

# Appendix

## Waiver Table

## I. DISCLOSURES RELATING TO THE LEGAL BASIS FOR THE TARGETED- KILLING PROGRAM

Waiver	Source of Disclosure	Exhibit	Relevant Language
Analysis of the Fourth and Fifth Amendments to the U.S. Constitution and their application to the targeted killing of U.S. citizens	July 2010 OLC Memo	Ex. 8 at 38–41	[Extended discussion]
	February 2010 OLC Memo	Ex. 5 at 6–7	[Similar to above]
	May 2011 White Paper	Ex. 12 at 20–22	[Similar to above]
	November 2011 White Paper	Ex. 15 at 5–9	[Similar to above]
	December 2012 Government Brief	Ex. 22 at 31–44	[Extended discussion]
	March 2013 Government Brief	Ex. 28 at 16–25	[Extended discussion]
Analysis of the 2001 AUMF	July 2010 OLC Memo	Ex. 8 at 21–27	[Extended discussion]
	May 2011 White Paper	Ex. 12 at 12–14	[Similar to above]
	February 2012 Johnson Speech	Ex. 16 at 7	<p>“[T]here is nothing in the wording of the 2011 AUMF or its legislative history that restricts this statutory authority to the ‘hot’ battlefields of Afghanistan. . . . [T]he AUMF authorized the use of necessary and appropriate force against</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>the organizations and persons connected to the September 11<sup>th</sup> attacks—al Qaeda and the Taliban—without a geographic limitation.”</p>
<p>Analysis of the definition of “associated force” under the 2001 AUMF</p>	<p>February 2012 Johnson Speech</p>	<p>Ex. 16 at 6–7</p>	<p>“But, the AUMF, the statutory authorization from 2001, is not open-ended. It does not authorize military force against anyone the executive labels a ‘terrorist.’ Rather, it encompasses only those groups or people with a link to the terrorist attacks on 9/11, or associated forces. Nor is the concept of an ‘associated force’ an open-ended one, as some suggest. This concept, too, has been upheld by the courts in the detention context, and it is based on the well-established concept of co-belligerency in the law of war. The concept has become more relevant over time, as al Qaeda has, over the last 10 years, become more de-centralized, and relies more on associates to carry out its terrorist aims. An ‘associated force,’ as we interpret the phrase, has two characteristics to it: (1) an organized, armed group that has entered the fight alongside al Qaeda, and (2) is a co-belligerent with al Qaeda</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	May 2013 DOD Statement	Ex. 30 at 3	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>in hostilities against the United States or its coalition partners. In other words, the group must not only be aligned with al Qaeda. It must have also entered the fight against the United States or its coalition partners. Thus, an ‘associated force’ is not any terrorist group in the world that merely embraces the al Qaeda ideology. More is required before we draw the legal conclusion that the group fits within the statutory authorization for the use of military force passed by the Congress in 2001.”</p> <p>“A group is an associated force, if, first, it is an organized, armed group that has entered the fight alongside al Qaeda; and, second, it is a co-belligerent with al Qaeda in hostilities against the United States or its coalition partners. Individuals who are part of this recognized enemy may be lawful military targets. . . . In applying these principles in this armed conflict, we conduct a careful, fact-intensive assessment to distinguish between, on the one hand, a terrorist who effectively becomes part of al Qaeda, the Taliban, or an associated force by</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>training or co-locating with the group, accepting orders from its leaders, and participating in the group's terrorist plotting, and, on the other hand, the terrorist, who without any direct connection to a member of al Qaeda, embraces extremist ideology found on the internet and self-radicalizes. Both are very dangerous, but the former is part of the congressionally-declared enemy force in a congressionally-authorized armed conflict; the latter, although dangerous, is not part of that enemy force."</p>
Analysis of 18 U.S.C. § 1119, which prohibits the killing or attempted killing of a U.S. national outside the United States	<p>July 2010 OLC Memo</p> <p>May 2011 White Paper</p> <p>November 2011 White Paper</p>	<p>Ex. 8 at 12–19</p> <p>Ex. 12 at 5–17</p> <p>Ex. 15 at 10–14</p>	<p>[Extended discussion]</p> <p>[Similar to above]</p> <p>[Similar to above]</p>
Analysis of 18 U.S.C. § 956(a), which criminalizes conspiracy to commit murder abroad	<p>July 2010 OLC Memo</p> <p>May 2011 White Paper</p> <p>November 2011 White Paper</p>	<p>Ex. 8 at 35–3</p> <p>Ex. 12 at 17–18</p> <p>Ex. 15 at 13 n.8</p>	<p>[Extended discussion]</p> <p>[Similar to above]</p> <p>[Similar to above]</p>

