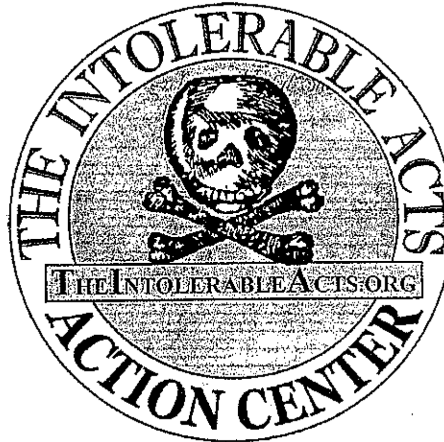
THE INTOLERABLE ACTS

Defending Life and Liberty is the Pursuit of Happiness! *A Project of Patriot Coalition and Oath Keepers*



Testimony

Of

Richard D. Fry

Before the House Standing Committee

Veterans, Military and Homeland Security

Rep. Mario Goico, Chairman

Regarding: **HR6021**

Opposing the 2012 National Defense Authorization Act which allows Arrest, Detention and Rendition of American Citizens without Trial.

Date:

Wednesday, April 25 at 1:00 p.m.
Room 152-S —State Capitol Bldg
Topeka, Kansas

"Is there a balancing between "safety" and Liberty? Yes and it has already been made. The government may try to ensure our safety to the point such infringes upon our fundamental rights and no further!"

Veteran/Military/Homeland Security Comm.
Date: 4/25/2012
Attachment #: 5

"The ignorance of one voter in a democracy impairs the security of all."

-John F. Kennedy

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"Rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others. I do not add 'within the limits of the law' because law is often but the tyrant's will, and always so when it violates the rights of the individual."

-Thomas Jefferson

Executive Summary

The National Defense Authorization Act (NDAA) for Fiscal year 2012 formally expanded the original 2001 national security policy regarding the 9/11/2001 terrorist attacks from a policy of retribution, limited as to time and entities to be engaged, to a "war on terror" which is not limited as to the 9/11 attacks, nor to time or entities to be engaged.

Perhaps the most troublesome and dangerous aspect surrounding the passage of the NDAA was the establishment of Congressional intent, in the Senate debates on NDAA, to designate the United States as a "battlefield," which made U.S. citizens, including those in the Untied States and its territories, subject to the law of war and martial law at the discretion of the Executive Branch.

Under the law of war, as revised in the 2006 Military Commissions Act, and then amended by the 2009 Military Commissions Act, once the Executive Branch designates a person, including a U.S. citizen, including in the United States and its territories, as an "enemy combatant" (or belligerent) based on their suspected affiliation with hostile forces, the Executive Branch can "capture" or "arrest" the person without the benefit of an arrest warrant and its constitutional probable cause requirements, and hold such individual indefinitely without informing them of the evidence against them, without indicting them or bringing them to trial within the district within which their crime is alleged to have occurred.

The Executive Branch can also hand such persons, including a U.S. citizen, including one "captured or arrested" in the United States and its territories, over to a "foreign government" or a "foreign entity." It is at least arguable that a "foreign government" or a "foreign entity" may make the initial "capture" or "arrest" including of a U.S. citizen, including in the United States and its territories.

The authority claimed by the Obama Administration includes the authority to assassinate U.S. citizens under its sole discretion i.e., without any

congressional or judicial oversight. In fact three U.S. citizens were assassinated in Yemen by the C.I.A. at the direction of the Executive Branch. These individuals were not on a "battlefield."

There does not appear to be any legal significance as to the location of such targeted persons i.e. whether or not they are in the United States and its territories or are on foreign soil.

NDAA's Ex Post Facto Expansion of the National Security Policy

Initial National Security Policy for 9/11/01 Attacks:

The National Security Policy (NSP) in response to the terrorist attacks of September 11, 2001 was codified on September 18, 2001 when the President signed the Authorization for Use of Military Force (**AUMF**). This was accomplished by setting a targeting profile i.e., a description of against whom the President could use U.S. military force in response to the 9/11 attacks.

