

# United States Senate

WASHINGTON, DC 20510

October 10, 2018

The Honorable Mike Pompeo  
Secretary of State  
U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520

Dear Secretary Pompeo,

We write with significant concerns regarding the Yemen certification you submitted last month to Congress pursuant to Section 1290 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232)*. While we appreciate your timely submission, after reviewing the unclassified and classified components and receiving updates from our staffs regarding the administration's September 20 briefing, we find it difficult to reconcile known facts with at least two of your certifications.

While we have other concerns related to your certifications and the actions of the Saudi-led coalition in Yemen, for purposes of this letter, we will focus on two of our leading concerns. First, in response to Section 1290(c)(1)(C), you certified that the Governments of Saudi Arabia and the United Arab Emirates (UAE) are undertaking "demonstrable actions to reduce the risk of harm to civilians and civilian infrastructure resulting from military operations" in Yemen.

Several facts on the ground in Yemen, however, cast serious doubt on this certification. There has been a dramatic increase in civilian casualties and deaths from Saudi-led coalition airstrikes over the last few months. The death of dozens of children in successive Saudi airstrikes in August tragically and definitively underscored this trend and the failure of the Saudi-led coalition to undertake demonstrable actions to reduce the risk of harm to civilians.

Notably, the unclassified Memorandum of Justification (MoJ) included the following:

*The Administration recognizes that civilian casualties have occurred at rates that are far too high in the Saudi-led Coalition's campaign in Yemen... We continue to press the need for additional actions to reduce civilian casualty incidents. Recent civilian casualty incidents indicate insufficient implementation of reforms and targeting practices. Investigations have not yielded accountability measures.*

In short, we are skeptical a certification that the two Governments have undertaken demonstrable actions to reduce the harm to civilians is warranted when the Saudi coalition has failed to adopt some U.S. recommendations while civilian deaths and casualties due to coalition airstrikes have increased dramatically in recent months.

Second, in response to Section 1290(c)(1)(C)(i), you certified that the two governments are “complying with applicable agreements and laws regulating defense articles purchased or transferred from the United States.” However, in direct and explicit contrast, on page 4 of the MoJ, the administration says, “The Administration also assesses that Saudi Arabia and the UAE are complying with applicable U.S. laws governing the sale and transfer of arms, including the Arms Export Control Act, with rare exception.” We do not understand a certification that the Saudi and Emirati governments are complying with applicable agreements and laws regulating defense articles when the MoJ explicitly states that, in certain instances, they have not done so.

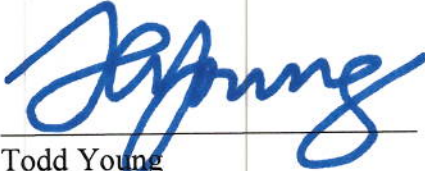
In response to these facts, we ask that you provide written and unclassified answers to the following questions no later than October 31:

1. From November 2017 to August 2018, what has been the percent increase in civilian casualties and deaths, respectively, due to Saudi coalition airstrikes in Yemen? Please provide the two unclassified percentages.
2. Given the dramatic increase in civilian casualties and deaths due to airstrikes in Yemen, how can the administration credibly certify that Saudi Arabia and the UAE are undertaking “demonstrable actions to reduce the risk of harm to civilians”?
3. Please provide details regarding all exceptions in which Saudi Arabia or the UAE have not complied with “applicable U.S. laws governing the sale and transfer of arms, including the Arms Export Control Act...” in Yemen.
4. Since the administration has explicitly acknowledged in the MoJ that the Saudi Arabia and UAE have not fully complied with U.S. laws governing the sale and transfer of arms, including the Arms Export Control Act, how can the administration credibly make the certification required under Section 1290(c)(1)(C)(i)?

We remain committed to working with you to promote America’s national security interests and humanitarian principles in Yemen. We know you share our goals of ending the civil war, alleviating the humanitarian crisis, and protecting civilians. We also agree that the continuing civil war, worsening humanitarian crisis, and ongoing killing of civilians by the Saudi coalition only serves the interests of Iran and emboldens extremists who seek to harm Americans and our partners. Those are some of the reasons we are concerned that your initial certification, despite several troubling facts, leaves the Saudi-led coalition with the fundamental misunderstanding that the American people and their representatives in Congress are willing to accept the status quo in Yemen.

Thank you for your long record of distinguished service.

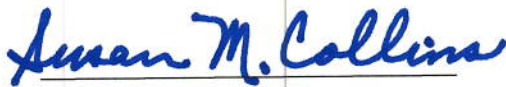
Sincerely,



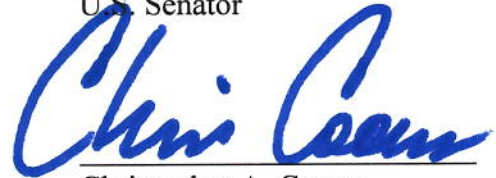
Todd Young  
U.S. Senator



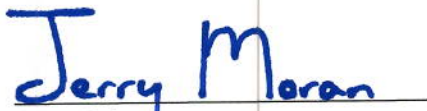
Jeanne Shaheen  
U.S. Senator



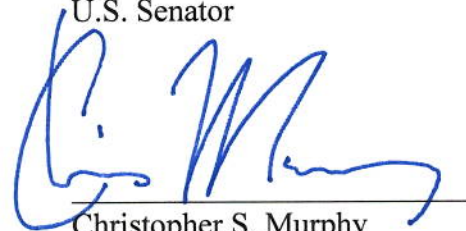
Susan M. Collins  
U.S. Senator



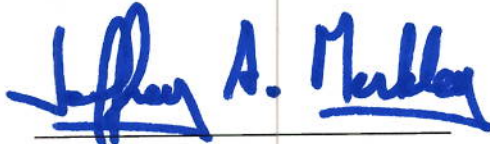
Christopher A. Coons  
U.S. Senator



Jerry Moran  
U.S. Senator



Christopher S. Murphy  
U.S. Senator



Jeffrey A. Merkley  
U.S. Senator