

May 1, 2026

The Honorable Donald Trump  
President of the United States  
White House  
1600 Pennsylvania Avenue,  
N.W. Washington, D.C. 20500

**RE: Avoid Violating the 60-Day Limit of the War Powers Resolution of 1973 Today**

Dear President Trump:



**National Political  
Advocacy Department**  
915 15<sup>th</sup> Street, NW, 6<sup>th</sup> Floor  
Washington, DC 20005-2112  
[aclu.org](http://aclu.org)

**Deirdre Schifeling**  
Chief Political &  
Advocacy Officer

**Anthony D. Romero**  
Executive Director

**Deborah N. Archer**  
President

The American Civil Liberties Union expresses our profound concern that the continued use of United States military force in Iran beyond today, May 1, 2026, would constitute a violation of the War Powers Resolution of 1973. Given the immediacy, gravity, and scope of the armed conflict that the United States began and continues in Iran, you should have gone to Congress to ask Congress to use its power to decide the question of whether to exercise the war powers reserved for it alone under Article I of the Constitution. That is a step that the Constitution requires to be taken *before* going to war. However, as of this date, Congress has not declared war or authorized any military action in Iran. In the absence of any congressional authorization, there is no authority for the use of military force in Iran. You are carrying out an illegal war.

Secretary of Defense Pete Hegseth yesterday testified to Congress that the claimed ceasefire in the war against Iran somehow pauses the 60-day clock under the War Powers Resolution. And today, you sent a letter to Congress claiming that this same ceasefire marks an end to “hostility” and somehow resets the clock, despite the war continuing. But even a quick reading of the short and clearly written War Powers Resolution makes clear that there is no pause button – and certainly no reset button – under the statute – The clock runs out today.

The decision to use military force in Iran without congressional authorization struck at the very heart of the fundamental principle of separation of powers that is at the core of the Constitution and is the undergirding of our democratic form of government. The ACLU urges you not to compound that unconstitutional act with a violation of the statutory requirement in the War Powers Resolution for withdrawal of all forces within 60 days of the President’s initial report to Congress on the use of military force. The 60-day deadline is today. There is a 30-day extension available under the War Powers Resolution, but only upon your notice to Congress and only for the reason of ensuring the safety of American armed forces during the withdrawal period.



The ACLU does not take a position on the political decision whether military force should be used in Iran. However, we have been steadfast in insisting, from Vietnam, the Gulf war, Kosovo, Iraq, Afghanistan, and Libya, that decisions on whether to use military force require Congress's specific, advance authorization. Absent a sudden attack on the United States that requires the President to take immediate action to repel the attack, the President does not have the power under the Constitution to decide to take the United States into war. Such power belongs solely to Congress. As Thomas Jefferson once wrote, this allocation of war power to Congress provides an “effectual check to the Dog of war” by “transferring the power of letting him loose from the Executive to the Legislative body. . .” Letter from Jefferson to Madison (Sept. 6, 1789). Congress alone has the authority to say yes or no on whether the United States can use military force in Iran or anywhere else.

However, without any authorization from Congress, the United States has already used significant military force in Iran. On February 28, 2026, you ordered the United State into an armed conflict in Iran that has, to date, included a significant commitment of American military force, with targets that have included Iranian military installations, government and military personnel and equipment, oil refineries, transportation and energy infrastructure, and nuclear facilities. On the first day of combat alone, hundreds of Patriot Interceptors, THAAD anti-ballistic missile systems, and M-142 high mobility artillery rockets were fired into Iran from offshore naval vessels. Subsequently, U.S. bombers, fighter aircraft, missiles, and drones have attacked air defenses and ground forces across Iran, and even Iranian boats. There are 15 confirmed U.S. service members killed in action, with hundred being injured in this unconstitutional war. Furthermore, numerous media outlets credibly report significant casualties among Iranians, including major civilian casualties, even including schoolchildren at a school bombed by the U.S. The economic cost to the United States, made without approval by Congress, is also staggering—with approximately \$25 billion acknowledged by the Department of Defense (with outside experts estimating costs to the government that are twice as high), and higher prices for gasoline, fertilizer, and a range of other products rapidly rising.

