

## **Summary of Information Regarding U.S. Counterterrorism Strikes Outside Areas of Active Hostilities**

In accordance with the President's direction and consistent with the President's commitment to providing as much information as possible to the American people about U.S. counterterrorism activities, the Director of National Intelligence (DNI) is releasing today a summary of information provided to the DNI about both the number of strikes taken by the U.S. Government against terrorist targets outside areas of active hostilities and the assessed number of combatant and non-combatant<sup>a</sup> deaths resulting from those strikes. "Areas of active hostilities" currently include Afghanistan, Iraq, and Syria.

<b>Summary of U.S. Counterterrorism Strikes Outside Areas of Active Hostilities between January 20, 2009 and December 31, 2015</b>	
Total Number of Strikes Against Terrorist Targets Outside Areas of Active Hostilities	473
Combatant Deaths	2372-2581
Non-Combatant Deaths	64-116

The assessed range of non-combatant deaths provided to the DNI reflects consideration of credible reports of non-combatant deaths drawn from all-source information, including reports from the media and non-governmental organizations. The assessed range of non-combatant deaths includes deaths for which there is an insufficient basis for assessing that the deceased is a combatant.

### **U.S. Government Post-Strike Review Processes and Procedures**

The information that was provided to the DNI regarding combatant and non-combatant deaths is the result of processes that include careful reviews of all strikes after they are conducted to assess the effectiveness of operations. These review processes have evolved over time to ensure that they incorporate the best available all-source intelligence, media reporting, and other information and may result in reassessments of strikes if new information becomes available that alters the original judgment. The large volume of pre- and post-strike data available to the U.S. Government can enable analysts to distinguish combatants from non-combatants, conduct detailed battle damage assessments, and separate reliable reporting from terrorist propaganda or from media reports that may be based on inaccurate information.

### **Discrepancies Between U.S. Government and Non-Governmental Assessments**

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<sup>a</sup> Non-combatants are individuals who may not be made the object of attack under applicable international law. The term "non-combatant" does not include an individual who is part of a belligerent party to an armed conflict, an individual who is taking a direct part in hostilities, or an individual who is targetable in the exercise of U.S. national self-defense. Males of military age may be non-combatants; it is not the case that all military-aged males in the vicinity of a target are deemed to be combatants.

In releasing these figures, the U.S. Government acknowledges that there are differences between U.S. Government assessments and reporting from non-governmental organizations. Reports from non-governmental organizations can include both aggregate data regarding non-combatant deaths as well as case studies addressing particular strikes, and generally rely on a combination of media reporting and, in some instances, field research conducted in areas of reported strikes. Although these organizations' reports of non-combatant deaths resulting from U.S. strikes against terrorist targets outside areas of active hostilities vary widely, such reporting generally estimates significantly higher figures for non-combatant deaths than is indicated by U.S. Government information. For instance, for the period between January 20, 2009 and December 31, 2015, non-governmental organizations' estimates range from more than 200 to slightly more than 900 possible non-combatant deaths outside areas of active hostilities.

Consistent with the requirements applicable to future reporting under Section 3(b) of the Executive Order "United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force," the information we are releasing today addresses general reasons for discrepancies between post-strike assessments from the United States Government and credible reporting from non-governmental organizations regarding non-combatant deaths and does not address specific incidents. There are a number of possible reasons that these non-governmental organizations' reports of the number of non-combatants killed may differ from the U.S. Government assessments, based on the information provided to the DNI.

First, although there are inherent limitations on determining the precise number of combatant and non-combatant deaths, particularly when operating in non-permissive environments, the U.S. Government uses post-strike methodologies that have been refined and honed over the years and that use information that is generally unavailable to non-governmental organizations. The U.S. Government draws on all available information (including sensitive intelligence) to determine whether an individual is part of a belligerent party fighting against the United States in an armed conflict; taking a direct part in hostilities against the United States; or otherwise targetable in the exercise of national self-defense. Thus, the U.S. Government may have reliable information that certain individuals are combatants, but are being counted as non-combatants by non-governmental organizations. For example, further analysis of an individual's possible membership in an organized armed group may include, among other things: the extent to which an individual performs functions for the benefit of the group that are analogous to those traditionally performed by members of a country's armed forces; whether that person is carrying out or giving orders to others within the group; or whether that person has undertaken certain acts that reliably connote meaningful integration into the group.

