

# Obama Administration Denies Congress Drone Assassination Memos

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The Obama White House has stonewalled requests from Congress for access to legal opinions written by the Justice Department's Office of Legal Counsel justifying the administration's drone assassination program.

According to a report published Thursday in the *New York Times*, the administration has worked out a cynical political strategy to keep the documents secret while avoiding any disruption in its bid to gain Senate confirmation of its nominee to head the Central Intelligence Agency, John Brennan, the architect and director of the assassination program.

While denying the drone legal memos requested by Democrats on the Senate Intelligence Committee, thereby risking having one or two of them cast votes against the nomination, the White House is soliciting Republican votes by releasing classified material on the attack last September that killed four Americans at the US consulate and a secret CIA annex in the eastern Libyan port city of Benghazi.

"The strategy is intended to produce a bipartisan majority vote for Mr. Brennan in the Senate Intelligence Committee without giving its members seven additional legal opinions on targeted killing sought by senators and while protecting what the White House views as the confidentiality of the Justice Department's legal advice to the president," the *Times* reported.

The Republicans unsuccessfully sought to turn the administration's handling of the Benghazi affair into a political scandal during the 2012 election campaign and have continued to harp on it since. They have threatened to hold up Brennan's nomination until White House emails and other material related to the attack are released to the committee.

The main focus of their criticism centers on allegations that the incident was initially attributed to a spontaneous protest rather than a terrorist attack for political reasons. Neither the Republicans nor the administration have any interest in airing the more fundamental questions underlying the Benghazi events—above all, the close connections forged by the CIA with Islamist militias in both Libya and Syria.

Not a single Democrat or Republican has challenged the White House on the profound legal and constitutional questions raised by its assassination program—in particular, its assertion that the US president has the right to order the killing of American citizens without presenting any evidence against them, much less proving it in a court of law.

The one document that was leaked in advance of Brennan's confirmation hearing before the Senate intelligence panel two weeks ago argued in favor of the unlimited power of the

president to order the assassination of US citizens perceived as enemies of the state anywhere on the planet. Couched in pseudo-legal double-talk, this “white paper” laid down conditions that would supposedly make such a killing legal. The stipulated conditions placed no real restraint on the exercise of the asserted power of the president to order the killing of Americans—something that is, on its face, a gross violation of the US Constitution and international law.

Typical of the Republican reaction was a speech given Wednesday by Senator Lindsey Graham to a rotary club in a small town in his home state of South Carolina. “It’s a weapon that needs to be used,” Graham said. “It’s a tactical weapon. A drone is an unmanned aerial vehicle that is now armed.”

Graham made unintended news with his remarks, which included the first-ever public estimate by a US government official of the number of victims who have lost their lives in drone attacks. He put the number at 4,700. This is considerably higher than figures given by such pro-Democratic Party think tanks as the New America Foundation. A press aide for the South Carolina Republican tried to quell speculation that Graham had leaked classified information, claiming that he was citing press accounts.

Whether or not one or two Democrats on the Senate panel casts a protest vote remains to be seen. None of them subjected Brennan to anything approaching a serious examination, allowing him to give non-answers to the most significant questions. And none of them have shown any inclination to throw up any serious obstacle to Brennan’s confirmation as director of the CIA.

Among the questions Brennan was allowed to evade was whether the administration believes it has the power to order the assassination of an American citizen on US soil. When asked this during his February 7 nomination hearing, Brennan replied cryptically that he was determined to “optimize transparency on these issues, but at the same time optimize secrecy and the protection of national security.” The senators accepted this obfuscation without protest.

Responding to a written follow-up question on the same theme, Brennan responded that the Obama administration “has not carried out drone strikes inside the United States and has no intention of doing so.” This carefully calibrated response does not rule out a future change in the administration’s intentions.

Obama himself was pressed on this question—somewhat more forcefully than the kid gloves treatment given Brennan by the Senate panel—during a Google Hangouts video chat staged February 14 as a follow-up to his State of the Union speech.

Asked about drone strikes against US citizens within the US and whether the administration would present a legal framework to prevent such actions, Obama answered in terms almost identical to those used by Brennan in his written response to the Senate Intelligence Committee.

“There has never been a drone used on an American citizen on American soil,” he said. “We respect and have a whole bunch of safeguards in terms of how we conduct counter-terrorism operations outside of the United States. The rules outside of the United States are going to be different than the rules inside the United States.”

Once again, a non-responsive answer was used to cover up the administration's real position, which can be inferred by its refusal to foreswear the president's power to order the assassination of American citizens on US soil, by drone attacks or other means. Obama merely said that he has not yet exercised this power, not that he won't.

The Senate Intelligence Committee was given tightly restricted access to only two of the Justice Department memos on drone assassinations on the very eve of the Brennan nomination hearing. These documents are believed to set forth the Office of Legal Counsel's justification for Obama's order to assassinate Anwar al-Awlaki, the New Mexico-born cleric killed by a 2011 drone strike in Yemen along with another US citizen. Awlaki's 16-year-old son, also a US citizen, was killed two weeks later in another drone missile attack.

In rebuffing the committee's request for access to seven more memos and any other material related to the drone strikes—not to mention the refusal to make any of these documents public—the administration is attempting to keep a lid of secrecy on a policy that is clearly criminal and in violation of the Constitution, and bears all the hallmarks of a police-state dictatorship.

Despite the muted controversy over the legal memos requested by Senate Intelligence Committee, it remains the case that there is no significant opposition within the US ruling establishment to the president acting as judge, jury and executioner in the name of an endless "war on terror."

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