<b>Waiver</b>	<b>Source of Disclosure</b>	<b>Exhibit</b>	<b>Relevant Language</b>
Analysis of the War Crimes Act, 18 U.S.C. § 2441(a), including discussion of Common Article 3 of the Geneva Convention	July 2010 OLC Memo May 2011 White Paper November 2011 White Paper	Ex. 8 at 37–38 Ex. 12 at 18–20 Ex. 15 at 15–16	[Extended discussion] [Similar to above] [Similar to above]
Analysis of the “public authority” doctrine	July 2010 OLC Memo May 2011 White Paper November 2011 White Paper	Ex. 8 at 14–37 Ex. 12 at 7–14 Ex. 15 at 10–14	[Extended discussion] [Similar to above] [Similar to above]
Analysis of the assassination ban in Executive Order 12333	February 2010 OLC Memo  March 2010 Koh Speech	Ex. 5 at 1, 4, 7  Ex. 6 at 7	“Under the conditions and factual predicates as represented by the CIA . . . we believe that a decisionmaker . . . could reasonably conclude that the use of lethal force against Aulaqi would not violate the assassination ban in Executive Order 12333.”  “[U]nder domestic law, the use of lawful weapons systems—consistent with the applicable laws of war—for precision targeting of specific high-level belligerent leaders when acting in  <i>[continued on next page]</i>

<b>Waiver</b>	<b>Source of Disclosure</b>	<b>Exhibit</b>	<b>Relevant Language</b>
	<p data-bbox="575 565 949 594">November 2011 White Paper</p> <p data-bbox="575 1187 928 1216">March 2012 Holder Speech</p>	<p data-bbox="1060 565 1213 594">Ex. 15 at 15</p> <p data-bbox="1060 1187 1201 1216">Ex. 17 at 6</p>	<p data-bbox="1541 345 1944 375"><i>[continued from previous page]</i></p> <p data-bbox="1312 418 1906 521">self-defense or during an armed conflict is not unlawful, and hence does not constitute ‘assassination.’”</p> <p data-bbox="1312 565 1942 1143">“Section 2.11 of Executive Order No. 12333 provides that ‘[n]o person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.’ . . . A lawful killing in self-defense is not an assassination. In the Department’s view, a lethal operation conducted against a U.S. citizen whose conduct poses an imminent threat of violent attack against the United States would be a legitimate act of national self-defense that would not violate the assassination ban. Similarly, the use of lethal force, consistent with the laws of war, against an individual who is a legitimate military target would be lawful and would not violate the assassination ban.”</p> <p data-bbox="1312 1187 1944 1289">“Some have called such operations ‘assassinations.’ They are not, and the use of that loaded term is misplaced. Assassinations are</p> <p data-bbox="1625 1333 1944 1362"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	December 1989 Parks Memo	Ex. 2 at 8	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>unlawful killings. Here, for the reasons I have given, the U.S. government’s use of lethal force in self defense against a leader of al Qaeda or an associated force who presents an imminent threat of violent attack would not be unlawful—and therefore would not violate the Executive Order banning assassination or criminal statutes.”</p> <p>“Assassination constitutes an act of murder that is prohibited by international law and Executive Order 12333. . . . [A] decision by the President to employ clandestine, low visibility or overt military force would not constitute assassination if the U.S. military forces were employed against the combatant forces of another nation, a guerilla force, or a terrorist or other organization whose actions pose a threat to the security of the United States.”</p>
Analysis of the definition and requirements for the existence of non-international armed conflicts	July 2010 OLC Memo November 2011 White Paper	Ex. 8 at 24–25 Ex. 14 at 2–5	<p>[Extended discussion]</p> <p>“The United States is currently in a non-international armed conflict with al-Qa’ida and</p> <p style="text-align: right;"><i>[continued on next page]</i></p>



Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>its associated forces. . . . Any U.S. operation would be part of this non-international armed conflict, even if it were to take place away from the zone of active hostilities. . . . For example, the AUMF itself does not set forth an express geographic limitation on the use of force it authorizes. . . . None of the three branches of the U.S. Government has identified a strict geographical limit on the permissible scope of the AUMF's authorization.”</p>
Analysis of the use of force in self-defense under international law	November 2011 White Paper	Ex. 15 at 2–3	<p>“In addition to the authority arising from the AUMF, the President's use of force against al-Qa'ida and associated forces is lawful under the principles of U.S. and international law, including the President's constitutional responsibility to protect the nation and the inherent right to national self-defense recognized in international law (<i>see, e.g.</i>, U.N. Charter art. 51). . . . Any operation of the sort discussed here would be conducted in a foreign country against a senior operational leader of al-Qa'ida or its associated forces who pose an imminent threat of</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	March 2012 Holder Speech	Ex. 17 at 5	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>violent attack against the United States. A use of force under such circumstances would be justified as an act of national self-defense.”</p> <p>“[W]e must . . . recognize that there are instances where our government has the clear authority—and I would argue, the responsibility—to defend the United States through the appropriate and lawful use of lethal force. This principle has long been established under both U.S. and international law. In response to the attacks perpetrated – and the continuing threat posed—by al Qaeda, the Taliban, and associated forces, Congress has authorized the President to use all necessary and appropriate force against those groups. Because the United States is in an armed conflict, we are authorized to take action against enemy belligerents under international law. The Constitution empowers the President to protect the nation from any imminent threat of violent attack. And international law recognizes the inherent right of national self-defense. None of this is changed by the fact that we are not in a conventional war.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	<p data-bbox="575 342 898 375">March 2010 Koh Speech</p> <p data-bbox="575 889 1031 922">September 2010 Government Brief</p>	<p data-bbox="1062 342 1188 375">Ex. 6 at 6</p> <p data-bbox="1062 889 1220 922">Ex. 9 at 4–5</p>	<p data-bbox="1312 342 1927 846">“The United States agrees that it must conform its actions to all applicable law. As I have explained, as a matter of international law, the United States is in an armed conflict with al-Qaeda, as well as the Taliban and associated forces, in response to the horrific 9/11 attacks, and may use force consistent with its inherent right to self-defense under international law. As a matter of domestic law, Congress authorized the use of all necessary and appropriate force through the 2001 Authorization for Use of Military Force (AUMF). These domestic and international legal authorities continue to this day.”</p> <p data-bbox="1312 889 1942 1138">“In addition to the AUMF, there are other legal bases under U.S. and international law for the President to authorize the use of lethal force against al-Qaeda and AQAP, including the inherent right to national self-defense recognized in international law (<i>see., e.g.,</i> United Nations Charter Article 51).”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
<p>Analysis of international humanitarian law principles, including the requirements of:</p> <ul style="list-style-type: none"> <li>• necessity</li> <li>• distinction</li> <li>• proportionality</li> <li>• humanity</li> </ul>	July 2010 OLC Memo	Ex. 8 at 28–30, 34	[Extended discussion]
	May 2011 White Paper	Ex. 12 at 13–15	[Similar to above]
	November 2011 White Paper	Ex. 15 at 8–9	[Similar to above]
	March 2010 Koh Speech	Ex. 6 at 6–7	<p>“[T]his Administration has carefully reviewed the rules governing targeting operations to ensure that these operations are conducted consistently with law of war principles, including . . . the principle of <i>distinction</i>, [and] . . . the principle of <i>proportionality</i>.”</p>
	March 2012 Holder Speech	Ex. 17 at 6–7	<p>“[A]ny such use of lethal force by the United States will comply with the four fundamental law of war principles governing the use of force. The principle of necessity . . . [t]he principle of distinction . . . the principle of proportionality . . . the principle of humanity.”</p>
	May 2013 Holder Letter	Ex. 31 at 3	[Similar to above]
	May 2013 Fact Sheet	Ex. 33 at 2	<p>“<i>First</i>, there must be a legal basis for using lethal force, whether it is against a senior operational leader of a terrorist organization or the forces</p> <p style="text-align: right;">[continued on next page]</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>that organization is using or intends to use to conduct terrorist attacks.</p> <p><i>Second</i>, the United States will use lethal force only against a target that poses a continuing, imminent threat to U.S. persons. It is simply not the case that all terrorists pose a continuing, imminent threat to U.S. persons; if a terrorist does not pose such a threat, the United States will not use lethal force.</p> <p><i>Third</i>, the following criteria must be met before lethal action may be taken:</p> <ol style="list-style-type: none"> <li>1) Near certainty that the terrorist target is present;</li> <li>2) Near certainty that non-combatants<sup>1</sup> will not be injured or killed;</li> <li>3) An assessment that capture is not feasible at the time of the operation;</li> <li>4) An assessment that the relevant governmental</li> </ol> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>authorities in the country where action is contemplated cannot or will not effectively address the threat to U.S. persons; and</p> <p>5) An assessment that no other reasonable alternatives exist to effectively address the threat to U.S. persons.</p> <p><i>Finally</i>, whenever the United States uses force in foreign territories, international legal principles, including respect for sovereignty and the law of armed conflict, impose important constraints on the ability of the United States to act unilaterally—and on the way in which the United States can use force. The United States respects national sovereignty and international law.”</p>
<p>Analysis of the term “imminence”</p>	<p>November 2011 White Paper</p> <p>February 2010 OLC Memo</p>	<p>Ex. 15 at 7–8</p> <p>Ex. 5 at 6–7</p>	<p>[Extended discussion]</p> <p>“[W]here [redacted] a capture operation is infeasible and [redacted] the targeted person is part of a dangerous enemy force and poses a</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>continued and imminent threat to U.S. persons or interests, the use of lethal force would not violate the Fourth Amendment.”</p> <p>[Similar to above]</p> <p>[Similar to above]</p> <p>“The evaluation of whether an individual presents an ‘imminent threat’ incorporates considerations of the relevant window of opportunity to act, the possible harm that missing the window would cause to civilians, and the likelihood of heading off future disastrous attacks against the United States.”</p> <p>“[T]he United States will use lethal force only against a target that poses a continuing, imminent threat to U.S. persons. It is simply not the case that all terrorists pose a continuing, imminent threat to U.S. persons; if a terrorist does not pose such a threat, the United States will not use lethal force.”</p>
	July 2010 OLC Memo	Ex. 8 at 21, 27 n.36, 39	
	May 2011 White Paper	Ex. 12 at 20–21	
	March 2012 Holder Speech	Ex. 17 at 6–8	
	May 2013 Fact Sheet	Ex. 33 at 2	