In addition, the objective of the war is both shifting and unclear, at times including: regime change, a fundamental recasting and rebuilding of Iran and its government, an end to any nuclear weapons research and manufacturing project, removal of all nuclear material, and reopening the Strait of Hormuz (with a range of proposals on how shipping would be governed or taxed). With no clear objective authorized by Congress, the war was started and is being carried out at the whims of the President, a development that both the Constitution and the War Powers Resolution forbid.



The Constitution is clear. Article 1, Section 8 of the Constitution provides that only the Congress has the power “To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water,” among other war powers.

The structure of the Constitution reflects the framers' mistrust of concentrations of power and their consequent separation of those powers into the three branches of our government. The framers well understood the danger of combining powers into the hands of a single person, even one who is elected, particularly a person given command of the armed forces. In order to prevent such an accumulation in times of war or emergency, the framers split the war powers between the Executive and Legislative branches, giving the Congress the power to declare war, i.e., make the decision whether to initiate hostilities, while putting the armed forces under the command of the President.

In giving the power of deciding whether to go to war to Congress alone, the framers made clear that the President's powers as Commander in Chief, while "nominally the same [as] that of the king of Great Britain . . . in substance [is] much inferior to it." Federalist No. 69 (Alexander Hamilton). As Alexander Hamilton explained, the power of Commander in Chief "would amount to nothing more than the supreme command and direction of the military and naval forces; while that of the British king extends to the DECLARING of war and to the RAISING and REGULATING of fleets and armies, all of which, by the Constitution under consideration, would appertain to the legislature." *Id.*

Chief Justice Marshall made clear, as early as 1801, that the Executive Branch did not have the power to decide whether the country will use military force. In a series of cases involving the seizure of vessels during an undeclared naval war with France, the Supreme Court made clear that Congress, not the President, was the ultimate repository of the power to authorize military force. See *Little v. Barreme*, 6 U.S. 170 (1804), *Talbot v. Seeman*, 5 U.S. 1, 28 (1801); *Bas v. Tingy*, 4 U.S. 37 (1800). As Marshall made clear, “The whole powers of war being, by the constitution of the United States, vested in congress, the acts of that body can alone be resorted to as our guides in this inquiry.” *Talbot*, 5 U.S. at 28 (1801).

In *The Prize Cases*, 67 U.S. 635 (1863), the Supreme Court found that a “state of war” may exist without a declaration of war. But the peculiar context of the Civil War explains those cases. Indeed, the Court reaffirmed that, in contrast to the President's power to suppress insurrections, “By the Constitution, Congress alone has the power to declare a national or foreign war.” *Id.* at 668.



The power of the President to use military force without congressional authorization is very narrow. The drafters of the Constitution had considered giving Congress the sole power to “make War,” but in the end decided its power would be to “declare War.” James Madison explained that this change was made simply to leave “to the Executive the power to repel sudden attacks.” Debates in the Federal Convention, Aug. 17, 1787. According to Hamilton, “anything beyond” such use of military force “must fall under the idea of reprisals and requires the sanction of that Department [i.e., the Congress] which is to declare or make war.” Letter from Hamilton to Sec. of War James McHenry. May 17, 1798. As this history makes clear, the correct view of the Constitution, and the unbroken view of Congress, has been that the President's power to engage in large-scale military operations without Congressional approval is limited to the power “to repel sudden attacks.” Any other use of military force requires a declaration of war or other Congressional authorization.

Finally, Executive Branch “consultations” with members of Congress or briefings of congressional staff may be useful for congressional oversight but are not a substitute for the Congress authorizing the use of military force under Article I of the Constitution. No amount of letters, congressional testimony, or briefings can make up for the lack of congressional authorization on the question whether the United States may use military force in Iran.

Your earlier order already unleashed Jefferson’s “Dog of war” in Iran, without congressional authorization. That constitutional wrong has already happened. The ACLU urges that you do not compound that wrong with a violation of the War Powers Resolution. Please do not hesitate to contact us if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Deirdre Schifeling". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Deirdre Schifeling  
Chief Political & Advocacy Officer  
American Civil Liberties Union

