

EXHIBIT E

RE: FREEDOM OF INFORMATION ACT REQUEST

UNITED STATES CENTRAL COMMAND CCJ6-RDF (FOIA)
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AFB, FL 33621-5101

March 29, 2018

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 on procedures in civilian casualty reporting as well as copies of credibility assessment records for allegations of civilian casualties resulting from Operation Inherent Resolve. Specifically it seeks:

- a copy of the Operation Inherent Resolve Civilian Casualty Reporting and Response Procedures document;
- the credibility assessment records for 16 reports that were assessed to be “credible” according to CENTCOM releases detailed below; and
- credibility assessment records for 1,168 reports that were determined to be “non-credible” according to CENTCOM releases, as detailed below.

In order to facilitate the location of responsive records, I have included links to USCENTCOM releases identifying these credible and non-credible civilian casualty reports below.

I. REQUESTED RECORDS

Pursuant to the FOIA I hereby request a copy of the unclassified document titled "Operation Inherent Resolve Standard Operating Procedure Civilian Casualty Reporting and Response Procedures."

Pursuant to the FOIA I hereby request copies of the credibility assessment, and when available closure report records, regarding the following 16 reports assessed to be “credible” according to the following 3 CENTCOM releases:

1. The 6 reports assessed to be credible according to the CENTCOM release dated 1/25/18, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1423119/combined-join-t-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
2. The 4 reports assessed to be credible according to the CENTCOM release dated 2/22/18, which can be

found here:

<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1447412/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>

3. The 6 reports assessed to be credible according to the CENTCOM release dated 3/28/18, which can be found here:

<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1477908/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>

Pursuant to the FOIA I hereby request copies of the credibility assessment records regarding the 1,168 reports assessed to be “non-credible” according to the following 17 CENTCOM releases:

1. The 12 reports assessed to be non-credible according to the 12/1/2016 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1017683/combined-joint-task-force-operation-inherent-resolve/>
2. The 13 reports assessed to be non-credible according to the 1/2/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1040278/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
3. The 7 reports assessed to be non-credible according to the 2/2/2017 CENTCOM release, which can be found here:
https://www.defense.gov/Portals/1/features/2014/0814_iraq/docs/20170202-02-CJTF-OIR_December%202016_CIVCAS_Report.pdf?ver=2017-02-02-104632-087
4. The 10 reports assessed to be non-credible according to the 3/4/2017 CENTCOM release, which can be found here:
<http://www.inherentresolve.mil/News/News-Releases/Article/1102695/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
5. The 12 reports assessed to be non-credible according to the 4/1/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1138162/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
6. The 17 reports assessed to be non-credible according to the 4/30/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1167729/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
7. The 31 reports assessed to be non-credible according to the 6/2/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1201013/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
8. The 114 reports assessed to be non-credible according to the 7/7/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1239870/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
9. The 121 reports assessed to be non-credible according to the 8/4/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1267466/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
10. The 24 reports assessed to be non-credible according to the 9/1/2017 CENTCOM release, which can be found here:
<http://www.inherentresolve.mil/News/Article/1297778/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>

11. The 168 reports assessed to be non-credible according to the 9/29/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1329187/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
12. The 105 reports assessed to be non-credible according to the 10/27/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/1355408/cjtf-oir-monthly-civilian-casualty-report/>
13. The 55 reports assessed to be non-credible according to the 11/30/2017 CENTCOM release, which can be found here:
<http://www.inherentresolve.mil/News/Article/1383586/cjtf-oir-monthly-civilian-casualty-report/>
14. The 92 reports assessed to be non-credible according to the 12/28/2017 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1405026/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
15. The 207 reports assessed to be non-credible according to the 1/25/2018 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1423119/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
16. The 102 reports assessed to be non-credible according to the 2/22/2018 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1447412/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>
17. The 78 reports assessed to be non-credible according to the 3/28/2018 CENTCOM release, which can be found here:
<http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1477908/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>

Please provide all responsive records in electronic format.

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).

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 previously 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 CENTCOM’s overall efforts to investigate allegations of civilian casualties resulting from its operations in Iraq and Syria.