Waiver	Source of Disclosure	Exhibit	Relevant Language
	<p data-bbox="573 672 951 704">November 2011 White Paper</p> <p data-bbox="573 927 930 959">March 2012 Holder Speech</p> <p data-bbox="573 1003 852 1036">May 2013 Fact Sheet</p>	<p data-bbox="1060 672 1234 704">Ex. 15 at 6–8</p> <p data-bbox="1060 927 1205 959">Ex. 17 at 7</p> <p data-bbox="1060 1003 1234 1036">Ex. 33 at 1–2</p>	<p data-bbox="1539 345 1944 378"><i>[continued from previous page]</i></p> <p data-bbox="1310 418 1934 630">the CIA would prefer to capture this target, and if a potential target offers to surrender, such surrender would be accepted, if feasible. This would include any targets in Yemen, although the CIA assesses that a capture in Yemen would not be feasible at this time.”</p> <p data-bbox="1310 672 1934 883">“[C]apture would not be feasible if it could not be physically effectuated during the relevant window of opportunity or if the relevant country were to decline to consent to a capture operation. . . . Feasibility would be a highly fact-specific and potentially time-sensitive inquiry.”</p> <p data-bbox="1310 927 1545 959">[Similar to above]</p> <p data-bbox="1310 1003 1923 1289">“The policy of the United States is not to use lethal force when it is feasible to capture a terrorist suspect . . . . Capture operations are conducted only against suspects who may lawfully be captured or otherwise taken into custody by the United States and only when the operation can be conducted in accordance with all applicable law and consistent with our</p> <p data-bbox="1623 1333 1944 1365"><i>[continued on next page]</i></p>



Waiver	Source of Disclosure	Exhibit	Relevant Language
	May 2013 Fact Sheet	Ex. 33 at 2	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>threat, the sovereignty of the other states involved, and the willingness and ability of those states to suppress the threat the target poses.”</p> <p>“<i>Finally</i>, whenever the United States uses force in foreign territories, international legal principles, including respect for sovereignty and the law of armed conflict, impose important constraints on the ability of the United States to act unilaterally—and on the way in which the United States can use force. The United States respects national sovereignty and international law.”</p>

## II. DISCLOSURES RELATING TO THE TARGETED-KILLING PROGRAM GENERALLY

Waiver	Source of Disclosure	Exhibit	Relevant Language
The government uses drones to carry out targeted killings.	May 2013 Obama Speech	Ex. 32 at 4	“[T]he United States has taken lethal, targeted action against al Qaeda and its associated forces, including with remotely piloted aircraft commonly referred to as drones.”
	April 2012 Brennan Speech	Ex. 18 at 5	“[I]n full accordance with the law, and in order to prevent terrorist attacks on the United States and to save American lives, the United States Government conducts targeted strikes against specific al-Qaida terrorists, sometimes using remotely piloted aircraft, often referred to publicly as drones.”
The government uses manned aircraft to carry out targeted killings.	June 2015 Pentagon Statement	Ex. 49 at 1	“American officials confirmed that Mr. Belmokhtar was the target of the strike, carried out by multiple American F-15E fighter jets. . . . ‘I can confirm that the target of last night’s counterterrorism strike in Libya was Mokhtar Belmokhtar.’”

Waiver	Source of Disclosure	Exhibit	Relevant Language
<p>The CIA and DOD have operational roles in targeted killings.</p>	<p><i>N.Y. Times v. DOJ</i>, 756 F.3d 100, 122 (2d. Cir 2014)</p> <p>June 2010 Panetta Interview</p> <p>March 2011 Gates Speech</p>	<p>[No exhibit]</p> <p>Ex. 7 at 3–4</p> <p>Ex. 10 at 1</p>	<p>“[T]he statements of Panetta when he was Director of CIA and later Secretary of Defense . . . have already publicly identified CIA as an agency that has an operational role in targeted drone killings.”</p> <p>“[Osama bin Laden is] in an area of the – the tribal areas in Pakistan that is very difficult. The terrain is probably the most difficult in the world. . . . But having said that, the more we continue to disrupt Al Qaida’s operations, and we are engaged in the most aggressive operations in the history of the CIA in that part of the world, and the result is that we are disrupting their leadership. We’ve taken down more than half of their Taliban leadership, of their Al Qaida leadership. We just took down number three in their leadership a few weeks ago. We continue to disrupt them.”</p> <p>“The Air Force now has 48 Predator and Reaper combat air patrols currently flying—compared to 18 CAPs in 2007—and is training more pilots for advanced UAVs than for any other single weapons system.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	February 2014 Clapper Testimony	Ex. 36 at 2	<p>“Q: It is—you tell me if this is correct—the administration’s policy that they are exploring shifting the use of drones, unmanned aerial vehicle strikes, from the CIA to the DOD. Is that an accurate statement?”</p> <p>Mr. CLAPPER: Yes, sir, it is.”</p>
	October 2011 Panetta Speech	Ex. 14 at 1	<p>“Having moved from the CIA to the Pentagon, obviously I have a hell of a lot more weapons available to me in this job than I had at the CIA, although the Predators aren’t bad.”</p>
	February 2013 Rogers Interview	Ex. 24 at 2	<p>“[A]s the chairman of the House Intelligence Committee, even as a member, was aware and part of those discussions. And now as chairman, even before they conducted that first air strike that took Awlaki – and remember . . . [t]his guy was a bad guy. So our options were limited. This was a tool we could use to stop further terrorist attacks against Americans. I supported it then. Monthly, I have my committee go to the CIA to review them. I as chairman review every single air strike that we use in the war on terror, both from the civilian and the military side when it comes to terrorist strikes. There is plenty of oversight here.”</p>