The AUMF's targeting profiled provided the U.S. military could be used against:

"...nations, organizations, or persons..." that "...planned, authorized, committed, or aided... or harbored..."

the entities involved in the September 11, 2001 attacks.

The national security policy established by the AUMF was:

1. A policy of retribution ,
2. Limited in the scope of time (tied to 9/11),
3. Limited as to the targets,
4. Limited as to the purpose.

Deceptions of the NDAA

Sections 1021 and 1022 demonstrate a sophisticated level of chicanery through the use of diversions and half truths which could not have resulted simply from poor draftsmanship.

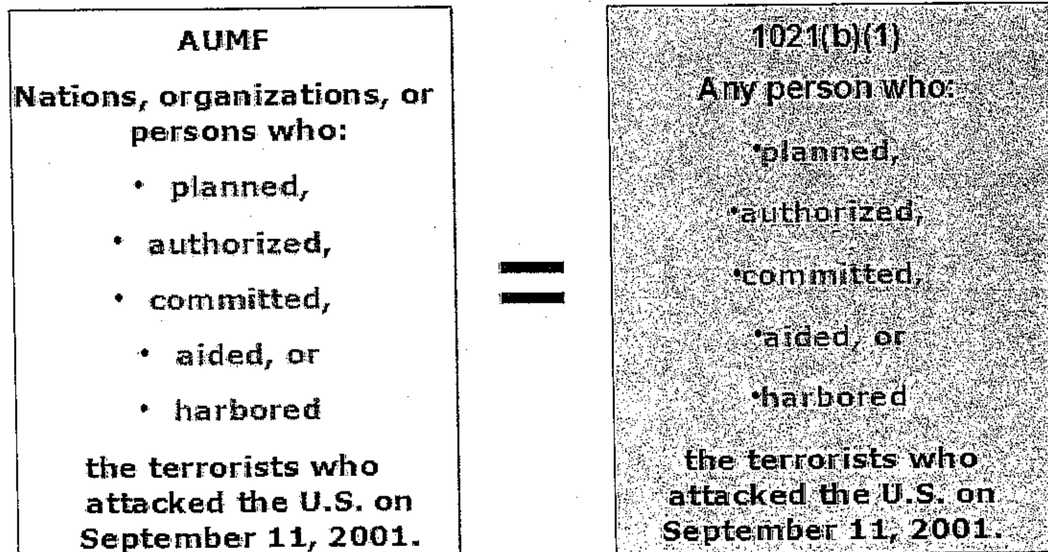
NDAA Only Affirms the AUMF – (Half Truth)

This is a half truth. Although the NDAA indicated that it was simply "affirming"[i] the policy and authority of the AUMF, which it did, it also formally expanded the National Security policy from a limited policy of retribution to an unlimited policy of a "war on terror." The 2012 NDAA caught the formal authorization and national security policy up to the political rhetoric and actions of the Executive Branch which had exceeded the limited authority of the AUMF. It did this by adding a new targeting profile.

Under §1021(b) (1) the AUMF targeting profiles was basically affirmed. It allowed the targeting of: *"person, who planned, authorized, committed, or aided... or harbored those responsible for..."* the September 11, 2001 attacks. It was limited in time and scope and specifically tied to the September 11, 2001 attacks as is the AUMF.

AUMF vs. NDAA

TARGETING PROFILE (retribution for 9/11/2001)



However, targeting under §1021(b) (2) was very different from the AUMF targeting profile. This second targeting profile provides:

> *"A person who **was** a part of or substantially supported al-Qaeda, the Taliban, or 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."*

This profile is not limited to those involved in the September 11, 2001 attacks and in fact is not tied to such attacks. It can include persons involved with entities that were not even in existence on September 11, 2001. It includes persons who were associated with entities that subsequent to the persons leaving the entity, engage in hostilities etc., against the U.S. This is likely a violation of the law of war. It also extends protection to "coalition partners".