In the wake of publication of “The Uncounted,” my recent New York Times Magazine reporting on civilian casualties resulting from airstrikes in Iraq (**EXHIBIT A**), there is widespread, well-documented public interest in how the U.S. government investigates allegations of civilian casualties and their findings, as evidenced in attached documents. (**EXHIBITS C-J**)

Despite admission of more than 200 “credible” assessments and more than 1,000 “non-credible” assessments of reports of civilian casualties since Operation Inherent Resolve began in 2014, USCENTCOM has publicly released the credibility assessment, closure report, or executive summary records for only a handful of these assessments. As such, disclosure here will significantly contribute to the public’s understanding of federal government operations, specifically how it assesses civilian casualty allegations.

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 13 civilians who were injured in the

credible civilian casualty airstrikes for which I am requesting records, family members of the more than 36 killed in these incidents, 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 a 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 as well as public concern about the lack of transparency about these 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 More Than 100 Civilians Injured In Airstrikes That Are The Subject Of The Requested Records

The response to this request has a direct and immediate impact on the physical safety of the 13 civilian survivors injured in these credible civilian casualty incidents, the family members of the 36 civilians killed in these credible civilian casualty incidents, (who as a result of these airstrikes may be seen by some local authorities and rogue militias as suspected ISIS members), and the others whose eyewitness testimony and other evidence may not 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 survivors and surviving family members may reasonably face imminent threats to their safety and life, as demonstrated in my previous New York Times Magazine report, “The Uncounted” (**EXHIBIT A**), as well as in news reports detailing reprisal violence against suspected ISIS members (**EXHIBIT B**).

As detailed extensively in my previous New York Times Magazine report, “The Uncounted” (**EXHIBIT A**), civilians who have survived Coalition airstrikes can often as a result be perceived to be ISIS sympathizers and face the threat of reprisal violence from rogue militias or security forces. 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 my story 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). I have conducted extensive ground reporting into airstrike civilian casualty incidents and have successfully matched credible assessments with individuals on the ground. 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.

Given recent reports of reprisal violence in many of the areas where these airstrike incidents occurred, 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, 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 (**EXHIBIT B**). It is therefore urgent that I obtain the requested credibility assessment and closure report records.

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 of civilians, as well as in the manner in which the government investigates these allegations—both through the civilian casualty reporting procedure records requested as well as the credibility assessments requested.

Specifically, there is widespread public interest in how the government has determined allegations to be credible or non-credible, information that is only obtainable through these records, and is not available through any other means. Moreover, understanding the circumstances surrounding civilian casualties is critical to understanding how to prevent them. Additionally, U.S. military officials have repeatedly emphasized how information contained in these assessment records is “unique” and “may provide insights unavailable to NGOs,” **(EXHIBIT J)** which makes their disclosure even more urgent and critical to the public.

As detailed extensively in my previous New York Times Magazine report, “The Uncounted” **(EXHIBIT A)**, there are serious discrepancies between how the U.S.-led Coalition says it conducts assessments of civilian casualty reports and some documented instances of how it conducts these assessments, as detailed in excerpts from my story below:

“In June, for example, we visited an electrical substation occupying several blocks of the Aden neighborhood in eastern Mosul. On the evening of April 20, 2015, aircraft bombed the station, causing a tremendous explosion that engulfed the street. Muthana Ahmed Tuaama, a university student, told us his brother rushed into the blaze to rescue the wounded, when a second blast shook the facility. “I found my brother at the end of the street,” he said. “I carried him.” Body parts littered the alleyway. “You see those puddles of water,” he said. “It was just like that, but full of blood.” We determined that at least 18 civilians died in this one attack and that many more were grievously wounded. News of the strike was picked up by local bloggers, national Iraqi outlets and ISIS propaganda channels and was submitted as an allegation to the coalition by Airwars.

Months later, the coalition announced the results of its investigation, stating that there was “insufficient evidence to find that civilians were harmed in this strike.” Yet even a cursory internet search offers significant evidence that civilians were harmed: We found disturbingly graphic videos of the strike’s aftermath on YouTube, showing blood-soaked toddlers and children with their legs ripped off.

A key part of the coalition’s investigation process is to match civilian casualty accusations against its own logs. Chris Umphres, an Air Force captain at Udeid who assesses allegations of civilian casualties, told us that military investigators possess the coordinates of “every single strike conducted by coalition forces,” crucial information unavailable to the typical journalist. “We have 100 percent accountability of where all of

our weapons are employed.”

