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August 3, 2010, Washington, DC and New York – The Center for Constitutional Rights (CCR) and the American Civil Liberties Union today filed a lawsuit against the U.S. Treasury Department and the Office of Foreign Assets Control (OFAC) to challenge their refusal to grant a license that would allow the groups to file a lawsuit challenging the government's asserted authority to use lethal force against U.S. citizens located far from any battlefield without charge, trial, or judicial process of any kind.

In early July, CCR and the ACLU were retained by Nasser al-Aulaqi to bring a lawsuit in connection with the government's decision to authorize the targeted killing of his son, U.S. citizen Anwar al-Aulaqi, whom the CIA and Defense Department have targeted for death. On July 16, however, the Secretary of the Treasury labeled Anwar al-Aulaqi a "specially designated global terrorist," which makes it a crime for lawyers to provide representation for his benefit without first seeking a license from OFAC. CCR and the ACLU have sought a license, but the government has not yet issued one despite the urgency created by an outstanding execution order. CCR and the ACLU have not had contact with Anwar al-Aulaqi.

"The government is targeting an American citizen for death without any legal process whatsoever, while at the same time impeding lawyers from challenging that death sentence and the government's sweeping claim of authority to issue it. This is a dual blow to some of our most precious liberties, and such an alarming denial of rights in any one case endangers the rights of all Americans," said Anthony D. Romero, Executive Director of the ACLU. "Attorneys shouldn't have to ask the government for permission in order to challenge the constitutionality of the government's conduct."

The OFAC requirements generally make it illegal to provide any service, including legal representation, to or for the benefit of a designated individual. A lawyer who provides legal representation for the benefit of a designated person without getting special permission is subject to criminal and civil penalties. The ACLU and CCR charge that OFAC has exceeded its authority by subjecting uncompensated legal services to a licensing requirement, and that OFAC's regulations violate the First Amendment, the Fifth Amendment, and the principle of separation of powers. Today's lawsuit asks the court to invalidate the regulations and to make clear that lawyers can provide representation for the benefit of designated individuals without first seeking the government's consent.

The lawsuit that CCR and the ACLU seek to file would charge that the government has not disclosed the standards it uses for authorizing the premeditated and deliberate killing of U.S. citizens located far from any battlefield. The groups argue that the American people are entitled to know the standards being used for these life and death decisions.

“President Obama is claiming the power to act as judge, jury and executioner while suspending any semblance of due process,” said Vince Warren, Executive Director of CCR. “Yemen is nearly 2000 miles from Afghanistan or Iraq. The U.S. government is going outside the law to create an ever-larger global war zone and turn the whole world into a battlefield. Would we tolerate it if China or France secretly decided to execute their enemies inside the U.S.?” He added, “This sets a dangerous precedent for other countries that will only lead to more violence and further diminish the rule of law.”

While there are circumstances in which the government can legitimately use lethal force against civilians, the authority contemplated by senior Obama administration officials is far broader than what the Constitution and international law allow, the groups say. Under international human rights law, lethal force may be used outside of armed conflict only when there is an imminent threat of deadly attack and when lethal force is a last resort. A system in which names are added to a list through a secret bureaucratic process and stay there for months at a time does not appear to be limited to imminent threats or lethal force as a last resort.

Moreover, targeting individuals for execution who are suspected of crimes but have not been convicted -- without oversight, due process or disclosed standards for being placed on the kill list -- also poses the risk that the government will erroneously target the wrong people. Since the tragic events of 9/11, the U.S. government has detained many men as terrorists, only for courts or the government itself to discover later that the evidence was wrong or unreliable and release them.

The case was filed in the U.S. District Court for the District of Columbia. Attorneys on the case are, for CCR, Pardiss Kebriaei, Senior Attorney Maria LaHood and Legal Director Bill Quigley; for the ACLU, Deputy Legal Director Jameel Jaffer, Ben Wizner, Jonathan Manes and Legal Director Steven R. Shapiro; and for the ACLU of the Nation's Capital, Arthur B. Spitzer

For more information on the case, fact sheets and legal papers, visit www.aclu.org/ofac and [w](#)

www.ccrjustice.org/targetedkillings

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