On New Year’s Eve, President Obama signed the National Defense Authorization Act (NDAA), which could spell the end of due process and the right to trial—but not if We the People have anything to do with it. The Bill of Rights Defense Committee (BORDC) has been coordinating grassroots efforts across the country to turn back the tide on the NDAA and restore the right to trial. Since our elected officials in Washington seem ignorant of the Constitution, it’s time to take action at the local level, where we still have a voice and can make a real difference. BORDC has drafted a resolution that gives any city or town the

OPPOSITION TO INDEFINITE DETENTION, DEFENSE OF HABEAS CORPUS, DUE PROCESS, RIGHT TO TRIAL

BORDC ACTION

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opportunity to raise its voice in defense of due process and the right to trial. Cities, counties, and even states across America have already begun mobilizing, and the first resolution opposing the NDAA has already passed in El Paso County, CO, home of the US Air Force Academy. Could your city or town be next?

If you want to make your community part of the movement, we’ll support you every step of the way.

1. **Check out our anti-NDAA resolution**, which offers your local elected leaders a way to raise their voices.
2. **Review our toolkit for local campaigns opposing the NDAA’s detention provisions.** It includes talking points, action ideas, and more.
3. **Once you’re ready to start a campaign in your community, sign up for more support.** We’ll add your city to the national campaign map we’ll be launching soon.

Beyond these materials, we at BORDC—National Field Organizer George Friday and Grassroots Campaign Coordinator Emma Roderick—are standing by to support you, answer any questions you might have, and help you reach out to people in your community.

The NDAA has already taken effect, and although President Obama has promised not to use all the powers it authorizes, they will remain available for future administrations unless Congress repeals them. So don’t wait—there’s no better day than today to restore due process and reaffirm the right to trial.

Looking forward to working with you!

George Friday
National Field Organizer
Emma Roderick
Grassroots Campaign Coordinator
**Bill of Rights Defense Committee**
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[www.bordc.org](http://www.bordc.org)
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Telephone: 413-582-0110
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**Obama Crowned Himself on New Year’s Eve**

By: [David Swanson](mailto:David_Swanson) Saturday December 31, 2011 8:06 pm
These were among the complaints registered the last time this nation had a king:

“He has refused his Assent to Laws, the most wholesome and necessary for the public good.

“He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

“He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

“He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

“He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

“He has affected to render the Military independent of and superior to the Civil power.

“He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

“For Quartering large bodies of armed troops among us:

“For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

“For depriving us in many cases, of the benefits of Trial by Jury:

“For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

“He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.”

To prevent the U.S. government from behaving like a king, the drafters of the U.S. Constitution empowered an elected legislature to write every law, to declare every war, and to remove its executive from office. To further prevent the abuse of individuals’ rights, those authors wrote into the Constitution, even prior to the Bill of Rights, the right to habeas corpus and the right never to be punished for treason unless convicted in an open court on the testimony of at least two witnesses to an overt act of war or assistance of an enemy.

President Barack Obama waited until New Year’s Eve to take an action that I suspect he wanted his willfully deluded followers to have a good excuse not to notice. On that day, Obama issued an unconstitutional signing statement rewriting a law as he signed it into law, a practice that candidate Obama had rightly condemned. The law that Obama was signing was the most direct assault yet seen on the basic structure of self-governance and human rights that once made all the endless U.S. shouting of “We’re number one!” significantly less ludicrous. The National Defense Authorization Act is not a leap from democracy to tyranny, but it is another major step on a steady and accelerating decade-long march toward a police-and-war state.

President Obama has claimed the power to imprison people without a trial since his earliest months in office. He spoke in front of the Constitution in the National Archives while gutting our founding document in 2009. President Obama has claimed the power to torture “if needed,” issued an executive order claiming the power of imprisonment without trial, exercised that power on a massive scale at Bagram, and claimed and exercised the power to assassinate U.S. citizens. Obama routinely kills
people with unmanned drones.

The bill just signed into law, as sent to the President, said this:

“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.”