1021(b)(1) = (AUMF)	1021(b)(2)
Any person who: •planned, •authorized, •committed, •aided, or •harbored the terrorists who attacked the U.S. on September 11, 2001.	Any person who was part of or supported: •Al-Qaeda, Taliban, or •associated forces, that are engaged in hostilities against: • United States, • or coalition partners, who: •committed a belligerent act, or •directly supported hostilities in aid of Al-Qaeda or Taliban * Involvement in attacks of Sept. 11, 2001 not required

It is full of undefined and ambiguous terms such as "substantially supported", "associated forces", "hostilities", "belligerent act" and "directly

supported." These terms are left up to the Executive Branch to define as they go. In fact the Executive Branch has refused to define some of these terms even in court. [ii]

This policy is absurd in that "terror" is a tactic like marching or infantry movements it is not an entity. One can never win a war over a tactic and such "objective" sets up a situation for abuse.

The NDAA detention provisions do not relate to Citizens. (False)

Some including Congressman Allen West and some of the Kansas federal delegation insist that the NDAA does not apply to U.S. citizens. This is simply not true. The confusion is cause by diversionary drafting that leaves this impression on someone who is skimming the law rather than perusing it.

First, the Supreme Court has held that the AUMF allows for the detention of U.S. citizens. (See Hamdi v Rumsfeld (2004.)) Part of the NDAA's targeting profile is virtually identical to that in the AUMF. (See 1021(b) (1).)

Second, although §2022 caption says:

"**Military Custody For Foreign Al-Qaeda Terrorists**,"

captions in a law are not the law. They are a means to assist a reader to locate information. Captions are not even referred to unless the substantive text of the law is ambiguous, but captions may not be used to establish the ambiguity. This is yet another deceptive diversion set up for the unwary and inexperienced reader.

The substantive text of §1022 does not limit the section to "Foreign Al-Qaeda" let alone other foreigners. The text of §1022 specifically refers to §1021's targeting profile. Part of §1021's targeting profile is identical to the AUMF profile. Again the Supreme Court has held that the AUMF allows for the detention of U.S. citizens.

Third, some Members of Congress, including Colonel Allen West rely upon the text of §1022(b) (1) which provides:

> ***"The requirement*** *to detain a person in military custody under this section does not extend to citizens of the United States."*

This does not prevent the detention of U.S. citizens for two reasons. First, by its terms §1022(b) (1) only applies to "this section," i.e. §1022. It does not apply to §1021 which also authorizes dentition under the law of war.

Second, the "requirement" referred to in this limit is the requirement in §1022(a) (1). It provides:

> *"Except as provided in paragraph (4), the Armed Forces of the United States* ***shall hold*** *a person described in paragraph (2) who is captured in the course of hostilities authorized by 9 the Authorization for Use of Military Force (Public 10 Law 107–40) in military custody pending disposition under the law of war."*

The "requirement" in (a) (1) that does not apply to U.S. citizens is "shall hold" i.e. the military is not required to hold a U.S. citizen but has the discretion to do so under §1022. If Congress had wanted to prohibit the detention of U.S. citizens it certainly could have plainly stated such.

This misconception in and about the NDAA is further perpetrated by various reports issued by the Armed Services Committee. One provides in the detainee section the following:

> ***DETAINEES***—*The FY12 NDAA includes critical provisions to clarify and reaffirm the military's responsibility and authority to detain al Qaeda terrorists. Ten years after September 11, 2001, the extremist and terrorist threat against the United States and our allies continues to evolve. As we begin drawing down forces in Afghanistan, and conscious of the rise of rise of al Qaeda affiliates in places like Yemen, the FY12 NDAA recognizes that the war against terrorism and violent extremism is broader than operations in any one country. The bill strengthens policies and procedures used to detain, interrogate, and prosecute al Qaeda, the Taliban, affiliated groups, and those who substantially support them.*

