

~~(S//NF)~~ PRESIDENTIAL POLICY MEMORANDUM GOVERNING DIRECT ACTION COUNTERTERRORISM OPERATIONS OUTSIDE AREAS OF ACTIVE HOSTILITIES

(U) This Presidential Policy Memorandum (PPM) establishes standards and procedures that govern the use by the United States of direct action, which refers to lethal and non-lethal uses of force against terrorist targets outside areas of active hostilities, including capture operations. This policy governs all such operations.

(U) Direct action must be conducted lawfully and only against lawful targets. As a matter of domestic law, the President's principal current authorities to use force are the Authorization for Use of Military Force enacted on September 18, 2001 and his constitutional authority as Commander in Chief and Chief Executive. The United States will also continue to ensure that direct action against terrorist targets is conducted consistent with the law of armed conflict (LOAC), including the core principles of necessity, distinction, proportionality, and humanity. Operations under this policy will be conducted only with the consent of the government of the country in which such operations occur or when there is another basis under international law for taking such action.

(U) The department and agency review process set forth in this policy is intended to ensure that operations are both lawful and consistent with American values and broader national security objectives. Therefore, even when a proposed target is determined to be lawful, the interagency review process will also determine as a policy matter whether the proposed target should be subjected to direct action.

~~(S//NF)~~ As a matter of policy, to mitigate terrorist threats, the United States prioritizes the capture of terrorists over the use of lethal force, even in circumstances when neither prosecution nor third-country custody is an available disposition option. As such, operating agencies may use lethal force only if the operating agency, after consulting with relevant U.S. Government entities, [REDACTED], assesses that capture is not feasible. The use of lethal force should never be proposed and may never be pursued as a punitive step or as a substitute for prosecuting a terrorist suspect in a civilian court or other appropriate

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tribunal, or having the individual lawfully detained for preventative purposes, when doing so is feasible.

~~(S//NF)~~ Unless otherwise directed by the President, operating agencies will engage in direct action against terrorist targets only after [REDACTED]

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Disagreements with those officials will be elevated as required for resolution.

~~(S//NF)~~ Nothing in this policy would preclude an agency from relying on pre-existing authorities to act in lawful self-defense of U.S. personnel, other U.S. persons, or foreign partners or allies who are under attack or are threatened with an imminent attack.

~~(S//NF)~~ The 2017 Principles, Standards, and Procedures is revoked upon country plan adoption outside areas of active hostilities. The determination that a country or region is an area of active hostilities will be made by the President and communicated in writing to operating agencies via the Assistant to the President for National Security Affairs (APNSA).

~~(S//NF)~~ Section 1: Procedures for Establishing a Country Plan

~~(S//NF)~~ 1.A Country Plan Guidelines

~~(S//NF)~~ Each operating agency must propose a detailed plan to govern its direct action operations in a specific country against terrorist targets. Country plans will describe the overarching objectives to be achieved through direct action in that country. Each plan must also contain:

1. The domestic and international legal bases for that agency's proposed operations;
2. The duration of the requested approval of the country plan;
3. [REDACTED] terrorist groups the operating agency seeks authorization to target;
4. [REDACTED] prior to undertaking direct action and any country-specific considerations;
5. [REDACTED]

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6. The types of assets that may be employed when taking direct action against an approved target;

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7. [REDACTED]; and

8. Any proposed variations from the policy standards otherwise set forth in this PPM, including any variances from the targeting criteria or policy criteria.

~~(S//NF)~~ Prior to submitting a proposed country plan, the operating agency shall consult with and seek [REDACTED]

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Additionally, prior to submission, these plans must undergo a legal review by the operating agency's General Counsel.

~~(S//NF)~~ 1.B Departments and Agencies' Review of Country Plans

~~(S//NF)~~ Proposed country plans will be submitted to the National Security Council (NSC) staff for review by departments and agencies that participate in the Restricted Counterterrorism Security Group (R-CSG). The NSC staff will coordinate with the National Counterterrorism Center (NCTC), which will draft a supplemental Intelligence Community (IC)-coordinated intelligence assessment of whether each proposed terrorist group identified as a possible target for direct action in a country plan has:


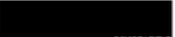
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[REDACTED] This assessment is to inform consideration of whether each such group poses a continuing, imminent threat to U.S. persons for the purposes of this policy.