Second, according to information provided to the DNI, U.S. Government post-strike reviews involve the collection and analysis of multiple sources of intelligence before, during, and after a strike, including video observations, human sources and assets, signals intelligence, geospatial intelligence, accounts from local officials on the ground, and open source reporting. Information collected before a strike is intended to provide clarity regarding the number of individuals at a strike location as well as whether the individuals are engaged in terrorist activity. Post-strike collection frequently enables U.S. Government analysts to confirm, among other things, the

number of individuals killed as well as their combatant status. The information is then analyzed along with other all-source intelligence reporting. This combination of sources is unique and can provide insights that are likely unavailable to non-governmental organizations.

Finally, non-governmental organizations' reports of counterterrorism strikes attributed to the U.S. Government—particularly their identification of non-combatant deaths—may be further complicated by the deliberate spread of misinformation by some actors, including terrorist organizations, in local media reports on which some non-governmental estimates rely.

Although the U.S. Government has access to a wide range of information, the figures released today should be considered in light of the inherent limitations on the ability to determine the precise number of combatant and non-combatant deaths given the non-permissive environments in which these strikes often occur. The U.S. Government remains committed to considering new, credible information regarding non-combatant deaths that may emerge and revising previous assessments, as appropriate.

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THE WHITE HOUSE  
Office of the Press Secretary

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For Immediate Release

July 1, 2016

EXECUTIVE ORDER

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UNITED STATES POLICY ON PRE- AND POST-STRIKE MEASURES  
TO ADDRESS CIVILIAN CASUALTIES IN U.S. OPERATIONS  
INVOLVING THE USE OF FORCE

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct as follows:

Section 1. Purpose. United States policy on civilian casualties resulting from U.S. operations involving the use of force in armed conflict or in the exercise of the Nation's inherent right of self-defense is based on our national interests, our values, and our legal obligations. As a Nation, we are steadfastly committed to complying with our obligations under the law of armed conflict, including those that address the protection of civilians, such as the fundamental principles of necessity, humanity, distinction, and proportionality.

The protection of civilians is fundamentally consistent with the effective, efficient, and decisive use of force in pursuit of U.S. national interests. Minimizing civilian casualties can further mission objectives; help maintain the support of partner governments and vulnerable populations, especially in the conduct of counterterrorism and counterinsurgency operations; and enhance the legitimacy and sustainability of U.S. operations critical to our national security. As a matter of policy, the United States therefore routinely imposes certain heightened policy standards that are more protective than the requirements of the law of armed conflict that relate to the protection of civilians.

Civilian casualties are a tragic and at times unavoidable consequence of the use of force in situations of armed conflict or in the exercise of a state's inherent right of self-defense. The U.S. Government shall maintain and promote best practices that reduce the likelihood of civilian casualties, take appropriate steps when such casualties occur, and draw lessons from our operations to further enhance the protection of civilians.

Sec. 2. Policy. In furtherance of U.S. Government efforts to protect civilians in U.S. operations involving the use of force in armed conflict or in the exercise of the Nation's inherent right of self-defense, and with a view toward enhancing such efforts, relevant departments and agencies (agencies) shall continue to take certain measures in present and future operations.

(a) In particular, relevant agencies shall, consistent with mission objectives and applicable law, including the law of armed conflict:

(i) train personnel, commensurate with their responsibilities, on compliance with legal obligations and policy guidance that address the protection of civilians and on implementation of best practices that reduce the likelihood of civilian casualties, including through exercises, pre-deployment training, and simulations of complex operational environments that include civilians;

(ii) develop, acquire, and field intelligence, surveillance, and reconnaissance systems that, by enabling more accurate battlespace awareness, contribute to the protection of civilians;

(iii) develop, acquire, and field weapon systems and other technological capabilities that further enable the discriminate use of force in different operational contexts;

(iv) take feasible precautions in conducting attacks to reduce the likelihood of civilian casualties, such as providing warnings to the civilian population (unless the circumstances do not permit), adjusting the timing of attacks, taking steps to ensure military objectives and civilians are clearly distinguished, and taking other measures appropriate to the circumstances; and

(v) conduct assessments that assist in the reduction of civilian casualties by identifying risks to civilians and evaluating efforts to reduce risks to civilians.

