

EXHIBIT 12

RE: FREEDOM OF INFORMATION ACT REQUEST

centcom.macdill.centcom-hq.mbx.freedom-of-information-act@mail.mil
UNITED STATES CENTRAL COMMAND (USCENTCOM) CCJ6-RDF (FOIA)
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AFB, FL 33621-5101

3/1/2021

Dear USCENTCOM FOIA Coordinator,

This is an urgent request under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), with a request for expedited processing.

This request seeks specific USCENTCOM records regarding allegations of civilian harm resulting from operations conducted by Combined Joint Task Force-Operation Inherent Resolve (CJTF-OIR), as described in detail below.

In order to facilitate the location of responsive records, I have included information from CENTCOM’s own public release identifying the incident in question and confirming the existence of requested records.

Please find my full request below.

I. REQUESTED RECORDS

Pursuant to the FOIA I hereby request copies of all Credibility Assessment, Closure Report, Commander-Directed Investigation, or AR-15-6 records regarding the civilian casualty reports assessed as “credible” or “non-credible” in CentCom press releases from 4/26/2018 to the date of search, as detailed below.

This request seeks all enclosures, exhibits and attachments within these records, including but not limited to the following: collateral damage estimates (CDE), legal reviews, mIRC logs or other chat and internet relaying message logs, solatia assessments, emails, photos, post-strike imagery, screenshots, still image captures, and other images.

In order to assist you in locating responsive records, I am providing information below from CENTCOM’s own public releases identifying the specific incidents for which I am requesting records and confirming the existence of those records:

1. The 3 incidents deemed credible and the 46 incidents deemed non-credible in the 4/26/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1504043/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

2. The 5 incidents deemed credible and the 149 incidents deemed non-credible in the 5/31/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1536067/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
3. The 5 incidents deemed credible and the 266 incidents deemed non-credible in the 6/28/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1562287/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
4. The 16 incidents deemed credible and the 106 incidents deemed non-credible in the 7/26/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1584890/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
5. The 3 incidents deemed credible and the 15 incidents deemed non-credible in the 8/30/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1616780/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
6. The 8 incidents deemed credible and the 50 incidents deemed non-credible in the 9/27/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1646397/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
7. The 103 incidents deemed non-credible in the 10/25/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1672360/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
8. The 4 incidents deemed credible and the 13 incidents deemed non-credible in the 11/29/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1701240/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
9. The 3 incidents deemed credible and the 20 incidents deemed non-credible in the 12/30/2018 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1722540/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
10. The 5 incidents deemed credible and the 6 incidents deemed non-credible in the 1/31/2019 CentCom press release. Available at:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1745180/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
11. The 12 incidents deemed credible and the 51 incidents deemed non-credible in the 2/28/2019 CentCom press release. Available at:

<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1770907/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

12. The 1 incident deemed credible in the 3/28/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1799917/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
13. The 11 incidents deemed credible and the 19 incidents deemed non-credible in the 4/26/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1824827/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
14. The 6 incidents deemed credible and the 15 incidents deemed non-credible in the 5/31/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1862027/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
15. The 13 incidents deemed credible and the 16 incidents deemed non-credible in the 6/28/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1890275/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
16. The 2 incidents deemed credible and the 62 incidents deemed non-credible in the 7/27/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1918673/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
17. The 1 incident deemed credible and the 4 incidents deemed non-credible in the 8/28/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1947084/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
18. The 7 incidents deemed credible and the 13 incidents deemed non-credible in the 9/26/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1971680/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
19. The 6 incidents deemed credible and the 6 incidents deemed non-credible in the 11/15/2019 CentCom press release. Available at: <https://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/2025130/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
20. The 2 incidents deemed credible and the 46 incidents deemed non-credible in the 12/5/2019 CentCom press release. Available at: <https://www.inherentresolve.mil/Releases/News-Releases/Article/2032727/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.
21. The 4 incidents deemed credible and the 48 incidents deemed non-credible in the

1/10/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Releases/News-Releases/Article/2054088/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

22. The 3 incidents deemed credible and the 41 incidents deemed non-credible in the 2/13/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Releases/News-Releases/Article/2083025/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

23. The 41 incidents deemed non-credible in the 3/25/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Media-Library/Article/2124962/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

24. The 40 incidents deemed non-credible in the 5/1/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Media-Library/Article/2174190/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

25. The 38 incidents deemed non-credible in the 6/25/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Media-Library/Article/2231898/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

26. The 35 incidents deemed non-credible in the 8/22/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/CJTF-OIR%20PR-20200822-02-Civilian%20Casualty%20Monthly%20Report%20May%202020.pdf?ver=2020-09-09-041826-833>.