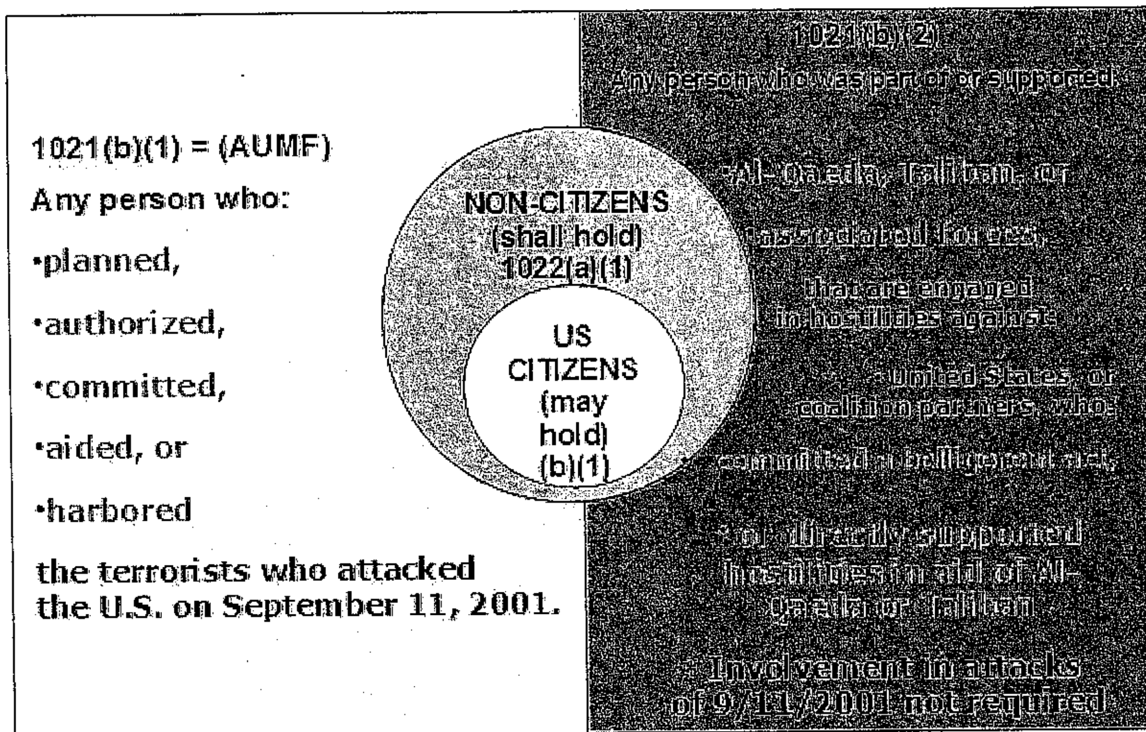
> *The Conferees balance this approach with the conviction that the erosion of citizens' civil liberties in the pursuit of security constitutes a victory by the enemy. To that end,* ***these provisions do not extend any new authorities to detain U.S. citizens and explicitly exempt U.S. citizens from provisions related to military custody of terrorists.*** *The FY 12 NDAA:*
>
> ☐ *Prohibits the transfer or release of Guantanamo detainees to or within the United States.*
> ☐ *Prohibits the use of funds to house Guantanamo detainees in the United States.*
> ☐ *Reaffirms the lawful detention of individuals from al Qaeda, the Taliban, and associated forces engaged in armed conflict with the United States,* ***without extending new authority to detain U.S. citizens.***
> ☐ *Requires military custody for al Qaeda and associated terrorists who are captured plotting an attack on the United States, except where the Secretary of Defense waives this requirement as not being in the national security interest of the United States.* ***This provision explicitly exempts U.S. citizens.*** [iii]

The highlighting is added but the bolding is in the original report.

As we have shown above the statements in this official report of the Armed Services Committee highlight report that citizens are "***explicitly exempt U.S. citizens from provisions related to military custody of terrorists***" and "***This provision explicitly exempts U.S. citizens***" are absolutely false. In spite of the fact the authors surely realized this would be a key issue they not only misstated the facts twice but the bolded them just so no one would over look the false statements.

Colonel West read the above portion of the Armed Services Report except for the last bullet point and them he read section 1022(b) (1) to support his position the NDAA did not relate to citizens. (See the West You Tube here.)

> "When an honest man finds he is wrong, he either stops being wrong, or he stops being honest." *-anonymous*



NDAA does not Change the Current Law (False)

Another deception used is in §1021(d) which says that the NDAA is not "intended" to change the "authority of the President" or the "scope of the [AUMF]." As we have shown above, the NDAA does change i.e., it expands the "scope" of the AUMF and by doing so has also "expanded the authority of the President."

