

# Experts Destroy Rationale for Obama's Assassination Policy ... And Slam Democrats for Supporting It

By [Washington's Blog](#)

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## Obama Expanding Program Started by Cheney

Attorney General Eric Holder [announced](#) at Northwestern University law school that the U.S. can assassinate U.S. citizens without any without disclosure of why they are even alleged to be baddies and without any review of any nature whatsoever by any judge, Congress or the American people.

Northwestern University's law school professor Joseph Margulies [said](#):

I defy anyone to read [Holder's] speech and show any differences between Obama and Bush on these issues, They both say we are in a war not confined to particular battlefield. ... Both say we can target citizens without judicial oversight and that can happen anywhere in the world.

Columbia law school professor Scott Horton notes that this assassination strategy was created by Dick Cheney, and is being carried out by the Obama administration:

A lot of this seems to have been put in place under the tutelage of Dick Cheney. So here we see one of Dick Cheney's ideas being ratified by Barack Obama and his Attorney General Eric Holder.

(Obama is also [implementing Cheney and the boys' plans for war](#) in the Middle East and North Africa.)

[Top constitutional law expert](#) Jonathan Turley [slams](#) the Democratic Party for its complicity:

The choice of a law school was a curious place for discussion of authoritarian powers. Obama has replaced the constitutional protections afforded to citizens with a "trust me" pledge that Holder repeated.

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Senior administration officials have asserted that the president may kill an American anywhere and anytime, including in the United States. Holder's speech does not materially limit that claimed authority. He merely assures citizens that Obama will only kill those of us he finds abroad and a significant threat. Notably, Holder added, "Our legal authority is not limited to the

battlefields in Afghanistan.”

The Obama administration continues to stonewall efforts to get it to acknowledge the existence of a memo authorizing the killing of Anwar al-Awlaki. Democrats previously demanded the “torture memos” of the Bush administration that revealed both poor legal analysis by Judge Jay Bybee and Professor John Yoo to justify torture. Now, however, Democrats are largely silent in the face of a president claiming the right to unilaterally kill citizens.

Holder became particularly cryptic in his assurance of caution in the use of this power, insisting that they will kill citizens only with “the consent of the nation involved or after a determination that the nation is unable or unwilling to deal effectively with a threat to the United States.” What on earth does that mean?

Former constitutional trial lawyer and progressive writer Glenn Greenwald [agrees](#):

The willingness of Democrats to embrace and defend this power is especially reprehensible because of how completely, glaringly and obviously at odds it is with everything they loudly claimed to believe during the Bush years. Recall two of the most significant “scandals” of the Bush War on Terror: his asserted power merely to eavesdrop on and detain accused Terrorists without judicial review of any kind. Remember all that? Progressives endlessly accused Bush of Assaulting Our Values and “shredding the Constitution” simply because Bush officials wanted to listen in on and detain suspected Terrorists — not kill them, just eavesdrop on and detain them — without first going to a court and proving they did anything wrong. Yet here is a Democratic administration asserting not merely the right to surveil or detain citizens without charges or judicial review, but to kill them without any of that: a far more extreme, permanent and irreversible act. Yet, [with some righteous exceptions](#), the silence is deafening, [or worse](#).

How can anyone who vocally decried Bush’s mere eavesdropping and detention powers without judicial review possibly justify Obama’s executions without judicial review? How can the former (far more mild powers) have been such an assault on Everything We Stand For while the latter is a tolerable and acceptable assertion of war powers? If Barack Obama has the right to order accused Terrorists executed by the CIA because We’re At War, then surely George Bush had the right to order accused Terrorists eavesdropped on and detained on the same ground.

That the same Party and political faction that endlessly shrieked about Bush’s eavesdropping and detention programs now tolerate Obama’s execution program is one of the most extreme and craven acts of dishonesty we’ve seen in quite some time.

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To recap Barack Obama’s view: it is a form of “terror” for someone to be detained “without even getting one chance to prove their innocence,” but it is good and noble for them to be executed under the same circumstances. To recap Eric Holder’s view: we must not accept when the Bush administration says “just trust us” when it comes to spying on the communications of accused Terrorists, but we must accept when the Obama administration says “just trust us” when it comes to targeting our fellow citizens for execution.

