President Obama has failed to take the one action – a veto – that would have blocked the dangerous provisions in the NDAA. In so doing, he has allowed human rights to be further undermined and given Al Qaeda a propaganda victory.”

Michel Chossudovsky wrote on [Global Research](#) that the NDAA “repeals the U.S. Constitution. While the facade of democracy prevails, supported by media propaganda, the American republic is fractured. The tendency is towards the establishment of a totalitarian state, a military government dressed in civilian clothes.” Chossudovsky compared provisions of the NDAA to Nazi Germany’s [Decree of the Reich President for the Protection of People and State](#), commonly known as the ‘Reichstag Fire Decree’ of 27 February 1933, which was used to repeal civil liberties including the right of Habeas Corpus.

The [American Civil Liberties Union](#) blasted Obama for signing the bill. “President Obama’s action today is a blight on his legacy because he will forever be known as the president who signed indefinite detention without charge or trial into law,” said Anthony D. Romero, ACLU

executive director. "The statute is particularly dangerous because it has no temporal or geographic limitations, and can be used by this and future presidents to militarily detain people captured far from any battlefield." Romero promised that the ACLU will fight the worldwide detention authority wherever it can – in court, in Congress, or internationally.

Romero expressed hope that the constitutional system of checks and balances will come into play to define the limits of presidential authority put forward by the NDAA. "Any hope that the Obama administration would roll back the constitutional excesses of George Bush in the war on terror was extinguished today," Romero said. "Thankfully, we have three branches of government, and the final word belongs to the Supreme Court, which has yet to rule on the scope of detention authority. But Congress and the president also have a role to play in cleaning up the mess they have created because no American citizen or anyone else should live in fear of this or any future president misusing the NDAA's detention authority."

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