(b) In addition to the responsibilities above, relevant agencies shall also, as appropriate and consistent with mission objectives and applicable law, including the law of armed conflict:

(i) review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources, such as other agencies, partner governments, and nongovernmental organizations, and take measures to mitigate the likelihood of future incidents of civilian casualties;

(ii) acknowledge U.S. Government responsibility for civilian casualties and offer condolences, including *ex gratia* payments, to civilians who are injured or to the families of civilians who are killed;

(iii) engage with foreign partners to share and learn best practices for reducing the likelihood of and responding to civilian casualties, including through appropriate training and assistance; and

(iv) maintain channels for engagement with the International Committee of the Red Cross and other nongovernmental organizations that operate in conflict zones and encourage such organizations to assist in efforts to distinguish between military objectives and civilians, including by appropriately marking protected facilities, vehicles, and personnel, and by providing updated information on the locations of such facilities and personnel.

Sec. 3. Report on Strikes Undertaken by the U.S. Government Against Terrorist Targets Outside Areas of Active Hostilities. (a) The Director of National Intelligence (DNI), or such other official as the President may designate, shall obtain from relevant agencies information about the number of strikes undertaken by the U.S. Government against terrorist targets outside areas of active hostilities from January 1, 2016, through December 31, 2016, as well as assessments of combatant and non-combatant deaths resulting from those strikes, and publicly release an unclassified summary of such information no later than May 1, 2017. By May 1 of each subsequent year, as consistent with the need to protect sources and methods, the DNI shall publicly release a report with the same information for the preceding calendar year.

(b) The annual report shall also include information obtained from relevant agencies regarding the general sources of information and methodology used to conduct these assessments and, as feasible and appropriate, shall address the general reasons for discrepancies between post-strike assessments from the U.S. Government and credible reporting from nongovernmental organizations regarding non-combatant deaths resulting from strikes undertaken by the U.S. Government against terrorist targets outside areas of active hostilities.

(c) In preparing a report under this section, the DNI shall review relevant and credible post-strike all-source reporting, including such information from nongovernmental sources, for the purpose of ensuring that this reporting is available to and considered by relevant agencies in their assessment of deaths.

(d) The Assistant to the President for National Security Affairs may, as appropriate, request that the head of any relevant agency conduct additional reviews related to the intelligence assessments of deaths from strikes against terrorist targets outside areas of active hostilities.

Sec. 4. Periodic Consultation. In furtherance of the policies and practices set forth in this order, the Assistant to the President for National Security Affairs, through the National Security Council staff, will convene agencies with relevant defense, counterterrorism, intelligence, legal, civilian protection, and technology expertise to consult on civilian casualty trends, consider potential improvements to U.S. Government civilian casualty mitigation efforts, and, as appropriate, report to the Deputies and Principals Committees, consistent with Presidential Policy Directive 1 or its successor. Specific incidents will not be considered in this context, and will continue to be examined within relevant chains of command.

Sec. 5. General Provisions. (a) The policies and practices set forth above are not intended to alter, and shall be implemented consistent with, the authority and responsibility of commanders and other U.S. personnel to execute their mission as directed by the President or other appropriate authorities, which necessarily includes the inherent right of self-defense and the maintenance of good order and discipline among U.S. personnel. No part of this order modifies the chain of command of the U.S. Armed Forces or the authority of U.S. commanders.

(b) No part of this order modifies priorities in the collection of intelligence or the development, acquisition, or fielding of weapon systems and other technological capabilities.

(c) No part of this order shall prejudice or supplant established procedures pertaining to administrative or criminal investigative or judicial processes in the context of the military justice system or other applicable law and regulation.

(d) The policies set forth in this order are consistent with existing U.S. obligations under international law and are not intended to create new international legal obligations; nor shall anything in this order be construed to derogate from obligations under applicable law, including the law of armed conflict.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,  
July 1, 2016.