~~(S//NF)~~ Separately, the operating agency's General Counsel will refer his or her legal conclusions related to the proposed plan to the NSC Legal Advisor. The NSC Legal Advisor will consult with attorneys from the Departments of Justice (DOJ), the Department of State, and Defense (DOD); the Central Intelligence Agency (CIA); and the Office of the Director of National Intelligence (ODNI).


~~(S//NF)~~ The views of the R-CSG and the relevant legal conclusions will be provided to the Deputies Committee to inform its consideration of the proposed country plan before elevating it for Principals Committee review and presentation to the President for decision. Any changes to country plans will require revalidation through the same process.

~~(S//NF)~~ Section 2: Capture Operations and Long-Term Disposition Decisions

~~(S//NF)~~ This section governs proposals for the United States to capture terrorists. Operating agencies or the DOJ may propose an individual who is a lawfully targetable member   of a terrorist group as a target for a capture operation. Such proposals shall be submitted to the NSC staff for review by departments and agencies that participate in the R-CSG. Prior to submission, proposals to capture such individuals must undergo a legal review by the operating agency and agencies must refer legal conclusions related to the proposed plan to the NSC Legal Advisor. The NSC Legal Advisor will consult with DOJ and attorneys from State, DOD, CIA, and ODNI unless exigent circumstances preclude such consultation, to ensure that the capture would be lawful under U.S. and international law.

~~(S//NF)~~ This PPM does not apply to the involvement of U.S. Government personnel in extraditions or transfers initiated for the purpose of prosecution in civilian court or circumstances in which an individual is arrested or otherwise taken into custody by the Federal Bureau of Investigation or another Federal law enforcement agency. This policy also does not apply to U.S. law enforcement requests for foreign governments to arrest or otherwise take into custody a suspect, to non-law enforcement U.S. Government requests to foreign entities to capture a suspect who will remain in the custody of the foreign entity, or to the provision of actionable intelligence to enable such activities.

~~(S//NF)~~ To inform the R-CSG and the NSC Legal Advisor, NCTC will prepare an assessment on the individual proposed for capture, seeking input from and coordinating with the IC. Each assessment will include 

 After convening to discuss a proposal, the R-CSG will forward the capture proposal and the NCTC assessment, along with the relevant legal conclusions, to Deputies for consideration. Deputies will consider:

1. Whether the individual's capture would further U.S. policy objectives;
2. The implications for broader regional dynamics;
3. [REDACTED]
4. The proposed plan for detention and interrogation of the individual;
5. In the event that transfer to a foreign entity or country is anticipated, the proposed plan for obtaining humane treatment assurances from that foreign entity or country;
6. The long-term disposition options for the individual; and
7. Whether there are other policy or operational considerations that need to be addressed.

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~~(S//NF)~~ Following consideration by Deputies, agencies shall submit the final positions of their Principals to NSC staff. If the agency proposing a capture, on behalf of its Principal, continues to support taking action, APNSA, the Assistant to the President and Principal Deputy National Security Advisor (PDNSA), or the Assistant to the President for Homeland Security (APHSA) shall inform the President of the Principal's decision to support taking action and the views expressed by all participating Principals. As appropriate, the proposal shall be presented to the President for decision. Final determinations will be relayed to all agencies that participated in the Deputies process.

~~(S//NF)~~ Whenever feasible, this process should be conducted in advance of any individual being taken into custody by the United States. In the event that this process cannot take place before the United States takes custody of an individual, U.S. personnel shall determine before taking custody that the individual may be lawfully detained and shall, after taking custody, screen the individual to ensure that the correct individual has been taken into custody. Such screening shall be conducted consistent with applicable law and policy and shall be conducted as expeditiously as practicable. [REDACTED]

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~~(S//NF)~~ In the event that an individual is detained by the U.S. military pursuant to this policy and additional time is needed for intelligence collection or the development of a long-term disposition option, the Secretary of Defense or his designee, following appropriate interagency consultations coordinated through the NSC staff, may approve the detention of the

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individual [REDACTED]
subject to the following conditions:

1. The individual's detention must be authorized by U.S. law and be consistent with U.S. law and policy, as well as all applicable international law;
2. The individual must be believed to: [REDACTED]

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3. The International Committee of the Red Cross must be promptly notified of, and provided timely access to, the individual; and
4. When possible, and consistent with the primary objective of collecting intelligence, intelligence will be collected in a manner that preserves the availability of long-term disposition options, including prosecution.