In other words, Congress was giving its stamp of approval to the unconstitutional outrages already claimed by the President. But then, why create a new law at all? Well, because some outrages are more equal than others, and Congress had chosen to specify some of those and in fact to expand some of them. For example:

“Congress affirms that the authority of the President to use all necessary and appropriate force pursuant to the Authorization for Use of Military Force (Public Law 107-40) includes the authority for the Armed Forces of the United States to detain covered persons (as defined in subsection (b)) pending disposition under the law of war.”

And this:

“The disposition of a person under the law of war as described in subsection (a) may include the following: (1) Detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force.”

Jon Stewart explained when those detained without trial under the law might be released: “So when the war on terror ends, and terror surrenders and is no longer available as a human emotion, you are free to go.”

An exception for U.S. legal residents and citizens was kept out of the bill at President Obama’s request.

So why did Obama threaten to veto the bill initially and again after it passed the Senate? Well, one change made by the conference committee was this (note the crossed-through text):

“The Secretary of Defense President may, in consultation with the Secretary of State and the Director of National Intelligence, waive the requirement of paragraph (1) if the President submits to Congress a certification in writing that such a waiver is in the national security interests of the United States.”

The reference here is to military tribunals. The President — that is, the current one and future ones — need not hand someone over even to a military tribunal if . . . well, if he (or she) chooses not to.

That was the most power Obama could have transferred to the White House in this bill. But it was not absolute power, and was therefore not good enough. Hence the signing statement, the relevant portion of which begins:

“Moving forward, my Administration will interpret and implement the provisions described below in a manner that best preserves the flexibility on which our safety depends and upholds the values on which this country was founded.”

This is Bush-Cheneyspeak for “I will not comply with the following sections of this law despite signing it into law.”

After having persuaded the Congress to remove an exception for U.S. legal residents, Obama has the nerve in the signing statement to assert, not that the law makes any such exception, but that he personally will choose to do so, at least for U.S. citizens. Future presidents may lock U.S. citizens up without trials, but Obama won’t do so. He promises:
“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 section 1021 in a manner that ensures that any detention it authorizes complies with the Constitution, the laws of war, and all other applicable law.”

The first two sentences above are highly unusual if not unprecedented. Most, if not all, of Bush and Obama’s law-altering signing statements up to this point have not sought to clarify what a particular administration would choose to do. Rather, they have focused on declaring parts of the laws invalid. Usually this is done in a manner misleadingly similar to the third sentence above. By claiming the power to interpret a law in line with the Constitution, Bush and Obama have each on numerous occasions asserted the view that the Constitution grants presidents far-reaching powers that cannot be restricted by legislation. If Obama had wanted to deny that this law could be applied to U.S. citizens (or legal residents), the above paragraph would look very different, although equally unusual in that it would then be rejecting power rather than claiming it.

Also note, as Marcy Wheeler has already pointed out, Section 1021 applies to any detention, and Obama promises only not to subject U.S. citizens to indefinite military detention. While locked away forever without a trial you’ll be able to take comfort that yours is a non-military imprisonment.

Also, remember that Obama claims and exercises the power to kill U.S. citizens or anyone else (arguably at least as serious a violation of rights as imprisonment!), and for that he will use the military if he sees fit, or even allow the military to operate freely.

Also notice that legal residents are not included in the category of citizens.

Next, Obama declares Section 1022 on military custody “ill-conceived.” His personal right to a waiver, won through the conference committee, was not enough. Obama insists on also erasing this section of law: “I reject,” he writes,

“any approach that would mandate military custody where law enforcement provides the best method of incapacitating a terrorist threat. While section 1022 is unnecessary and has the potential to create uncertainty, I have signed the bill because I believe that this section can be interpreted and applied in a manner that avoids undue harm to our current operations. I have concluded that section 1022 provides the minimally acceptable amount of flexibility to protect national security. Specifically, I have signed this bill on the understanding that section 1022 provides the executive branch with broad authority to determine how best to implement it, and with the full and unencumbered ability to waive any military custody requirement, including the option of waiving appropriate categories of cases when doing so is in the national security interests of the United States. … I will therefore interpret and implement section 1022 in the manner that best preserves the same flexible approach that has served us so well for the past 3 years and that protects the ability of law enforcement professionals to obtain the evidence and cooperation they need to protect the Nation.”

