

AFTER CONTINUED BLOW-OFF, HOUSE JUDICIARY REQUESTS AWLAKI AND SIGNATURE STRIKE MEMOS

The other day, when I reported that the Senate Judiciary Committee would get to glimpse the Office of Legal Counsel memos authorizing the killing of Anwar al-Awlaki, I noted that the House Judiciary Committee was not included in that reporting.

Also no word on whether the House Judiciary Committee will also get to glimpse these memos.

I guess they noted the same.

Dear President Obama,

We write to renew our request from February 8th that members of the House Judiciary Committee be granted the opportunity to review all Justice Department legal opinions related to the use of lethal force in both targeted and so-called "signature strikes" against unidentified terrorist suspects.

Members of the House and Senate Intelligence Committees have been provided an opportunity to review at least some of these opinions. Today, members of the Senate Judiciary Committee were also given access to some, but not all, of the documents that we have requested. There is no reason why a similar bipartisan request from the House Judiciary Committee continues to go unanswered. If arrangements for our review of these materials are not finalized by COB tomorrow (Thursday,

April 11, 2013), the Committee will have no choice but to move forward with issuance of subpoenas for the documents.

What's particularly amusing about this response to the White House's continued refusal to permit HJC to oversee DOJ is the scope of HJC's request: Since last December, they've been asking for the broader backup, including the memos authorizing signature strikes explicitly. As a result, the Administration's refusal to share even what they've shared with the other oversight committees puts that signature strike request on the subpoena table where it otherwise might not be.

Given Jonathan Landay's reporting showing the extent not just of strikes where we don't know the target's identity, but also the number of side payment strikes we're conducting, seeing such memos are even more urgent.

I'm guessing the timing gives the White House new-found interest in negotiating sharing those other memos.

February 2011: Ron Wyden asks the Director of National Intelligence for the legal analysis behind the targeted killing program; the letter references "similar requests to other officials." (1)

April 2011: Ron Wyden calls Eric Holder to ask for legal analysis on targeted killing. (2)

May 2011: DOJ responds to Wyden's request, yet doesn't answer key questions.

May 18-20, 2011: DOJ (including Office of Legislative Affairs) discusses "draft legal analysis regarding the application of domestic and international law to the use of lethal force in a foreign country against U.S. citizens" (this may be the DOJ response to Ron Wyden).

October 5, 2011: Chuck Grassley sends Eric Holder a letter requesting the OLC memo by

October 27, 2011. (3)

November 8, 2011: Pat Leahy complains about past Administration refusal to share targeted killing OLC memo. Administration drafts white paper, but does not share with Congress yet. (4)

February 8, 2012: Ron Wyden follows up on his earlier requests for information on the targeted killing memo with Eric Holder. (5)

March 7, 2012: Tom Graves (R-GA) asks Robert Mueller whether Eric Holder's criteria for the targeted killing of Americans applies in the US; Mueller replies he'd have to ask DOJ. Per his office today, DOJ has not yet provided Graves with an answer. (6)

March 8, 2012: Pat Leahy renews his request for the OLC memo at DOJ appropriations hearing.(7)

June 7, 2012: After Jerry Nadler requests the memo, Eric Holder commits to providing the House Judiciary a briefing—but not the OLC memo—within a month. (8)

June 12, 2012: Pat Leahy renews his request for the OLC memo at DOJ oversight hearing. (9)

June 22, 2012: DOJ provides Intelligence and Judiciary Committees with white paper dated November 8, 2011.

June 27, 2012: In Questions for the Record following a June 7 hearing, Jerry Nadler notes that DOJ has sought dismissal of court challenges to targeted killing by claiming "the appropriate check on executive branch conduct here is the Congress and that information is being shared with Congress to make that check a meaningful one," but "we have yet to get any response" to "several requests" for the OLC memo authorizing targeted killing. He also renews his request for the briefing Holder had promised. (10)

July 19, 2012: Both Pat Leahy and Chuck Grassley complain about past unanswered requests for OLC memo. (Grassley prepared an amendment as well, but withdrew it in favor of Cornyn's.)

Leahy (but not Grassley) votes to table John Cornyn amendment to require Administration to release the memo.

July 24, 2012: SSCI passes Intelligence Authorization that requires DOJ to make all post-9/11 OLC memos available to the Senate Intelligence Committee, albeit with two big loopholes.

December 4, 2012: Jerry Nadler, John Conyers, and Bobby Scott ask for finalized white paper, all opinions on broader drone program (or at least a briefing), including signature strikes, an update on the drone rule book, and public release of the white paper.

December 19, 2012: Ted Poe and Tredy Gowdy send Eric Holder a letter asking specific questions about targeted killing (not limited to the killing of an American), including "Where is the legal authority for the President (or US intelligence agencies acting under his direction) to target and kill a US citizen abroad?"

January 14, 2013: Wyden writes John Brennan letter in anticipation of his confirmation hearing, renewing his request for targeted killing memos. (11)

January 25, 2013: Rand Paul asks John Brennan if he'll release past and future OLC memos on targeting Americans. (12)

February 4, 2013: 11 Senators ask for any and all memos authorizing the killing of American citizens, hinting at filibuster of national security nominees. (13)

February 6, 2013: John McCain asks Brennan a number of questions about targeted killing, including whether he would make sure the memos are provided to Congress. (14)

February 7, 2013: Pat Leahy and Chuck Grassley ask that SJC be able to get the memos that SSCI had just gotten. (15)

February 7, 2013: In John Brennan's confirmation

hearing, Dianne Feinstein and Ron Wyden reveal there are still outstanding memos pertaining to killing Americans, and renew their demand for those memos. (16)

February 8, 2013: Poe and Gowdy follow up on their December 19 letter, adding several questions, particularly regarding what “informed, high level” officials make determinations on targeted killing criteria.

February 8, 2013: Bob Goodlatte, Trent Franks, and James Sensenbrenner join their Democratic colleagues to renew the December 4, 2012 request. (17)

February 12, 2013: Rand Paul sends second letter asking not just about white paper standards, but also about how National Security Act, Posse Commitatus, and Insurrection Acts would limit targeting Americans within the US.

February 13, 2013: In statement on targeted killings oversight, DiFi describes writing 3 previous letters to the Administration asking for targeted killing memos. (18, 19, 20)

February 20, 2013: Paul sends third letter, repeating his question about whether the President can have American killed inside the US.

February 27, 2013: At hearing on targeted killing of Americans, HJC Chair Bob Goodlatte – and several other members of the Committee – renews request for OLC memos. (21)

March 11, 2013: Barbara Lee and 7 other progressives ask Obama to release “in an unclassified form, the full legal basis of executive branch claims” about targeted killing, as well as the “architecture” of the drone program generally. (22)

April 10, 2013: Bob Goodlatte and John Conyers send Obama a letter threatening a subpoena if they don’t get to see the drone killing memos. (23)