<b>Waiver</b>	<b>Source of Disclosure</b>	<b>Exhibit</b>	<b>Relevant Language</b>
	May 2012 Feinstein Letter	Ex. 19	<p>“The Senate Intelligence Committee, which I chair, has devoted significant time and attention to the drone program. We receive notification with key details shortly after every strike, and we hold regular briefings and hearings on these operations. Committee staff has held 28 monthly in-depth oversight meetings to review strike records and question every aspect of the program including legality, effectiveness, precision, foreign policy implications and the care taken to minimize noncombatant casualties.”</p>
	February 2013 Feinstein Statement	Ex. 26 at 1	<p>“The committee has devoted significant time and attention to targeted killings by drones. The committee receives notifications with key details of each strike shortly after it occurs, and the committee holds regular briefings and hearings on these operations—reviewing the strikes, examining their effectiveness as a counterterrorism tool, verifying the care taken to avoid deaths to non-combatants and understanding the intelligence collection and analysis that underpins these operations. In addition, the committee staff has held 35 monthly, in-depth oversight meetings with government officials to review strike records (including video footage) and question every aspect of the program.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	March 2013 Feinstein Statement	Ex. 29 at 2	“We’ve watched the intelligence aspect of the drone program: how they function. The quality of the intelligence. Watching the agency exercise patience and discretion. . . . The military [armed drone] program has not done nearly as well. . . . That causes me concern.”
	April 2015 Feinstein Statement	Ex. 44	“The role of the Senate Intelligence Committee is to conduct extensive oversight of counterterrorism operations, and these efforts will continue. The committee has already been reviewing the specific January operation that led to [the deaths of Warren Weinstein and Giovanni Lo Porto], and I now intend to review that operation in greater detail. We should also again review all procedures and safeguards to make sure every measure is taken to prevent the deaths of innocent civilians.”
	February 2013 McCain Interview	Ex. 25 at 8	“But what we need to do is take the whole [armed drone] program out of the hand of the Central Intelligence Agency and put it into the Department of Defense, where you have adequate oversight, you have committee oversights, you have all the things that are built in, as our oversight of the Department of Defense.”



<b>Waiver</b>	<b>Source of Disclosure</b>	<b>Exhibit</b>	<b>Relevant Language</b>
	April 2015 Burr Statement	Ex. 46	Intelligence Committee provides “extensive oversight” of drone efforts. “We always go back and look at any counterterrorism action that we take, and we will do it in great detail on this one.”
	May 2015 NSC Statement	Ex. 48 at 1	National Security Council spokesman Edward Price states that President “has indicated that he will increasingly turn to our military to take the lead” in lethal strikes.
	July 2014 Yoho Bill	Ex. 38 at 1	“A bill to consolidate within the Department of Defense all executive authority regarding the use of armed unmanned aerial vehicles . . . .”
	July 2014 Yoho Statement	Ex. 37	“The CIA’s main mission is intelligence collection and analysis. It should not be in the business of military strikes. This legislation will bring our armed drone fleet under the jurisdiction of the DOD, where it should be.”
	January 2015 Burgess Bill	Ex. 41 at 1	“A bill to prohibit the Central Intelligence Agency from using an unmanned aerial vehicle to carry out a weapons strike or other deliberately lethal action and to transfer the authority to conduct such strikes or lethal action to the Department of Defense.”

