

Congress of the United States
Washington, DC 20515

April 10, 2017

President Donald J. Trump
The White House
1600 Pennsylvania Ave, N.W.
Washington, DC 20500

CC: Attorney General Jeff Sessions

Dear Mr. President:

We write to express our serious concern over reports that your administration is actively considering “direct support for the anti-Houthi coalition” of militaries led by Saudi Arabia in Yemen. Administration officials are said to be weighing proposals to provide Saudi-led forces with “surveillance and intelligence, refueling, and operational planning assistance” against the Shia Houthis who control most of Yemen’s population centers. One administration official acknowledged that the removal of preexisting White House prohibitions on such assistance could be viewed as “a green light for direct involvement in a major war.”¹

Direct U.S. hostilities against Yemen’s Houthis would run counter to your pledge to pursue a “disciplined, deliberate and consistent foreign policy” that protects American families in “every decision.”² Indeed, according to U.S. defense officials, the U.S.-backed Saudi war against Houthis in Yemen has already “strengthened al Qaeda there” and poses “a serious threat to U.S. security.”³

We share the concerns of some of your advisers, who worry that direct support for the Saudi coalition’s war against Houthis “would take too many resources away from the counterterrorism fight against al-Qaeda in the Arabian Peninsula.”⁴ We are further troubled by news reports indicating that Al Qaeda in Yemen has “emerged as a *de facto* ally” of the Saudi-led militaries with whom your administration aims to partner more closely.⁵ According to press accounts, Al Qaeda in Yemen has fought against the Houthis on the same side as Saudi coalition forces in several battles near Taiz and al-Bayda, while also operating closely with Saudi-financed Islamist militias.⁶

¹ Karen DeYoung, Missy Ryan, “Trump administration weighs deeper involvement in Yemen war,” *Washington Post*, Mar. 26, 2017. https://www.washingtonpost.com/world/national-security/trump-administration-weighs-deeper-involvement-in-yemen-war/2017/03/26/b81eecd8-0e49-11e7-9d5a-a83e627dc120_story.html

² Ryan Teague Beckwith, “Read Donald Trump’s ‘America First’ Foreign Policy Speech,” *TIME*, Apr. 27, 2016. <http://time.com/4309786/read-donald-trumps-america-first-foreign-policy-speech/>

CNN Politics, “Inaugural address: Trump’s full speech,” CNN.com, Jan. 21, 2017. <http://www.cnn.com/2017/01/20/politics/trump-inaugural-address/>

³ Nancy A. Youssef, “The U.S.-Backed War in Yemen Is Strengthening al Qaeda,” *The Daily Beast*, Aug. 25, 2015. <http://www.thedailybeast.com/articles/2015/08/25/the-u-s-backed-war-in-yemen-is-strengthening-al-qaeda.html>

⁴ DeYoung, Ryan, “Trump administration,” *Washington Post*, Mar. 26, 2017.

⁵ Maggie Michael, Ahmed Al-Haj, “Pro-government tribal leader among dead in US raid in Yemen,” Associated Press, Feb. 16, 2017. <http://bigstory.ap.org/article/d927fc2962f44a6d8edf6a790b556bbc/pro-government-tribal-leader-among-dead-us-raid-yemen>

⁶ Maria Abi-Habib, Mohammed al-Kibsi, “Al Qaeda Helps Pro-Saudi Forces in Yemen,” *Wall Street Journal*, Jul. 17, 2015. http://topics.wsj.com/documents/print/WSJ_-A005-20150717.pdf

BBC, “Yemen conflict: Al-Qaeda seen at coalition battle for Taiz,” BBC, Feb. 22, 2016. <http://www.bbc.com/news/world-middle-east-35630194>

David B. Ottoway, “Saudi Arabia’s ‘Terrorist’ Allies in Yemen,” Viewpoints No. 81, Woodrow Wilson International Center for

Moreover, Congress has never authorized the actions under consideration. The 2001 Authorization for Use of Military Force (AUMF) sought and received by President George W. Bush, which has been interpreted to apply to Al Qaeda and associated forces, has never been cited by any government official as justification for U.S. involvement in military actions against Yemen's Houthis. The Houthis have never been "associated forces" to Al Qaeda; they are Zaydis, a branch of Shiite Islam, and strongly oppose the Sunni Al Qaeda, which promotes sectarian violence against Shia.

Engaging our military against Yemen's Houthis when no direct threat to the United States exists and without prior congressional authorization would violate the separation of powers clearly delineated in the Constitution. For this reason, we write to request that the Office of Legal Counsel (OLC) provide, without delay, any legal justification that it would cite if the administration intends to engage in direct hostilities against Yemen's Houthis without seeking congressional authorization.

