



Written by [Joe Wolverton, II, J.D.](#) on September 20, 2012

ACLU Demands CIA Disclose Details of Death-by-Drone Program

Attorneys representing the American Civil Liberties Union (ACLU) are scheduled to appear today in a federal appeals court in defense of that organization's [Freedom of Information Act \(FOIA\) request to the CIA](#) for greater information on its death-by-drone program.

The petition was filed in January 2010 and "seeks to learn when, where and against whom drone strikes can be authorized, and how the U.S. ensures compliance with international laws relating to extrajudicial killings."



Over the last couple of years, the ACLU and a group of reporters have filed several Freedom of Information Act petitions requesting that the federal government provide greater access to operational details of the drone program and the legal arguments forwarded by the Obama administration in justifying not only the use of the drones, but their use in the killing of thousands in Pakistan alone.

The ACLU's Chris Calabrese [told the Associated Press](#) that the recently composed code of conduct for the drone industry is respectable, but does not go far enough.

"I think it's really important that they're paying attention to privacy. That's to their credit. But I can't imagine they expect this to quell privacy concerns," he told the Associated Press.

"I think Congress needs to step in. This is new technology. It's potentially incredibly invasive. People are profoundly discomforted by the idea of drones monitoring them," he continued.

Maybe, maybe not.

[According to a recent](#) survey conducted by the Monmouth University Polling Institute, nearly 80 percent of respondents supported using drones for search-and-rescue missions.

Over 60 percent were in favor of drones being used to search for criminals.

Friends of liberty support the lawful efforts of state and local police to enforce the law and keep their streets safe. They are aware, however, that government begins the deprivation of freedom under the name of protecting the people, but freedom is the only currency it will accept in exchange for that safety.

In [a press release announcing the upcoming hearing](#), the ACLU's deputy legal director Jameel Jaffer insists that the CIA's "secret" targeting of people for assassination by drone is anything but secret:

The notion that the CIA's targeted killing program is a secret is nothing short of absurd. For more than two years, senior officials have been making claims about the program both on the record and off. They've claimed that the program is effective, lawful and closely supervised. If they can make these claims, there is no reason why they should not be required to respond to requests under the



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Freedom of Information Act.

Should the CIA and the White House persist in their drive to eliminate anyone believed by them to merit summary execution, the fundamental constitutional principle of due process would be obliterated forever.

The constitutional preeminence of due process is found in the [Federalist Papers, where Alexander Hamilton warned](#) against its violation in any form:

The creation of crimes after the commission of the fact, or, in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny.

This fundamental restraint on the royal presumption of the power to lop off heads on command was incorporated by our Founders in the Bill of Rights, particularly in the Fifth Amendment that says in relevant part: “No person shall ... be deprived of life, liberty, or property, without due process of law.”

Moreover, the federal government’s nearly daily approval of another drone-delivered assassination is an effrontery to over 650 years of our Anglo-American law’s protection from autocratic decrees of death without due process of law.

When any president or bureaucrat usurps power by placing names on a kill list and then having those people punished without opportunity to answer the accusations against them, that person places our Republic on a trajectory toward tyranny and government-sponsored terrorism.

In fairness, it would be another matter if those targeted and executed by the president or the CIA were armed enemy combatants. They are not. Were these suspected “militants” enemy soldiers captured during wartime they would be necessarily afforded certain rights granted to POWs. Those slated for assassination are not allowed any rights — neither the due process rights given to those accused of crimes nor the rights of fair treatment given to enemies captured on the battlefield. The White House has assumed all power over life and death and created *ex nihilo* a new category of individual — one deprived of all rights altogether.

When the judicial and executive governmental powers are consolidated and restraints on the exercise of power are removed, it can be expected — based on our knowledge of both history and the nature of man — that power will be abused and no one’s rights or life will be safe from elimination by despots.

The ACLU will make this point during Thursday’s hearing before the three-judge panel of the D.C. Circuit Court of Appeals.



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