Waiver	Source of Disclosure	Exhibit	Relevant Language
	April 2015 McCain Interview	Ex. 47 at 2	<p>“[T]here is kind of an internal struggle going on within the administration and within the Congress as to which – whether it should be an armed services operation, this whole issue of drone strikes, or should it be done by the CIA? Obviously, as chairman of the Armed Services Committee, I have some bias, but it seems to me that as much as we could give responsibility and authority over to the Department of Defense, because that’s really not the job of the intelligence agency.”</p>
<p>The government conducts targeted killings in Pakistan, including through the use of drones.</p>	<p>August 2013 Kerry Statement</p> <p>June 2012 Carney Statement</p>	<p>Ex. 34 at 1</p> <p>Ex. 20 at 13</p>	<p>“I believe that we’re on a good track. . . . I think the [drone-strike] program will end as we have eliminated most of the threat and continue to eliminate it.”</p> <p>“[O]ur intelligence community has intelligence that leads them to believe that al Qaeda’s number-two leader, al Libi, is dead. . . . [H]e served as al Qaeda’s general manager, responsible for overseeing the group’s day-to-day operations in the tribal areas of Pakistan . . . . [W]e believe that al-Libi’s death is a major blow to core al Qaeda, removing the number two</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	May 2009 Panetta Speech	Ex. 4 at 7	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>leader for the second time in less than a year and further damaging the group’s morale and cohesion . . . .”</p> <p>In response to a question about “remote drone strikes” in Pakistan, then–CIA Director Leon Panetta called such strikes “the only game in town in terms of confronting and trying to disrupt the al-Qaeda leadership.”</p>
The CIA conducts targeted killing in Pakistan, including through the use of drones.	June 2010 Panetta Interview	Ex. 7 at 3-4	<p>“[Osama bin Laden is] in an area of the—the tribal areas in Pakistan that is very difficult. The terrain is probably the most difficult in the world. . . . But having said that, the more we continue to disrupt Al Qaida’s operations, and we are engaged in the most aggressive operations in the history of the CIA in that part of the world, and the result is that we are disrupting their leadership. We’ve taken down more than half of their Taliban leadership, of the Al Qaida leadership. We just took down number three in their leadership a few weeks ago. We continue to disrupt them.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	May 2009 Panetta Speech	Ex. 4 at 7	In response to a question about “remote drone strikes” in Pakistan, then–CIA Director Leon Panetta called such strikes “the only game in town in terms of confronting and trying to disrupt the al-Qaeda leadership.”
The government conducts targeted killings in Yemen, including through the use of drones.	<p><i>N.Y. Times</i>, 756 F.3d at 118</p> <p>June 2012 WPR Report</p> <p>December 2014 WPR Report</p> <p>June 2015 White House Statement</p>	<p>[No exhibit]</p> <p>Ex. 21 at 4</p> <p>Ex. 40 at 5</p> <p>Ex. 50</p>	<p>“It is no secret that al-Awlaki was killed in Yemen.”</p> <p>“The U.S. military has also been working closely with the Yemeni government to operationally dismantle and ultimately eliminate the terrorist threat posed by al-Qa’ida in the Arabian Peninsula (AQAP) . . . . Our joint efforts have resulted in direct action against a limited number of AQAP operatives and senior leaders in that country who posed a terrorist threat to the United States and our interests.”</p> <p>[Similar to above]</p> <p>“The Intelligence Community has concluded that Nasir al-Wahishi, the leader of al-Qa’ida in the Arabian Peninsula . . . has been killed in Yemen. . . . The President has been clear that terrorists who threaten the United States will not find safe haven in any corner of the globe.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
<p>The CIA conducts targeted killings in Yemen, including through the use of drones.</p>	<p><i>N.Y. Times</i>, 756 F.3d at 119</p>	<p>[No exhibit]</p>	<p>“[T]he identification of the country where the drone strike occurred and CIA’s role—have both already been disclosed, also as explained above.”</p>
	<p><i>N.Y. Times</i>, 756 F.3d at 122</p>	<p>[No exhibit]</p>	<p>“[T]he statements of Panetta when he was Director of CIA and later Secretary of Defense . . . have already publicly identified CIA as an agency that has an operational role in targeted drone killings.”</p>
	<p>May 2011 White Paper</p>	<p>Ex. 12 at 1</p>	<p>“This white paper sets forth the legal basis upon which the Central Intelligence Agency (“CIA”) could use lethal force in Yemen against a United States citizen who senior officials reasonably determined was a senior leader of al-Qaida or an associated force of al-Qaida.”</p>
	<p>June 2010 Panetta Interview</p>	<p>Ex. 7 at 4–5</p>	<p>QUESTION: “All three of those individuals [Faisal Shahzad, Umar Farouk Abdulmutallab and Nidal Hasan] were tied in some way to an American cleric who is now supposedly in Yemen, Anwar al-Awalki. He has said to be on the assassination list by President Obama. Is that true and does being an American afford him any protection that any other terrorist might not enjoy?</p> <p style="text-align: right;">[continued on next page]</p>



Waiver	Source of Disclosure	Exhibit	Relevant Language
	<p>September 2014 Pentagon Statement</p> <p>February 2015 Pentagon Statement</p> <p>March 2015 Pentagon Statement</p>	<p>Ex. 39</p> <p>Ex. 42 at 1</p> <p>Ex. 43</p>	<p>“We have confirmed that Ahmed Godane, the co-founder of al-Shabaab, has been killed. The U.S. military undertook operations against Godane on Sept. 1, which led to his death. Removing Godane from the battlefield is a major symbolic and operational loss to al-Shabaab.”</p> <p>“[T]his past Saturday, the 31st of January . . . U.S. Special Operations forces conducted a strike south of Mogadishu, using unmanned aircraft and several Hellfire missiles. This operation was a direct strike against the al-Shabaab network, and the terrorist group’s chief of external operations and planning for intelligence and security. His name was Yusuf Dheeq.”</p> <p>“On March 12 at approximately 7:30 a.m. Eastern Time, working from actionable intelligence, U.S. forces using unmanned aircraft struck a vehicle carrying Adan Garar, a member of al Shabaab's intelligence and security wing, in the vicinity of Diinsoor, Somalia. The attack was a success and resulted in the death of Garar. Garar was a key operative responsible for coordinating al-Shabaab's external operations,</p> <p style="text-align: right;"><i>[continued on next page]</i></p>