As U.S. Representatives, we take seriously the right and responsibility of Congress to authorize the use of force, or to refuse to do so, as mandated by the Constitution and the 1973 War Powers Resolution. We expect that any direct military actions pursued by the administration against the Yemeni Houthis be brought before Congress for consideration and authorization for approval before they are executed.

In August 2013, when President Obama threatened to bomb Syrian government forces without congressional approval, a large, bipartisan group of U.S. Representatives objected. They urged the president "to consult and receive authorization from Congress," noting that the president's "responsibility to do so is prescribed in the Constitution and the War Powers Resolution of 1973."⁷ President Obama subsequently agreed to seek congressional authorization.

In light of the gravity of a potential U.S. military escalation in Yemen, we additionally seek the OLC's prompt legal opinions concerning:

- Defense Secretary James Mattis's proposal to aid the Saudi military coalition in seizing the Houthi-controlled Yemeni port of Hodeida.⁸ The current, Saudi-enforced blockade of Hodeidah—a main entry point for food, medicine and humanitarian aid—is pushing Yemen to the brink of famine. Over 50 members of Congress have urged Secretary of State Rex Tillerson to use "all U.S. *diplomatic tools*" to reopen the port, noting that nearly half a million Yemeni children are "nearing starvation."⁹ Saudi-led airstrikes have destroyed the Hodeidah province's roads and bridges, leaving "unexploded rockets" inside the port that further prevent vital aid shipments

Scholars, Aug. 2015. <https://www.wilsoncenter.org/publication/saudi-arabias-terrorist-allies-yemen>

Joshua Koontz, "The End of AQAP's Last Refuge in Yemen?" *The Cypher Brief*, Feb. 1, 2017.

<https://www.thecypherbrief.com/article/exclusive/middle-east/end-aqaps-last-refuge-yemen-1089>

Michael, Al-Haj, "Pro-government tribal leader," AP, Feb. 16, 2017.

⁷ Matt Fuller, "116 House Members Sign Syria letter to Obama," *Roll Call*, Aug. 28, 2013. <http://www.rollcall.com/news/policy/87-house-members-sign-syria-letter-to-obama>

Rep. Barbara Lee, "Congresswoman Lee Pens Syria Letter to White House, Calls for Congressional Debate," Aug. 29, 2013.

<http://lee.house.gov/news/press-releases/congresswoman-lee-pens-syria-letter-to-white-house-calls-for-congressional-debate>

⁸ DeYoung, Ryan, "Trump administration," *Washington Post*, Mar. 26, 2017.

⁹ "Reps Lieu & Conyers lead 52 member letter urging Tillerson to use diplomacy to reopen Yemen port," Mar. 13, 2017.

<https://lieu.house.gov/media-center/press-releases/rep-lieu-conyers-lead-52-member-letter-urging-tillerson-use-diplomacy>

from effectively reaching the more than 7.3 million Yemenis in need of urgent food assistance.¹⁰ In addition to the possibility that a U.S.-assisted operation to capture Hodeidah could worsen Yemen's humanitarian situation, U.S. involvement in such an action has never been justified to Congress.

- Your administration's "increased logistical support for the Saudi-led bombing campaign" against Houthis in recent days.¹¹ U.S. Senators Rand Paul and Chris Murphy have noted that the Obama administration never received congressional authorization for refueling and targeting assistance to Saudi coalition warplanes.¹² We wish to know your legal justification for continuing and expanding this policy in the absence of such authorization.
- The recent threat by your administration to intercept an Iranian ship in international waters "to look for contraband weapons possibly headed to Houthi fighters in Yemen." While Secretary Mattis was reported to have "ultimately decided to set the operation aside, at least for now," we wish to know how such an interdiction—an act of hostilities—would be legally justified despite having no prior congressional authorization.¹³

The United States has participated in Saudi-led airstrikes that have been blamed for most of Yemen's 10,000 civilian deaths, creating a security vacuum that Al Qaeda has exploited to expand its base of operations.¹⁴ We therefore urge you to terminate U.S. refueling for Saudi coalition warplanes and end, rather than increase, U.S. logistical assistance for the Saudi-led bombings in Yemen. At minimum, any decision by the administration to engage in direct U.S. hostilities against Yemen's Houthis must be subject to a congressional debate and vote, as the framers of the Constitution intended and the 1973 War Powers Resolution demands. As you know, the War Powers Resolution provides a mechanism for individual Members of Congress to force the question of congressional authorization if the administration is not forthcoming in seeking approval for a planned military action.

We await your prompt response regarding any legal rationale for U.S. participation in hostilities against Houthi forces in Yemen and whether your administration plans to seek approval from Congress. Your timely answer is appreciated as we explore how best to assert our constitutional role of oversight and authorization over such actions.