If this is interpreted by a Court they will give precedent to the specific provision which changes the AUMF over the general provision which indicates it does not "intend" to change the law.

A similar deception is in §1021(e). It suggests that the NDAA does not "*...affect existing law or authorities...*" This is deceptive because the opponents and proponents could not agree on what the "current" was. Both of them cited the same court case to support their respective positions. At least one side is wrong on this issue.

Also, as demonstrated above the NDAA does affect existing law as it expanded the targeting profile of the AUMF. This, among other things, subjects more citizens to the provisions of NDAA. Likewise, if this provision is interpreted by a court it will give precedence to the specific over the general provision and / or interpreted these provisions to say "unless otherwise provided herein" which the NDAA does.

Congress' Fictional "American Battlefield"

It is critical that you understand the significance of the United States being a "battlefield." The dire consequence of the NDAA proponents' continual characterization of the United States as a "battlefield" cannot be over stated.

Nowhere in the NDAA does it declare or acknowledge that the United States or it territories are battlefields. However, these characterizations during the course of the Senate debates by the authors and supporters of the citizen detention provisions of the NDAA, primarily Senators McCain, Graham and Levin, was not pure hyperbole and was not without legal consequences. In essence these characterizations, which were never disputed or challenged, established the congressional intent that the United States be treated as a "battlefield."

The Law of War

The significance of designating the continental United States and its territories as a "battlefield" has to do with who has authority the geographical area of the battlefield, those persons in such battlefield, and what "law" applies to the "battlefield". A battlefield is under the control and authority of the military and more particularity the military commander in charge of the geographical area encompassed by the "battlefield," and ultimately the Commander-in-Chief of the military.

One should realize that the power of the President is at its zenith when he functions as the Commander-in-Chief in war time with full congressional authority.

The NDAA specifically authorizes the application of the law of war to all targeted persons. The law of war is the compilation of treaties, conventions and common practices recognized by nations that define and limit the way they engage in armed conflict or war with each other. The NDAA is in essence a declaration of war on the targets, to include U.S. citizens.

The authority to apply the law of war to the targets (persons) is contained in §1021(a) and is expounded on in §1021(c). By its own terms this is not a

complete listing of the means of disposition. This section provides that a target may:

1. Be detained without trial until the end of the "hostilities authorized by the" AUMF,
2. Tried by a military tribunal,
3. Transferred to an "alternate court or competent tribunal",
4. Transferred to the "custody or control" of a "foreign country" or "foreign entity." This includes extraordinary rendition of U.S. citizens.

The "law" that applies to a "battlefield" is the law of war and martial law. Although the primary responsibility of the military commandeer is to accomplish his military objective, he must secondarily be concerned with the protection of his troops and, including under the law of war, the protection of the civilian population, i.e., the military commander has authority over civilian populations within the battlefield.

To say that the United States, or any area, is a "battlefield" is to say that the law of war and martial law are the primary laws applicable to the geographical area so designated. This does not mean that the civilian law system cannot run, and is running, in parallel to the law of war and martial law. But the decision as to which law will apply at any given time, in any given situation, or as to any particular person is up to the Commander-in-Chief i.e., martial law can be selectively applied.

As with any law, the law of war / martial law is to restrict conduct and set parameters of behavior. One of the main differences between the law of war / martial law and civilian law is the law of war typically operates in an exigent and chaotic situation and in fact it is the exigent and chaotic situation that justifies the application of the law of war and martial law (which in essence establishes a military dictatorship) versus the civilian law in a given situation.

Congress' declaring the United States to be a "battlefield" set the application of the law of war on its head. It is the situation of war and its disorder that justifies the application of the law of war and martial law over the civilian law which generally cannot exist in the mayhem of combat. With the NDAA Congress put the cart before the horse and simply waived the requirement for the exigencies of war to be present but simply declared

by fiat that the United States was a "battlefield" i.e., would be under the law of war and martial law.