27. The 3 incidents deemed credible and the 24 incidents deemed non-credible in the 9/9/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/2.%20CJTF-OIR%20Press%20Release-20200909-02-July%202020%20CIVCAS%20Release.pdf?ver=2020-09-09-040439-530>.

28. The 12 incidents deemed non-credible in the 9/14/2020 CentCom press release. Available at:

https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/CJTF-OIR%20Press%20Release-20200914-01-August%202020%20CIVCAS%20Report.pdf?ver=6JUS0OwebXNA8db_T4KbwQ%3D%3D.

29. The 1 incident deemed credible and the 19 incidents deemed non-credible in the 10/29/2020 CentCom press release. Available at:

<https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/CJTF-OIR%20Press%20Release-20201029-02-September%202020%20CIVCAS%20Release.pdf?ver=3jIc9Xwb7f4OEvidtZjDWQ%3D%3D>.

30. The 18 incidents deemed non-credible in the 12/15/2020 CentCom press release. Available at:
[https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/CJTF-OIR%20Press%20Release-20201215-01-OCT2020%20CIVCAS%20Release%20\(1\).pdf](https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/CJTF-OIR%20Press%20Release-20201215-01-OCT2020%20CIVCAS%20Release%20(1).pdf).
31. The 9 incidents deemed non-credible in the 1/6/2021 CentCom press release. Available at:
<https://www.inherentresolve.mil/Portals/14/Documents/CIVCAS%20Releases/2020/CJTF-OIR%20PR-20210106-02-November%20%202020-CIVCAS%20%20Report.pdf?ver=loXIAUmeYucIR9XUkrNNJw%3D%3D>.
32. The 8 incidents deemed non-credible in the 2/4/2021 CentCom press release. Available at:
<https://www.inherentresolve.mil/Portals/14/CJTF-OIR%20CIVCAS%20Press%20Release-20210204-03-%20December%202020%20Data.pdf>.
33. Lastly, all subsequent CJTF-OIR incidents assessed as credible or non-credible between 2/5/2021 and the time of search.

As the FOIA requires, please release all reasonably segregable, nonexempt portions of responsive records. If you choose to deny any portion of my request, please provide a written explanation for the denial, including a reference to the specific statutory exemption(s) authorizing the withholding of all or part of the record, as well as an explanation of why USCENTCOM “reasonably foresees that disclosure would harm an interest” protected by that exemption or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552 (a)(8).

Please provide all responsive records in electronic format.

II. FEE CATEGORIZATION AND REQUEST FOR FEE WAIVER

In order to help you determine my status to assess fees, you should know that I am a reporter and this request is made in connection with my ongoing journalistic work, not for commercial use.

I am currently a Contributing Writer for the New York Times Magazine (see <http://www.nytimes.com/interactive/magazine/masthead.html>) and have received numerous awards for my reporting, including the 2018 National Magazine Award for Reporting, the 2018 Overseas Press Club Award for Best Magazine Reporting, the 2016 Daniel Pearl Award for Outstanding Reporting on South Asia, the 2016 Deadline Club Award for Independent Digital Reporting, a 2016 Livingston Award nomination in International Reporting, a 2014 Emmy nomination in New Approaches to Documentary Film, and other honors. For samples of my previous reporting with the New York Times Magazine, PBS Frontline, and BuzzFeed News, see

<http://azmatzahra.com/projects/>. Accordingly, as a representative of the news media, I am only required to pay for document duplication charges after the first 100 pages.

In addition, I am requesting a waiver of all fees associated with this request per 5 U.S.C. § 552(a)(4)(A)(iii) and 32 C.F.R. § 286.12. As noted above I am a reporter seeking these records for dissemination to the general public through my reporting, not for a commercial use. *See* OMB Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10019 (“a request for records supporting the news dissemination of the requester shall not be considered to be a request that is for the commercial use.”). Additionally, disclosure of this information is likely to contribute significantly to public understanding of the operations or activities of the federal government, specifically how CENTCOM has sought to assess or investigate civilian casualty allegations in Iraq, particularly whether it has done so in a detailed or timely manner.