~~(S//NF)~~ Guantanamo Bay shall not be used to hold new detainees subject to this policy.

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~~(S//NF)~~ The President's approval is required for continued detention beyond [REDACTED] or under any circumstance outside the criteria for Secretary of Defense approval described above. If the Secretary of Defense determines that a detainee's continued detention does not meet the above criteria, or [REDACTED] without a decision by the President to extend military detention or implement a different disposition, the Secretary of Defense will transfer the detainee to an appropriate foreign government consistent with a reasonable expectation of humane treatment or release the detainee as near as feasible to the point of capture, with appropriate consideration for the detainee's health and safety upon release. When such a disposition is infeasible, the Secretary of Defense must seek the President's guidance and continue to secure and treat humanely the detainee pending receipt of that guidance.

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~~(S//NF)~~ Section 3: Approval of Identified Individuals Who May Be Targeted with Lethal Force and Annual Review of Such Approvals

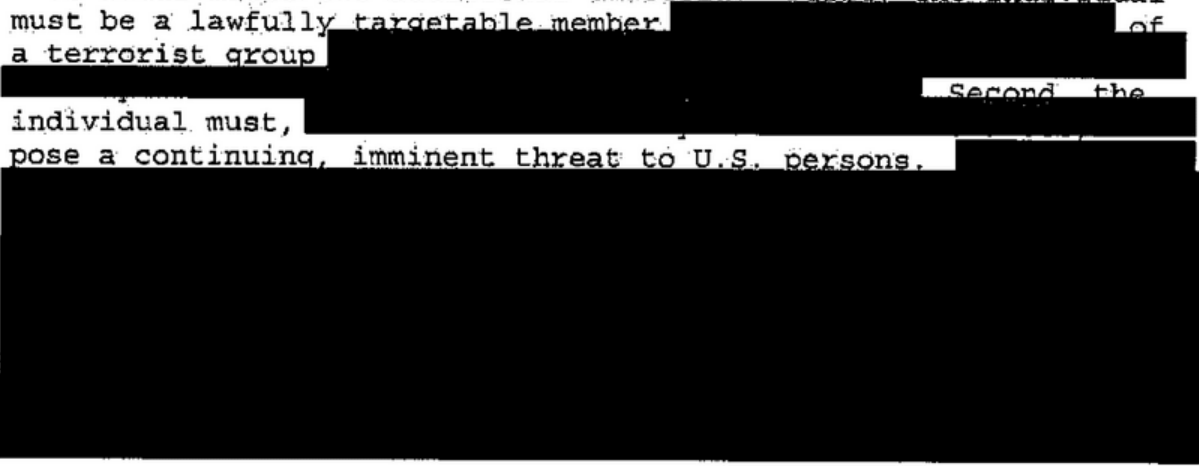
~~(S//NF)~~ 3.A Initial Submission of Proposed Identified Individuals

~~(S//NF)~~ This section governs proposals for the United States to target terrorists with lethal force. The head of each operating agency may submit to the NSC staff for the President's approval names of non-U.S. person individuals that the operating agency proposes to target with lethal force. The first such submissions under this policy may occur simultaneously with the submission of a country plan, and subsequent submissions can occur at any time. Any such proposal must be subject to legal review in accordance with the procedures in Section 5.

