



**Hon. Pedro R. Pierluisi**  
**Questions as Prepared for Delivery**  
**Hearing on “Drones and the War on Terror: When Can the U.S. Target Alleged American Terrorists Overseas?”**  
**House Committee on the Judiciary**  
*February 27, 2013*

Thank you, Mr. Chairman.

I want to thank the witnesses for their testimony, especially their written submissions, which I found very illuminating. I have a few questions based on that testimony.

**Question 1**

Mr. Wittes: You state in your written testimony that the Obama Administration has actually asserted a “very limited” targeting authority with respect to American citizens. My first question for each of the witnesses on the panel is this: Do you believe that the Obama Administration—consistent with Article II of the Constitution—could have asserted a broader targeting authority? If your answer is yes, in what respects? For example, do you believe the Constitution—explicitly or implicitly—authorizes the President of the United States to target a U.S. citizen overseas outside of the context of a war authorized by Congress? Or where the target has committed terrorist acts in the past, and where there are some signs that he may commit terrorist acts again in the future, but where he does not pose a threat that can fairly be described as

“imminent”? Or where his capture is feasible, but could pose a meaningful risk to the individuals who would be attempting the capture, whether they are military forces or law enforcement personnel? Or where the target is a rank-and-file member of Al Qaeda, but not a senior operational leader? Basically, I am interested in understanding whether you believe the Administration has gone to the outer limits of its Article II powers and, if not, in what specific ways it has not.

### **Question 2**

I am interested in your understanding of the meaning of the term “associated forces.” Let’s assume that Al-Shabaab, an Al Qaeda affiliate in Somalia, announces that—while it will continue its armed struggle against U.S. and western interests—it is breaking all ties with Al-Qaeda because of differences over strategy and tactics. So we would be left with a very dangerous terrorist organization, but not one that is associated or affiliated with Al-Qaeda. Would that make a difference in whether the U.S. government could target a U.S. citizen who is a senior operational leader of Al Shabaab? Under the Obama Administration’s formulation, does the link with Al Qaeda have to exist in order for the targeting to be lawful?

### **Question 3**

Finally, am I correct in my understanding that the Obama Administration’s test would apply regardless of whether the weapon used is a drone or, say, an F-16 or an attack helicopter? Is the test the same regardless of the weapon, or is this test somehow unique to drones?