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What’s so striking is how identical Obama officials and their defenders sound when compared to the right-wing legal theorists who justified Bush’s most

controversial programs. Even the core justifying slogans are the same: we are at War; the Battlefield is everywhere; Presidents have the right to spy on, detain and kill combatants without court permission; the Executive Branch is the sole organ for war and no courts can interfere in the President's decisions, etc. I spent years writing about and refuting those legal theories and they are identical to what we hear now. Just consider how similar the two factions sound to one another. When it came to their War on Terror controversies, Bush officials constantly said back then exactly what Obama officials and defenders say now: we're only using these powers against Terrorists — The Bad People — not against regular, normal, Good Americans; so if you're not a Terrorist, you have nothing to worry about.

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This is nothing more than an exercise of supremely circular reasoning and question-begging: whether someone is actually a Terrorist can be determined only when the evidence of their guilt is presented and they have an opportunity to respond, just as Holder and Obama said during the Bush years. Government assurances that they're only targeting Terrorists — whether those assurances issue from Bush or Obama — should reassure nobody: this is always what those who abuse power claim, and it's precisely why we don't trust government officials to punish people based on unproven accusations. [Indeed, [we've gone from a nation of laws to a nation of powerful men making laws in secret.](#)]

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We supposedly learned important lessons from the abuses of power of the Nixon administration, and then of the Bush administration: namely, that we don't trust government officials to exercise power in the dark, with no judicial oversight, with no obligation to prove their accusations. Yet now we hear exactly this same mentality issuing from Obama, his officials and defenders to justify a far more extreme power than either Nixon or Bush dreamed of asserting: he's only killing The Bad Citizens, so there's no reason to object!

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That this policy is being implemented and defended by the very same political party that spent the last decade so vocally and opportunistically objecting to far less extreme powers makes it all the more repellent. That fact also makes it all the more dangerous, because — as one can see — the fact that it is a Democratic President doing it, and Democratic Party officials justifying it, means that it's much easier to normalize: very few of the Party's followers, especially in an election year, are willing to make much of a fuss about it at all.

And thus will presidential assassination powers be entrenched as bipartisan consensus for at least a generation. That will undoubtedly be one of the most significant aspects of the Obama legacy. Let no Democrat who is now supportive or even silent be heard to object when the next Republican President exercises this power in ways that they dislike.

As does [Charles Pierce](#):

The criteria for when a president can unilaterally decide to kill somebody is completely full of holes, regardless of what the government's pet lawyers say. And this...

"This is an indicator of our times," Holder said, "not a departure from our laws and our values."

...is a monumental pile of crap that should embarrass every Democrat who ever said an unkind word about John Yoo. This policy is a vast departure from our laws and an interplanetary probe away from our values. The president should not have this power because the Constitution, which was written by smarter people than, say, Benjamin Wittes, knew full and goddamn well why the president shouldn't have this power. If you give the president the power to kill without due process, or without demonstrable probable cause, he inevitably will do so. And, as a lot of us asked during the Bush years, if you give this power to President George Bush, will you also give it to President Hillary Clinton and, if you give this power to President Barack Obama, will you also give it to President Rick Santorum?

Greenwald also points out that it is unclear whether the poster child for assassination of American citizens - Anwar Al Awlaki - was even a threat:

Applying traditional war doctrine to accused Terrorists (who are not found on a battlefield but in their cars, their homes, at work, etc.) is so inappropriate, and why judicial review is so urgent: because the risk of false accusations is so much higher than it is when capturing uniformed soldiers on an actual battlefield. Just recall [how dubious so many government accusations of Terrorism turned out to be](#) once federal courts began scrutinizing those accusations for evidentiary support. Indeed, Yemen experts such as Gregory Johnsen have [repeatedly pointed out](#) in response to claims that Awlaki plotted Terrorist attacks: "we know very little, precious little when it comes to his operational role" and "we just don't know this, we suspect it but don't know it." Given this shameful record in the War on Terror, what rational person would "trust" the Government to make determinations about who is and is not a Terrorist in the dark, with no limits or checks on what they can do?

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Holder's attempt to justify these assassinations on the ground that "capture is not feasible" achieves nothing. For one, the U.S. never even bothered to indict Awlaki so that he could voluntarily turn himself in or answer the charges (though at one point, long after they first ordered him killed, they ["considered" indicting him](#)); instead, they simply killed him without demonstrating there was any evidence to support these accusations. What justifies that? Additionally, the fact that the Government is unable to apprehend and try a criminal does not justify his murder; absent some violent resistance upon capture, the government is not free to simply go around murdering fugitives who have been convicted of nothing. Moreover, that Awlaki could not have been captured in a country where the government is little more than an American client is dubious at best ...

(Interestingly, Lt.Col. Anthony Shaffer - who [claims](#) to have tracked several of the 9/11 hijackers prior to September 11th - alleges that al-Awlaki was a [triple agent and an FBI asset before 9/11.](#))

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