If my request for a fee waiver is denied, I am willing to pay up to a maximum of \$100 for duplication fees associated with this request. If you estimate fees will exceed this limit, please inform me before proceeding.

III. REQUEST FOR EXPEDITED PROCESSING:

Per 5 U.S.C. § 552(A)(6)(E)(v) and 32 C.F.R. § 286.8(e)(3), I certify that this statement of compelling need for expedited processing is true and correct to the best of my knowledge and belief.

There is a compelling need for expedited processing of this request, for the following three reasons:

1. **A “failure to obtain requested records on an expedited basis . . . could reasonably be expected to pose an imminent threat to the life or physical safety of an individual[.]” 5 U.S.C. § 552(a)(6)(E)(v)(I).** Specifically, the civilians who were injured or the family members of civilians killed in the 121 “credible” civilian casualty incidents for which I am requesting records, who face the very real possibility of reprisal violence, as detailed below, and the other civilians whose stories may match allegations that were found to be “non-credible.”
2. “[F]ailure to obtain the requested information on an expedited basis could reasonably be expected to harm substantial humanitarian interests.” 32 C.F.R. 286.8(e)(1)(ii)(B). For the reasons described below in Section III(1), expedited processing is also warranted under this standard.
3. **I am a person “primarily engaged in disseminating information,” and there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).** Specifically, in the face of widespread and well-documented public interest in civilian casualty incidents and how they are assessed, as detailed below, there is an urgency to release these records.

1. Reasonable Expectation Of Imminent Threat To The Life Or Physical Safety Of Family Members Impacted By Incident That Is The Subject Of The Requested Records

The response to this request has a direct and immediate impact on the physical safety of the civilian survivors injured in these incidents; surviving family members of the civilians killed in these incidents, who as a result of these airstrikes fear violence by some local authorities and rogue militias who treat survivors of bombings as suspected ISIS members. It may also have a direct and immediate impact on the physical safety of those whose eyewitness testimony and other evidence may not have been considered by the U.S.-led Coalition when it assessed the incident to be “non-credible,” but who also fear reprisal violence.

Without expedited processing of this request, so that I may publish news stories based on them, these family members may reasonably face imminent threats to their safety and life, as demonstrated in my previous New York Times Magazine report, “The Uncounted” attached hereto as **Exhibit A**, and in more recent reports, such as the NPR story about survivors of U.S. airstrikes fearing such threats, attached hereto as **Exhibit B**.

These reports showed how civilians who have survived CENTCOM combat operations can often as a result be perceived to be ISIS sympathizers and face the threat of reprisal violence from rogue militias or security forces.

Below is an excerpt from a recent NPR story chronicling the fears of a survivor of recent U.S. combat operation in Syria:

“CENTCOM said its investigators did not speak with the Syrian family members or Barakat, the attack's sole survivor. He said he wished the military had contacted him for his side of the story. He said there is a risk Syrian armed groups might retaliate against him, suspecting him of connections with ISIS or another armed group because he was targeted by U.S. forces.”
<https://www.npr.org/2020/10/27/928161356/pentagon-says-2-men-killed-in-baghdadi-raid-were-combatants-but-offers-little-pr>

With no discernible path for these civilians to clear their names on their own, it often falls to the news media to do so, as detailed in excerpts from “The Uncounted” below:

“Those who survive the strikes, people like Basim Razzo, remain marked as possible ISIS sympathizers, with no discernible path to clear their names. ...

Because there was no established mechanism for Iraqi victims to meet American officials, his appointment was at the American Citizen Services section. He pressed against the window and showed the consular officer his dossier. One page contained satellite imagery of the Razzo houses, and others contained before-and-after photos of the destruction. Between them were photos of each victim: Mayada sipping tea, Tuqa in the back yard, Najib in a black-and-white self-portrait and a head shot of Mohannad, an engineering professor, his academic credentials filling the rest of the page. The most

important issue, Basim had written, was that his family was now “looked at as members of ISIS” by the Iraqi authorities. This threatened to be a problem, especially after the city’s liberation. ...