Obama goes on to reject several other sections of the law, including restrictions on his unlimited power to rendition prisoners to other countries. Among the notable rejections is this:

“Sections 1023-1025 needlessly interfere with the executive branch’s processes for reviewing the status of detainees. Going forward, consistent with congressional intent as detailed in the Conference Report, my Administration will interpret section 1024 as granting the Secretary of Defense broad discretion to determine what detainee status determinations in Afghanistan are subject to the requirements of this section.”

In other words, U.S. prisoners held in Afghanistan will not be given even any formal pretense of a legalistic review of their status unless Obama and his Secretary of “Defense” see fit.
I’ve just been editing a forthcoming book in which one of the contributors writes:

“In 1971, Congress passed the Anti-Detention Act, 18 U.S.C. § 4001(a), which states that “no person shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.” Fred Korematsu, who had brought the unsuccessful case before the Supreme Court, was eventually awarded the Medal of Honor. Congress apologized and provided for limited reparations for this heinous act.”

The author is referring to the unconstitutional indefinite detention of Japanese and Japanese-Americans during World War II. This type of criminal abuse for which Congress had to apologize and pay reparations, and for which there is a misleadingly pro-war-looking memorial hidden between the U.S. Capitol and Union Station, has now been effectively sanctioned by our Constitutional Scholar in Chief.

My chief regret is that we have not seen the major resistance we could have, and without any doubt would have, seen to this if only Obama were a Republican.

76 Responses to Obama Crowned Himself on New Year’s Eve

1. Synoia January 1st, 2012 at 1:05 am «

While I understand and sympathize with your points, you do not amplify the complaint illustrated in your opening passage by explaining how ALL of those complaints are now reasserted.

Have you actually read those complaints?
Specifically:
1. He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.
2. He has affected to render the Military independent of and superior to the Civil power.
3. He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation.
4. He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.
MORE

http://my.firedoglake.com/davidswanson/2011/12/31/obama-crowned-himself-on-new-years-eve/

Another version of Swanson’s article (D):

“Obama Crowned Himself on New Year’s Eve

Jan 4 Posted by Patriot By: David Swanson Saturday December 31, 2011 8:06 pm
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Constitution empowered an elected legislature to write every law, to declare every war, and to remove its executive from office. To further prevent the abuse of individuals’ rights, those authors wrote into the Constitution, even prior to the Bill of Rights, the right to habeas corpus and the right never to be punished for treason unless convicted in an open court on the testimony of at least two witnesses to an overt act of war or
assistance of an enemy.

President Barack Obama waited until New Year’s Eve to take an action that I suspect he wanted his willfully deluded followers to have a good excuse not to notice. Read Article...

http://tppatriots.net/2012/01/04/obama-crowned-himself-on-new-years-eve/

“He Signed It on the Dotted Line

by Alexander Cockburn, Battleground Blog, January 10, 2012 (similar essay in The Nation 1-23-12 with title “The Man Who Shot Habeas Corpus”)

America changed as the New Year stumbled across the threshold, but the big shift didn’t get much press, which is easy to understand. Can there be a deader news day than a New Year’s Eve that falls on a weekend? Besides, alive or dead, habeas corpus has never been a topic to set news editors on fire.

The change came with the whisper of Barack Obama’s pen, as he signed into law the National Defense Authorization Act, the annual ratification of military Keynesianism — $662 billion this time — which has been our national policy since World War II bailed out the New Deal.

Sacrificial offerings to the Pentagon aren’t news. But this time, snugly ensconced in the NDAA, came ratification by legal statute of the exposure of U.S. citizens to arbitrary arrest without subsequent benefit of counsel and to possible torture and imprisonment sine die. Goodbye, habeas corpus. I wrote about this here before Obama signed the bill, but when a president tears up the Constitution the topic is worth revisiting.

We’re talking about citizens within the borders of the United States, not sitting in a hotel or out driving in some foreign land. In the latter case, as the late Anwar al-Awlaki’s incineration in Yemen bore witness a few months ago, that the well-being or summary demise of a U.S. citizen is contingent upon a secret determination of the president as to whether the aforementioned citizen is waging a war of terror on the United States. If the answer is in the affirmative, the citizen can be killed on the president’s say-so without further ado.