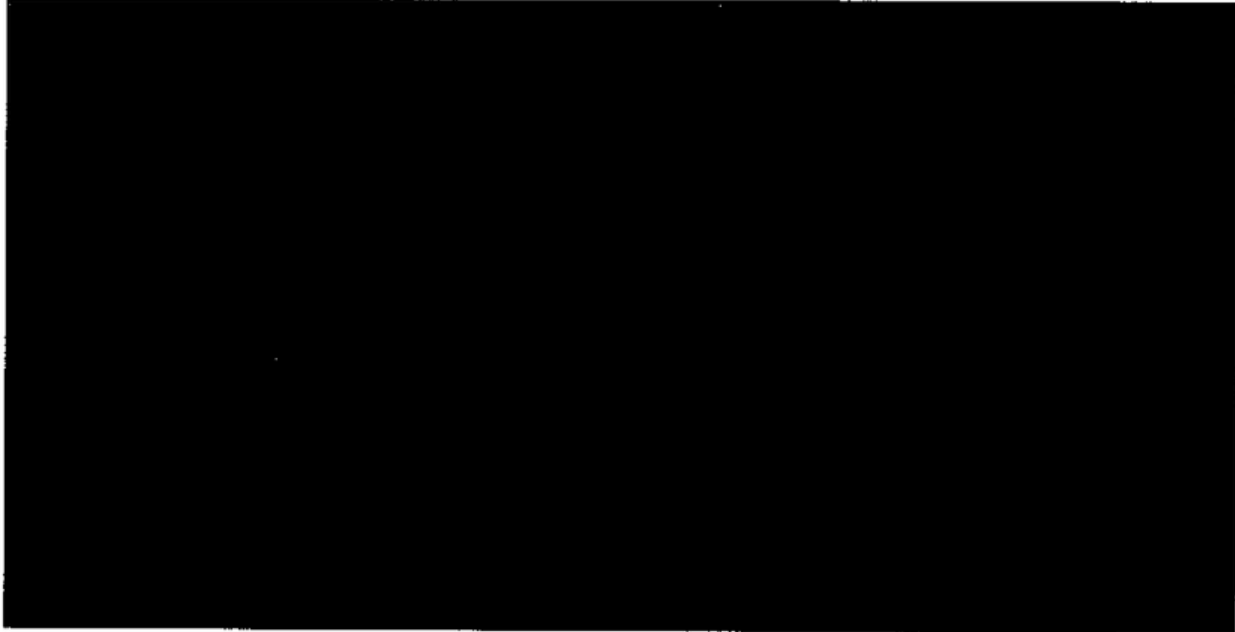
~~(S//NF)~~ 3.B Policy Criteria

~~(S//NF)~~ Identified individuals may be targeted with lethal force only when the Government has determined that the individual lawfully may be made the object of lethal force. Additionally, under the policy, the President will approve a named individual as a target for lethal force under this Section only if the individual meets two additional criteria. First, the individual must be a lawfully targetable member of a terrorist group. Second, the individual must, pose a continuing, imminent threat to U.S. persons.

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~~(S//NF)~~ 3.C Departments and Agencies' Review Process

~~(S//NF)~~ To inform the President's decision, the R-CSG will review proposed identified individual targets submitted by operating agencies for approval. Such proposals shall include the operating agency's assessment of why the proposed individual targets meet the policy criteria laid out in Section 3.B.

~~(S//NF)~~ To inform the R-CSG review, NCTC will prepare an intelligence assessment of each proposed target that addresses whether the target meets the policy criteria above. These assessments, which NCTC shall coordinate with the IC, will include a description

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~~(S//NF)~~ Informed by the NCTC-drafted, IC-coordinated assessment, the R-CSG will then review the individuals submitted by the operating agencies.

~~(S//NF)~~ Separately, as described in Section 5, the relevant operating agency's General Counsel will refer his or her legal conclusions related to the proposed identified individuals to the NSC Legal Advisor. The NSC Legal Advisor will consult with attorneys from DOJ, State, DOD, CIA, and ODNI.

~~(S//NF)~~ After R-CSG and interagency legal consideration of the set of individuals proposed to be targeted with lethal force, the view(s) of the R-CSG will be presented to the Deputies Committee for consideration alongside relevant legal conclusions. Deputies will consider whether they can conclude with confidence that each individual meets the criteria described above; whether eliminating the threat posed by the individual will materially contribute to a reduction in the threat posed by the group.

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[REDACTED]; the implications for the broader regional and international security interests of the United States if the threat posed by individual were eliminated;

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[REDACTED]; and whether there are other policy or operational considerations to address.