Around the city, residents were living under a pall of suspicion that they were Islamic State sympathizers, a target for rogue militias and vengeful security forces, and Basim was eager to move north to Erbil. This was another reason he was determined to meet the Americans — not only for compensation but also for a letter attesting to their mistake, to certify that he did not belong to ISIS. “We’ll hear something soon,” Basim assured us.

But as the summer months came and went, still without word, Basim’s confidence began to waver. In September, nearly a year after the airstrike, he tried emailing the embassy again. This time he received a response: “The recipient’s mailbox is full and can’t accept messages now. Please try resending this message later, or contact the recipient directly.”

As detailed in the story, even those civilians harmed in “credible” civilian casualty airstrikes have little means of obtaining any proof or documentation of that fact, and are rarely interviewed or contacted by the Coalition Civilian Casualty Assessment Team (CCCAT). Without expedited processing of this request, so that I may publish news stories based on them, these survivors and surviving family members may reasonably face imminent threats to their safety and life. Disclosure of these records to me so that I may publish a news story based on them is a matter of urgency due to the threats they face.

Given reports of reprisal violence in Iraq and Syria, there is an urgent, compelling need for this information, which has a particular value that would be lost if not processed on an expedited basis. As local security forces and militias have moved into territory recaptured from ISIS, in addition to my own reporting other members of the news media and human rights organizations — such as The Guardian, Newsweek, and Human Rights Watch — have also documented reprisal killings, extrajudicial violence, arbitrary detention, and enforced disappearances against individuals suspected to be ISIS. It is therefore urgent that I obtain the requested records, which only very recently were completed.

I have been granted expedited processing on this basis in the past, and am requesting so again.

2. Harm of Substantial Humanitarian Interests

For the reasons stated in Section III(1) above, expedited processing of this request is also warranted because “failure to obtain the requested information on an expedited basis could reasonably be expected to harm substantial humanitarian interests.” 32 C.F.R. 286.8(e)(1)(ii)(B)

3. Urgent Need To Inform The Public: Widespread Public Interest But Little Transparency

First, as noted above, I am a journalist “primarily engaged in disseminating information[,]” 5 U.S.C. § 552(a)(6)(E)(v)(II), and a “full-time member of the news media[,]” 32 C.F.R. 286.8(e)(3).

Second, there is an “urgency to inform the public concerning actual or alleged Federal Government activity[.]” 5 U.S.C. § 552(a)(6)(E)(v)(II), because there is a compelling and pressing need for the public to understand how and why government operations in the war against ISIS may have resulted in the deaths or injuries of civilians, as well as in the manner in which the government investigates these allegations, particularly whether it does so in a detailed and timely manner, which these documents will help reveal. Moreover, understanding the circumstances surrounding civilian casualties is critical to understanding how to prevent them.

Based on the response to “The Uncounted” — which featured the incident that is the subject of these records and raised questions about the manner in which the government assesses civilian casualty allegations—there is widespread interest in how the Coalition conducts its assessments of civilian casualties and retains records. This interest has been demonstrated in many ways—including the fact that it was one of on the New York Time’s “most-read articles” (See <https://twitter.com/nytimes/status/945103978945269760>) and as expressed by U.S. officials, human rights organizations, transparency advocates, media outlets, and the general public. The story was cited in dozens of publications, including Air Force Magazine, Axios, Bill Moyers, Bloomberg, Business Insider, CBC, CBS News, Daily Kos, Defense One, Democracy Now, Esquire, Foreign Policy, Huffington Post, MSNBC’s Kasie DC, Newsweek, NPR, All Things Considered, Pacific Standard Magazine, PBS NewsHour, Politico, Quartz, Sports Illustrated, Stars & Stripes, The American Conservative, The Atlantic, The Guardian, The Hill, The Huffington Post, The Independent, The National Interest, The Washington Post, Vox, Washington Examiner, Washington Post, WNYC’s The Brian Lehrer Show.

Because I am primarily engaged in disseminating information and there is an “urgency to inform the public concerning actual or alleged Federal Government activity[.]” 5 U.S.C. § 552(a)(6)(E)(v)(II), as detailed above, this request is entitled to expedited processing.

IV. DESCRIPTIONS OF ATTACHED EXHIBITS

EXHIBIT A: The New York Times Magazine: “The Uncounted”

EXHIBIT B: NPR Story About Syrian Survivor Barakat Barakat

V. CONCLUSION

Because of several previous delays with the postmarked dates of physical mailings, please provide electronic copies of any responsive records to me at my email address, Azmat.Khan@nytimes.com and KhanA@NewAmerica.org, including any links for download.

