



Written by [Joe Wolverton, II, J.D.](#) on December 17, 2019

## **NDAA 2020: Surveillance, Space Force, and Indefinite Detention**

By an overwhelming majority, the House of Representatives passed the National Defense Authorization Act of 2020.

The bill to fund the Department of Defense is nearly 3,500 pages long and authorizes \$738 billion in defense spending in Fiscal Year 2020.

Believe it or not, congressmen were given fewer than 19 hours to read the bill before voting on it. Despite this impossible impediment to achieving even a modicum of understanding of what they'd be voting for, the measure passed 377 to 48.



Before summarizing the content of the legislation, it is appropriate to consider how 377 members of Congress — erstwhile representatives of the people — voted to pass a bill spending just south of \$800 billion without knowing whether they were violating their oaths to support the Constitution of the United States. Those are not the honest and virtuous men we rely on to protect us from tyranny.

Now, on to the multi-billion dollar boondoggle masquerading as a defense appropriation.

First, the bill as approved by the House and Senate stripped out a proposed provision that would have required President Donald Trump to seek additional congressional approval before committing U.S. military resources to overseas combat operations.

As passed, the president can act as king, calling out the U.S. armed forces anytime he wants to deploy them, anywhere he wants, for any reason he wants. This is anathema to the Constitution and to the principle of separated powers upon which it was built.

In 1793, James Madison addressed this very point in a letter written to denounce executive attempts to usurp power to wage war. Madison wrote:

Those who are to conduct a war [the executive branch] cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

Madison is so strident in his insistence that the power to make war not be placed in the presidency that in a letter responding to Alexander Hamilton's support for presidential power to call out the military, he begins with the bold pronouncement that if any president were to presume the war-making power, "no ramparts in the constitution could defend the public liberty or scarcely the forms of republican government."

In the modern era, notably, it is typically the president who initiates the commitment of American troops to combat zones, who orders the military might of the United States of America to deploy here or



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there to fight this or that foreign foe. The Congress is rarely involved in that decision, with the exception of allocating money to the supplying the armed forces with requisite equipment, ammunition, and other necessary supplies.

Comes now the NDAA for 2020 and by a bipartisan vote, Congress seditiously ceded its constitutionally delegated power to declare war to the president.

Wars in Syria, Iran, and who knows where will now be as easy to carry out as they have been for decades.

While many consider this power to part of the president's prerogative, surely there are some who, in light of the release of the *Afghanistan Papers* by the *Washington Post*, are not prepared to let the men and women of the U.S. armed forces be used as political pawns and canon fodder for the foreign policy predilections of presidents and their powerful patrons. In its summary of the report, the Cato Institute explained:

The report reveals that U.S. officials have been engaged in a protracted campaign to mislead the American people. Under three successive presidents — George W. Bush, Barack Obama, and Donald Trump — who all promised to avoid getting sucked into an open-ended nation-building mission, civilian and military leaders, writes the *Post's* Craig Whitlock “failed to tell the truth about the war in Afghanistan..., making rosy pronouncements they knew to be false and hiding unmistakable evidence the war had become unwinnable.”

President Trump and his congressional co-conspirators are not satisfied with sending traditional troops into harm's way, apparently.

This latest NDAA officially creates (and funds, of course) President Trump's “Space Force.” Space Force, proposed by President Trump in 2018, is, as reported by [military.com](#), “a 6th independent military service branch to undertake missions and operations in the rapidly evolving space domain.”

Believe it or not, the NDAA 2020 creates an office called “Chief of Space Operations (CSO)” and another one called “Assistant Secretary of the Air Force for Space Acquisition and Integration.”

That's right. Not only can the president wage war on Earth, but he can now start wars in space. Let's hope nobody discovers oil on Mars!

Perhaps the most pernicious provision of the latest NDAA has been included in every annual version of the bill since 2012: indefinite detention.

On December 31, 2011, with the signature of then-President Barack Obama, the writ of habeas corpus — a civil right so fundamental to Anglo-American common law history that it predates the Magna Carta — became voidable upon the command of the president of the United States. The Sixth Amendment right to counsel also became revocable at the will of the occupant of the White House.

Of course, the denial of habeas corpus (or a trial) comes a little late in the process of being indefinitely detained.

Put simply, Americans would not need to worry about being held without charge if the president was not authorized in the same act to deploy the armed forces to round up “suspects” and detain them indefinitely. Being apprised of the laws one is accused of having violated is important, but it's the detention and the manner of it that must be of more immediate concern to those who are alarmed about the new world order being defined by the NDAA.



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One of the most noxious elements of the NDAA is that it places the American military at the disposal of the president for the apprehension, arrest, and detention of those suspected of posing a danger to the homeland (whether inside or outside the borders of the United States and whether the suspect be a citizen or foreigner). The endowment of such a power to the president by the Congress is nothing less than a de facto legislative repeal of the Posse Comitatus Act of 1878, the law forbidding the use of the military in domestic law enforcement.

Finally, 377 of the “people’s representatives” voted to renew the “authorization” for the unconstitutional surveillance of American citizens.

The provisions of past NDAAs establishing domestic surveillance programs were renewed in the 2020 bill without any reforms or effective protections of the rights of Americans protected by the Fourth Amendment.

As for the president, he happily promises to collude with Congress in the legislative repeal of some of the Constitution’s most fundamental protections of liberty, tweeting on December 11: “Wow! All of our priorities have made it into the final NDAA: Pay Raise for our Troops, Rebuilding our Military, Paid Parental Leave, Border Security, and Space Force! Congress — don’t delay this anymore! I will sign this historic defense legislation immediately!”

The depth of the Deep State is revealed by the fact that all of the Democrats who supported the NDAA of 2020, which codifies corruption and unconstitutional usurpation that most undoubtedly is an abuse of power, are the same people who have invented abuses of power with which to charge President Trump, their ally in the expansion of the military-industrial complex in the National Defense Authorization Act for Fiscal Year 2020.

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