

Congress of the United States

Washington, DC 20510

January 20, 2022

The Honorable Joseph R. Biden
President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear President Biden:

We write today as your Administration reportedly conducts a review of United States counterterrorism (CT) policy. Over successive administrations spanning nearly two decades, presidents have claimed virtually unilateral power to use lethal force around the world and without congressional authorization, killing not only armed actors but also innocent civilians—even American citizens. Without systematic reforms centered on human rights and international law, the status quo will continue to undermine counterterrorism objectives, produce significant human and strategic costs, and erode the rule of law and the United States’ image abroad. We cannot accept a continuation of the status quo that has repeatedly resulted in the needless deaths of innocent civilians. We strongly urge your Administration to review and overhaul U.S. counterterrorism policy to center human rights and the protection of civilians, align with U.S. and international law, prioritize non-lethal tools to address conflict and fragility, and only use force when it is lawful and as a last resort.

While the intent of U.S. counterterrorism policy may be to target terrorism suspects who threaten U.S. national security, in too many instances, U.S. drone strikes have instead led to unintended and deadly consequences—killing civilians and increasing anger towards the United States. As many as 48,000 civilians across seven countries have reportedly been killed by U.S. strikes over the past two decades.¹ At least 14,000 U.S. airstrikes have been conducted by unmanned aircraft since 2002, killing as many as 2,200 civilians—including 450 children.² Alarming, the actual numbers are likely significantly higher given the difficulty of comprehensive reporting and the United States’ consistent underreporting of these numbers and reported refusal to investigate reports absent “potential for high media attention”.³

¹ Airwars, “Tens of thousands of civilians likely killed by US in ‘Forever Wars’,” <https://airwars.org/news-and-investigations/tens-of-thousands-of-civilians-likely-killed-by-us-in-forever-wars/>

² *Id.*

³ Columbia Law School, Human Rights Institute, “Counting Deaths from Drone Strikes,” <https://web.law.columbia.edu/human-rights-institute/counterterrorism/drone-strikes/counting-drone-strike-deaths>; Department of Defense, Annual Report on Civilian Casualties In Connection With United States Military Operations in 2020,” June 2021, <https://media.defense.gov/2021/Aug/05/2002823939/-1/-1/0/ANNUAL-REPORT-ON-CIVILIAN-CASUALTIES-IN-CONNECTION-WITH-UNITED-STATES-MILITARY-OPERATIONS-IN-2020-FINAL.PDF>; New York Times, Dave Phillips and Eric Schmidt, How the U.S. Hid an Airstrike That Killed Dozens of Civilians in Syria, Nov. 13, 20201, <https://www.nytimes.com/2021/11/13/us/us-airstrikes-civilian-deaths.html>.

These inexcusable figures reflect an uncomfortable truth: in far too many cases, rather than achieving the policy goal of eliminating hostile combatants to preserve U.S. national security, lethal U.S. strikes have instead killed thousands of civilians, including children.

The August 29th strike in Kabul, Afghanistan, which killed 10 civilians, including 7 children and an aid worker employed by an American NGO; and the March 2019 airstrike in Baghuz, Syria, are emblematic of this systemic failure that has persisted across decades and administrations.⁴ When there is little policy change or accountability for repeated mistakes this grave and this costly, it sends a message throughout the U.S. Armed Forces and the entire U.S. Government that civilian deaths—including deaths where there was no military target-- are the inevitable consequence of modern conflict, rather than avoidable and damaging failures of policy. Repeated civilian casualties arising from secretive and unaccountable lethal operations undermine human rights, the rule of law, diplomacy and other non-lethal efforts to address conflicts and fragility; and fuel the very insurgencies and causes that we are fighting to defeat.⁵

Following the 20th anniversary of the 9/11 attacks and the United States' withdrawal from Afghanistan, your Administration has an opportunity to end this pattern and develop a rights-based counterterrorism strategy that emphasizes the rule of law, with sufficient controls and limitations on the use of targeted strikes; leads with diplomacy, peacebuilding, and human rights; prioritizes the protection of civilians; and only uses lethal force when it is lawful and as a last resort. On the other hand, the continuation of status quo policies that have flouted Executive and Congressional oversight and resulted in devastatingly high numbers of civilian casualties would run contrary to the Biden Administration's commitments to end our forever wars, and promote human rights and our core democratic values.