We found this to not always be the case. For every location we visited, we submitted GPS coordinates to determine whether it was the coalition or the Iraqi Air Force that bombed the site. At first, the coalition told us it did not have the time or the staff to check more than a handful of the coordinates. But eventually, a team of Air Force analysts at Udeid agreed to compare the dates and coordinates of each of the 103 sites in our sample with those the coalition had recorded in its airstrike log. If a strike in our sample occurred within 50 meters of a strike that was recorded in the logs, they classified it as a “probable coalition airstrike,” while assessing those outside this range — that is, anything more than a couple of house-lengths away — as “unlikely.”

By this measure, 30 of the 103 strike sites in the sample we submitted are probable coalition strikes. But other evidence suggests that the coalition was responsible for many more. Human rights organizations have repeatedly found discrepancies between the dates or locations of strikes and those recorded in the logs. In one instance, the coalition deemed an allegation regarding a strike in the Al-Thani neighborhood of Tabqa, Syria, on Dec. 20, 2016, as “not credible,” explaining that the nearest airstrike was more than a kilometer away. After Human Rights Watch dispatched researchers to the ground and discovered evidence to the contrary, the coalition acknowledged the strike as its own.

We found many such discrepancies. For instance, the Air Force analysts said it was unlikely that the coalition had struck Qaiyara’s water-sanitation facility because the logs recorded the nearest strike as 600 meters away, which would place it outside the compound entirely. Yet we discovered a video — uploaded by the coalition itself — showing a direct strike on that very facility. (When we asked Lt. Col. Damien Pickart, director of public affairs at Udeid, about this discrepancy, he said he could only report “what the strike log shows.”) Similarly, we were told that a strike we identified on Qaiyara’s main bridge was unlikely to be by the coalition, because the nearest strike was on a truck 150 meters away. We again found a coalition video showing a direct hit on the structure. Pickart explained the inconsistency by saying the coalition had conducted multiple strikes on various targets within an hourlong period, only one of which was included in the official log.

The most common justification the coalition gives when denying civilian casualty allegations is that it has no record of carrying out a strike at the time or area in question. If incomplete accounts like these are standard practice, it calls into question the coalition’s ability to determine whether any strike is its own.”

Based on the response to “The Uncounted” — which was one of the New York Times’ “most-read articles” in 2017— and its findings about the discrepancies in 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, 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.

In response to the story, the New York Times Editorial Board called for true accountability & transparency on civilian casualties, because "Americans need to understand the full cost and consequences of military actions undertaken in their names." According to the editorial, "A system intended to ensure transparency and accountability appears, instead, to be enabling the Pentagon to fool itself as well as the rest of us about the true cost of its strikes. It is often feeding bad intelligence into its intricate targeting system in the first place and then failing to thoroughly investigate civilians deaths after an attack." **(EXHIBIT C)**

In The Atlantic, two former U.S. officials, Robert Malley and Stephen Pomper, wrote about the story's findings and the need to develop a better approach to preventing civilian casualties, including the need to "make the assessment process more transparent" as a means to better understand the causes of civilian casualties and prevent them. "The Times story is one of faulty intelligence driving wrong-headed assumptions that decimate innocent lives and embitter survivors. It is a story about how a legal and bureaucratic fog can make it almost impossible for tragic mistakes to come to light, too often leaving instead a false sense of comfort that such mistakes never happened at all. And it is a story about a policy that warrants honest discussion, and change," they write. **(EXHIBIT D)**

In an opinion editorial in the New York Times, Senator Patrick Leahy of Vermont wrote at length about the reporting and called on the Department of Defense to commission a panel of civilian casualty documentation experts to conduct a review of intelligence and targeting procedures. "The truth is, the military is not doing all it can to avoid killing and wounding civilians," he writes. "It relies on information that is too often flawed or incorrectly interpreted. Pentagon officials, who point to their extensive procedures for distinguishing military targets from civilians, too often rely on skimpy, outdated and inconclusive intelligence gleaned from informants of dubious reliability and surveillance conducted from high altitudes, or from video analyzed half a world away by people without expertise about the country or its culture. Even the Pentagon's logs of its actions are unreliable and incomplete. These are solvable problems. It is incumbent on our military leaders to urgently address them." **(EXHIBIT E)**