If you have any questions regarding this request, please contact me by email or by phone at 347 - 852 - 2585.

I look forward to receiving your determination with respect to my request for expedited

processing within 10 calendar days, as required by FOIA. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Azmat Khan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Azmat Khan
Investigative Reporter, New York Times Magazine Contributing Writer
250 Ashland Place, Brooklyn NY 11217

EXHIBIT B:
NPR Story About Syrian Survivor Barakat
Barakat

POURLY NEWS
Resume Listening
NPR Newscast : 12:00 PM
PLAYLIST



DONATE



WORLD

Pentagon Says 2 Men Killed In Baghdadi Raid Were Combatants But Offers Little Evidence

October 27, 2020 · 4:31 PM ET



DANIEL ESTRIN

[4-Minute Listen](#)

[PLAYLIST](#) [Download](#)



A woman walks past a wrecked van near the northwestern Syrian village of Barisha. Local residents and medical staff told NPR that noncombatant civilians who were in the van were injured and killed last year the night of the U.S. raid on the

compound of ISIS leader Abu Bakr al-Baghdadi. The military says the men were combatants but found no weapons.

Ibrahim Yasouf/AFP via Getty Images

When President Trump announced the U.S. military raid that resulted in the death of ISIS leader Abu Bakr al-Baghdadi one year ago on Oct. 27, officials praised the nighttime operation and said civilians were protected.

But in December, NPR reported claims that forces had killed two Syrian civilians and maimed a third during the raid, prompting the military to investigate.

Now U.S. Central Command says it has completed its investigation and cleared its troops of any wrongdoing, classifying the Syrian men they attacked as combatants.



WORLD

Syrians Say U.S. Helicopter Fire Killed Civilians During The Raid On Baghdadi

Relatives of the Syrian victims reject the military's assertion.

"It's an investigation of lies," said Majida Qurmo, the widow of one of the Syrian men killed.

The military's account of events, shared with NPR, offers no evidence the men were combatants or intended to threaten troops, raising the question of whether the U.S. is mischaracterizing innocent civilians as the enemy as it protects the official narrative of a celebrated operation against one of the military's most-wanted targets.

"I was just trying to escape death"

Late at night on Oct. 26, 2019, U.S. forces slipped into northwest Syria by helicopter, descending upon Baghdadi's secret compound in the village of Barisha, near Idlib. That night, cousins Khaled Mustafa Qurmo, 27, and Khaled Abdel Majid Qurmo, 30, were driving home a friend, Barakat Barakat, in their olive-green van.

"We had pumpkin seeds and bought coffee on the road and were having fun," Barakat, now 36, told NPR. "We were driving through the village of Barisha. And at that

moment, the helicopters arrived. Suddenly, we were hit. I didn't know what was going on. I was just trying to escape death."

Article continues after sponsor message

The men fled the van, but one of them collapsed with shrapnel in his legs. Barakat said he cradled his friend outside the van when helicopter fire hit them again, killing the cousins and tearing off Barakat's hand that had been holding up his friend's head.



Khaled Mustafa Qurmo (left) and Khaled Abdel Majid Qurmo died of shrapnel wounds to the chest, according to autopsy reports.

Tur Laha local council

A relative of the victims sent NPR a video filmed at night of the destroyed van, turned white after the explosion, and nearby, two pockmarked bodies and a severed hand. Autopsy reports by a Syrian doctor with an international medical group concluded the men died of shrapnel wounds to the chest. A former Pentagon official reviewed shrapnel photos provided by relatives and assessed they had come from Hydra-70 rockets, a type fired by U.S. military helicopters.

The victims' relatives told NPR the cousins had operated a van service and were not combatants. Barakat said there were no weapons in the van.

Gen. Kenneth McKenzie, who commanded the Baghdadi operation, told reporters a few days after the raid that "every effort was made to avoid civilian casualties." In his step-by-step recounting, McKenzie spoke about combatants whom U.S. forces

encountered, but he did not mention the van incident until a reporter asked him about the damaged van that had appeared in news images. McKenzie responded that it was "one of the vehicles that displayed hostile intent, came toward us and it was destroyed."

