United States Senate
WASHINGTON, DC 20510

October 29, 2025

The Honorable Pam Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Attorney General Bondi:

We request that the Department of Justice provide a copy of and brief the Senate Judiciary Committee on any and all legal opinions assessing the legality of military actions ordered by the President that have already killed 57 individuals in the Caribbean Sea and Pacific Ocean.

Summarily killing criminal suspects is prohibited under domestic and international law in both peacetime and wartime.

These recent strikes raise numerous questions about whether the Department provided adequate legal guidance to those involved in ordering, planning, and carrying out the killings. In accordance with the Committee's constitutional oversight responsibilities, we ask that Committee members and staff be briefed on and afforded the opportunity to review any legal analysis produced by your Department.

Between September 2 and October 28, U.S. military forces have struck 14 vessels in the Caribbean Sea and Pacific Ocean, killing a total of 57 individuals on board, leaving only three survivors.[1] On October 18, President Trump announced two of the survivors will be returned to their home countries of Colombia and Ecuador "for detention and prosecution," though both countries have since declined to prosecute.[2] The individuals killed have been described by President Trump, and other members of the administration, as "narcoterrorists" who were transporting illegal narcotics headed towards the United States. It was later publicly reported that at least one vessel had changed direction away from the United States prior to the strike;[3] the President of Colombia has accused the United States of murdering a fisherman from that country.[4]

Furthermore, on October 2, the administration provided Congress with a notice that declares the United States is in an "armed conflict" with suspected drug traffickers whom the administration

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1 *U.S. Military Kills 14 More People Accused of Smuggling Drugs on Boats*, New York Times, Oct. 28, 2025, (online at https://www.nytimes.com/2025/10/28/us/politics/us-military-boat-strikes.html).

2 *U.S. Is Repatriating Survivors of Its Strike on Suspected Drug Vessel*, New York Times, Oct. 18, 2025, (online at https://www.nytimes.com/2025/10/18/us/politics/boat-strike-survivors.html).

3 *Boat Suspected of Smuggling Drugs Is Said to Have Turned Before U.S. Attacked It*, New York Times, Sep. 10, 2025, (online at https://www.nytimes.com/2025/09/10/us/trump-drug-boat-venezuela-strike.html).

4 *Supra* note 2.

has deemed to be "unlawful combatants.".[5] Additionally, on October 15, public reporting indicated that President Trump had secretly authorized the Central Intelligence Agency to conduct covert action in Venezuela.[6]

On the eve of the Senate Judiciary Committee Department of Justice oversight hearing this month, it was reported for the first time that the Department's Office of Legal Counsel (OLC) produced a classified opinion that justifies these strikes.[7] While you refused to discuss the Department's opinion or the legal justification for these killings at the hearing, in another hearing the nominee for General Counsel of the Army confirmed the reports of an OLC opinion on the strikes. [8]

According to public reporting, the Office of Legal Counsel opinion "appears to justify an open-ended war against a secret list of groups, giving the president power to designate drug traffickers as enemy combatants and have them summarily killed without legal review."[9] In other words, according to this opinion, the President can accuse someone of being a criminal, or affiliated with a group of criminals, and based on that accusation alone grant himself the power to be judge, jury, and executioner. Moreover, President Trump and Defense Secretary Pete Hegseth, have insisted that lethal strikes on suspected drug traffickers are "legal"[10] and that the military has received "every authorization needed"[11] to carry out these attacks.

The statutorily-required War Powers notification provided by the administration to Congress on September 4 does not include a legal basis for the strikes other than vague references to the President's Article II powers.[12] Pursuant to Article I, Section 8, Clause 11 of the United States Constitution, Congress has the sole power to declare war. Congress has not declared war or enacted a specific statutory authorization for use of force against Venezuela, Tren de Aragua, or any alleged "narcoterrorist" organizations in the Western Hemisphere. While the President has some authority to use limited military force without Congressional authorization under Article

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5 *Trump 'Determined' the U.S. Is Now in a War With Drug Cartels, Congress Is Told*, New York Times, Oct. 2, 2025, (online at https://www.nytimes.com/2025/10/02/us/politics/trump-drug-cartels-war.html).

6 *Trump Administration Authorizes Covert C.I.A. Action in Venezuela,* New York Times, Oct. 15, 2015, (online at https://www.nytimes.com/2025/10/15/us/politics/trump-covert-cia-action-venezuela.html).

7 *Exclusive: Classified Justice Department Opinion Authorizes Strikes on Secret List of Cartels, Sources Say*, CNN, Oct. 6, 2025, (online at https://www.cnn.com/2025/10/06/politics/classified-justice-department-memo-cartel-strikes).

