

Congress of the United States
Washington, DC 20515

July 12, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear President Biden,

The recent U.S. airstrikes on the Iraq-Syria border raise major constitutional concerns. We request that you brief Members of Congress on the threats faced by our troops overseas and the specific imminent threat that precipitated this use of military force.

On June 27, 2021, the Department of Defense (DOD) announced that the U.S. had conducted a military operation against operational and weapons storage facilities in Iraq and Syria. The DOD's announcement stated, "[a]t President Biden's direction, U.S. military forces earlier this evening conducted defensive precision airstrikes against facilities used by Iran-backed militia groups in the Iraq-Syria border region."¹ The DOD announcement contained little specific information about what threat precipitated this strike. In the weeks since the attack, Congress remains underinformed about said threat.

When President Trump conducted the airstrike that killed Qasem Soleimani in January 2020, you said that his administration's assertion that the strike was conducted in self-defense was not adequate because his administration did not supply "the necessary evidence to support that conclusion."² Your administration's claim that this recent action was necessary to defend our troops likewise must be accompanied by evidence necessary to support the conclusion that our troops were in danger in this instance.

In your notification to Congress, you said, "I directed this discrete military action consistent with my responsibility to protect United States citizens both at home and abroad and in furtherance of United States national security and foreign policy interests, pursuant to my constitutional authority to conduct United States foreign relations and as Commander in Chief and Chief Executive." The Constitution of the United States gives Congress the power to declare war, and the president the power to prosecute the war. The Constitution does not give the president, as "Commander in Chief," unlimited power to make war. As President Washington put so eloquently, "The constitution vests the power of declaring war in Congress; therefore, no

¹ Statement by Department of Defense June 27, 2021.

<https://www.defense.gov/Newsroom/Releases/Release/Article/2672875/statement-by-the-department-of-defense/>

² Joey Garrison, As Soleimani killing jolts presidential race, Joe Biden and Bernie Sanders seize the moment, USA Today, Jan 7, 2020.

<https://www.usatoday.com/story/news/politics/elections/2020/01/07/election-2020-soleimani-killing-sparks-joe-biden-and-bernie-sanders/2825692001/>

offensive expedition of importance can be undertaken until after they shall have deliberated upon the subject and authorized such a measure.”³ Article II of the Constitution only gives the President the power to repel immediate or imminent threats, it does not give the Executive Branch the power to conduct a war without congressional approval.

We would appreciate a written reply to the following questions:

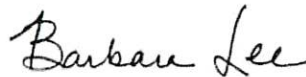
- What notification did the administration provide to Members of Congress before launching this airstrike?
- What immediate threat did our troops face that drove the conclusion that immediate military action was the necessary and appropriate response?
- How does your administration define “immediate” or “imminent” when assessing threats?
- Do you believe that Article II gives the Executive Branch unlimited power to decide when to engage in military strikes in foreign nations? Why?

If these questions cannot be provided in written form due to national security concerns, we request a classified briefing in which the information can be shared. We look forward to hearing from you ahead of August 1. Thank you for your prompt response, and your willingness to work with us to restore Congress’ preeminent Constitutional role over decisions of war and peace.

Sincerely,



Andy Biggs
Member of Congress



Barbara Lee
Member of Congress

³ “From George Washington to William Moultrie, 28 August 1793,” Founders Online, National Archives, <https://founders.archives.gov/documents/Washington/05-13-02-0381>. [Original source: The Papers of George Washington, Presidential Series, vol. 13, 1 June–31 August 1793, ed. Christine Sternberg Patrick. Charlottesville: University of Virginia Press, 2007, pp. 570–571.].