January 2, 2013

President Barack H. Obama
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

RE: A Civil Liberties Agenda to Move Forward: Recommendations for the Second Term of President Barack Obama

Dear President Obama:

Congratulations on your re-election. After your history-making first term as the nation’s chief executive, your administration now looks forward to a new set of challenges. The American Civil Liberties Union (ACLU) writes today to offer our recommendations for actions you and your administration can take in the coming four years to restore and advance the civil liberties and civil rights of those who call America their home or are otherwise subject to U.S. government action.

The ACLU is America’s leading organization dedicated to the preservation and enhancement of civil rights and civil liberties assured to everyone under the U. S. Constitution and our federal laws. We are a non-profit, non-partisan organization with over a half million members, countless additional activists and supporters, and 53 affiliates nationwide. We are dedicated to the principles of individual liberty, uncompromising justice, and equality for all. In that spirit, we offer the enclosed document – A Civil Liberties Agenda to Move Forward: Recommendations for the Second Term of President Barack Obama.

Our Civil Liberties Agenda consists of three parts. Our Day One recommendations highlight three actions you can take on or before your inauguration. Part Two includes a set of ten recommendations that you and members of your administration can accomplish in the first 100 days of your second term. The remainder of our document consists of scores of suggestions for the White House, eleven different federal departments, and six independent federal agencies. The recommendations are those that the executive branch can take on its own authority – without the need for congressional approval. With the 2012 election behind us, but with a still-divided government in front of us, this Civil Liberties Agenda encourages you and the members of your team to achieve civil liberties advances by using the tools at the disposal of the executive branch.
Day One

Our Day One recommendations reflect the message we offered in the full page ad we placed in the New York Times immediately following your election victory. We urge you to use all legal means possible to close Guantanamo – to end indefinite detention and the use of military commissions, to remove any policy obstacles to the resettlement or repatriation of the detainees, and to work vigorously to oppose legislative restrictions hampering such efforts. We urge you to reverse the decades-long erosion of true abortion rights in America and to eliminate any and all restrictions on abortion in your upcoming budget proposal. And we ask you to stop the Department of Homeland Security’s abusive and discriminatory deportation practices, starting with the immediate termination of such programs as 287(g) and Secure Communities, which lead to racial profiling and unconstitutional arrests by state and local law enforcement. These are actions you can take immediately and we urge you to do so on or before the first day of your second term.

First 100 Days

Part Two of the Civil Liberties Agenda offers ten recommendations that you can achieve in the opening days of your second term. If you and your administration take these actions right away, it will set the tone for your presidency and demonstrate to the world your commitment to moving forward with a true civil liberties agenda.

- End sexual orientation and gender identity discrimination in government contracts. We are calling on you to issue an executive order requiring federal contractors not to discriminate on the basis of sexual orientation or gender identity.
- Prevent discrimination on the basis of religion in government programs. We are asking you to issue an executive order ending religion-based discrimination and rescind regulations, federal guidance, a legal opinion, and other executive orders that currently allow such discrimination.
- Stop the illegal targeted killing program. We urge you to issue an executive order prohibiting the overseas use of lethal force outside of a battlefield, except under the narrow circumstances permitted by international law and the Constitution.
- Stop warrantless GPS tracking. The Attorney General should instruct all federal law enforcement personnel to secure a warrant based on probable cause before obtaining geolocational information through GPS or cell phone tracking.
- Stop government surveillance of electronic communications. We urge you to issue an executive order barring the suspicionless bulk collection of Americans’ communications and improve transparency surrounding such practices by federal agencies.
- Adjust unfair crack cocaine sentences. We urge you to establish a process to review crack cocaine sentences for those serving unduly harsh sentences meted out prior to enactment of the Fair Sentencing Act and to commute such sentences when warranted.
- Bar racial profiling in federal law enforcement. The Department of Justice should update its guidelines to remove loopholes that allow racial profiling and you should issue an executive order barring such practices in federal law enforcement.
• **Remove restrictions on communications between federal prisoners and their attorneys.** The Department of Justice should repeal regulations facilitating the monitoring of such communications.

• **End discriminatory school discipline policies.** The Departments of Education and Justice should issue guidance to schools on the use of punitive school discipline policies.

• **Close inhumane immigration detention facilities.** The Department of Homeland Security should immediately close its ten worst immigration detention facilities, which inadequately protect detainees from abuses ranging from sexual assault to improper medical and mental health care.

### Second Term Recommendations

The balance of the *Civil Liberties Agenda* contains scores of recommendations for the White House, 11 Cabinet-level departments, and a half dozen independent agencies. The subjects of our suggestions range from free speech rights to anti-discrimination initiatives, from privacy rights to government transparency, from protections against intolerance to limitations on aggregation of authority in the executive branch. We urge the federal government to stand up to states restricting access to the ballot or engaging in racial profiling, but to stand down against states decriminalizing marijuana offenses. The full range of recommendations serves as a reminder that many challenges remain in the fight to preserve and advance the rights of individuals. We are hopeful that your administration will be willing and able to devote sufficient resources to the goal of improving civil rights and civil liberties in the U. S. so that, in four years’ time, a re-examination of this document will reveal that your legacy is one that can truly be defined by such achievements.

The American Civil Liberties Union stands ready to work with you to achieve these goals.

Sincerely,

Laura W. Murphy  
Director

Michael W. Macleod-Ball  
Chief of Staff

Encl:  *A Civil Liberties Agenda to Move Forward: Recommendations for the Second Term of President Barack Obama*