8 *Id.*

9 *Id.*

10 *US Strikes Two More Alleged Drug-Carrying Boats, This Time in the Pacific Ocean*, Associated Press, Oct. 23, 2025, (online at https://apnews.com/article/trump-cartels-drug-boat-strike-ffb1b720fa018336316238463924b78a).

11 *Hegseth says he has every authorization needed for Caribbean strikes*, Reuters, Oct. 5, 2025, (online at https://www.reuters.com/world/us/hegseth-says-he-has-every-authorization-needed-caribbean-strikes-2025-10-05/).

12 *See* Letter from President Donald Trump to Sen. Charles Grassley, President pro tempore (Sep. 4, 2025) (online at https://www.documentcloud.org/documents/26084994-sept4warpowers/).

II,[13] neither that authority nor a Congressional authorization of military force provides a basis to conduct killings of civilians, including those suspected or accused of criminal activity.

Based upon the reported facts, it appears the strikes may violate 18 U.S.C. § 1111, which makes it a felony to commit murder within the special maritime and territorial jurisdiction of the United States, which includes the high seas.[14] The strikes appear to also violate § 2.11 of Executive Order 12333, which states that "[n]o person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination."[15]

The strikes also may have violated the United States Code of Military Justice (UCMJ). In particular, Article 118 of the UCMJ, codified in 10 U.S.C. § 918, prohibits the premeditated and unlawful killing of a human being. However, failure to obey lawful orders is also a crime under the UCMJ,[16] putting our service members in the impossible position of risking criminal prosecution for carrying out an unlawful order to kill civilians or risking prosecution for disobeying superior orders.

In addition to the above legal prohibitions, the strikes also appear to have violated binding peremptory norms of customary international law and treaties to which the United States is a party.[17] These laws strictly prohibit the use of lethal force by government officials other than when lethal force is strictly necessary to protect against an imminent threat to life or threat of serious bodily harm.[18] Such force is unnecessary where other means, such as interdiction or arrest, are available to protect against the imminent threat. Based on the administration's own

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13 Marty Lederman, *The Many Ways in Which the September 2 Caribbean Strike was Unlawful … and the Grave Line the Military Has Crossed*, Just Security, Sep. 10, 2025 (online at https://www.justsecurity.org/120296/many-ways-caribbean-strike-unlawful/).

14 *See also* 18 U.S.C. § 956(a)(1) (outlawing a conspiracy to kill persons within the "special maritime and territorial jurisdiction of the United States . . . if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy").

15 Exec. Order No. 12333, 46 Fed. Reg. 59942 (Dec. 4, 1981).

16 10 U.S.C. § 892 (prohibiting service members from willfully disobeying a lawful order or regulation or failing to perform their duties).

17 International Covenant on Civil and Political Rights, Art. 6, Dec. 16, 1966, TIAS 92-908, 999 U.N.T.S. 171; United Nations Human Rights Committee, General comment No. 36 on article 6: right to life, U.N. Doc. CCPR/C/GC/36 (Sep. 3, 2019); *see also* Ben Saul, *The United States' Dirty War on "Narco Terrorism,"* JUST SECURITY, Sep. 22, 2025, (online at https://www.justsecurity.org/121115/united-states-dirty-war-narcoterrorism/); Brian Finucane, *Legal Issues Raised by a Lethal U.S. Military Attack in the Caribbean*, JUST SECURITY, Sep. 3, 2025, (online at https://www.justsecurity.org/119982/legal-issues-military-attack-carribean); Annie Shiel et. al., *Murder by Drone: The Legal and Moral Stakes of the Caribbean Strikes*, JUST SECURITY, Sep. 17, 2025, (online at https://www.justsecurity.org/120794/legal-moral-stakes-caribbean-strike/); Ryan Goodman, *Human Rights Law and U.S. Military Operations in Foreign Countries: The Prohibition on Arbitrary Deprivation of Life*, JUST SECURITY, Feb. 19, 2019, (online at https://www.justsecurity.org/62630/international-human-rights-law-u-s-military-operations-foreign-countries-prohibition-arbitrary-deprivation-life/).