Based on the investigation, Congressman Ted Lieu of California wrote Secretary of Defense James Mattis a letter "urging the Department of Defense to respond to and take corrective actions." **(EXHIBIT F)**

The Center for Civilians In Armed Conflict (CIVIC) wrote that the investigation's findings were "extremely disturbing" and "should be a wake-up call for the commanders of Operation Inherent Resolve." **(EXHIBITS G-H)**

And the Project on Government Oversight wrote that the investigation "makes clear there must be more oversight and transparency for how we count casualties in combat, and Congress should hold the military accountable for these numbers as they assess proposals to increase troops and spending for these wars." (**EXHIBIT I**)

Unfortunately, few civilian casualty assessment records have been made public. Despite "credible" assessments in more than 200 casualty airstrike incidents since Operation Inherent Resolve began in 2014, and more than 1,000 non-credible assessments, USCENTCOM has publicly released the credibility assessment, closure report, or executive summary records for only a handful of these incidents. These records provide critical information, such as how these allegations are assessed and the circumstances surrounding "credible" reports that are not included in the limited, sentence-long summaries released in monthly civilian casualty reports. As such, disclosure here will significantly contribute to the public's understanding of federal government operations, specifically how it assesses civilian casualty allegations and what it has determined to be the likely causes for the civilian casualties—information that is critical to preventing civilian casualties.

Additionally, according to the U.S. military's own statements, these records provide critical information that is "**unique and may provide insights unavailable to NGOs**," as stated in a recent letter from the Assistant Secretary of Defense in response to Senator Patrick Leahy (**EXHIBIT J**), which also identifies the centralized process for conducting these assessments and retaining records of them, as excerpted below:

"The process for civilian casualty accounting and the centralized reporting procedure is as follows. When the Coalition receives an allegation, all the information from the report goes into a database. The Coalition assesses the credibility of each allegation, regardless of the source. Assessments may include a number of forms of review, including interviewing pilots and other personnel involved in the targeting process, reviewing available strike and surveillance video, and analyzing information provided by U.S. and partner governments, non-governmental organizations (NGOs), partner forces, and open-source reporting. U.S. civilian casualty assessments are based on available classified and unclassified intelligence information. DoD acknowledges that there are differences between U.S. military assessments of the number of civilian casualties in Iraq and Syria and reporting from NGOs. The preceding information illustrates that the combination of sources available to the U.S. military is unique and may provide insights unavailable to NGOs."

(**EXHIBIT J**)

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: News Stories Regarding Reprisal Violence Against Suspected ISIS Members

EXHIBIT C: The New York Times Editorial Board: “Telling The Truth About The Cost Of War”

EXHIBIT D: The Atlantic: “An Accounting for the Uncounted”

EXHIBIT E: New York Times Op-Ed by Senator Patrick Leahy: “What We Owe the Innocent Victims of America’s Wars”

EXHIBIT F: Congressman Ted Lieu Release & Letter: Rep. Lieu Urges Pentagon To Explain Reports of Underreported Civilian Casualties From Airstrikes Against ISIS

EXHIBIT G: Center for Civilians In Conflict: “NYT Civilian Casualties Story Should Be a ‘Wake Up Call’ for US Military”

EXHIBIT H: Center for Civilians In Conflict: “The NYT Story on Civilian Casualties Should be Required Reading in Pentagon”

EXHIBIT I: Project On Government Oversight: “The American People Need to Know More About the Costs of Our Wars”

EXHIBIT J: Assistant Secretary of Defense Response Letter to Senator Patrick Leahy

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 e-mail address, KhanA@NewAmerica.org, including any links for download. When sending any e-mails to me at KhanA@NewAmerica.org regarding this request, please also include my counsel at the Reporters Committee for Freedom of the Press at amarshall@rcfp.org and AzmatZahra@gmail.com.

If you have any questions regarding this request, please contact me by email or by phone at (616) 706-6157.