Credibility assessment

In November, a Pentagon official said that NPR's reporting was the first it had heard of possible civilian casualties and that it would review surveillance footage to determine if an investigation was warranted. In February, the military said it opened a formal investigation, called a credibility assessment, into the allegations.



WORLD

The U.S. Investigates Possible Civilian Deaths During Baghdadi Raid In Syria

In July, CENTCOM spokesman Capt. Bill Urban told NPR the military had completed its assessment and determined U.S. forces "employed appropriate, necessary and proportionately scaled use of force in response to actions against U.S. forces, which turned lethal after warnings were not heeded."

Urban gave NPR additional details on Saturday. As the van approached, a U.S. helicopter fired warning shots, he said. "A normal reaction to warning shots in the middle of the night from a helicopter would be to stop and turn around if you had no business being there," Urban said. "But they proceeded towards the helicopter and accelerated."

The helicopter fired on the van, and the men fled, running in the direction of the ISIS compound without raising their hands, so forces perceived them to "demonstrate hostile intent" and the helicopter fired at them, Urban said. The military investigation determined they were "enemy combatants," not civilians, he said, though they did not open fire and the military found no evidence they had weapons.

"What do you expect at night?"

Retired Maj. Gen. Dana Pittard, who helped lead the fight against ISIS in Iraq and left the Army before the Baghdadi raid, said the forces were justified in protecting themselves from an approaching van of Syrians with unknown intentions. But he said the Syrians' actions were understandable, too.

"I assume it was dark, and you see a shot out there," said Pittard, who co-authored the book *Hunting the Caliphate*. "What is your inclination? Just put your foot on the pedal and keep going. So you don't know the direction of the shot. ... I mean, what do you expect at night?"

The U.S. sets aside about \$3 million a year to pay the families of civilians killed or wounded in U.S. attacks abroad, but Urban said such a payment "is not appropriate in cases like this, where someone demonstrates hostile intent or commits a hostile act against U.S. forces."

Pittard said he thinks the Army should pay. "Could they not find it, you know, in their hearts to have some kind of restitution and then move on?" he asked.

"Hostile intent"

Experts have criticized the U.S. military in past wars for labeling ordinary civilian responses to warning shots as demonstrations of "hostile intent."

Hostile intent, which the military defines as the threat of imminent use of force, is "too vague and subjective" and "dangerously broad," said Bonnie Docherty, a lecturer at Harvard Law School's International Human Rights Clinic.

A review by Thomas Gregory, a senior lecturer at New Zealand's University of Auckland, of hundreds of incident reports of Iraqi civilians targeted by U.S. forces found that the majority were innocent. "Soldiers had simply misinterpreted perfectly innocent or innocuous behavior as a demonstration of hostile intent," Gregory said.

Urban said the Syrian men would not have been deemed threatening if they had run away from the compound. Yet, according to Gregory, in other cases, soldiers have targeted civilians fleeing the area of an attack because they were perceived to be combatants escaping U.S. troops.

"If the U.S. military were serious about investigating this incident, they would reopen this case," said Azmat Khan, a *New York Times Magazine* contributing writer and author of a forthcoming book on U.S. airstrikes and civilian deaths. Unlike many other similar incidents, she said, "the U.S. military has a unique opportunity to understand what really happened, because NPR tracked down survivors and family members and interviewed them."

Urban said the military would consider reopening the case if new evidence warranted it.

"The whole world turned its back on me"

CENTCOM said its investigators did not speak with the Syrian family members or Barakat, the attack's sole survivor. He said he wished the military had contacted him for his side of the story.

He said there is a risk Syrian armed groups might retaliate against him, suspecting him of connections with ISIS or another armed group because he was targeted by U.S. forces.

What worries him most is how to provide for his five children. He cannot work. Part of his right arm is gone, he can only use two fingers on his left hand, and doctors tell him he needs surgery. He is ashamed to have to beg for bread.

"Sometimes I cry," Barakat said in a Facebook voice message. "I think of my kids in that I'm unable to do anything for them. I'm ashamed. I can't work. I'm crippled. The whole world turned its back on me."

He has lost hope anything good will come out of telling his story to a journalist.

"I know already what's going to be on the Internet, the comments of the American people. 'God forbid,' and so on. We know all that talk. We've memorized that routine," Barakat said.

He added, "God damn the hour Baghdadi came here."

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