

March 5, 2013

Eric Holder: Drone Strike To Kill U.S. Citizen On American Soil Legal, Hypothetically

Posted: 03/05/2013 5:11 pm EST | Updated: 03/05/2013 7:18 pm EST



U.S. Attorney General Eric Holder answers questions following a speech at the University of Massachusetts School of Law in Dartmouth, Mass., Friday, March 1, 2013. (AP Photo/Stew Milne)

WASHINGTON -- The Obama administration believes it could technically use military force to kill an American on U.S. soil in an "extraordinary circumstance" but has "no intention of doing so," U.S. Attorney General Eric Holder said in a letter disclosed Tuesday.

[Holder's March 4 letter](#) was disclosed by Sen. Rand Paul (R-Ky.), who had [asked](#) whether the Justice Department believed President Barack Obama had the legal authority to order a targeted strike against an American citizen located within the United States.

The Obama administration, Holder said, rejected the use of military force where "well-established law enforcement authorities in this country provide the best means for incapacitating a terrorist threat." But in theory, it'd be legal for the president to order such an attack under certain circumstances, Holder said.

"The question you have posed is therefore entirely hypothetical, unlikely to occur, and one we hope no president will ever have to confront. It is possible, I suppose, to imagine an extraordinary circumstance in which it would be necessary and appropriate under the Constitution and applicable laws of the United States for the President to authorize the military to use lethal force within the territory of the United States," Holder wrote.

"For example, the president could conceivably have no choice but to authorize the military to use such force if necessary to protect the homeland in the circumstances like a catastrophic attack like the ones suffered on December 7, 1941, and September 11, 2001," Holder continued, referring to the Japanese attack on Pearl Harbor and the terrorist attacks on the World Trade Center and Pentagon. Holder said he would "examine the particular facts and circumstances" if such an emergency were to arise.

Paul, who had threatened to filibuster the nomination of John Brennan as CIA director over secrecy about the U.S. drone program, said in a statement that Holder's "refusal to rule out the possibility of drone strikes on American citizens and on American soil is more than frightening -- it is an affront the Constitutional due process rights of all Americans." Holder's letter was [first reported](#) by Adam Serwer of Mother Jones.

Holder is scheduled to appear before the Senate Judiciary Committee for a Justice Department oversight hearing on Wednesday morning. Earlier in the day, members of the Senate Intelligence Committee [said](#) the administration had agreed to allow members of the committee to see all of the Office of Legal Counsel memos relating to the targeted killing of American citizens.