

# ACLU sues to force release of drone attack records

By Karen DeYoung, Published: February 1

The American Civil Liberties Union asked a federal court Wednesday to force the Obama administration to release legal and intelligence records related to the killing of three U.S. citizens in drone attacks in Yemen last year.

The [lawsuit](#), filed in the U.S. District Court for the Southern District of New York, charged the Justice and Defense departments and the CIA with illegally failing to respond to requests made in October under the Freedom of Information Act (FOIA). It cited public comments made by President Obama, Defense Secretary Leon E. Panetta and other officials in arguing that the government cannot credibly claim a secrecy defense.

“The government’s self-serving attitude toward transparency and disclosure is unacceptable,” the ACLU said in a [statement](#). “Officials cannot be allowed to release bits of information about the targeted killing program when they think it will bolster their position, but refuse even to confirm [its] existence” when asked for information “in the service of real transparency and accountability.”

In addition to statements by Obama and Panetta, the lawsuit notes that “media reports about the targeted killing program routinely quote anonymous government officials describing details of the program.”

The case comes as the administration has been engaged in an internal debate over whether to be more forthcoming about the drone program, and a range of lawmakers and international legal bodies have [asked for more information and oversight](#). The administration has argued in previous legal cases that national security prohibits the discussion of the covert program.

Wednesday’s ACLU complaint referred to wide media coverage of the administration’s 2010 decision to place [Anwar al-Awlaki](#), a U.S. citizen allegedly allied with Yemen-based al-Qaeda in the Arabian Peninsula, on “kill lists” compiled by the CIA and the military’s Joint Special Operations Command.

Awlaki was killed in September in Yemen by a joint CIA-JSOC drone operation that similarly received wide publicity.

[Samir Khan](#), also a U.S. citizen, was reported killed in the same attack. Awlaki's 16-year-old son, Abdulrahman, was [reportedly killed in a JSOC drone strike](#) two weeks later.

At the time, public statements by Obama confirmed the elder Awlaki's death. News reports indicated that the operation had been carried out after the administration requested and received an opinion from the Justice Department's Office of Legal Counsel saying that targeting and killing U.S. citizens overseas was legal under domestic and international law.

Most recently, Obama [made extensive comments Monday about the overall drone program](#) — which has included hundreds of strikes against non-U.S. citizens in Pakistan, Yemen and Somalia — in an online town hall meeting. Panetta discussed it in a Sunday [interview on CBS's "60 Minutes."](#)

The ACLU case refers only to the three Yemen killings, the only known cases in which a U.S. citizen was intentionally targeted.

Despite FOIA requests filed by the ACLU in October for the expedited release of information, "the government has refused to release its legal or evidentiary bases" for the Yemen strikes, said the ACLU's District Court complaint. "It has not explained whether Samir Khan and Abdulrahman al-Awlaki were killed 'collaterally' or were targeted themselves. It has not said what measures, if any, it took to minimize the possibility that individuals not targeted would be killed incidentally."

The government defendants, including JSOC and the Office of Legal Counsel, "have provided varying responses" to the FOIA request, "either denying it or delaying a response to it," the ACLU complaint said. "No agency has released any record in response."

"The request relates to a topic of vital importance: the power of the U.S. government to kill U.S. citizens without presentation of evidence and without disclosing legal standards that guide decision makers," the complaint said.

In 2010, a federal judge in Washington dismissed a case filed by Awlaki's father, with assistance from the ACLU and the Center for Constitutional Rights, contesting the ability of the American government to place a U.S. citizen on a "kill list." The court ruled that the father had no standing in the issue.

Last year, the ACLU lost a case demanding drone information from the CIA when the same court said administration comments on the drone program were not specific enough to constitute public disclosure. Wednesday's case argues that more recent comments by Obama, Panetta and others make a mockery of that defense.

[http://www.washingtonpost.com/world/national-security/acu-sues-to-force-release-of-drone-attack-records/2012/02/01/gIQArL6xhQ\\_print.html](http://www.washingtonpost.com/world/national-security/acu-sues-to-force-release-of-drone-attack-records/2012/02/01/gIQArL6xhQ_print.html)