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,



Azmat Khan

Investigative Reporter, New York Times Magazine Contributing Writer
18 West 21st Street, Suite 900, New York, NY 10010

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

**AN ON-THE-
GROUND
INVESTIGATION
REVEALS THAT
THE U.S.-LED
BATTLE AGAINST
ISIS — HAILED
AS THE MOST
PRECISE AIR
CAMPAIGN IN
HISTORY —
IS KILLING FAR
MORE IRAQI
CIVILIANS
THAN THE
COALITION HAS
ACKNOWLEDGED.**

By Azmat Khan and Anand Gopal
Photograph by Giles Price



THE UNCOU



UNITED

LATE

on the evening of Sept. 20, 2015, Basim Razzo sat in the study of his home on the eastern side of Mosul, his face lit up by a computer screen. His wife, Mayada, was already upstairs in bed, but Basim could lose hours clicking through car reviews on YouTube: the BMW Alpina B7, the Audi Q7. Almost every night went like this. Basim had long harbored a taste for fast rides, but around ISIS-occupied Mosul, the auto showrooms sat dark, and the family car in his garage — a 1991 BMW — had barely been used in a year. There simply was nowhere to go.

The Razzos lived in the Woods, a bucolic neighborhood on the banks of the Tigris, where marble and stucco villas sprawled amid forests of eucalyptus, chinar and pine. Cafes and restaurants lined the riverbanks, but ever since the city fell to ISIS the previous year, Basim and Mayada had preferred to entertain at home. They would set up chairs poolside and put kebabs on the grill, and Mayada would serve pizza or Chinese fried rice, all in an effort to maintain life as they'd always known it. Their son, Yahya, had abandoned his studies at Mosul University and fled for Erbil, and they had not seen him since; those who left when ISIS took over could re-enter the caliphate, but once there, they could not leave — an impasse that stranded people wherever they found themselves. Birthdays, weddings and graduations came and went, the celebrations stockpiled for that impossibly distant moment: liberation.

Next door to Basim's home stood the nearly identical home belonging to his brother, Mohannad, and his wife, Azza. They were almost certainly asleep at that hour, but Basim guessed that their 18-year-old son, Najib, was still up. A few months earlier, he was arrested by the ISIS religious police for wearing jeans and a T-shirt with English writing. They gave him 10 lashes and, as a further measure of humiliation, clipped his hair into a buzz cut. Now he spent most of his time indoors, usually on Facebook. "Some-day it'll all be over," Najib had posted just a few days earlier. "Until that day, I'll hold on with all my strength."

Sometimes, after his parents locked up for the night, Najib would fish the key out of the cupboard and steal over to his uncle's house. Basim had the uncanny ability to make his nephews forget the darkness of their situation. He had a glass-half-full exuberance, grounded in the belief that every human life — every setback and success, every heartbreak and triumph — is written by the 40th day in the womb. Basim was not a particularly religious man, but that small article of faith underpinned what seemed

to him an ineluctable truth, even in wartime Iraq: Everything happens for a reason. It was an assurance he offered everyone; Yahya had lost a year's worth of education, but in exile he had met, and proposed to, the love of his life. "You see?" Basim would tell Mayada. "You see? That's fate."

Basim had felt this way for as long as he could remember. A 56-year-old account manager at Huawei, the Chinese multinational telecommunications company, he studied engineering in the 1980s at Western Michigan University. He and Mayada lived in Portage, Mich., in a tiny one-bedroom apartment that Mayada also used as the headquarters for her work as an Avon representative; she started small, offering makeup and skin cream to neighbors, but soon expanded sales to Kalamazoo and Comstock. Within a year, she'd saved up enough to buy Basim a \$700 Minolta camera. Basim came to rely on her ability to impose order on the strange and the mundane, to master effortlessly everything from Yahya's chemistry homework to the alien repartee of faculty picnics and Rotary clubs. It was fate. They had been married now for 33 years.

Around midnight, Basim heard a thump from the second floor. He peeked out of his office and saw a sliver of light under the door to the bedroom of his daughter, Tuqa. He called out for her to go to bed. At 21, Tuqa would often stay up late, and though Basim knew that he wasn't a good example himself and that the current conditions afforded little reason to be up early, he believed in the calming power of an early-to-bed, early-to-rise routine. He waited at the foot of the stairs, called out again, and the sliver went dark.