18 United Nations Human Rights Committee, General comment No. 36 on article 6: right to life, Para. 12, U.N. Doc. CCPR/C/GC/36 (Sep. 3, 2019); *see also* Ben Saul, *The United States' Dirty War on "Narco Terrorism,"* JUST SECURITY, Sep. 22, 2025, (online at https://www.justsecurity.org/121115/united-states-dirty-war-narcoterrorism/).

statements and public reporting, arrest or interdiction appear to have been readily available options had there in fact been any imminent threat.[19]

The only other circumstances in which lethal force may be used is with respect to the lawful targeting of combatants or lawful collateral harm to civilians in the context of an armed conflict. However, no facts have been presented suggesting that an armed conflict exists or that these killings were permissible under the law of armed conflict, which prohibits the intentional killing of civilians. Such violations of the law of armed conflict are considered grave breaches of the Geneva Conventions[20] and are prohibited under domestic law as war crimes by the War Crimes Act.[21]

U.S. officials and members of Congress from both parties have long condemned extrajudicial killings, included of alleged drug traffickers. For instance, five years ago now-Secretary of State and then-Senator Marco Rubio introduced a bipartisan resolution that condemned, in part, the extrajudicial killings of alleged criminals by the Duterte government in his "war on drugs" in the Philippines.[22] Last year, Senator Lindsey Graham and then-Senator Rubio introduced a bipartisan resolution condemning the Maduro regime in Venezuela for the use of extrajudicial killings.[23]

Drug trafficking is a terrible crime that has had devastating impacts on American families and communities and should be prosecuted. Nonetheless, the President's actions to hold alleged drug traffickers accountable must still conform with the law.

Your Department has taken counterproductive steps to undermine our efforts to stem the drug epidemic. For example, you have diverted thousands of Drug Enforcement Administration and other federal law-enforcement agents from their critical missions to carry out the President's immigration agenda. You inexplicably shut down the Organized Crime and Drug Enforcement Task Force, which has dismantled thousands of criminal organizations. You have unilaterally terminated hundreds of grants that provide critical funding to state and local law enforcement. The Administration's Fiscal Year 2026 Budget would slash the High Intensity Drug Trafficking Areas program by more than a third, from about $298 million to $196 million. Not surprisingly, on your watch federal drug prosecutions have dropped to the lowest level in decades.

Given the gravity of the President's claimed authority to lethally target alleged criminals he claims to be at war with, we request that you schedule a briefing prior to **November 3, 2025,** for members and staff of the Senate Judiciary Committee on the Department's legal analysis of these

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19 Not only has the administration presented no facts demonstrating an imminent threat to life, but Secretary Rubio has also stated that the administration could have interdicted the first vessel but chose instead to "send a message." John Hudson, Samantha Schmidt and Alex Horton, *Trump ordered strike on suspected drug boat to send a message, Rubio says*, WASHINGTON POST, Sep. 3, 2025, (online at https://www.washingtonpost.com/world/2025/09/03/us-strikes-venezuela-alleged-drug-boat/).

20 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Art. 50, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31.

21 18 U.S.C § 2441 (criminalizing war crimes, "regardless of where the offense occurs," including "[t]he act of a person who intentionally kills, or conspires or attempts to kill").

22 S. Res. 142, 116th Cong. (2020).

23 S. Res. 741, 118th Cong. (2024).

strikes, which can be done in an appropriately classified setting. According to public reporting, a similar classified briefing has already taken place for members of the Senate Armed Services Committee.[24] Please also provide a copy of any opinions or other analysis conducted by the Justice Department prior to the requested briefing.

In addition, please answer the following questions by **November 7, 2025.**

1. What role did you, the Office of Legal Counsel, or any other component of the Department of Justice play in reviewing the legality of these killings either prior to or following the killings?
2. To which executive branch departments and/or agencies did you or anyone else in the Department provide formal or informal legal opinions, including any memos prepared by OLC on the legality of these strikes?
3. Were you or anyone else at the Department of Justice asked or directed to provide a legal justification for the killings by the President, Secretary of Defense, or anyone else?
4. Did the Department conduct an analysis of the risk of putting U.S. personnel in legal jeopardy, including under 18 U.S.C. § 1111, 10 U.S.C. § 918, and Executive Order 12333, prior to the action?
5. What steps has the Department taken or what analysis has the Department conducted, either prior to or since these killings, to assess whether any U.S. laws or provisions of international law applicable to the United States have been violated, including whether any violations of U.S. criminal law have occurred?
6. Do you know whether the Executive Branch took steps to verify whether or not the persons killed in the strike were United States citizens, and, if so, what additional legal protections were applicable?

Sincerely,

Peter Welch
United States Senator

Richard J. Durbin
United States Senator

Mazie K. Hirono
United States Senator

Richard Blumenthal
United States Senator

[24] Lauren Seligman, Alexander Ward and Siobhan Hughes, *Lawmakers From Both Sides Pressed Pentagon on Legal Basis for Drug Boat Strikes*, WALL STREET JOURNAL, Oct. 2, 2025, (online at https://tinyurl.com/hc9df4bn).

Amy Klobuchar
United States Senator

Adam B. Schiff
United States Senator

Alex Padilla
United States Senator

Christopher A. Coons
United States Senator

Sheldon Whitehouse
United States Senator

Cory A. Booker
United States Senator