

JAMEEL JAFFER
DEPUTY LEGAL DIRECTOR



February 12, 2014

BY ECF

Hon. Catherine O'Hagan Wolfe
Clerk of the Court
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
NATIONAL OFFICE
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Re: *N.Y. Times Co. v. DOJ*
Nos. 13-422 (Lead) & 13-445 (Con.)

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

Dear Ms. Wolfe:

Pursuant to Fed. R. App. P. 28(j), Plaintiffs—Appellants American Civil Liberties Union and American Civil Liberties Union Foundation (together, “ACLU”) hereby call to the Court’s attention the following exchange between Director of National Intelligence James R. Clapper and Senator Bill Nelson at a February 11, 2014 hearing of the Senate Armed Services Committee, during which Mr. Clapper acknowledged the Central Intelligence Agency’s “use of drones.”

Sen. Nelson: It is—you tell me if this is correct—the administration’s policy that they are exploring shifting the use of drones, unmanned aerial vehicle strikes, from the CIA to the DOD. Is that an accurate statement?

Mr. Clapper: Yes, sir, it is. . . .

Siobhan Gorman, *CIA's Drones, Barely Secret, Receive Rare Public Nod*, Wall St. J. Washington Wire Blog (Feb. 11, 2014, 4:19 PM), <http://on.wsj.com/1aUUN53>; see also *Current and Worldwide Threats: Open Hearing Before the S. Armed Servs. Comm.* at 2:21:50–2:22:23, 113th Cong. (2014), <http://1.usa.gov/1aUVL1k>.*

DNI Clapper's official acknowledgment that the CIA has an operational involvement in the government's targeted-killing program is the latest in a series of similar acknowledgments. See ACLU Br. 13–17, 38–39 (ECF No. 75); Letter from ACLU to Hon. Catherine O'Hagan Wolfe, Clerk of the Court, at 3–4 (Oct. 18, 2013) (ECF No. 147).

Respectfully submitted,

By: /s/ Jameel Jaffer
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* After answering Senator Nelson's question, Mr. Clapper stated that additional discussion of the topic would "be best left to a closed session."

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cc: Defendants—Appellees (via ECF)