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**The NDAA Covers U.S. Citizens**

Dear Colleagues:

Proponents of the National Defense Authorization Act (NDAA) are attempting to mislead representatives into thinking the NDAA does not apply to U.S. citizens. Nothing could be further from the truth. If the conference report is enacted, for the first time ever Congress would authorize the President to indefinitely detain American citizens arrested on U.S. soil, without charge or trial. For the first time ever, Congress would authorize the President to detain citizens who “substantially supported . . . associated forces.” This expansive, undefined, and dangerous authorization goes well beyond what Congress authorized in its 9/11 Authorization for Use of Military Force (9/11 AUMF).

The key sleight of hand is this: section 1021 of the conference report claims that it merely “affirms” the President’s detention authority under the 9/11 AUMF. The 9/11 AUMF states:

That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

The 9/11 AUMF only authorizes force against persons and groups who have a connection to the September 11 terrorist attacks. The 9/11 AUMF says *nothing* about detention, let alone the indefinite detention of American citizens.

Despite the 9/11 AUMF’s plain language, the past two administrations have argued in court that the 9/11 AUMF authorizes the President to indefinitely detain certain persons the administration determines are enemies. Both administrations also claim the 9/11 AUMF applies to persons and groups that are “associated” with al-Qaeda or the Taliban. No 9/11 nexus is required, according to the executive.

Section 1021 thus claims that it merely “affirms” the President’s authority under the 9/11 AUMF, including the alleged authority to detain persons the President determines are “associated forces.” While the section is framed as an affirmation, it only can be viewed as that if Congress adopts the President’s expansive interpretation of the 9/11 AUMF—an action Congress has *never* taken. To be clear: If Congress passes the NDAA conference report, this would be the first time in history Congress has approved the detention of persons who “substantially supported . . . associated forces.”

In that context, subsection 1021(e) claims that it does not “affect existing law or authorities” relating to the detention of persons arrested on U.S. soil. *If the President’s expansive view of his own power were in statute*, that statement would be true. Instead, the section codifies the President’s view as if it had always existed. It then disingenuously says the bill doesn’t change that view.

*The President believes he currently can detain American citizens indefinitely, without charge or trial. Congress never has approved that authority. With a sleight of hand, we are being asked to approve of that broad authority today.*

Please join me in opposing the NDAA.

Sincerely,



Justin Amash