We appreciate your attention to this important matter and look forward to your response.

Sincerely,

⁴ New York Times, "Times Investigation: In U.S. Drone Strike, Evidence Suggests No ISIS Bomb," Matthieu Aikins, September 10, 2021, <https://www.nytimes.com/2021/09/10/world/asia/us-air-strike-drone-kabul-afghanistan-isis.html>; New York Times, Dave Phillips and Eric Schmidt, How the U.S. Hid an Airstrike That Killed Dozens of Civilians in Syria, Nov. 13, 2020, <https://www.nytimes.com/2021/11/13/us/us-airstrikes-civilian-deaths.html>.

⁵United States Institute of Peace, "Killing Friends, Making Enemies: The Impact and Avoidance of Civilian Casualties in Afghanistan," July 2008, https://www.usip.org/sites/default/files/USIP_0708_2.PDF; National Bureau of Economic Research, "The Effect Of Civilian Casualties In Afghanistan and Iraq," July 2010, https://www.nber.org/system/files/working_papers/w16152/w16152.pdf



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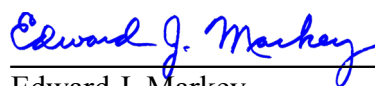
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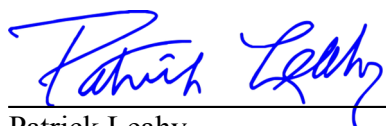
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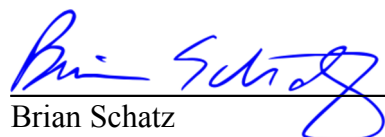
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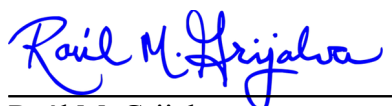
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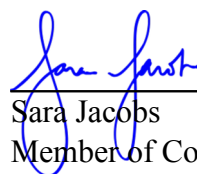
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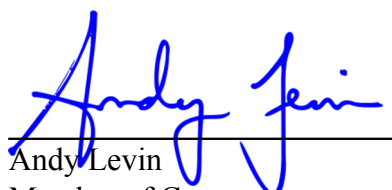
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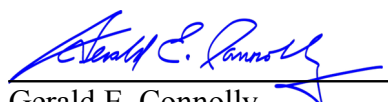
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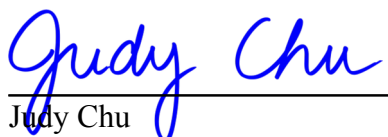
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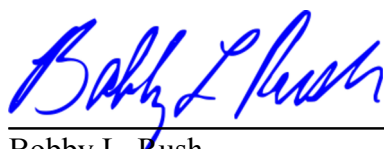
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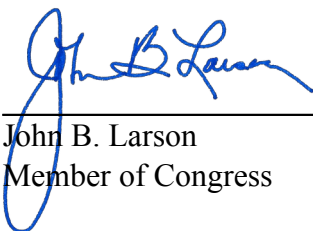
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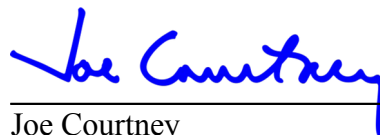
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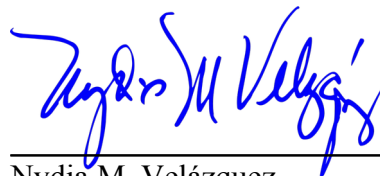
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