

United States Senate

WASHINGTON, DC 20510

June 26, 2014

Mr. Neil Eggleston
White House Counsel
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Eggleston:

We write to address a number of outstanding requests that we have regarding the use of military force outside of declared war zones. We appreciate the recent testimony of the Director of National Intelligence regarding the proposed transfer of these operations from the intelligence community to the Department of Defense, and we look forward to further discussion and debate on that subject. At the same time, we believe that the executive branch needs to more clearly define its interpretation of the laws and rules that govern lethal operations outside of declared war zones, and in particular lethal operations against American citizens. Specific details regarding lethal counterterrorism actions will sometimes need to be kept secret to ensure that the US government can act effectively against very real threats to our country, but we firmly believe that the laws and rules that govern the executive branch's actions should always be public.

Early last year we reviewed the Department of Justice legal opinions regarding the deliberate killing of Americans in the course of counterterrorism operations. As we indicated in our November 2013 letter to Attorney General Holder, we are concerned that these memos leave important questions regarding the use of lethal force against Americans unanswered. To be clear, we believe that under the circumstances that existed at the time, the decision to use lethal force against Anwar al-Aulaqi was a legitimate use of the President's authorities. But we also believe that the limits and boundaries of the President's power to authorize the deliberate killing of Americans need to be laid out publicly with much greater specificity. The importance of the public's right to this information was underlined by a recent Second Circuit Court of Appeals opinion, which ruled that the government should not have turned down a Freedom of Information request for a Justice Department memo setting out the legal justification for the targeted killing of a U.S. citizen and which ordered the administration to publicly release a redacted version of the memo. We are pleased that a redacted version of this memo has now been released, and we hope that this will facilitate a more open and informed public debate about the appropriate boundaries of these legal authorities.

In our November 2013 letter, however, we laid out a number of specific questions regarding these authorities that we believe still need to be answered. We also expressed our strong view that the answers to these questions need to be provided to both Congress and the public, because we believe that every American has the right to know when their government believes it is allowed to kill them.

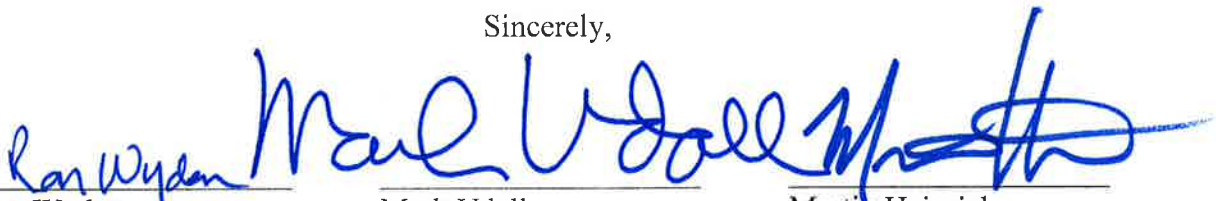
Having received no response to date to our November 2013 letter, we ask that you work with the Department of Justice to ensure that we receive an expedited response to those outstanding questions. Our November 2013 letter also noted that there are a number of additional legal opinions regarding the use of lethal force outside of active war zones that have not been provided to Congress, so we request again that these opinions be provided to Congress, and to the maximum extent possible, to the public.

Additionally, the Deputy National Security Advisor stated last year that if the executive branch makes a mistake and kills the wrong person or group of people, the executive branch should publicly acknowledge that fact. As the executive branch continues to pursue the transfer of responsibility for lethal operations to the Department of Defense, please explain how this objective will be met.

Finally, we have an additional specific question that involves properly classified information, which we will be sending to you in separate, classified correspondence. Please ensure that this question receives a timely response as well.

Thank you for your attention to this important matter. We look forward to continuing to work with you to safeguard American security in a way that also protects our country's core values.

Sincerely,



Ron Wyden Mark Udall Martin Heinrich
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United States Senator United States Senator United States Senator