We’re also most emphatically not talking about non-U.S. citizens or possibly even legal residents (though I’d urge green card holders to file for citizenship ASAP). Non-citizens get thrown in the Supermax without a prayer of having a lawyer. Under the terms of the NDAA, a suspect’s seizure by the military is a “requirement” if the suspect is deemed to have been “substantially supporting” al-Qaida, the Taliban or “associated forces.”

By the military? Until Dec. 31, the Posse Comitatus Act of 1878 limited the powers of local governments and law enforcement agencies from using federal military personnel to enforce
the laws of the land. No longer. The NDAA renders the Posse Comitatus Act a dead letter.

Connoisseurs of subversion and anti-terror laws well know that “associated forces” can mean anything. See, for example, one of the definitions of “enemy combatants” minted after 2001: “associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces.” Like those memory pillows I saw on discount in Macy’s on New Year’s Day, the phrase “directly supported” will adjust itself to the whim of any ingenious prosecutor.

Obama issued a signing statement simultaneous with passing the act into law. Theoretically, he’s against signing statements. In 2008 he said, “I taught the Constitution for 10 years, I believe in the Constitution, and I will obey the Constitution of the United States. We’re not going to use signing statements as a way of doing an end-run around Congress.”

Actually, whatever Obama may have taught, a signing statement, whether issued by Bush or Obama, doesn’t have the force of law. Obama’s Dec. 31 signing statement was designed to soothe the liberal vote, as the president expressed “serious reservations with certain provisions that regulate the detention, interrogation and prosecution of suspected terrorists” and insisted that, by golly, he will never “authorize the indefinite military detention without trial of American citizens.”

This pious language was part of a diligent White House campaign to suggest that (a) there is nothing in the act to perturb citizens, but (b) anything perturbing is entirely the fault of Congress, and (c) Obama solemnly swears that so long as he is president he’ll never OK anything bad, whatever the NDAA might be construed as authorizing, and anyway (d) there’s nothing new about the detention provisions because they merely reiterate those of the Authorization for Use of Military Force, signed by Bush in 2001.

To take the last point first, the NDAA expands the 2001 law and codifies ample new powers, plus new prohibitions regarding any possible removal of prisoners in Guantanamo. As for Congress, its performance was lamentable, but as Senator Carl Levin, one of the bill’s co-sponsors, has convincingly inferred, the real reason the White House threatened a veto was because the bill, as then drafted, might have limited what the executive branch deems its present powers of indefinite detention without trial.

Amid the mutual buck-passing, what Congress and the White House connived at, beating back all obstructive amendments, was the framing of cunningly vague language about the dirty work afoot. Jonathan Turley, a great champion of constitutional rights and civil liberties, puts the trickery in a nutshell: “The exemption for American citizens from the mandatory detention requirement … is the screening language for the next section … which offers no exemption for American citizens from the authorization to use the military to indefinitely detain people without charge or trial” (emphasis in the original).

That’s the heart of the matter. And in ambiguity we can see certainty: The writ of habeas corpus can now be voided at the whim of a president, whether it be Obama reversing himself on the personal pledges in his signing statement or any successor, as can the Sixth
Amendment’s right to counsel.

One day, perhaps soon, the Supreme Court will rule on the act’s constitutionality. For now, as ACLU director Anthony Romero said after the signing, Obama “will forever be known as the president who signed indefinite detention without charge or trial into law.” America is an empire on which the sun never sets, and so, appropriately, the statute applies across the planetary “battlefield” that constitutes the Great War on Terror.

Amy Davidson, “Trusting the Candidates With Indefinite Detention’
The New Yorker, January 18, 2012, RSN
Intro: “What might Romney or Gingrich - or Obama - do with the power of indefinite detention?”
READ MORE http://readersupportednews.org/off-site-opinion-section/72-72/9506-trusting-the-candidates-with-indefinite-detention

“The Night You Became Indefinitely Detainable Wendell Griffen”
Wednesday, January 4, 2012 6:31 am

On New Year's Eve 2011, while you and I were anticipating the end of the year, President Barack Obama signed a law that makes U.S. citizens subject to indefinite detention by military authorities on suspicion of being terrorists.