~~(S//NF)~~ Informed by the Deputies Committee review and any additional input from the Counsel to the President, the APNSA, PDNSA, and APHSA will choose whether to seek Principals' review of the proposed individuals to be targeted with lethal force or to submit the individuals to the President for decision without seeking review by Principals. Following the President's review and decision, the NSC staff will inform the operating agencies of the President's decision. Unless otherwise directed by the President, the President's approval of named individuals to be targeted with lethal force is valid until completion of the next annual review as described in subsection 3.D. During the period of approval, any operating agency may use force against any approved named individual.

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[REDACTED] if the agency can do so consistent with its Presidentially-approved country plan and the legal authorities applicable to its operations. Individuals who [REDACTED] no longer meet these criteria should be nominated by the original nominating agency for removal. Other R-CSG members may also nominate individuals for removal at any time. Nominations for

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removals will follow the same process outlined above to include approval by the President.

(B)(1) ~~(S//NF)~~ The NSC staff will maintain [REDACTED] approved named individuals whom operating agencies may target with lethal force and will update [REDACTED] as necessary to reflect decisions by the President to add or remove individuals. The NSC staff will disseminate [REDACTED] to the heads of departments and agencies represented in the R-CSG.




~~(S//NF)~~ Operating agencies may provide targeting proposals to the NSC staff during the annual review described in subsection 3.D or at any other time for review and presentation to the President via the process described above.

~~(S//NF)~~ 3.D Annual Review


(B)(1) ~~(S//NF)~~ Annually, the NSC staff will organize a review [REDACTED] of named individuals approved by the President for targeting with lethal force, along with any newly proposed individuals. For that review, operating agencies will be required to confirm whether targets [REDACTED] that they had originally proposed should remain [REDACTED] or be removed because the targets no longer meet the relevant criteria. NCTC will then draft IC-coordinated assessments on any individuals the operating agencies decide should remain [REDACTED]. During that review, R-CSG members, informed by the NCTC-drafted IC-coordinated assessments, will make a recommendation to Deputies whether [REDACTED] should be affirmed or if any named individuals should be removed because they no longer meet the above criteria. Recommendations stemming from the annual review may be reviewed by the Principals, at the APNSA's discretion, or presented to the President for decision regarding which approvals should continue in effect without first seeking review by Principals.

~~(S//NF)~~ 3.E Targeting Criteria

~~(S//NF)~~ All operations targeting identified individuals with lethal force must meet the following targeting criteria, absent a variance described in Section 4 below:

1. An assessment by the operating agency that capture is not feasible¹ prior to use of lethal force;
2. Near certainty that the individual is a member   of a terrorist group included in an approved country plan;
3.  the individual being targeted is an approved target; and
4. Near certainty that non-combatants will not be injured or killed in the operation.

~~(S//NF)~~ Section 4: Variance Process

~~(S//NF)~~ A variance is required for any proposed use of force operation (not including captures) against a target other than an identified individual approved through the Section 3 process or when the targeting criteria set forth in Section 3 cannot be met. Variances may be approved in advance within country plans by the President or through this Section. If the head of an operating agency requests approval of a variance that is not already reflected in the relevant, approved country plan, the NSC staff will convene a separate policy process, including review by the R-CSG, to review the requested variance and make appropriate recommendations to the President. 

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[REDACTED] These proposals will be presented to the President on a case-by-case basis. These proposals must include a statement from the operating agency explaining why the use of force is lawful and necessary to achieve U.S. policy objectives. The President will approve these proposals only when it can be reasonably determined that successfully carrying out the operation would materially contribute to a reduction in the threat the group poses to U.S. persons and facilities.

~~(S//NF)~~ To inform the R-CSG, NCTC will prepare an assessment of the proposed target other than an identified individual, seeking input from and coordinating with the IC. Following R-CSG review, the NSC staff will submit proposals to the Deputies Committee for consideration and, as warranted, the Principals Committee before presentation to the President.

~~(S//NF)~~ All such variances must be subject to legal review in accordance with the procedures in Section 5. In all cases, any proposed variance must propose an operation that is in full compliance with applicable domestic and international law.

