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Support grows for U.S. "drone court" to review lethal strikes

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By [Mark Hosenball](#)

WASHINGTON (Reuters) - During a fresh round of debate this week over President Barack Obama's claim that he can unilaterally order lethal strikes by unmanned aircraft against U.S. citizens, some lawmakers proposed a middle ground: a special federal "drone court" that would approve suspected militants for targeting.

While the idea of a judicial review of such operations may be gaining political currency, multiple U.S. officials said on Friday that imminent action by the U.S. Congress or the White House to create one is unlikely. The idea is being actively considered, however, according to a White House official.

At Thursday's confirmation hearing for CIA director nominee John Brennan, senators discussed establishing a secret court or tribunal to rule on the validity of cases that U.S. intelligence agencies draw up for killing suspected militants using drones.

The court could be modeled on an existing court which examines applications for electronic eavesdropping on suspected spies or terrorists.

Senator Dianne Feinstein, Democratic chairwoman of the Senate Intelligence Committee, said Thursday that she planned to "review proposals for ... legislation to ensure that drone strikes are carried out in a manner consistent with our values, and the proposal to create an analogue of the Foreign Intelligence Surveillance Court to review the conduct of such strikes."

Senator Angus King, a Maine independent, said during the hearing that he envisioned a scenario in which executive branch officials would go before a drone court "in a confidential and top-secret way, make the case that this American citizen is an enemy combatant, and at least that would be ... some check on the activities of the executive."

King suggested that only drone attacks on U.S. citizens would need court approval; other proposals leave open the possibility that such a court could also rule regarding drone strikes on non-Americans.

On Friday, a White House official indicated the administration was open to the idea. Without specifically mentioning drones, the official said "the White House has been discussing various ways there could be independent review of counterterrorism actions for more than a year."

Even if a special court were established, however, congressional and administration officials said it would not happen quickly.

Congressional aides said discussions are at a preliminary stage, with officials also reviewing proposals that law professors have floated in academic articles.

On Friday, King sent a letter to Feinstein and Republican Saxby Chambliss, intelligence committee vice-chairman, asking them to work with him on legislation to create a court which could provide judicial review of proposals to target a drone attack against a U.S. citizen alleged to be a "senior operational leader of Al Qaeda."

In the past, Obama administration officials have expressed a lack of interest when the idea of creating a court to vet drone targets was brought up, one congressional official said. The administration also has fought lawsuits filed by relatives of Anwar al-Awlaki, the American-born al Qaeda operative who was killed in a U.S. drone attack in Yemen in 2011.

On Friday, senior Democrats and Republicans on the Senate and House Judiciary committees sent Obama letters requesting that their committees be given access to Justice Department documents justifying drone strikes. Some members of the congressional intelligence committees had been given such access the night before Brennan's confirmation hearing in an apparent attempt by the administration to mollify some critics.

Christopher Anders, senior legislative counsel for the American Civil Liberties Union, questioned the need for creating a new court to review drone targeting lists.



"We have courts that are fully capable and experienced" in dealing with sensitive national security matters, he said. Federal courts in Washington, New York City, and Alexandria, Virginia, routinely handle highly classified materials yet operate with more transparency and more independence than the ultra-secretive foreign intelligence court, Anders said.

If the United States did set up a drone target court, human rights advocates would still likely have problems with it.

Geoffrey Robertson, one of Britain's most prominent human rights lawyers, described the current U.S. drone-strike policy as "execution without trial" and "international killing (which) ... violates the right to life."

Robertson said that in his interpretation of international law, any court set up to review candidates for possible drone attacks would have to publish target lists, so that those listed would have an opportunity either to give themselves up or be able to have friends or relatives petition for their removal from the lists.

"This should be an open process," Robertson said.

(Editing by Warren Strobel and Prudence Crowther)

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