



Rights Groups Sues U.S. Government Over Targeted Killing Of Three Citizens

by Eyder Peralta
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In a lawsuit filed today, the American Civil Liberties Union and the Center for Constitutional Rights allege the United States violated the constitution's guarantee of due process when it ordered the targeted killing of three United States citizens.

The groups filed the suit against top military and intelligence officials on behalf relatives of the three Americans who were killed in drone strikes in Yemen last fall.

NPR's Carrie Johnson filed this report for our Newscast unit:

"The three men were Anwar al-Awlaki, a cleric who allegedly played an operational role in al-Qaida in the Arabian Peninsula in Yemen, his 16-year-old son and Samir Khan a North Carolina man who allegedly served as a propagandist for terror groups.

"The American Civil Liberties Union and the Center for Constitutional Rights say the use of lethal force should be a last resort.

"But U.S. officials say the targeted killing program is limited to the most dangerous suspected terrorists."

In its press release, [the ACLU explains](#):

"Outside of armed conflict, both the Constitution and international law prohibit killing without due process, except as a last resort to avert a concrete, specific, and imminent threat of death or serious physical injury. Even in the context of an armed conflict against an armed group (which did not exist in Yemen at the time of these killings), the government may use lethal force only against individuals who are directly participating in hostilities against the United States. Regardless of the context, whenever the government uses lethal force, it must take all possible

steps to avoid harming civilian bystanders. The lawsuit argues that the senior CIA and military leaders who authorized and directed the killings violated these standards."

The ACLU has sued the government over drone strikes in the past. In 2010, the two groups along with al-Awlaki's father Nasser challenged his son's placement on the secret kill list.

[As we reported](#), that case was dismissed based on two reasons. First, [U.S. District Judge John Bates decided](#) (pdf) that al-Awlaki's father did not have standing before the court, but he also ruled on something called the "political question," which requires judges to sidestep cases that are best resolved by the political branches of government.

This news also comes on heels of comments by a U.N. investigator [who said the U.S. drone strikes may challenge international law](#).

The Obama administration has tried to get ahead of these lawsuits by offering their legal arguments in favor of the targeted killing program. In February, the Pentagon's top lawyer Jeh Johnson said the strikes are part of a "long-standing and long-legal practice."

[As Carrie reported](#), Johnson compared the drone strikes to a "U.S. military decision to target an airplane carrying the commander of the Japanese Navy in 1943."

A month later in a speech at Northwestern University Law School, [Attorney General Eric Holder went deeper into the legal thinking](#), specifically taking on the issue of killing Americans. Holder said U.S. citizens who take arms against their own country deserve and receive due process under the Constitution.

But Holder explained that due process does not mean judicial process. He explained:

"Some have argued that the President is required to get permission from a federal court before taking action against a United States citizen who is a senior operational leader of al Qaeda or associated forces. This is simply not accurate. 'Due process' and 'judicial process' are not one and the same, particularly when it comes to national security. The Constitution guarantees due process, not judicial process.

"That is not to say that the Executive Branch has – or should ever have – the ability to target any such individuals without robust oversight. Which is why, in keeping with the law and our constitutional system of checks and balances, the Executive Branch regularly informs the appropriate members of Congress about our counterterrorism activities, including the legal framework, and would of course follow the same practice where lethal force is used against United States citizens."

The ACLU argues that the three killings took place "based on vague legal standards, a closed executive process, and evidence never presented to the courts."

For further reading, [we recommend *The Washington Post's* story about the al-Awlakis](#).

