

**AMNESTY
INTERNATIONAL**



December 6, 2017

Lt. Gen. H.R. McMaster, Jr., USA
Assistant to the President for National Security Affairs
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Re: Reported Changes to US Policies on the Use of Force in Counterterrorism Operations

Dear General McMaster:

I write on behalf of Amnesty International USA to express our serious concern at reports that the U.S. government has adopted policies that ease its ability to conduct lethal strikes and raids in areas where its forces are not engaged in armed conflict and in situations in which it is not confronted with an imminent threat to life. We believe that the new policy, at least as reported, does not respect the restrictions imposed by international law on a state's intentional use of lethal force. We fear that the result will be a sharp rise in unlawful strikes, civilian casualties and extrajudicial executions.

Lethal strikes outside the context of conduct of hostilities in an armed conflict are governed by international human rights law, which prohibits arbitrary deprivation of life and only permits the intentional use of lethal force where strictly unavoidable to protect against an imminent threat to life. Even when the United States uses force as part of hostilities in an armed conflict, there are important legal constraints on its targeting operations, as both human rights law and international humanitarian law (the law of armed conflict) apply. For example, international humanitarian law, which seeks to minimize human suffering and protect civilians, prohibits the intentional targeting of civilians and requires that in case of doubt as to whether an individual is a civilian or combatant, he or she be presumed to be civilian.

The new, still-secret policy reportedly allows intentionally lethal force to be used away from the battlefield, including when there is no imminent threat to life. It reportedly allows the government to kill “foot-soldier jihadists with no unique skills or leadership roles” regardless of where they are and what threat, if any, they pose. This would violate international human rights law. Moreover, even on the battlefield, such targeting may be unlawful, depending on whether the so-called “jihadist” is directly participating in hostilities and whether the strike is carried out as part of an armed conflict to which the United States is a party.

Ill-defined and secret policies governing something as critical as the use of lethal force would present a grave danger on many levels. They could result in U.S. forces carrying out unlawful killings, including extrajudicial executions, and increase civilian casualties. They set a precedent for other states to similarly disregard the law and carry out (and publicly justify) their own “targeted killings” at home and abroad. They risk expanding illegality to other areas of counterterrorism and undermine international cooperation to bring suspects to justice.

For all of these reasons, we urge you to make public the U.S. standards for use of lethal force, both within and outside zones of armed conflict; to bring those standards in line with international human rights and humanitarian law; to provide the relevant Congressional committees sufficient information about U.S. lethal strikes to allow them to carry out meaningful oversight; to commit the U.S. to conduct impartial, thorough investigations, including on-the-ground interviews with witnesses and survivors, of all credible claims of unlawful strikes; to not block judicial review of lethal strikes; and to provide redress for any victims of unlawful strikes and their families, as required by international law.

The body of international human rights law and international humanitarian law that was established in the wake of the unspeakable atrocities of World War II is among the key achievements of the post-war decades. The United States played a major role in developing this international legal framework. As technology rapidly expands and makes the extraterritorial use of force easier for a growing number of countries and non-state armed groups, it is critical that the United States not undermine this critically important international legal framework. The U.S. should instead set a

positive example and demonstrate that its use of force adheres to its obligations under international law.

I would welcome the opportunity to meet with you or your staff to discuss our concerns and recommendations further.

Sincerely,

A handwritten signature in black ink, appearing to read "Daphne Eviatar". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daphne Eviatar
Amnesty International USA
Director, Security with Human Rights