



August 1, 2013

United States House of Representatives
Washington, DC 20515

Re: The Citizen Empowerment Act, Title III of H.R. 2879, Must Be Fixed to Prevent Unintended Consequences

Dear Representative:

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

LAURA W. MURPHY
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

ROBERT REMAR
TREASURER

While the ACLU strongly supports the principle of allowing citizens to record law enforcement interactions, we are unable to support Title III of H.R. 2879, the reported "Citizen Empowerment Act," which, in its present form, threatens to impermissibly interfere with government workers' constitutional liberties. We urge you to replace the text of the bill as reported with the version as originally introduced.

Section (c) of the bill provides that *any* executive agency employee, whenever he or she is acting in *any* official capacity, is deemed to have given constructive consent to the recording of a telephonic conversation by *any party* to the conversation. We are concerned that the breadth of this language could cover interactions among government workers, as well as conversations with non-law enforcement personnel where the public's interest in recording would be lessened.

The version of the Citizen Empowerment Act as introduced (as H.R. 2711) was preferable to the version as reported. The original measure would have been limited to law enforcement encounters, where the non-government party faced a possible adverse government enforcement action.

Please do not hesitate to contact legislative counsel/policy advisor Gabe Rottman at grottman@dcacclu.org or 202-675-2325 with any questions.

Sincerely,

Laura W. Murphy
Director, Washington Legislative Office

Gabriel Rottman
Legislative Counsel/Policy Advisor