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Secret U.S. memo sanctioned killing of Aulqi



View Photo Gallery — Anwar al-Aulqi, a radical cleric and one of the most influential al-Qaeda operatives wanted by the U.S., was killed Friday in an airstrike in northern Yemen, authorities said.

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Robert Chesney, a law professor at the University of Texas at Austin who specializes in national security law, said the government likely reviewed Aulqi's constitutional rights, but concluded that he was an imminent threat and was deliberately hiding in a place where neither the United States nor Yemen could realistically capture him.

Last year, the Obama administration invoked the state secrets privilege to argue successfully for the dismissal of a lawsuit brought in U.S. District Court in Washington by Aulqi's father, Nasser, seeking to block the targeting of his son. Judge John Bates found that in Aulqi's case, targeting was a "political question" to be decided by the executive branch.

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The decision to place Aulqi on a capture or kill list was made in early 2010, after intelligence officials concluded that he

Video



Yemen's Defense Ministry says the U.S.-born al-Qaeda cleric Anwar al-Aulaqi has been killed. (Sept. 30)

Video



The Washington Post's Africa bureau chief, Sudarsan Raghavan, reports from Yemen about what Anwar al-Aulaqi's death means for the Yemens and for the long-term U.S.-Yemen relationship. (Audio)

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played a direct role in the plot to blow up a jet over Detroit and had become an operational figure within al-Qaeda's affiliate in Yemen.

"If you are a dual national high in the Japanese operational group responsible for Pearl Harbor, you're not exempt, and neither was" Aulaqi, the administration official said.

The American Civil Liberties Union and the Center for Constitutional Rights argued on behalf of Aulaqi's father last year that there is no "battlefield" in Yemen and that the administration should be forced to articulate publicly its legal standards for killing any citizen outside the United States who is suspected of terrorism.

Otherwise, the groups argued, such a killing would amount to an extrajudicial execution and would violate U.S. and international law.

"International human rights law dictates that you can't unilaterally target someone and kill someone without that person posing an imminent threat to security interests," said Vince Warren, executive director of the Center for Constitutional Rights. "The information that we have, from the government's own press releases, is that he is somehow loosely connected, but there is no specific evidence of things he actualized that would meet the legal threshold for making this killing justifiable as a matter of human rights law."

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ACLU lawyer Ben Wizner said that Aulahi had been targeted for nearly two years and that the government would appear to have a very elastic definition of imminent threat.

The former senior intelligence official said the CIA did reviews every six months to ensure that those targeted for possible killing remained threats as defined by law and presidential findings.

The administration describes al-Qaeda in the Arabian Peninsula as an associated force of the original terrorist group that was led by

Osama bin Laden until he was killed, making AQAP subject to congressionally authorized military force. Officials said Aulahi was part of an enemy force and posed an ongoing, immediate danger.

Staff writer Mary Beth Sheridan and staff researcher Julie Tate contributed to this report.

Continued 1 2

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