

October 18, 2011

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FOIA/PA Mail Referral Unit
U.S. Department of Justice
Room 115
LOC Building
Washington, D.C. 20530-0001

Re: Request for EXPEDITED RELEASE of records, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq., pertaining to authorization use of lethal force against U.S. persons targeted in foreign countries.

Dear Sir or Madam:

On behalf of the National Association of Criminal Defense Lawyers (NACDL), its more than 10,000 direct members, and 90 state and local affiliates totaling more than 40,000 attorney members, I hereby request **expedited release** of any legal memorandum or memoranda in the possession of the Justice Department purporting to authorize use of lethal force against **Anwar al-Aulaqi, also known as Anwar al-Awlaki** or any other United States citizen outside the United States. Such memoranda constitute, at least in part, important U.S. policy of great public interest. *See, e.g.*, Peter Finn, "Secret U.S. Memo Sanctioned Killing of Aulaqi," *The Washington Post*, Sept. 30, 2011 at A9.

This request for expedited release is being made pursuant to the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552 *et seq.* Pursuant to the Electronic Freedom of Information Act Amendments of 1996, P.L. 104-231, 110 Stat. 3048, codified at Section 552(a)(6)(E) of the act, **the undersigned certifies that he is a person primarily engaged in disseminating information and has an urgent need to inform the public debate regarding the legal status of U.S. persons overseas, including but not limited to, U.S. persons designated "specially designated global terrorists."**

The release of this information will substantially advance the public's understanding of the function of Department of Justice's role in legally justifying the targeting of individuals overseas with lethal force. For example, a recent *Washington Post* editorial asks a question that many are asking around the world, "[S]hould not all American citizens be afforded due process of law before being summarily executed, as some critics might put it?" The newspaper takes the position that "[t]he administration should respond quickly and definitively, and there is no better way to do that than by making public a memorandum from the Justice Department's Office of Legal Counsel

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(OLC) that lays out the specific legal grounds and standards for the attack [on Anwar al-Awlaki]." Editorial, "Explaining the Awlaki strike," *Washington Post*, 10/6/11 at A20.

NACDL could not agree more. Capital punishment is a matter of foremost public interest. In the case of targeting civilians, particularly U.S. persons, in places away from actual armed hostilities, raises serious questions to which the public has a right to know the answers. Release of the memorandum would also help the public understand such questions as: For example, what process is due to a U.S. citizen or legal resident before they may be designated for extrajudicial execution by the Executive Branch of our government? What types of evidence is used to determine guilt? Is mitigating evidence taken into account? Is the individual appointed an advocate or guardian to argue against his selection? What is the burden of proof – "reasonable satisfaction," a preponderance of the evidence, clear and convincing evidence or beyond a reasonable doubt? What notice does the targeted individual receive? Is there an appeal process, internally or by the target?

If this request is denied, in whole or in part, please specify which exemptions(s) is (are) claimed for each document or portion denied and provide a complete itemized inventory and a detailed factual justification of the total or partial denial of each document. Specify the number of pages in each document, and the total number of pages pertaining to this request.

If any material is to be redacted pursuant to a valid FOIA exemption, please "black out" the material rather than "white out" or "cut out." We expect, as provided by FOIA, that the remaining non-exempt portions of all documents will be released.

In the event of a denial, we will file an administrative appeal. Therefore, please specify the office and address to which appeals should be directed.

We also request a waiver of search and duplication fees. We believe that a waiver of fees should be granted because:

(1) the requestor, the National Association of Criminal Defense Lawyers (NACDL), is a 501(c)(6) non-profit organization;

(2) NACDL publishes a monthly magazine (10 issues a year) called *The Champion* with a circulation of more than 12,000, including lawyers, law libraries, law professors, federal and state judges, journalists, and members of the public interested in the administration of justice; additionally, NACDL has a long history of publishing reports on national criminal justice issues, often using materials obtained through the FOIA, and makes the reports available to the public at no charge through its Website, www.nacdl.org;

(3) this request does not serve any commercial interest of the requestor;

(4) as explained above, release of the requested material will serve the public

interest through significant contribution to public understanding of the operation of the federal government and, in particular, the role of the Department of Justice in the global war on terror; and

(5) the undersigned is an employee of the National Association of Criminal Defense Lawyers whose primary responsibility is educating the public in the area of criminal justice.

Accordingly, we request a waiver of all search and duplication fees under the Freedom of Information Act, 5 U.S.C. 552(a)(4)(A). However, if a waiver is denied and fees are estimated to exceed \$150, please notify us of the estimated charges so that we may either pay the fees or appeal the denial of our request for a fee waiver.

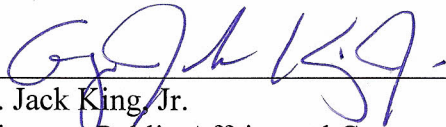
I look forward to hearing from you within 20 working days of receipt of this request.

* * * * *

Certification Pursuant to 5 U.S.C. 552(A)(6)(E)(vi)

Pursuant to the expedited release provisions of Section 552(a)(6)(E) of Title 5, United States Code, I hereby certify that the foregoing is true and correct to the best of my knowledge.

Requestor:



G. Jack King, Jr.
Director, Public Affairs and Communications
National Association of Criminal Defense Lawyers
1660 L St., 12th Floor
Washington, D.C. 20036