<b>Waiver</b>	<b>Source of Disclosure</b>	<b>Exhibit</b>	<b>Relevant Language</b>
	October 2011 Panetta Statement	Ex. 13 at 1	<p>“Standing in front of an unarmed Global Hawk surveillance drone, Panetta lauded the role played by the U.S. military’s Predator fleet in the war in Libya. The use of Predators, he added slyly, ‘is something I was very familiar with in my past job.’”</p>
<p>A September 17, 2001 Memorandum of Notification signed by President Bush authorizes the CIA to take lethal action against suspected terrorists.</p>	<p>January 2014 Rizzo Book</p>	<p>Ex. 35 at 174</p>	<p>“Less than a week after the 9/11 attacks, President Bush signed off on the final version [of the Memorandum of Notification]. Multiple pages in length, it was the most comprehensive, most ambitious, most aggressive, and most risky Finding or [Memorandum of Notification] I was ever involved in. One short paragraph authorized the capture and detention of Al Qaeda terrorists, another authorized taking lethal action against them. The language was simple and stark. . . . As far as I was concerned, there was nothing else we possibly could have included; we had filled the entire cover-action tool kit, including tools we had never before used.”</p>
	<p>January 2014 Rizzo Book</p>	<p>Ex. 35 at 178</p>	<p>“[I]n late 2001, drone technology was still a work in progress; it was not yet certain that it would be lethally effective. True, I was fully</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	<p data-bbox="573 597 940 630">June 2007 Dorn Declaration</p> <p data-bbox="573 927 940 959">June 2007 Dorn Declaration</p>	<p data-bbox="1060 597 1192 630">Ex. 3 ¶ 66</p> <p data-bbox="1060 927 1192 959">Ex. 3 ¶ 67</p>	<p data-bbox="1539 342 1944 375"><i>[continued from previous page]</i></p> <p data-bbox="1310 415 1927 557">aware that the [Memorandum of Notification] that I helped prepare clearly sanctioned lethal actions against the Al Qaeda network. But those were only lawyer’s antiseptic words on a page.”</p> <p data-bbox="1310 597 1944 881">“The CIA did locate one document signed by President Bush that pertains to the CIA’s authorization to set up detention facilities outside the United States. The document ... is a 14-page memorandum dated 17 September 2001 from President Bush to the Director of the CIA pertaining to the CIA’s authorization to detain terrorists.”</p> <p data-bbox="1310 922 1938 1252">“This 14-page document consists of a 12-page notification memorandum and an attached two-page cover memorandum. The 12-page notification memorandum is a memorandum from the President to the members of the NSC regarding a clandestine intelligence activity. The two-page cover memorandum is a transmittal memorandum from the Executive Secretary of the NSC to the Director of the CIA.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	June 2007 Dorn Declaration	Ex. 3 ¶ 68	“The 12-page memorandum pertains to the CIA’s authorization to detain terrorists. The memorandum discusses the approval of the clandestine intelligence activity and related analysis and description. The memorandum also discusses other matters not relevant to Plaintiffs’ general or specific FOIA requests.”
The OLC provides advice establishing the legal boundaries of the targeted-killing program.	<p>February 2013 Brennan Testimony</p> <p>March 2013 Holder Testimony (quoted in <i>N.Y. Times</i>, 756 F.3d at 116)</p> <p>February 2013 Feinstein Statement</p>	<p>Ex. 23 at 44</p> <p>[No exhibit]</p> <p>Ex. 26 at 1</p>	<p>“The Office of Legal Counsel advice establishes the legal boundaries within which we can operate.”</p> <p>“Attorney General Holder publicly acknowledged the close relationship between the DOJ White Paper and previous OLC advice on March 6, 2013, when he said at a hearing of the Senate Committee on the Judiciary that the DOJ White Paper’s discussion of imminence of threatened action would be ‘more clear if it is read in conjunction with the underlying OLC advice.’”</p> <p>“Since 2010 the committee has asked for copies of all the legal opinions written by the Office of Legal Counsel (OLC) at the Department of</p> <p style="text-align: right;">[continued on next page]</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>Justice on targeted killing. I have sent three letters, each joined by Vice Chairman Kit Bond or Vice Chairman Saxby Chambliss, requesting these opinions. In 2012, the committee included a legislative provision in its annual authorization bill to require the executive branch to provide OLC opinions. Unfortunately that provision was removed prior to final passage of the bill. Until last week, the committee had been provided access to only two of the nine OLC opinions that we believe to exist on targeted killings. Last week, senators on the committee were finally allowed to review two OLC opinions on the legal authority to strike U.S. citizens. We have reiterated our request for all nine OLC opinions—and any other relevant documents—in order to fully evaluate the executive branch’s legal reasoning, and to broaden access to the opinions to appropriate members of the committee staff.”</p>
The government conducts before- and after-the-fact legal and factual analysis of lethal strikes.	February 2013 Brennan QFR	Ex. 27 at 1	<p>“There should be an interagency review process when making policy decisions associated with</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	February 2013 Brennan QFR	Ex. 27 at 2	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>such strikes, including the criteria that governs the circumstances under which a targeted strike can be carried out. Such a process should include analysts, operators, and policymakers with roles and responsibilities bearing on intelligence, military, diplomatic, law enforcement, and homeland security, as well as lawyers from appropriate departments and agencies. . . . [T]he individuals who participate in this process consider, in a deliberate and responsible manner, the information available, including the most up-to-date intelligence. These reviews oftentimes generate requests to clarify existing information or spur requests for new information to provide the best available intelligence and analysis to inform their decision. I believe this process should continue, and should be refined and strengthened over time, while maintaining the President’s ability to direct action as necessary to defend the Nation against attack.”</p> <p>“The United States Government takes seriously all credible reports of civilian deaths. When civilian deaths are alleged, analysts draw on a</p> <p style="text-align: right;"><i>[continued on next page]</i></p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	May 2015 White House Statement	Ex. 45 at 4	<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>large body of information—human intelligence, signals intelligence, media reports, and surveillance footage—to help us make an informed determination about whether civilians were in fact killed or injured. In those rare instances in which civilians have been killed, after-action reviews have been conducted to identify corrective actions and to minimize the risk of innocents being killed or injured in the future. Where possible, we also work with local governments to gather facts and, if appropriate, provide condolence payments to families of those killed.”</p> <p>“When a counterterrorism operation is carried out, it is followed by a battle damage assessment where our intelligence professionals evaluate the region or the area where the operation was carried out to determine the results of the operation and whether or not, if any, civilian casualties occurred. And in the process of carrying out that battle damage assessment, that draws on multiple sources of intel.”</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
	<p data-bbox="573 342 1039 375">May 2015 White House Statement</p> <p data-bbox="573 743 852 776">May 2013 Fact Sheet</p>	<p data-bbox="1060 342 1205 375">Ex. 45 at 8</p> <p data-bbox="1060 743 1236 776">Ex. 33 at 1–2</p>	<p data-bbox="1310 342 1948 704">“These kinds of reviews are not unusual; . . . [O]ur national security professionals after every operation try to review what had occurred—even when it’s successful, particularly when it’s successful—to derive lessons learned and to look for other ways, or changes that could be put in place to strengthen our protocols both in terms of their capabilities, but also in ensuring that they’re living up to the values that are so important to our country.”</p> <p data-bbox="1310 743 1913 850">“In particular, lethal force will be used outside areas of active hostilities only when the following preconditions are met:</p> <p data-bbox="1310 889 1934 1068"><i>First</i>, there must be a legal basis for using lethal force, whether it is against a senior operational leader of a terrorist organization or the forces that organization is using or intends to use to conduct terrorist attacks.</p> <p data-bbox="1310 1107 1934 1286"><i>Second</i>, the United States will use lethal force only against a target that poses a continuing, imminent threat to U.S. persons. It is simply not the case that all terrorists pose a continuing, imminent threat to U.S. persons; if a terrorist</p> <p data-bbox="1625 1328 1948 1360">[continued on next page]</p>

