



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4302**

February 8, 2013

The Honorable Eric H. Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder,

We write to follow-up on our December 19, 2012 letter (copy attached) and to include additional questions based on the recently released Department of Justice (hereinafter "DOJ") White Paper entitled "Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who Is a Senior Operational Leader of Al-Qa'ida or An Associated Force."

DOJ's legal analysis provides that a U.S. operation using lethal force in a foreign country against a U.S. Citizen who is a senior operational leader of al-Qa'ida or an associated force would be lawful if a "informed, high level official of the U.S. government has determined that the targeted individual poses an imminent threat of violent attack against the United States."

1. Specifically, which individuals would be classified as "informed, high level" officials having the authority to make this decision?
2. Who specifically makes the determination on whether their intelligence relied on to make this determination is reliable?
3. What groups are classified as an "associated force" of al-Qa'ida?
4. Who specifically determines whether the threat is imminent?
5. Who specifically determines whether capture is feasible?

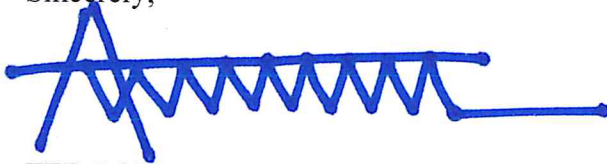
DOJ's legal analysis continues by holding: "Were the target of a lethal operation a U.S. Citizen who may have rights under the Due Process Clause and the Fourth Amendment, that individual's citizenship would not immunize him from a lethal operation."

1. Does this statement mean that once an "informed high level official" of the U.S. Government determines a U.S. Citizen poses an imminent threat of a violent attack against the United States, that Citizen no longer possesses due process rights under the U.S. Constitution?

2. What if the determination is wrong, and the targeted individual was either not a member of al-Qa'ida or an associated force, or did not pose an imminent threat of violent attack against the United States? Is it in your legal opinion that Due Process rights would once again attach? Would their family have legal recourse? What recourse? And in what forum?
3. Is there legal justification in U.S. case law wherein Due Process rights for U.S. Citizens have been removed in a similar fashion by administration officials without a finding in court?
4. If the 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution allow for the killing of a U.S. Citizen on foreign soil, is the analysis materially different for a U.S. Citizen on American soil who also meets the requirements set forth in the DOJ legal analysis?
5. If the 4<sup>th</sup>, 5<sup>th</sup>, 14<sup>th</sup> and (presumably 8<sup>th</sup>) Amendments allow for the killing of a U.S. Citizen on foreign soil who meets DOJ guidelines, would the analysis be different for enhanced interrogation techniques should capture be effectuated rather than killing?

We would appreciate a prompt response to these questions, as well as those raised in our December 19, 2012 letter.

Sincerely,



TED POE  
Member of Congress (TX-02)



Trey Gowdy  
Member of Congress (SC-04)