



Written by [Joe Wolverton, II, J.D.](#) on November 23, 2013

Senate Stalls on NDAA 2014; 507 Amendments Offered

As part of the fallout of Senator Reid's detonation of the "nuclear option," on Thursday the Senate failed to close debate on the National Defense Authorization Act (NDAA) for Fiscal Year 2014.

Senators [voted 51-44](#) to keep debate open on the controversial Defense Department budget.

"We must pass a National Defense Authorization bill," demanded Senator Carl Levin (D-Mich.), the chairman of the Senate Armed Services Committee. "If we fail to do so, we will be letting down our men and women in uniform. ... If we fail to act, they will not get their full pay."

The Pentagon budget has ballooned to over \$625 billion for next year.

[An article in *The Hill*](#) reported that Senate Republicans "have complained that there have been only two amendment votes — both of which failed — on the legislation."

Senators John McCain (R-Ariz.) and Jim Inhofe (R-Okla.) insist that the body be allowed to debate a full slate of amendments, but Harry Reid has thus far refused to allow senators to consider more than a couple of amendments.

"We used to have a practice of allowing votes on amendments — I know that's an outrageous demand on our part," McCain said, as quoted in *The Hill*. "If we can't have amendments on legislation, which is better: bad legislation or no legislation?"

When it comes to the NDAA, no legislation may be the better option.

The amendment process went a bit more smoothly in the other chamber, but there were a couple of alterations that sadly were rejected by lawmakers in the House.

On June 14, [by a vote of 315-108](#), the House of Representatives passed the [Fiscal Year 2014 version of the NDAA \(HR 1960\)](#). Several amendments to the defense spending legislation were proposed, many of which were approved either by voice vote or en bloc.

A few of the amendments represent significant improvements to the NDAA of 2012 and 2013. The acts passed for those years infamously permitted the president to deploy U.S. military troops to apprehend and indefinitely detain any American he alone believed to be aiding enemies of the state.

As constitutionalists and civil libertarians are aware, recent occupants of the Oval Office have usurped sweeping unconstitutional powers, including the authority to target Americans for indefinite detention, to withhold from them rights that have been recognized as unalienable since before the Magna Carta, and to kill American citizens who have been charged with no crime and been given no opportunity to defend themselves from the accusations that qualified them for summary assassination.





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Although the Senate has yet to begin its deliberation of amendments (and is unlikely to do so until December), the House debate on the 2014 NDAA provided several examples of congressmen violating their oaths of office by shrinking the scope of basic rights and expanding the power of the president to act as de facto (and now, de jure) judge, jury, and executioner.

For example, two amendments offered by Representative Adam Smith (D-Wash.) were rejected by his colleagues, to their dishonor.

Smith's first proposed amendment would have prohibited indefinite military detention of any person detained under AUMF authority in the United States, territories, or possessions by providing immediate transfer to trial and proceedings by a court established under Article III of the Constitution or by an appropriate state court.

Not surprisingly, Smith's amendment failed to garner approval, being turned down by a vote of 200-226 (213 Republicans voted against Smith's amendment).

This was not the first time the "conservatives" in Congress rejected a proposal by Representative Smith that would have protected due process and divested the president of powers to which he is not entitled. During last year's deliberations on the NDAA for Fiscal Year 2013, the House of Representatives voted to perpetuate the president's power to indefinitely detain American citizens.

By a vote of 238-182, members of Congress rejected the amendment offered by Smith and Justin Amash (R-Mich.) that would have repealed the indefinite detention provision passed overwhelmingly in 2011 as part of the 2012 NDAA.

The Fiscal Year 2013 NDAA retained the indefinite detention provisions, as well as the section permitting prisoners to be transferred from civilian jurisdiction to the custody of the military.

"The frightening thing here is that the government is claiming the power under the Afghanistan authorization for use of military force as a justification for entering American homes to grab people, indefinitely detain them and not give them a charge or trial," Representative Amash said during House debate last year.

In his impassioned speech supporting the amendment he proposed last year, Representative Smith reminded his colleagues that the NDAA granted to the president "extraordinary" powers and divested the American people of key civil liberties, as well as divesting civilian courts of their constitutional jurisdiction.

Smith pointed out that there was no need to transfer suspects into military custody, as "hundreds" of terrorists have been tried in federal courts since the attacks of September 11, 2001.

The more things change, the more they stay the same. Members of Congress — mostly Republican members — have united in firm defense of the president's unconstitutional power to apprehend and indefinitely detain Americans.

There are very few more powerful reminders that there is no party in Washington, D.C. that is committed to faithfully adhering to the oath of office or to the upholding of the manifold God-given rights that are guaranteed by the Constitution.

Finally, when the Senate does take up its version of the NDAA, perhaps there will be found some senator who will gut a particularly noxious provision still alive in the House bill.

In the version of the NDAA passed by the House for 2014, there is a frightening fusion of the federal



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government's constant surveillance of innocent Americans and the assistance it will give to justifying the indefinite detention of anyone labeled an enemy of the regime.

Section 1061 of the 2014 NDAA approved by the House expands on the scope of surveillance established by the Patriot Act and the AUMF. Sec. 1061(a) authorizes the secretary of defense to "establish a center to be known as the 'Conflict Records Research Center.'" According to the current text of the NDAA, the center would be tasked with compiling a "digital research database including translations and to facilitate research and analysis of records captured from countries, organizations, and individuals, now or once hostile to the United States."

In order to accomplish the center's purpose, the secretary of defense will create an information exchange in cooperation with the director of national intelligence.

Key to the functioning of this information exchange will be the collection of "captured records." Section 1061(g)(1), defines a captured record as "a document, audio file, video file, or other material captured during combat operations from countries, organizations, or individuals, now or once hostile to the United States."

When read in conjunction with the provision of the AUMF that left the War on Terror open-ended and previous NDAAs' classification of the United States as a battleground in that unconstitutional war, and you've got a powerful combination that can knock out the entire Bill of Rights.

All in the name of national security, of course.

Americans tired of hearing politicians justify their larceny of liberty by warning of threats to "the homeland" should remember the words James Madison wrote to Thomas Jefferson in 1798: "It is a universal truth that the loss of liberty at home is to be charged to the provisions against danger, real or pretended, from abroad."

According to the Senate website, [there are 507 amendments](#) to the NDAA waiting to be considered when the body gets back to business. Maybe there are found among them a few that will shore up fundamental civil liberties against the assault that is sure to be launched at them.

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