Waiver	Source of Disclosure	Exhibit	Relevant Language
			<p style="text-align: right;"><i>[continued from previous page]</i></p> <p>does not pose such a threat, the United States will not use lethal force.</p> <p><i>Third</i>, the following criteria must be met before lethal action may be taken:</p> <ol style="list-style-type: none"> <li>1) Near certainty that the terrorist target is present;</li> <li>2) Near certainty that non-combatants<sup>1</sup> will not be injured or killed;</li> <li>3) An assessment that capture is not feasible at the time of the operation;</li> <li>4) An assessment that the relevant governmental authorities in the country where action is contemplated cannot or will not effectively address the threat to U.S. persons; and</li> <li>5) An assessment that no other reasonable alternatives exist to effectively address the threat to U.S. persons.</li> </ol>



<b>Waiver</b>	<b>Source of Disclosure</b>	<b>Exhibit</b>	<b>Relevant Language</b>
<p>Innocent bystanders have died or been injured as a result of U.S. drone or other targeted-killing strikes</p>	<p>May 2013 Obama Speech</p>	<p>Ex. 32 at 4</p>	<p>“There’s a wide gap between U.S. assessments of [civilian] casualties and nongovernmental reports. Nevertheless, it is a hard fact that U.S. strikes have resulted in civilian casualties, a risk that exists in every war. . . . Remember that the terrorists we are after target civilians, and the death toll from their acts of terrorism against Muslims dwarfs any estimate of civilian casualties from drone strikes.”</p>