An analogous situation in the civilian law would be the authority of first responders, such as fire fighters, to enter your home. If your home is on fire it establishes a situation of such exigency and urgency that the firemen need not get your permission to enter your house. They will not have to get a court order, give you a call or send you a letter as would otherwise be required by the Constitution. Because of the exigent nature of the situation they will simply enter your home and put out the fire. It is the situation of exigency and urgency that justifies this outcome.

If Congress was to pass a NDAA for firefighters they would pass a law that simply declared that all houses were on fire and leave it up to the fire fighters when and where they would exercise the authority created by this congressional fiction.

The Constitution and our rights are fact-dependent not fantasy-dependent. This aspect of the NDAA is unconstitutional.

There are other serious consequences which may result from such a designation. For instance there are other freedom restricting (and constitutionally questionable) laws and Executive Orders whose use could be justified by or triggered by such a designation which would most assuredly constitute a "national emergency".

The Supreme Law of the Land: Your Duty as to un-Constitutional Laws

Although greatly misunderstood, not all laws "passed" by the federal government are the "supreme Law of the Land."

There are two aspects to this supremacy. First the federal Constitution is supreme (overrides) any other federal law or treaty or any state Constitution or law not in accordance with the provisions of the federal Constitution. Second, all qualifying federal laws and treaties are supreme to all state constitutions and laws.

The phrase "supreme Law of the Land" is a legal term of art defined in the Constitution. The Constitution designates those laws which are the

"supreme Law of the Land" to include the "Constitution" and "Laws of the United States which shall be made in Pursuance thereof..."[iv] The term "shall" means its object is required not discretionary and "Pursuance" means to be carried out as expected or required [by the Constitution.] Thus, before any federal law can become the "supreme Law of the Land" it **must** be enacted as **required by the Constitution**.

There are two aspects of the Constitutional requirements for a law to become supreme. First, the federal law has to be enacted in accordance with the **procedural requirements** of the Constitution. If the House passes a bill and sends it to the President and he signs it, it does not become law as the Senate had not passed it previous to the President's signature i.e., the constitutional procedures were not followed to make a valid (constitutional) law.

Second, before a federal bill can become the "supreme Law of the Land" it must comply with the **substantive limits** of the Constitution i.e., it must be within the enumerated powers of Congress. This means the subject and scope of the law must be within the authority given to Congress in the Constitution itself.

The fundamental principle of American jurisprudence that any federal law not made in "pursuance" of the U.S. Constitution is null and void **upon its inception** such that it never comes into existence was recognized by Thomas Jefferson and James Madison in their respective Kentucky and Virginia Resolutions of 1798 and in their follow-up pronouncements in 1799. In 1803 this principle was formally recognized by the United States Supreme Court in Marbury vs. Madison. [v]

No one is required to follow a law which is unconstitutional. Those duty-bound to the Constitution are required to oppose it.

States and State Officers' Duty under the Constitution

Under the United States Constitution every legislative, executive and judicial officer of both the **state and federal** governments are required to take an oath of office to "protect" the U.S. Constitution. [vi] Such oath of office under Kansas law is found at K.S.A. 54-106 and requires all officers of the state whether elected or appointed to "support the Constitution of the United States..." [vii]

Their oath is not to the federal government or to the Supreme Court it is to the Constitution. Even if the Supreme Court finds a law Constitutional if one believes it is not they are required, under their oath to resist such.

A foundational principle of this Republic is that the primary duty of the governments is to protect the rights of their citizens.

One cannot "protect" or "support" the Constitution by enacting, enforcing or otherwise supporting any law which is not made in "pursuance" of the U.S. Constitution. [viii] To support an unconstitutional law is a violation of a Kansas Officer's oath of office and to the U.S. Constitution.

This is an active and affirmative duty. It is not a passive duty. This requires them to have a working knowledge of the Constitution as when writing or deciding to support a law, in the first instance, they must decide if it is Constitutional. If it is not constitutional, under their oath of office, they must oppose it to the fullest extent of their power, to include exposing it to the citizens.

