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## Obama Signs into Law Indefinite Detention of Americans without Trial

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He waited until New Year's Eve to do it...but he did it. While expressing "serious reservations" about the bill, President Barack Obama on New Year's Eve signed legislation that cements into law two highly controversial tenets of the war on terror: indefinite detention of terrorism suspects without charge, and the jailing of American citizens without trial. It also takes terrorism-related cases out of the hands of the FBI and the civilian court system and hands them over to the military.

Obama approved the bill (known as the [National Defense Authorization Act](#)), but at the same time, in a signing statement, claimed his administration would not allow the military to detain Americans indefinitely.

Civil libertarians were nonetheless outraged by Obama's approval of the legislation. They claim that Obama is taking a "Trust me; I won't do it" position. However, even if he does refrain from abusing the law, there is no guarantee that future presidents won't imprison

Americans and others indefinitely without trial or even without charge.

Anthony Romero, executive director of the [American Civil Liberties Union \(ACLU\)](#), called Obama's action "a blight on his legacy because he will forever be known as the president who signed indefinite detention without charge or trial into law. Any hope that the Obama administration would roll back the constitutional excesses of George Bush in the war on terror was extinguished today."

David Gesspass, president of the [National Lawyers Guild](#), called it an "enormous attack on the U.S. and our heritage" and a "significant step" towards fascism.

The use of indefinite detention began shortly after the September 11, 2001, attacks when the George W. Bush administration shipped al-Qaeda and Taliban suspects and others to Guantánamo Bay, Cuba. Federal courts upheld the practice, agreeing with the Bush White House that the Authorization for Use of Military Force bill, passed by Congress only seven days after 9/11, allowed for the detentions to occur.

But Republican and Democratic lawmakers felt it was necessary to codify into federal law the power of the presidency to detain anyone—citizen and non-citizen alike—accused of plotting against the U.S. or providing support to those who have done so.

Obama's supporters, including Republicans who normally oppose almost everything he does, have tried to defend the bill by saying that it doesn't really go as far as its critics claim. However, the wording of the act, although carefully phrased, is nonetheless clear.

For example, Obama apologists say that it does not codify indefinite detention. But section 1021 (c-1) allows "Detention under the law of war without trial until the end of hostilities." A U.S. president can take the position that he is engaged in a war without end. In fact, that is exactly what Presidents Bush and Obama have done. In addition, section (b-2) states that the law applies not just to members of al-Qaeda and the Taliban, but to any person who has "substantially supported" "associated forces." Because these terms are not defined, Obama would appear to be free to interpret them as he chooses...as would be any future president.

Supporters of the president—and the members of Congress of both parties who passed the bill—dismiss the contention that American citizens can be detained indefinitely. Again the wording is clever, but disturbing. Section 1022 (b-1) states that, in regard to U.S. citizens "The requirement to detain a person in military custody under this section does not extend to citizens of the United States." The key word here is "requirement." In other words, the president still has the *option* to place Americans in indefinite military detention.

Some Americans may say that terrorism suspects should be stopped using any means necessary, and that if a few innocent people are imprisoned without trial by mistake, it's unfortunate, but it's better to be safe than sorry. However, there is now nothing to stop the current president of the United States, or the next one or the one after that, from taking advantage of the wording of the law and the fear of enemies to imprison whomever he chooses.

-David Wallechinsky, Noel Brinkerhoff

[Three Myths about the Detention Bill](#) (by Glenn Greenwald, Salon)

[President Obama Signs Defense Bill -- With Objections](#) (by Jennifer Epstein, Politico)

[Defence Act Affirms Indefinite Detention of U.S. Citizens](#) (by Matthew Cardinale, Inter Press Service)

[Why is the Media Lying About New NDAA Power for Indefinite Military Detention of Americans?](#) (by Ralph Lopez, War is a Crime.org)

[Statement by the President on H.R. 1540](#) (White House)

[Senate Bill Allows Indefinite Imprisonment of Americans without Trial](#) (by Noel Brinkerhoff and David Wallechinsky, AllGov)

[House Prepares to Give President Authority to Wage Worldwide War Forever](#) (by David Wallechinsky and Noel Brinkerhoff, AllGov)

[Obama Approves Life Imprisonment without Trial for Guantánamo Prisoners](#) (by Noel Brinkerhoff and David Wallechinsky, AllGov)

[Bye, Bye Bill of Rights](#) (by David Wallechinsky, Huffington Post)