

# THE ANSWER, ROBERT MUELLER, IS “YES, DOJ DOES BELIEVE IT COULD KILL A CITIZEN IN THE US”

FBI Director Robert Mueller tried to avoid answering whether or not we can target US citizens in the United States.

FBI Director Robert Mueller on Wednesday said he would have to go back and check with the Department of Justice whether Attorney General Eric Holder’s “three criteria” for the targeted killing of Americans also applied to Americans inside the U.S.

Pressed by House lawmakers about a recent speech in which Holder described the legal justification for assassination, Mueller, who was attending a hearing on his agency’s budget, did not say without qualification that the three criteria could not be applied inside the U.S.

“I have to go back. Uh, I’m not certain whether that was addressed or not,” Mueller said when asked by Rep. Kevin Yoder, R-Kan., about a distinction between domestic and foreign targeting

Yoder followed up asking whether “from a historical perspective,” the federal government has “the ability to kill a U.S. citizen on United States soil or just overseas.”

“I’m going to defer that to others in the Department of Justice,” Mueller replied.

When Fox asked DOJ for clarification, a

spokesperson said the framework as laid out by Holder applied abroad, and she couldn't imagine a scenario in which it would happen domestically.

But of course, everyone is simply dodging. DOJ knows well their legal logic, such as it is, would permit the due process free killing of an American in America. After all, Eric Holder claimed in his speech that Congress had not limited the geographic scope of the government's authority to use force.

Our legal authority is not limited to the battlefields in Afghanistan. Indeed, neither Congress nor our federal courts has limited the geographic scope of our ability to use force to the current conflict in Afghanistan. We are at war with a stateless enemy, prone to shifting operations from country to country.

Jeh Johnson said the same in a recent speech, specifically in the context of domestic authorities.

Third: there is nothing in the wording of the 2001 AUMF or its legislative history that restricts this statutory authority to the "hot" battlefields of Afghanistan. Afghanistan was plainly the focus when the authorization was enacted in September 2001, but the AUMF authorized the use of necessary and appropriate force against the organizations and persons connected to the September 11<sup>th</sup> attacks – al Qaeda and the Taliban – without a geographic limitation.

And on Monday, when Holder objected to calling assassinations assassinations, he did not limit their claimed legality to overseas locales.

Here, for the reasons I have given, the U.S. government's use of lethal force in

self defense against a leader of al Qaeda or an associated force who presents an imminent threat of violent attack would not be unlawful – and therefore would not violate the Executive Order banning assassination or criminal statutes.

But long before Johnson and Harris made these arguments it became clear that the legal analysis had to permit the targeting of American citizens within the US.

That's because the legal case cited to get from capturing a US citizen (based on the precedent of Hamdi) to killing him is Scott v. Harris, an entirely domestic case.

It also cited several other Supreme Court precedents, like a 2007 case involving a high-speed chase and a 1985 case involving the shooting of a fleeing suspect, finding that it was constitutional for the police to take actions that put a suspect in serious risk of death in order to curtail an imminent risk to innocent people.

You can't very well argue that, having determined a US citizen to be a lawful target under the AUMF and then claimed, as they did with Awlaki, that they had no way of capturing him safely, they couldn't assassinate him in the US, too. If a police officer can use deadly force to stop a high speed car chase, then counterterrorism officials would not hesitate to use whatever means to kill a terrorist.