



October 27, 2014

**RE: ACLU Urges Members of Congress to Cosponsor and Support the
Drone Reform Act, H.R. 5091**

Dear Representative,

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On behalf of the American Civil Liberties Union we urge you to cosponsor the Drone Reform Act, H.R. 5091, introduced by Representative Ted Yoho (FL) with a bipartisan group of original cosponsors. The legislation would consolidate authority for drone strikes in the Department of Defense and prohibit strikes by other agencies, including the CIA.

This legislation is vital to restoring the role of the Department of Defense and enhancing the constitutional system of checks and balances for the use of lethal force. Currently drone strikes are carried out by both the CIA and the military. This legislation would consolidate authority for drone strikes in the Department of Defense. It would subject all armed drone operations to the requirements of Title 10 of the U.S. Code, which sets rules for the armed forces. Other agencies could still provide advice and intelligence for drone strikes.

The Drone Reform Act would facilitate congressional oversight. Crucially, strikes conducted by the Department of Defense under Title 10 authority can be publicly acknowledged. Their consistency with the law and U.S. strategic objectives can be openly debated by Congress. In contrast, strikes conducted under Title 50 covert action authority—CIA strikes—exist in a black hole of accountability. The public and most members of Congress have been kept in the dark about even the basics, including the Administration's legal standards for who may be targeted and the legal basis for particular killings.

For these and other reasons, the CIA should not be giving orders on the use of U.S. military force. At his 2013 Senate confirmation hearing, CIA Director John Brennan acknowledged as much, saying “the CIA should not be doing traditional military activities and operations.” Yet since 2008, the CIA has ordered hundreds of drone strikes, sometimes with a frequency akin to a military campaign. While the CIA has long conducted covert actions, it

has never been entrusted with the use of lethal force on this scale. It has neither the ethos nor the structures in place to make it an accountable agent of lethal force. Decisions on the use of lethal force through drones should be returned to the Department of Defense.

We are also concerned about the ramifications of the CIA's giving orders to uniformed military personnel. Reportedly, Air Force officers and other military personnel have been seconded to the CIA for its drone operations. This potentially places military personnel in the inappropriate position of receiving CIA orders that run contrary to their trained military judgment, military doctrine on compliance with the laws of war, and military processes for mitigating civilian casualties.

We acknowledge that the military's Joint Special Operations Command also conducts drone strikes with excessive secrecy. However, by consolidating lethal drone operations in the Department of Defense, this legislation removes an impediment to oversight that has been asserted by U.S. officials—the need to maintain the CIA's plausible deniability about its drone strikes—and makes an important change within the Executive Branch.

Of course, the legislation also precludes the use of armed drones by other agencies as well. It would serve as a prophylactic against agencies such as the Department of Justice or Department of Homeland Security starting armed drone programs.

Through the Drone Reform Act, Congress can help facilitate oversight to a lethal drone program that has been far too secretive for far too long. Your cosponsorship and support are crucial to passing the Drone Reform Act. If you have any question about the legislation or the ACLU's support for it, please feel free to contact Chris Anders at phone: (202) 675-2877 or e-mail: canders@aclu.org.

Sincerely,

A handwritten signature in black ink, reading "Laura W. Murphy". The signature is fluid and cursive, with the first name "Laura" being the most prominent.

Laura W. Murphy
Director, Washington Legislative Office

A handwritten signature in black ink, reading "Christopher E. Anders". The signature is cursive and somewhat stylized, with the first name "Chris" being the most prominent.

Christopher E. Anders
Senior Legislative Counsel