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THE WHITE HOUSE  
Office of the Press Secretary

FOR IMMEDIATE RELEASE  
July 1, 2016

**FACT SHEET ON EXECUTIVE ORDER ON THE UNITED STATES POLICY ON  
PRE AND POST-STRIKE MEASURES TO ADDRESS CIVILIAN CASUALTIES IN U.S.  
OPERATIONS INVOLVING THE USE OF FORCE AND  
THE DNI RELEASE OF AGGREGATE DATA ON  
STRIKES OUTSIDE AREAS OF ACTIVE HOSTILITIES**

Since President Obama took office, he has been clear that, when necessary, the United States will use force abroad to protect the American people consistent with our values and all applicable law, including the law of armed conflict. He has also emphasized the need to be as transparent as possible with the American people about the basis for our counterterrorism operations and the manner in which they are conducted in order to enhance the public's confidence in these activities, set standards for other nations to follow, and counter terrorist propaganda and false accusations about U.S. operations. Additionally, the President has underscored that we will continue to develop a sustainable legal and policy architecture to guide our counterterrorism activities going forward. To these ends, in 2013 the President approved and publicly described policy guidance formalizing and strengthening the rigorous standards and procedures governing our use of lethal force against terrorist targets outside areas of active hostilities. Today, the Administration is taking additional steps to institutionalize and enhance best practices regarding U.S. counterterrorism operations and other U.S. operations involving the use of force, as well as to provide greater transparency and accountability regarding these operations.

These steps include promulgating an Executive Order on *United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force*, as well as releasing aggregate data regarding both the number of strikes undertaken during this Administration by the U.S. Government against terrorist targets located outside areas of active hostilities<sup>[1]</sup> and the range of assessed combatant and non-combatant deaths resulting from those strikes. The Executive Order provides additional information on best practices and procedures that are already in place for current operations and that will be applied in future operations, regardless of the location. Collectively, these measures demonstrate the professionalism and high standards employed by U.S. Government personnel who help keep Americans safe from terrorist threats overseas, while also underscoring our commitment to constantly refine and strengthen our counterterrorism framework and enhance accountability for our actions.

**Executive Order to Address Civilian Casualties**

As President Obama has said, "All armed conflict invites tragedy. But by narrowly targeting our action against those who want to kill us and not the people they hide among, we are choosing the course of action least likely to result in the loss of innocent life." In that spirit, this Executive Order applies to all of our operations, regardless of where they are conducted, and underscores that our legal and policy commitments regarding the protection of civilians are fundamentally consistent with the effective, efficient, and decisive use of force in pursuit of our Nation's interests.

*First*, this Executive Order catalogues the best practices the U.S. Government currently implements to protect civilians in the context of operations involving the use of force inside and outside areas of active hostilities, and it directs relevant departments and agencies to sustain such measures in present and future operations. These measures include conducting training on implementation of best practices that help reduce the likelihood of civilian casualties and dedicating operational resources to mitigate that risk. It also includes, as appropriate, maintaining channels for engagement with the International Committee of the Red Cross and non-governmental organizations that can assist in efforts to distinguish between military objectives and civilians; acknowledging U.S. Government responsibility for civilian casualties and offering condolences, including *ex gratia* payments, to civilians who are injured, or to the families of civilians who are killed; and, when civilian casualties have occurred, taking steps to minimize the likelihood of future such incidents.



*Second*, to help address challenges associated with assessing the credibility of reports of civilian casualties in non-permissive environments, the Executive Order emphasizes the U.S. Government's consideration of credible reporting provided by non-governmental organizations in its post-strike reviews, including drawing on existing information-sharing arrangements to ensure the availability of such reporting to those conducting post-strike analyses.

*Third*, it directs the Director of National Intelligence (DNI), or such other officials as the President may designate, to release publicly an annual summary of information obtained from relevant departments and agencies about the number of strikes undertaken by the U.S. Government against terrorist targets outside areas of active hostilities and the assessed range of combatant and non-combatant deaths resulting from those strikes, based on relevant and credible post-strike reporting and consistent with the need to protect sources and methods. The annual report will also include information regarding the general sources of information and methodology used to conduct these assessments and address general reasons for discrepancies between post-strike assessments by the U.S. Government and credible reporting from non-governmental organizations.

*Finally*, the Executive Order establishes a mechanism for experts from relevant U.S. Government departments and agencies to convene to consult on civilian casualty trends and consider potential improvements to the U.S. Government's civilian casualty mitigation efforts.