It was 1 a.m. when Basim finally shut down the computer and headed upstairs to bed. He settled in next to Mayada, who was fast asleep.

Some time later, he snapped awake. His shirt was drenched, and there was a strange taste — blood? — on his tongue. The air was thick and acrid. He looked up. He was in the bedroom, but the roof was nearly gone. He could see the night sky, the stars over Mosul. Basim reached out and found his legs pressed just inches from his face by what remained of his bed. He began to panic. He turned to his left, and there was a heap of rubble. "Mayada!" he screamed. "Mayada!" It was then that he noticed the silence. "Mayada!" he shouted. "Tuqa!" The bedroom walls were missing, leaving only the bare supports. He could see the dark outlines of treetops. He began to hear the faraway, unmistakable sound of a woman's voice. He cried out, and the voice shouted back, "Where are you?" It was Azza, his sister-in-law, somewhere outside.

"Mayada's gone!" he shouted.

"No, no, I'll find her!"

"No, no, no, she's gone," he cried back. "They're all gone!"

LATER THAT SAME day, the American-led coalition fighting the Islamic State in Iraq and Syria uploaded a video to its YouTube channel. The clip, titled "Coalition Airstrike Destroys Daesh VBIED Facility Near Mosul, Iraq 20 Sept 2015," shows spectral black-and-white night-vision footage of two sprawling compounds, filmed by an aircraft slowly rotating above. There is no sound. Within seconds, the structures disappear in bursts of black smoke. The target, according to the caption, was a car-bomb factory, a hub in a network of "multiple facilities spread across Mosul used to produce VBIEDs for ISIS's terrorist activities," posing "a direct threat to both civilians and Iraqi security forces." Later, when he found the video, Basim could watch only the first few frames. He knew immediately that the buildings were his and his brother's houses.

The clip is one of hundreds the coalition has released since the American-led war against the Islamic State began in August 2014. Also posted to Defense Department websites, they are presented as evidence of a military campaign unlike any other — precise, transparent and unyielding. In the effort to expel ISIS from Iraq and Syria, the coalition has conducted more than 27,500 strikes to date, deploying everything from Vietnam-era B-52 bombers to modern Predator drones. That overwhelming air power has made it possible for local ground troops to overcome heavy resistance and retake cities throughout the region. "U.S. and coalition forces work very hard to be precise in airstrikes," Maj. Shane Huff, a spokesman for the Central Command, told us, and as a result "are conducting one of the most precise air campaigns in military history."

American military planners go to great lengths to distinguish today's precision strikes from the





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Mohannad and Najib were four of an unknown number of Iraqi civilians whose deaths the coalition has placed in the “ISIS” column. Estimates from Airwars and other nongovernmental organizations suggest that the civilian death toll is much higher, but the coalition disputes such figures, arguing that they are based not on specific intelligence but local news reports and testimony gathered from afar. When the coalition notes a mission irregularity or receives an allegation, it conducts its own inquiry and publishes a sentence-long analysis of its findings. But no one knows how many Iraqis have simply gone uncounted.

Our own reporting, conducted over 18 months, shows that the air war has been significantly less precise than the coalition claims. Between April 2016 and June 2017, we visited the sites of nearly 150 airstrikes across northern Iraq, not long after ISIS was evicted from them. We toured the wreckage; we interviewed hundreds of witnesses, survivors, family members, intelligence informants and local officials; we photographed bomb fragments, scoured local news sources, identified ISIS targets in the vicinity and mapped the destruction through satellite imagery. We also visited the American air base in Qatar where the coalition directs the air campaign. There, we were given access to the main operations floor and interviewed senior commanders, intelligence officials, legal advisers and civilian-casualty assessment experts. We provided their analysts with the coordinates and date ranges of every airstrike — 103 in all — in three ISIS-controlled areas and examined their responses. The result is the first systematic, ground-based sample of airstrikes in Iraq since this latest military action began in 2014.

