



American ideals. Universal values.

March 7, 2018

President Donald J. Trump
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear President Trump:

I write to urge you to provide Congress and the American people with as much information as possible regarding the laws, policies, and practices guiding the use of military force by the United States and the impact of U.S. operations on civilians. Your administration has an opportunity to demonstrate its commitment to transparency and to enhance the legitimacy of U.S. operations by providing thorough responses to the congressional reports required by Fiscal Year 2018 National Defense Authorization Act (FY 2018 NDAA). Going beyond those legal requirements by releasing the reports to the public and including additional key information would further bolster the legitimacy of the U.S. counterterrorism mission.

Robust transparency is in the national security interest of the United States. Transparency enhances the legitimacy of U.S. actions by enabling the United States to broadcast successes; restore credibility when mistakes occur; and correct erroneous allegations of civilian casualties that fuel enemy propaganda and recruitment, and can turn allies, partners, and local populations against the United States. When the legal basis or governing policies for military operations are kept secret, many assume the worst about U.S. actions. This lack of clarity can feed into the propaganda of nefarious actors and cause complications when partnering with allies.

Section 1264 of the FY 2018 NDAA requires disclosure of the legal and policy frameworks for the United States' use of military force and related national security operations to Congress within 90 days of enactment. The executive branch previously provided this information to the public in December of 2016 in a "Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations." Section 1264 requires the executive branch to issue an updated version of this report to Congress; to report any changes made during this administration to the frameworks as interpreted and described in the 2016 report; and to explain the reasons for those changes by including "the legal, factual, and policy justifications for any changes made to such legal and policy frameworks during the period beginning on January 20, 2017, and ending on the date the report is submitted." Section 1264 also requires the President to report any subsequent changes in law or policy to Congress within 30 days of the change.

To comply with Section 1264, the updated report should reflect a similar breadth and depth of information as the 2016 report and include thorough explanations of any changes made since the 2016 report. The report must be in unclassified form but may include a classified annex. To the greatest extent possible consistent with national security, the information in this report should not be classified. The 2016 framework report was prepared in unclassified form and released to the public. Your administration's update should not only be provided to Congress in unclassified form as required by Section 1264, but should be released to the public as well.

Relatedly, Section 1057 of the FY 2018 NDAA requires the Secretary of Defense to provide an annual unclassified report to the congressional defense committees on civilian casualties caused by U.S. military operations during the preceding year. The Section 1057 report must include data on strikes in which civilian harm may have resulted; a description of the process by which the Department of Defense investigates allegations of civilian casualties; and a description of the steps taken by the Department to mitigate harm to civilians. In compiling this information, the Department must take into account relevant and credible all-source reporting from public reports and nongovernmental sources when determining whether civilians have been harmed by U.S. military operations. Your administration should provide additional details about the impact of U.S. operations on civilians, and should provide this information not just to Congress but to the American people as well.

I have attached for your consideration more detailed recommendations for what information should be provided to Congress and the public to fulfill these congressionally-mandated reporting requirements. Please do not hesitate to reach out if I can be of further assistance.

Sincerely,



Elisa Massimino
President and CEO

Cc: Lt. Gen. H.R. McMaster, National Security Advisor
The Honorable Jim Mattis, Secretary of Defense
The Honorable Rex Tillerson, Secretary of State
The Honorable Mike Pompeo, Director of the Central Intelligence Agency

Enclosed: Recommendations for fulfilling congressionally-mandated reporting requirements