Sincerely,

¹⁰ Sudarsan Raghavan, "Hundreds of thousands of Yemeni children are nearing starvation," *The Washington Post*, Feb. 24, 2017. https://www.washingtonpost.com/world/middle_east/hundreds-of-thousands-of-yemeni-children-are-nearing-starvation/2017/02/23/f01ead8a-f850-11e6-aa1e-5f735ee31334_story.html

¹¹ Noah Browning, "Trump risks deeper entanglement in Yemen's murky war," *Reuters*, Feb. 7, 2017. <http://www.reuters.com/article/us-yemen-security-trump-idUSKBN15M1HP>

¹² Ted Barrett, "Senate rejects bid to block US-Saudi Arabia arms deal," *CNN*, Sep. 21, 2016. <http://www.cnn.com/2016/09/21/politics/senate-arms-sale-saudi-arabia/>

Jake Tapper, "U.S. weapons for Saudi atrocities?" *CNN*, Aug. 16, 2016. <http://www.cnn.com/videos/tv/2016/08/16/senator-chris-murphy-on-yemen-saudi-arabia-conflict-the-lead-jake-tapper-interview.cnn>

¹³ David E. Sanger, Eric Schmitt, Peter Baker, "Turmoil at the National Security Council, From the Top Down," *New York Times*, Feb. 12, 2017. <https://www.nytimes.com/2017/02/12/us/politics/national-security-council-turmoil.html>

¹⁴ Kareem Shaheen, "Yemen death toll has reached 10,000, UN says," *The Guardian*, Jan. 16, 2017. <https://www.theguardian.com/world/2017/jan/16/yemen-war-death-toll-has-reached-10000-un-says>

Yara Bayoumy, Noah Browning, Mohammed Ghobari, "How Saudi Arabia's war in Yemen has made al Qaeda stronger – and richer," *Reuters*, Apr. 8, 2016. <http://www.reuters.com/investigates/special-report/yemen-aqap/>



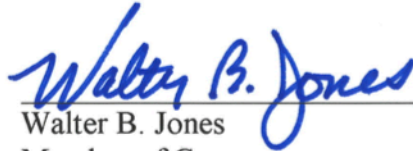
Mark Pocan
Member of Congress




Justin Amash
Member of Congress



Ted W. Lieu
Member of Congress



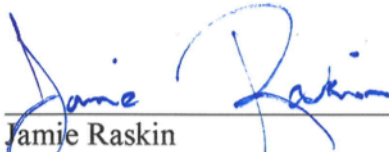
Walter B. Jones
Member of Congress



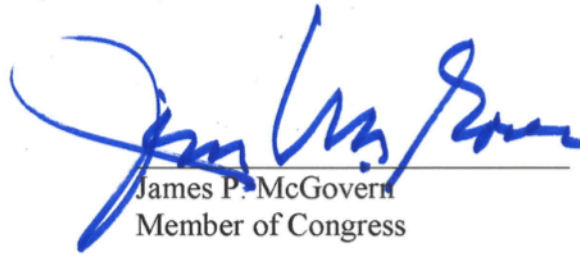
Barbara Lee
Member of Congress



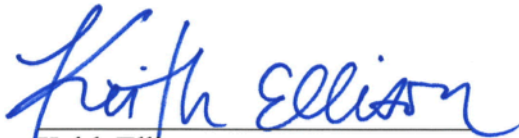
John Conyers, Jr.
Member of Congress




Jamie Raskin
Member of Congress



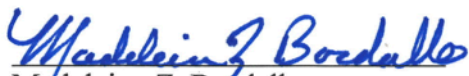
James P. McGovern
Member of Congress



Keith Ellison
Member of Congress



Michael E. Capuano
Member of Congress



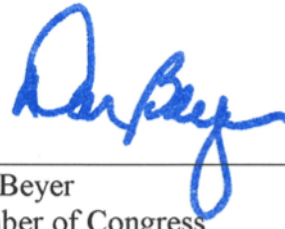
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Peter A. DeFazio
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Don Beyer
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Raúl M. Grijalva
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Jan Schakowsky
Member of Congress