We found that one in five of the coalition strikes we identified resulted in civilian death, a rate more than 31 times that acknowledged by the coalition. It is at such a distance from official claims that, in terms of civilian deaths, this may be the least transparent war in recent American

Basim Razzo and his home before the airstrike. Opening pages: The home after the strike.

air raids of earlier wars, which were carried out with little or no regard for civilian casualties. They describe a target-selection process grounded in meticulously gathered intelligence, technological wizardry, carefully designed bureaucratic hurdles and extraordinary restraint. Intelligence analysts pass along proposed targets to “target-teers,” who study 3-D computer models as they calibrate the angle of attack. A team of lawyers evaluates the plan, and — if all goes well — the process concludes with a strike so precise that it can, in some cases, destroy a room full of enemy fighters and leave the rest of the house intact.

The coalition usually announces an airstrike within a few days of its completion. It also publishes a monthly report assessing allegations of civilian casualties. Those it deems credible are generally explained as unavoidable accidents — a civilian vehicle drives into the target area moments after a bomb is dropped, for example. The coalition reports that since August 2014, it has killed tens of thousands of ISIS fighters and, according to our tally of its monthly summaries, 466 civilians in Iraq.

Yet until we raised his case, Basim’s family was not among those counted. Mayada, Tuqa,

history. Our reporting, moreover, revealed a consistent failure by the coalition to investigate claims properly or to keep records that make it possible to investigate the claims at all. While some of the civilian deaths we documented were a result of proximity to a legitimate ISIS target, many others appear to be the result simply of flawed or outdated intelligence that conflated civilians with combatants. In this system, Iraqis are considered guilty until proved innocent. Those who survive the strikes, people like Basim Razzo, remain marked as possible ISIS sympathizers, with no discernible path to clear their names.



Tuqa Razzo on the night before the airstrike.

BASIM WOKE UP in a ward at Mosul General Hospital, heavy with bandages. He was disoriented, but he remembered being pried loose from the rubble, the neighbors' hands all over his body, the backhoe serving him down to the earth, the flashing lights of an ambulance waiting in the distance. The rescuers worked quickly. Everyone knew it had been an airstrike; the planes could return at any minute to finish the job.

In the hospital, Basim was hazily aware of nurses and orderlies, but it was not until morning that he saw a familiar face. Mayada's brother placed a hand on his shoulder. When Basim asked who in his home survived, he was told: nobody. The blast killed Mayada and Tuqa instantly. A second strike hit next door, and Mohannad and

Najib were also dead. Only Azza, Najib's mother, was alive, because the explosion had flung her through a second-story window.

With his hip shattered, his pubic bone broken and his back and the sole of his left foot studded with shrapnel, Basim would need major surgery. But no hospital in Mosul, or anywhere in the caliphate, had the personnel or equipment to carry it out. The only hope was to apply for permission to temporarily leave ISIS territory, which required approval from the surprisingly complex ISIS bureaucracy. A friend put in the paperwork, but the ISIS representative denied the request. "Let him die," he told Basim's friend. "There were four martyrs. Let him be the fifth."

Basim was moved to his parents' home on the city's southern side. For two days, close friends and family members streamed in, but he hardly registered their presence. On the third day, he found himself able to sit up, and he began flipping through the pictures on his phone. One of the last was taken the evening before the attack: Tuqa grinning in the kitchen, clutching a sparkler. For the first time, he began to sob. Then he gathered himself and opened Facebook. "In the middle of the night," he wrote, "coalition airplanes targeted two houses occupied by innocent civilians. Is this technology? This barbarian attack cost me the lives of my wife, daughter, brother and nephew."

Suddenly, it was as if the whole city knew, and messages poured in. Word filtered to local sheikhs, imams and businessmen. Basim's own fate was discussed. Favors were called in, and a few weeks later, ISIS granted Basim permission to leave the caliphate. There was one condition: He must put up the deed to some of his family's property, which would be seized if he did not return. Basim feared traveling to Baghdad; whoever targeted his home might still believe him to be part of ISIS. Turkey seemed like his only option, and the only way to get there was to cross the breadth of Islamic State lands, through Syria.

For Basim, the next few days passed in a haze. A hired driver lowered him into a GMC Suburban, its rear seats removed to accommodate the mattress on which he reclined. They drove through the Islamic State countryside, past shabby villages and streams strewn with trash. In the afternoon, they reached Mount Sinjar, where a year earlier, Yazidi women were carted off by ISIS and sold into slavery. "I'm sorry, I have to go fast now," the driver said, revving up the engine until they were tearing through at 100 m.p.h. Yazidi guerrillas

were now taking refuge in the highlands and were known to take aim at the traffic down below.

