

Administration of Barack Obama, 2016

Statement on Releasing the "Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations"

December 5, 2016

From President Lincoln's issuance of the Lieber Code during the Civil War to our nation's leadership at the Nuremberg Trials following World War II, the United States has a long history of emphasizing the development and enforcement of a framework under which war can be waged lawfully and effectively, with due regard for humanitarian considerations, and consistent with our national interests and values.

Consistent with this long tradition, since my first days in office I have underscored the importance of adhering to standards—including international legal standards—that govern the use of force. Far from eroding our nation's influence, I have argued, adherence to these standards strengthens us, just as it isolates those nations who do not follow such standards. Indeed, as I have consistently emphasized, what makes America truly remarkable is not the strength of our arms or our economy, but rather our founding values, which include respect for the rule of law and universal rights.

Decisions regarding war and peace are among the most important any President faces. It is critical, therefore, that such decisions are made pursuant to a policy and legal framework that affords clear guidance internally, reduces the risk of an ill-considered decision, and enables the disclosure of as much information as possible to the public, consistent with national security and the proper functioning of the Government, so that an informed public can scrutinize our actions and hold us to account. When I took office, our nation was already years into a new and different kind of conflict against enemies who do not wear uniforms or respect geographic boundaries and who disregard the legal principles of warfare. Recognizing the novelty of this threat and the difficult legal and policy questions it raised and continues to raise, the United States complies with all applicable domestic and international law in conducting operations against these enemies. And, over the course of my Administration, I directed my team to work continually to refine, clarify, and strengthen the standards and processes pursuant to which the United States conducts its national security operations.

This report details the results of these efforts. It describes, among other things, how my Administration has ensured that our uses of force overseas are supported by a solid domestic law framework and consistent with an international legal framework predicated on the concepts of sovereignty and self-defense embedded in the United Nations Charter. And it describes how the United States has applied rules, practices, and policies long used in traditional warfare to this new type of conflict. In addition, the report recounts actions my Administration has taken to institutionalize a policy framework to ensure that, in carrying out certain critical operations, the United States not only meets but also in important respects exceeds the safeguards that apply as a matter of law in the course of an armed conflict—particularly in the areas of the preservation of civilian life, transparency, and accountability. For, as I have previously emphasized, to say that a military tactic is legal, or effective, is not to say that it is wise or moral in every instance.

To be sure, even with the release of this report today, there remains information about U.S. national security operations that we cannot disclose consistent with national security. Nor

does this report address all conceivable legal aspects or justifications for the use of military force in every context or provide an exhaustive discussion of how the United States wages war. Rather, this report is intended to explain the domestic and international bases for the United States' ongoing use of military force overseas and to describe some of the key legal and policy frameworks my Administration has developed to govern such uses of force and related national security operations, such as detention, transfer, and interrogation operations. The report builds on a long line of public speeches and statements by members of my Administration that reflect my commitment to being as transparent as possible about how and in what circumstances the United States conducts national security operations. Even as working toward that degree of transparency can be challenging at times, it is ultimately critical to reinforcing the process of democratic decision-making, to demonstrating the legitimacy of our actions, and to reinforcing our relationships with our allies and partners.

Given the dynamic nature of today's security environment, the United States will no doubt continue to confront new issues as our nation's national security professionals work tirelessly to protect U.S. persons and interests. That is why, in conjunction with the release of this report, I am issuing a Presidential Memorandum that encourages future Administrations to build on this report and carry forward the principles of transparency it represents. In particular, the memorandum states that the National Security Council staff shall be asked, as appropriate, to update the report at least on an annual basis and to arrange for the report to be released to the public.

Through this report, I hope to enhance the public's understanding of the legal and policy principles that have guided U.S. national security operations, and to reinforce the fact that we defend our interests at home and around the world in a manner consistent with the laws, values, and traditions that are the source of our greatest strength.

BARACK OBAMA

NOTE: This statement was released by the Office of the Press Secretary as the Foreword to the report.

Categories: Statements by the President : U.S. military force and national security operations, legal and policy framework, report.

Subjects: Defense and national security : Legal and policy framework; Government organization and employees : Accountability and transparency, strengthening efforts.

DCPD Number: DCPD201600820.