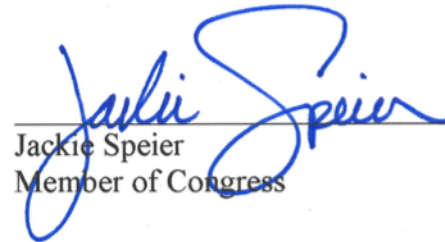
Dwight Evans
Member of Congress



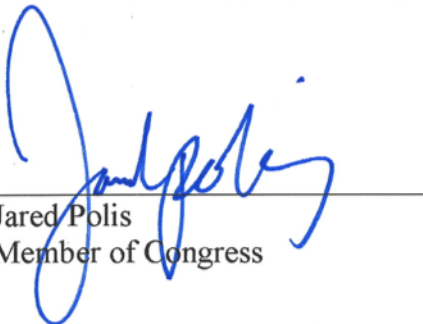
Earl Blumenauer
Member of Congress



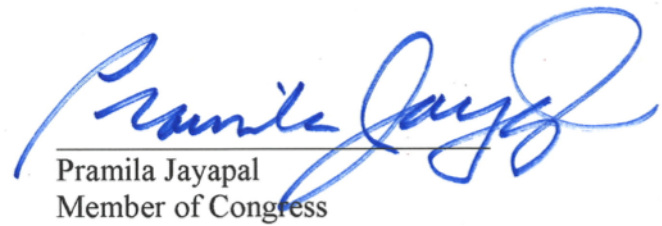
Bobby L. Rush
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Jackie Speier
Member of Congress



Jared Polis
Member of Congress



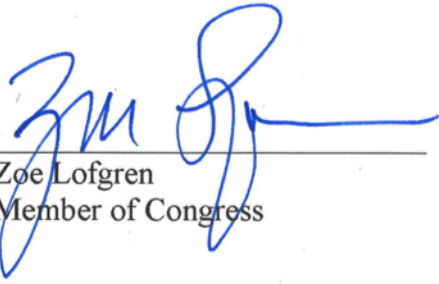
Pramila Jayapal
Member of Congress



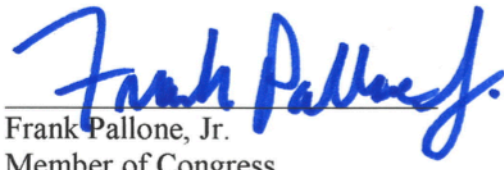
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Zoe Lofgren
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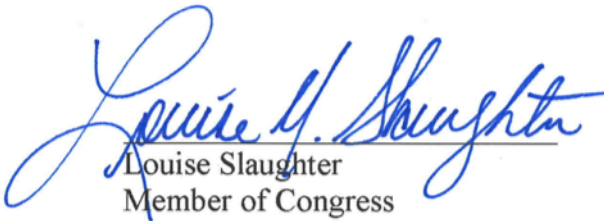
Jared Huffman
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Tim Watz
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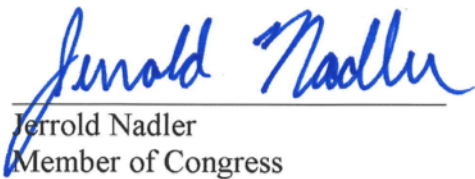
Yvette D. Clarke
Member of Congress



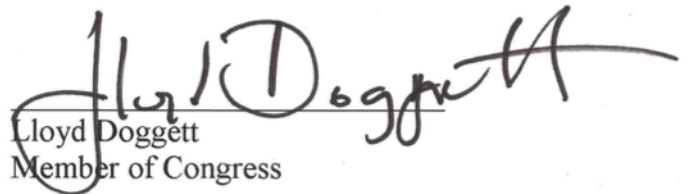
Louise Slaughter
Member of Congress



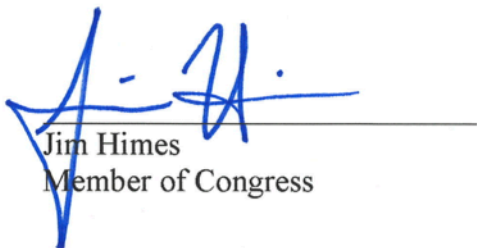
David N. Cicilline
Member of Congress



Jerrold Nadler
Member of Congress



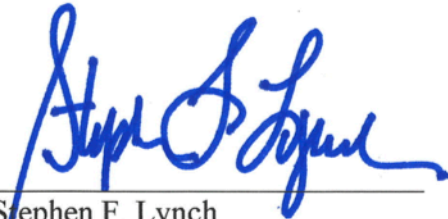
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Luis V. Gutiérrez
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Stephen F. Lynch
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Judy Chu
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Chellie Pingree
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Colleen Hanabusa
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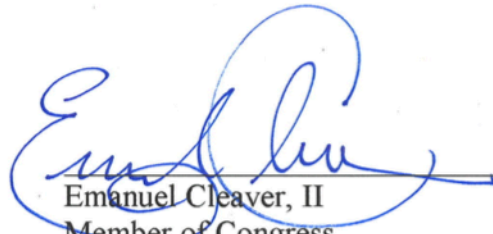
Mark Takano
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Debbie Dingell
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Eleanor Holmes Norton
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Emanuel Cleaver, II
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Bonnie Watson Coleman
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Steve Cohen
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Alan Lowenthal
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Henry C. "Hank" Johnson, Jr.
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