But the measure enacted by Congress and submitted to Obama contains provisions that allow the executive branch (meaning the president) to determine whether to order a U.S. citizen detained indefinitely by military authorities on suspicion of being a terrorist.

If you think that smacks of tyranny, you're right.

If you think Obama is smart enough to know better than to sign such a measure, you're right.

If you hoped Obama would demonstrate the fortitude to carry out his publicized threat to veto the legislation if this offensive provision wasn't removed, you're badly disappointed.

Count me among the badly disappointed people who know tyranny when we see it.

Rest of story click here
http://www.ethicsdaily.com/the-night-you-became-indefinitely-detainable-cms-19051

Wendell Griffen was the first black person to serve on Ark's Court of Appeals. He is currently a Circuit Court Judge serving in Little Rock. He is also an ordained minister.)

OBAMA INCREASES BUSH’S DAMAGE TO CIVIL LIBERTIES

20 Ways the Obama Administration Has Intruded on Your Rights
The Obama administration has affirmed, continued and expanded almost all of the draconian domestic civil liberties intrusions pioneered under the Bush administration. Here are twenty examples of serious assaults on the domestic rights to freedom of speech, freedom of assembly, freedom of association, the right to privacy, the right to a fair trial, freedom of religion, and freedom of conscience that have occurred since the Obama administration has assumed power. Consider these and then decide if there is any fundamental difference between the Bush presidency and the Obama presidency in the area of domestic civil liberties.

**Patriot Act**

On May 27, 2011, President Obama, over widespread bipartisan objections, approved a Congressional four year extension of controversial parts of the Patriot Act that were set to expire. In March of 2010, Obama signed a similar extension of the Patriot Act for one year. These provisions allow the government, with permission from a special secret court, to seize records without the owner’s knowledge, conduct secret surveillance of suspicious people who have no known ties to terrorist groups and to obtain secret roving wiretaps on people.

**Criminalization of Dissent and Militarization of the Police**

Anyone who has gone to a peace or justice protest in recent years has seen it – local police have been turned into SWAT teams, and SWAT teams into heavily armored military. Officer Friendly or even Officer Unfriendly has given way to police uniformed like soldiers with SWAT shields, shin guards, heavy vests, military helmets, visors, and vastly increased firepower. Protest police sport ninja turtle-like outfits and are accompanied by helicopters, special tanks, and even sound blasting vehicles first used in Iraq. Wireless fingerprint scanners first used by troops in Iraq are now being utilized by local police departments to check motorists. Facial recognition software introduced in war zones is now being used in Arizona and other jurisdictions. Drones just like the ones used in Kosovo, Iraq and Afghanistan are being used along the Mexican and Canadian borders. These activities continue to expand under the Obama administration.

**Use of “State Secrets” to Shield Government and Others from review**

When the Bush government was caught hiring private planes from a Boeing subsidiary to transport people for torture to other countries, the Bush administration successfully asked the federal trial court to dismiss a case by detainees tortured because having a trial would disclose “state secrets” and
threaten national security. When President Obama was elected, the state secrets
defense was reaffirmed in arguments before a federal appeals court. It continues
to be a mainstay of the Obama administration effort to cloak their actions and the
actions of the Bush administration in secrecy.

In another case, it became clear in 2005 that the Bush FBI was avoiding the
Fourth Amendment requirement to seek judicial warrants to get telephone and
internet records by going directly to the phone companies and asking for the
records. The government and the companies, among other methods of
surveillance, set up secret rooms where phone and internet traffic could be
monitored. In 2008, the government granted the companies amnesty for violating
the privacy rights of their customers. Customers sued anyway. But the Obama
administration successfully argued to the district court, among other defenses,
that disclosure would expose state secrets and should be dismissed. The case is
now on appeal.

CONTINUED... http://www.democraticunderground.com/discuss/duboard.php?
az=view_all&address=439x2452754
http://www.alternet.org/story/153283/
(“Criminilizations of Dissent and Militarization of the Police” by Bill Quigley in Z Magazine
(Dec. 2012). This version gives 19 examples and alters the text in various ways, e.g.
numbering each example, without altering the thesis. Dick)

END CIVIL LIBERTIES NEWSLETTER #2