This is not an overly burdensome task or expectation. As noted by U.S. Supreme Court Associate Justice Scalia:

> *"...we are guided by the principle that* ***"[t]he Constitution was written to be understood by the voters;*** *its words and phrases were used in their normal and ordinary as distinguished from technical meaning." United States v. Sprague, 282 U. S. 716, 731 (1931) ; see also Gibbons v. Ogden, 9 Wheat. 1, 188 (1824). Normal meaning may of course include an idiomatic meaning, but it excludes secret or technical meanings that would not have been known to ordinary citizens in the founding generation."* [ix]

Or as noted by U.S. Supreme Court Associate Justice Thomas:

> "In interpreting this [constitutional] language, it is important to recall that constitutional provisions are " '**written to be understood by the voters**.' " [Cite omitted] The objective of this inquiry is to discern what "**ordinary citizens**" at the time of the Fourteenth Amendment's ratification would have understood that Amendment's Privileges or Immunities Clause to mean...." [x]

Often when I ask a legislator a constitutional question, they will respond "I'm not an attorney" or even "I'm not a constitutional attorney".

The branches of the federal government do this all the time. Congress passes a law. The President does a signing statement which says provisions 2, 3, and 4 are unconstitutional, and I will not enforce them. Someone is affected by another part of the law and they sue or are sued or arrested. The Court looks at the law and says it's not constitutional so we will not uphold the law and we will not impose punishment for breaking it. If the Executive Branch honors the Supreme Court's determination it will not execute / enforce the law. (What would be the point? It cannot send someone to jail on its own (except under military / martial law.)

Likewise a state can say "your law is unconstitutional, and we will not follow it." Law enforcement are privileged to apply force and take property etc. as long as they act under legal authority. Generally, if they act in a manner that is without legal authority they lose their protection. States can interpose between the federal law and their citizens by saying: "If you send federal agents to "arrest" our citizens under this unconstitutional law (which provides you no authority and thereby without any privilege) we will arrest your agents."

Safety vs. Liberty

Some supporters of the NDDA have tried to make it a "safety" issue and have said they will do everything they can to make citizens safer at home and our troops safer aboard. They have supplanted their duty with emotions contrary to the Constitution.

Nowhere in the Republic's organic documents does it say our government is to ensure our safety. The Declaration of Independence states:

> *"We hold these truths to be self-evident, that all men are created equal, that they are **endowed by their Creator with certain unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness. That **to secure these rights**, Governments are instituted among Men, deriving their just Powers from the consent of*

the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government..."

It clearly states that that the government's primary responsibility is to "secure" our "unalienable rights." Nowhere does it say the government is to ensure our security or our safety and certainly not at the price of our rights. In fact such is contrary to the history of America.

This continent was settled based on the decision to forgo the safety of staying in Europe to seek greater Liberty in America. The birth of our Republic was based on the decision to forgo the safety and security of remaining under England's rule and protection and risk life, Liberty and property to gain greater Liberty. The War Between the States was based on a decision to forgo the safety and security of remaining with the Republic to secede in the name of states' Liberty. The settling of the West was based on forgoing safety and security of the settled East to seek more Liberty in the unsettled West.

Americans have always prized Liberty over hardships and even death.

> *"Timid men prefer the calm of despotism to the tempestuous sea of liberty."*
> *-Thomas Jefferson*

> *"...Give me liberty or give me death!"*
> *-Patrick Henry March 23, 1775*

> *"If ye love wealth better than liberty, the tranquility of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or your arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that you were our countrymen."*
> *-Samuel Adams*

> *"Those who would give up ESSENTIAL LIBERTY to purchase a little TEMPORARY SAFETY deserve neither LIBERTY nor SAFETY."*
> *-Benjamin Franklin*

History has taught us that to Dr. Franklin's admonition we can add "and not likely to get either." The appeasement of usurpations of Liberty

endured for the sake of "safety" or "security" has lead to the greatest tragedies suffered by man and has never worked out well for "We the People."