(U) Section 5: Legal Review of Targets of Lethal Force Operations

(U) In addition to the legal review of country plans described in Section 1, all proposals under this PPM for the President's approval to target identified individuals with lethal force or to conduct operations against targets other than identified individuals must undergo a legal review by the General Counsel of the proposing agency to ensure that the action contemplated may be conducted in accordance with applicable domestic and international law. The General Counsel's conclusions shall be referred to the NSC Legal Advisor. The NSC Legal Advisor and the General Counsel of the nominating agency must consult with DOJ with respect to all targeting proposals under this PPM. The NSC Legal Advisor and the General Counsel of the agency proposing the target will also consult with attorneys from the State, DOD, the CIA, and the ODNI, unless exigent circumstances preclude such consultation. The NSC Legal Advisor will submit the relevant legal conclusions to Deputies to inform their consideration. As noted in section 3.C, the Counsel to the President may provide input to APNSA, PDNSA, and APHSA as they decide whether to seek Principals' review of proposed individuals to be targeted with lethal force or to submit the individuals directly to the President for decision.

~~(S//NF)~~ Section 6: Operations Targeting U.S. Persons

~~(S//NF)~~ Proposals to target U.S. persons may only be approved through the variance process described in Section 4. Further, in addition to the legal review of country plans and of specific targets described in Sections 1 and 5 respectively, if an agency proposes to use lethal force specifically targeting an identified U.S. person or where it is reasonably foreseeable that the proposed operation will result in the death or injury of an identified U.S. person, DOJ must conduct a legal analysis to ensure that the relevant agency may use lethal force, consistent with the Constitution and laws of the United States. The NSC Legal Advisor will coordinate that DOJ review and submit the relevant DOJ legal conclusions to Deputies to inform their consideration.

~~(S//NF)~~ Section 7: Exigent Circumstances

~~(S//NF)~~ If an operating agency head determines that there is an exigent circumstance that requires immediate action beyond what the President has approved [REDACTED]

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[REDACTED] the agency head should raise the matter with the APNSA, the PDNSA, or the APHSA for expedited review by the President. [REDACTED]

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~~(S//NF)~~ Section 8: Concurrent Notification and After-Action Reporting Requirements

~~(S//NF)~~ Unless otherwise specified in a country plan, operating agencies are required to submit concurrent notification that an operation has been carried out pursuant to this policy to the APNSA, the PDNSA, the APHSA, the Deputy Homeland Security Advisor, and the Senior Director for Counterterrorism. A notification to the White House Situation Room (WHSR) and confirmation of receipt by WHSR are sufficient to meet this concurrent notification requirement; WHSR will route the

notification internally to the foregoing officials. Operating agencies must submit a preliminary after-action report to the NSC staff within 48 hours after an operation and a formal report within seven days after the operation. The preliminary and formal reports should contain information about the target; the location of the operation; an assessment of the number and identities of the individuals captured, injured, or killed; the impact on any infrastructure; and any potential civilian casualties.

~~(S//NF)~~ Section 9: Congressional Notification

~~(S//NF)~~ The agency approved to carry out such actions is responsible for preparing and promptly providing a congressional notification to the House and Senate Leadership, and Chairman and Ranking Member of its primary committees of jurisdiction when:

1. A new country plan is approved;
2. Substantive amendments are made to a country plan, [REDACTED]
[REDACTED]; or
3. An operation has been conducted.

~~(S//NF)~~ In addition, the relevant operating agency shall provide to House and Senate Leadership, as well as to Chairmen and Ranking Members of its primary committees of jurisdiction, the results of the annual review of individuals approved for lethal action. Each agency required to submit congressional notifications under this Section will inform the NSC staff of how it intends to comply with this requirement prior to providing any such notifications to Congress.

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(U) Annex A

(U) Definitions

~~(S//NF)~~ Assessed capability is defined as a terrorist group's or individual's ability to carry out an attack against U.S. persons or interests. Terrorist groups or individuals with an assessed capability have some capacity and/or expertise to follow through with potential operations.

~~(S//NF)~~ Non-combatants are defined as individuals who may not be made the object of attack under the law of armed conflict. The term "non-combatant" does not include an individual who is taking a direct part in hostilities or an individual who is targetable in the exercise of national self-defense.

~~(S//NF)~~ Near certainty

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~~(S//NF)~~ Restricted Counterterrorism Security Group (R-CSG):
The R-CSG shall be chaired by the Senior Director for Counterterrorism and shall include the following departments and agencies: State, DOD, DOJ, [REDACTED], CIA, the Joint Chiefs of Staff, the [REDACTED], and NCTC.

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