

January 25, 2013

John O. Brennan  
Assistant to the President for Homeland Security and Counterterrorism  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

Dear Mr. Brennan,

As the Senate moves forward with its consideration of your nomination to be the next Director of the Central Intelligence Agency (CIA), it will be necessary to examine not only your qualifications and record, but also to determine whether you will provide the necessary leadership as the head of an agency that operates under unique rules for transparency and that quietly holds significant influence over the advancement of America's strategic priorities around the globe. After reviewing your record—as well of the record of President Obama, to whom you have provided a great deal of advice and direction on issues of national security and terrorism—I must ask several questions to help inform my decision on your nomination:

- Do you agree with the argument put forth on numerous occasions by the Executive Branch that it is legal to order the killing of American citizens and that it is not compelled to explain its reasoning in reaching this conclusion? Do you believe this is a good precedent for the government to set?
- Congress has been denied access to legal opinions and interpretations authorizing placement of U.S. citizens believed to be engaged in terrorism on targeting lists, thus denying Congress the ability to perform important oversight. Will you provide access to those opinions, as well as future opinions?
- Would it not be appropriate to require a judge or court to review every case before the individual in question is added to a targeting list? Please describe the due process requirements in place for those individuals being considered for addition to a targeting list.
- Would you agree that it is paradoxical that the federal government would need to go before a judge to authorize a wiretap on a U.S. citizen overseas, but possibly not to order a lethal drone strike against the same individual? If not, please explain why you believe something similar to the FISA standard should not be applied in regards to lethal actions against U.S. citizens.
- Is it still your intent to codify and normalize the so-called “disposition matrix”—a targeting list that you helped to establish—to direct counterterrorism operations in future administrations, as well as the targeted killing procedures you have outlined in your “playbook”?
- Aside from the president, how many people have access to the full disposition matrix? Of those, how many participate in the process to add individuals to the targeting list, and how many have the authority to veto an individual's inclusion?

- How many times have you specifically objected to an individual's inclusion on a targeting list, or how many times have you recommended to the president against including an individual on a targeting list?
- How often are the criteria used for determining whether an individual should be included on a targeting list amended (not simply reviewed)? How many government officials and which agencies participate in establishing these criteria? Does the National Counterterrorism Center (NCTC) have final say over all criteria?
- Of those individuals who have been but are no longer included in the disposition matrix (or other targeting list), how many have been killed and how many have been removed from the list by other means?
- How many individuals remain in the disposition matrix (or other targeting list) today and how does that number compare to the number in prior years? Is the number growing, shrinking, or static?
- How many U.S. citizens have been added to the disposition matrix (or other targeting list), and how many remain on a targeting list?
- How many U.S. citizens have been intentionally killed by U.S. drone strikes since 2008? How many have been unintentionally killed by U.S. drone strikes during the same period?
- In how many countries has the U.S. executed a drone strike against a presumed terrorist?
- In each of the countries where the U.S. has executed a drone strike in the past four years, please provide a year-to-year estimate of those who self-identify or otherwise associate with al Qaeda within that country.
- You have indicated that no "credible evidence" exists to support recent claims of civilian casualties resulting from U.S. drone strikes. Please indicate how you define "credible evidence" and what process is in place to evaluate the legitimacy of alleged civilian casualties.
- Which countries have publicly stated their support for U.S. drone strikes within their territory? Have any publicly indicated support for U.S. drone strikes into the long-term?
- How relevant is the opinion of the public in the countries where U.S. drone strikes are ongoing? In those countries, how would you characterize public opinion toward U.S. drone strikes?
- In light of the civilian casualties caused by the extensive use of drone strikes under your guidance, do you continue to stand by your remark that "sometimes you have to take life to save lives"?
- Do you condone the CIA's practice of counting certain civilians killed by U.S. drone strikes as 'militants,' simply because they were of military age and within close proximity of a target? Do you believe such accounting provides an accurate picture of our drone program?
- What changes to the CIA review process will you put in place, or have you attempted to put in place in your previous role, to prevent further unintentional killing of U.S. citizens?
- What role did you play in approving the drone strike that led to the death of the underage, U.S. citizen son of Anwar al-Awlaki? Unlike his father, he had not renounced his U.S. citizenship. Was the younger al-Awlaki the intended target of the U.S. drone strike which took his life? Further, do you reject the subsequent claim, apparently originating from anonymous U.S. government sources, that the young man had actually been a "military-

age male” of 20 years or more of age, something that was later proven false by the release of his birth certificate?

