



Written by [Joe Wolverton, II, J.D.](#) on March 29, 2015

Rand Paul Tells Students: Beware Indefinite Detention

During a speech to students at Bowie State University in Maryland on March 13, Senator Rand Paul (R-Ky.) warned of a particular danger, one that gets very little coverage in the establishment media.

“We have something now in America called indefinite detention,” Paul told the mostly minority audience. “This means that an American citizen could be indefinitely placed in prison and sent to Guantanamo Bay forever without trial.”



As for who should fear that fact that the president has assumed the power to deny citizens of their right to due process, Paul shared a bit of history with students.

Who should be afraid of this? Anybody think that you might want to be afraid if you're Jewish? Have people ever seen any kind of animus towards the Jewish people? Anybody ever think there was any animus towards African-Americans in our country? Anybody ever think there's been an animus towards any kind of minority in our country ought to be concerned about incarceration without a trial?

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The indefinite detention referred by Senator Paul was part of the 2011 National Defense Authorization Act (NDAA).

On December 31, 2011, with the president's signing of that law, the writ of habeas corpus — a civil right so fundamental to Anglo-American common law history that it predates the Magna Carta — is voidable upon the command of the president of the United States. The Sixth Amendment right to counsel is also revocable at his will.

One of the most noxious elements of the NDAA is that it places the U.S. 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.

Furthermore, a key component of the NDAA 2012 mandates a frightening grant of immense and unconstitutional power to the executive branch. Under the provisions of Section 1021, the president is afforded the absolute power to arrest and detain citizens of the United States without their being informed of any criminal charges, without a trial on the merits of those charges, and without a scintilla of the due process safeguards protected by the U.S. Constitution.

Further, in order to execute the provisions of Section 1021, Section 1022 (among others) unlawfully gives the president the absolute and unquestionable authority to deploy the armed forces of the United States to apprehend and to indefinitely detain those suspected of threatening the security of the “homeland.” In the language of this legislation, these people are called “covered persons.”



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The universe of potential “covered persons” includes every citizen of the United States of America. Any American could one day find himself or herself branded a “belligerent” and thus subject to the complete confiscation of his or her constitutional civil liberties and nearly never-ending incarceration in a military prison.

The relevant issue regarding this immense unconstitutional, unconscionable power is not whether it will be used, but that it exists.

“I don’t think this president is going to round up people based on their race, I don’t think he will do that.... I’m not questioning whether the president is a good man; I’m questioning whether you want a law on the books that requires our leaders to be good people.”

Or, as Thomas Jefferson once said, “In questions of power then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution.”

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