Another lesson that history teaches us is echoed in voices from the past:

> *"This and no other is the root from which a tyrant springs; when he first appears he is a protector."*
> *- Plato*
>
> *"If Tyranny and Oppression come to this land, it will be in the guise of fighting a foreign enemy."*
> *U.S. President James Madison*
>
> *"I believe there are more instances of the abridgement of freedom of the people by gradual and silent encroachments by those in power than by violent and sudden usurpations."*
> *-James Madison* (Virginia Convention 1788)
>
> *"Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding."*
>
> -Louis D. Brandeis, Olmstead vs. United States,

The greatest of tyrannies in history have been those imposed by a government upon its own people.

Hitler and his Nazi party came to power by legally passed laws. The German Republic's constitution was legally suspended because of a national emergency. He promised to ensure the peoples' safety from the terroristic communist.

Is there a balancing between "safety" and Liberty? Yes, and it has already been made. The government may try to ensure our safety to the point such infringes upon our fundamental rights and no further!

Acknowledgement of and Response to NDAA's un-Constitutionality

The unconstitutionality of the citizen detention provisions of the NDAA (§§1021, 1022) have been recognized by numerous federal legislators including Congressman Huelskamp and Congresswoman Jenkins.

Remedial Bills in Congress

Currently there are six remedial bills in Congress to fix the unconstitutional problems of the NDAA. Kansas' Senator Moran has co-sponsored the Feinstein bill and Representatives Jenkins and Huelskamp have cosponsored the Landry bill.

Actions by State and local governments

Other state legislators and governments around the country have taken corrective action in the form of legislation or resolutions. These include Arizona, Oklahoma (PCOK Resolution), Virginia, Rhode Island (PCOK assisted), Washington with representatives in North Carolina and South Dakota having committed to introducing PCOK resolutions when their legislatures reconvenes.

Conclusion

The most valuable trait of a good first responder or combat soldier is to keep his head amidst the confusion and chaos, to keep his sight on the objective and not be deterred or distracted. As officers sworn to protect the Constitution you likewise must never lose sight of your primary objective and never, ever be distracted or dissuaded from it.

No matter what good you think may come of compromising the Constitution and no matter how slight of a compromise you think it may be, your primary and most important duty is to safeguard the Constitution and thereby the fundamental rights of the citizens at all costs. When in doubt the Constitution and Liberty, not safety or security, should always win out.

The signers of the Declaration of Independence [Liberty] pledged to that document as follows:

THE INTOLERABLE ACTS

Defending Life and Liberty is the Pursuit of Happiness! *A Project of Patriot Coalition and Oath Keepers*

"And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

For the sake of Liberty,

Richard D. Fry
General Counsel
Patriot Coalition
Legal Team
The Intolerable Acts – NDAA
816 853 8718

"When law becomes injustice, rebellion becomes duty."
-Thomas Jefferson

"Those who make peaceful revolution impossible will make violent revolution inevitable."
-John F. Kennedy

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[i] NDAA §1021 and §1021(a)

[ii] Hamdi v Rumsfeld, 542 U. S. 9-10, (2004) The threshold question before us is whether the Executive has the authority to detain citizens who qualify as .enemy combatants.. **There is some debate as to the proper scope of this term, and the Government has never provided any court with the full criteria that it uses in classifying individuals as such**. It has made clear, however, that, for purposes of this case, the .enemy combatant . that it is seeking to detain is an individual who, it alleges, was. .part of or supporting forces hostile to the United States or coalition partners.

[iii] The National Defense Authorization Act for Fiscal Year 2012 Highlights of the Conference Report, House Armed Services Committee (12/12/2011) http://armedservices.house.gov/index.cfm/files/serve?File_id=6bbafd38-7aae-46f9-b856-31652b920f1f

[iv] U.S. Constitution Article VI Clause 2.

[v] Marbury v. Madison

[vi] U.S. Constitution Article VI Clause 3

[vii] 54-106: **Form of oath to be taken by officer.** All officers elected or appointed under any law of the state of Kansas shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation, as follows:

"I do solemnly swear [or affirm, as the case may be] that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of ______. So help me God."

History: G.S. 1868, ch. 72, § 6; Oct. 31; R.S. 1923, 54-106.

[viii] U.S. Constitution Article VI Clause 2.

[ix] DISTRICT OF COLUMBIA v. HELLER 554 U.S. 570 (2008) (Scalia)