

## Does it matter who runs US drone program? Pentagon could supplant CIA.

By Anna Mulrine March 20, 2013

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The growing speculation that the White House is preparing to shift its secretive drone program from the Central Intelligence Agency to the Pentagon is raising new questions about just how much more transparency this move would portend.

The hope among critics is that this change would allow greater oversight by Congress – and, by extension, the American public – of America’s targeted killing program.

That could be true, experts say. Congress is generally more successful in bringing the Pentagon to heel through budget threats than is the CIA. Moreover, the Pentagon is subject to citizen Freedom of Information Act (FOIA) requests.

But elements within the Pentagon are just as secretive – if not more so – than the CIA, meaning critics might not get the degree of openness they might want.

“Whether transparency increases really depends on who at the DoD [Department of Defense] the program goes to,” says Jennifer Rowland, program associate with the National Security Studies program at the New America Foundation.

Sen. John McCain (R) of Arizona, a longtime member of the Senate Armed Services Committee, is pushing for the drone program to change addresses.

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“Since when is the intelligence agency supposed to be an Air Force of drones that goes around killing people? I believe that’s a job for the Department of Defense,” he said on FOX News recently.

“What we really need to do is take this whole program out of the hands of the Central Intelligence Agency and put it into the Department of Defense, where you have adequate oversight, you have committee oversight, you have all the things that are built in as our oversight of the Department of Defense.”

But some analysts question whether the move to the Pentagon would truly increase oversight.

“That shift in-and-of-itself does not necessarily create more transparency,” says Benjamin Friedman, a research fellow in defense and homeland security studies at the CATO Institute, a libertarian think tank.

In his article for the Daily Beast that broke the news of the reported shift Wednesday, Daniel Klaidman points out that the Pentagon may choose to place responsibility for the drone program with Joint Special Operations Command (JSOC), which is responsible for the Navy’s SEAL Team 6, Delta Force, and other equally secretive US military strike forces.

JSOC may be less willing to share information about these strikes than is the CIA. And while the CIA is obligated to report certain actions it takes – including targeted killings – to Congress, JSOC is not.

“JSOC really has different rules than the rest of the Pentagon,” says Ms. Rowland of the New America Foundation.

That said, it is far easier for American citizens to compel the Pentagon to share data through FOIAs, Rowland points out. “The DoD may not be legally bound to provide certain data to Congress, but they are legally bound to provide it to the American public.”

And should the program shift to the Pentagon, the congressional committees that oversee it could have more points of leverage. In particular, the armed services committee controls the purse strings for the DoD.

This means that the House and Senate Armed Services Committees could strong-arm the Pentagon to share information. The intelligence committees, by contrast, could compel the CIA to do relatively little, Friedman argues.

“In the end, where these formal powers reside may be less important than the fact that the armed services committee authorizers make budget decisions, so they have more pull to get what they want,” says Mr. Friedman of CATO.

Most vital is that this potential move could spark a deeper conversation among lawmakers and the American public about secretive programs that warrant far more oversight than they have been getting, analysts say.

“To me, the main thing is less whether the drone program is run by the CIA or JSOC, but rather whether Congress is asserting its power to contain and check the executive branch when it comes strikes overseas,” Friedman says.

“Rand Paul said it pretty well in his 13-hour filibuster: ‘We shouldn’t be asking the president for memos on drone strikes, we should be giving him memos,’ ” referring to congressional demands for a legal justification of the Obama administration’s targeted killing program.

The “murky” process for managing the program, Friedman adds, has proven “woefully insufficient and has been abused massively by the executive branch to do what they want to as long as they say the magic word ‘terrorism.’ ”