### **Background on Processes and Procedures Taken by the U.S. Government to Mitigate Civilian Casualties**

In May 2013, President Obama issued Presidential Policy Guidance (PPG) that, among other things, set forth policy standards for U.S. direct action outside the United States and outside areas of active hostilities. These policy standards generally include that the United States will use lethal force only against a target that poses a "continuing, imminent threat to U.S. persons," and that direct action will be taken only if there is "near certainty" that the terrorist target is present and "near certainty" that non-combatants will not be killed or injured. As the President has said, the "near certainty" standard is the "highest standard we can set."

Thus, unlike terrorist organizations, which deliberately target civilians and violate the law of armed conflict, the United States takes great care to adhere to the law of armed conflict and, in many circumstances, applies policy standards that offer protections for civilians that exceed the requirements of the law of armed conflict. Moreover, even when the United States is not operating under the PPG – for example, when the United States is taking action in "areas of active hostilities," such as it is today in Afghanistan, Iraq, and Syria, or when the United States is acting quickly to defend U.S. or partner forces from attack – the United States goes to extraordinary lengths to minimize the risk of civilian casualties.

In particular, in dealing with enemy forces that do not wear uniforms or carry their arms openly, the United States goes to great lengths to apply the fundamental law of armed conflict principle of distinction, which, among other things, requires that attacks be directed only against military objectives and not against civilians and civilian objects. The United States considers all available information about a potential target's current and historical activities to inform an assessment of whether the individual is a lawful target. For example, an individual may be targetable if the individual is formally or functionally a member of an armed group against which we are engaged in an armed conflict. As Administration officials have stated publicly, to determine if an individual is a member of an armed group, we may look to, among other things: the extent to which the individual performs functions for the benefit of the group that are analogous to those traditionally performed by members of a country's armed forces; whether that person is carrying out or giving orders to others within the group; or whether that person has undertaken certain acts that reliably connote meaningful integration into the group.

Before a strike against a terrorist target is considered in any theater, U.S. Government personnel review all available information to determine whether any of the individuals at the location of the potential strike is a non-combatant. A body of standards, methods, techniques, and computer

modeling, supported by weapons testing data and combat observations, informs the analysis as to whether those not specifically targeted would likely be injured or killed in a strike.

#### **Releasing Aggregate Data on Strikes Undertaken by the U.S. Government Against Terrorist Targets Outside Areas of Active Hostilities**

Demonstrating the legitimacy of our counterterrorism efforts requires not only complying with the law of armed conflict and setting policy standards that offer protection that exceeds the law's requirements, but also providing information to the American people about our counterterrorism efforts. As President Obama has said, when we cannot explain our efforts clearly and publicly, we face terrorist propaganda and international suspicion, we erode the legitimacy of our actions in the eyes of our partners and our people, and we undermine accountability in our own government. That is why the President believes it is important to provide the public with as much information as possible regarding the basis for and results of U.S. counterterrorism operations. In keeping with this commitment, today the DNI is releasing a summary of information obtained from relevant departments and agencies about both the number of strikes undertaken by the U.S. Government against terrorist targets outside areas of active hostilities between January 20, 2009, and December 31, 2015, and the best assessed range of combatant and non-combatant deaths resulting from those strikes. Going forward, figures for the preceding year will be released annually on May 1, consistent with the need to protect sources and methods.

We recognize that U.S. counterterrorism strikes have killed non-combatants, a reality that exists in all conflicts. As the statement today from the DNI notes, in releasing these figures, the U.S. Government also acknowledges that there are differences between U.S. Government assessments and reporting from non-governmental organizations on non-combatant deaths resulting from U.S. operations. Although the U.S. Government has access to a wide range of information, the figures we are releasing today should be considered in light of the inherent limitations on the ability to determine the precise number of combatant and non-combatant deaths outside areas of active hostilities, including the non-permissive environments in which these strikes often occur. But as the information we are releasing also shows, the rigorous standards and procedures we apply to such strikes have resulted in extraordinarily precise targeting. The U.S. Government remains committed to continually refining, clarifying, and strengthening the standards and procedures that govern our use of force abroad to keep the Nation safe from terrorist threats.

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[1] The Administration currently considers Afghanistan, Iraq and Syria to be "areas of active hostilities."