



Written by [Thomas R. Eddlem](#) on April 18, 2010

McCain Proposes Indefinite Detention Without Trial for Citizens

Senator John McCain (R-Ariz.) has introduced a bill that would allow the President to imprison an unlimited number of American citizens (as well as foreigners) indefinitely without trial. Known as The Enemy Belligerent Interrogation, Detention, and Prosecution Act of 2010, or S. 3081, the bill authorizes the President to deny a detainee a trial by jury simply by designating that person an “enemy belligerent.”



The bill, which has eight cosponsors, explicitly names U.S. citizens as among those who can be detained indefinitely without trial:

An individual, *including a citizen of the United States*, determined to be an unprivileged enemy belligerent ... may be detained without criminal charges and without trial for the duration of hostilities against the United States or its coalition partners in which the individual has engaged, or which the individual has purposely and materially supported, consistent with the law of war and any authorization for the use of military force provided by Congress pertaining to such hostilities. [Emphasis added.]

Note that the Bush administration once said that the so-called “war on terror” would last a generation or more, and the U.S. military has [officially classified](#) many former Guantanamo detainees, such as England’s Tipton Three, as having “returned to the battlefield” for merely granting an interview for the movie *The Road to Guantanamo*. Another five innocent Uighur (Ethnic Turkish Muslims from China) detainees had been listed as having “returned to the battlefield” after their release because their lawyer had written an op-ed protesting their prolonged detention without trial after they had been mistakenly picked up by a greedy bounty hunter. Writing an opinion or speaking an opinion against the party in power in Washington can — and already has — made some people “enemy belligerents.”

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The [Fifth Amendment](#) to the U.S. Constitution requires that “No person shall ... be deprived of life, liberty, or property, without due process of law,” and the [Sixth Amendment](#) stipulates the due process of law that all are required to receive:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The requirement for a jury trial has no exceptions for military reasons, and doesn’t even exempt foreigners. It simply employs the phrase “all criminal prosecutions,” words that unequivocally apply to



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the military and civilian justice systems, as well as to both citizens and foreigners. The Founding Fathers truly applied [Christ's command](#) to "Do to others whatever you would have them do to you," but John McCain's new bill wouldn't even do to American citizens what we would assume were basic rights. There is no greater tyranny than indefinite imprisonment at the whim of an executive without legal recourse, and that is precisely what McCain and eight other senators would impose upon America.

McCain defended his bill in a [speech on the Senate floor March 4](#), stating:

The legislation would authorize detention of enemy belligerents without criminal charges for the duration of the hostilities consistent with standards under the law of war which have been recognized by the Supreme Court. Importantly, if a decision is made to hold a criminal trial after the necessary intelligence information is obtained, the bill mandates trial by military commission where we are best able to protect U.S. national security interests, including sensitive classified sources and methods, as well as the place and the people involved in the trial itself.

In other words, the right to trial by jury guaranteed by the U.S. Constitution would no longer be a right. The bill would mandate "military commissions" rather than a jury trial, if and when the President deems to hold a "trial." Under McCain's legislation, trial by jury wouldn't just be a privilege that the President could withdraw at a whim, the President would be *required to deny jury trials*. The right to trial by jury would be denied entirely! Of course, any American could be held for decades without trial or even being charged with a crime under McCain's bill.

Cosponsors of the [bill](#) include Democrat/independent Joseph Lieberman of Connecticut and Republicans Jim Inhofe of Oklahoma, Jeff Sessions of Alabama, Scott Brown of Massachusetts, Saxby Chambliss of Georgia, David Vitter of Louisiana, George LeMieux of Florida, and Roger Wicker of Mississippi. Those cosponsoring this outright attack on the Bill of Rights are those same Republican neo-conservatives who have dominated the GOP for the last decade or more. Conservative constitutionalists need to reassert control of the Republican Party and purge this cancer from the party and the U.S. Senate, if they wish to retain their freedoms.

Photo of John McCain: AP Images



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