- Do you believe that the inadvertent killing of civilians, and the resulting anger from local populations, should cause us to limit, rather than expand, the drone program?
- The CIA has and will reportedly continue to have authorization to carry out lethal drone strikes in Pakistan autonomously and without approval from the president. Will you seek to reduce or eliminate this practice, or keep it in place? Will you hold to the discussed one or two year phase-out of this authority, or work to expedite the phase-out?
- What conditions would need to be present in order for you to recommend against executing a drone strike?
- Will you seek to return the CIA to its origins as an intelligence collection agency, or will you preside over continued growth in paramilitary drone strike operations? What are the ramifications of keeping lethal actions such as drone strikes within the CIA, thereby exempting it from the levels of transparency applied to the military?
- Will you support the proposal of your predecessor to expand the CIA’s drone fleet? How will you address any new drone bases operated by the CIA?
- Globally, how many of the individuals currently being actively targeted for disposition were directly and personally involved in the planning, support, or execution of the 9/11 terror attacks, or the bombing of the USS Cole, or the U.S. embassies in Kenya and Tanzania?
- Do you believe that lethal drone strikes constitute “hostilities” as defined by the War Powers Act? On what legal basis does the administration derive authorization to conduct such strikes?
- The president has stated that “al Qaeda has been decimated.” Do you believe this assertion is correct and, if so, who is it that we are now targeting if not al Qaeda?
- Is the U.S. drone strike strategy exclusively focused on targeting al Qaeda, or is it also conducting counterinsurgency operations against militants seeking to further undermine their government, such as in Yemen?
- Would you support expansion of the CIA’s drone program into Mali to provide support to counterterrorism operations?
- Do you believe a long-term, sustained drone strike program can eliminate all threats to the American people, or completely eliminate al Qaeda, as you have indicated is your intent? If not, how would we eventually wind down the drone program? At what point do you believe drone strikes will reach the point of diminishing returns? If so, can it be done on the scale the drone program operates on now, or would it have to be expanded?
- Do you support the Attorney General’s 2012 guidance to the NCTC that it may deliberately collect, store, and “continually assess” massive amounts of data on all U.S. citizens for potential correlations to terrorism, even if the U.S. citizens targeted have no known ties to terrorism?
- Please describe in detail the steps you have taken as Assistant to the President, as well as transparency measures you would support as Director of the CIA, to improve the transparency of the administration’s counterterrorism policies.

I understand that this is a significant amount of information relating to sensitive operations and procedures. However, answering these most basic of questions—especially those dealing with the power of the federal government to kill its own citizens under secret authorizations never to

be seen by the public—is a necessary step in the examination of our conduct around the globe, the protection of our Constitutional rights and our values, as well as your suitability to oversee these priorities as the Director of the CIA. I also believe that we can provide appropriate transparency and have a productive dialogue on the direction of our counterterrorism policies without weakening our national security. In fact, many of the matters I address in this letter have already been publicly disclosed and widely discussed. With this in mind, I respectfully request you provide an unclassified written response to the questions I have included by the time the Senate Select Committee on Intelligence begins consideration of your nomination on February 7<sup>th</sup>, 2013. I will consider your cooperation in this matter when the full Senate begins formal debate on your nomination, especially in regards to procedural matters requiring unanimous consent.

The president has described you as “an advocate for greater transparency in our counterterrorism policy, and adherence to the rule of law,” and this is a perfect opportunity to demonstrate your commitment to both. I further trust that I can count on your cooperation not only during your confirmation process but, should you gain confirmation, throughout the duration of your tenure at the CIA. Thank you for your prompt attention to these questions, and I look forward to your response.

Sincerely,

Rand Paul, M.D.  
United States Senator