The country opened up into miles and miles of featureless desert. Basim could not distinguish the small Syrian towns they passed but was aware of reaching Raqqa, the capital of the caliphate, and being lifted by a team of pedestrians and moved to a second vehicle. Soon a new driver was rushing Basim along darkened fields of wheat and cotton on narrow, bone-jarring roads. At times, the pain in his hip was unbearable. They stopped to spend the night, but he did not know where. At dawn, they set out again. After a while, the driver reached under his seat and produced a pack of cigarettes, forbidden in the caliphate. Basim was alarmed, but the driver began to laugh. "Don't worry," he said. "We're now in Free Syrian Army territory."

Before long, the traffic slowed, and they were weaving through streets crowded with refugees and homeless children and Syrian rebels. Basim was pushed across the border on a wheelchair. Waiting on the Turkish side, standing by an ambulance, was his son. Weeping, Yahya bent down to embrace his father. They had not seen each other in a year.

Basim spent the next two months in and out of a bed at the Special Orthopedic Hospital in Adana, Turkey. In the long hours between operations, when the painkillers afforded moments of lucidity, he tried to avoid ruminating on his loss. He refused to look at photos of his house, but occasionally at first, and then obsessively, he began replaying his and Mayada's actions in the days and weeks before the attack, searching for an explanation. Why was his family targeted? Some friends assumed that an ISIS convoy had been nearby, but the video showed nothing moving in the vicinity. What it did show was two direct hits. "O.K., this is my house, and this is Mohannad's house," he recalled. "One rocket here, and one rocket there. It was not a mistake."

Basim's shock and grief were turning to anger. He knew the Americans; he had lived among them. He had always felt he understood them. He desperately wanted to understand why his family was taken from him. "I decided," he said, "to get justice."

BASIM BELONGS TO one of Mosul's grand old families, among the dozens descended — the story goes — from 40 prophets who settled the baking hot banks of the Tigris, opposite the ancient Assyrian metropolis of Nineveh. Though the city they founded has since acquired a reputation for conservatism, Basim could remember a time of cosmopolitan flair. When he was growing up, domed Yazidi shrines and arched Syriac Orthodox churches stood nearly side by side with mosques and minarets; cafes in the evenings filled with hookah smoke and students

steeped in Iraq's burgeoning free-verse poetry movement. On Thursdays, visitors could find bars, clubs and raucous all-night parties or head to the Station Hotel, built in the central railway depot, where travelers liked to congregate for a drink (and where, to her eternal amusement, Agatha Christie once met the manager, a Syrian Christian named Satan). The wealthy tended to sympathize with the old monarchy or nationalist causes, but the working-class neighborhoods, particularly the Kurdish and Christian quarters, were bastions of Communist support. Islamic fundamentalism was nearly unheard-of, a bizarre doctrine of the fringe.

In the 1970s, as Saddam Hussein consolidated power, Mosul's pluralism began to erode, but Basim would not be around long enough to witness its disappearance. He left for England in 1979 and soon made his way to the United States. Settling into Michigan life was easy. Basim bought a Mustang, figured out health insurance, barbecued, went to cocktail parties and dated a woman he met in England. This development alarmed his parents, who began to pester him to settle down and suggested that he marry his cousin Mayada. He resisted at first, but the allure of making a life with someone from back home proved too great. He married Mayada in 1982, in a small ceremony at his uncle's home in Ann Arbor, Mich., in front of a dozen people.

As the oldest son, Basim felt increasingly concerned about his aging parents, so in 1988, he and Mayada made the difficult decision to move back home permanently. The city they returned to had undergone a shocking transformation. The Iran-Iraq war was winding down, but at a cost of as many as half a million dead Iraqis. The political alternatives of Basim's youth were gone: Communism had long since been crushed, and Arab nationalism had lost its luster under Hussein's Baathist dictatorship.

Instead, people increasingly described their suffering in the language of faith. The culture was transforming before Basim's eyes; for the first time, Mayada wrapped herself in a head scarf. Not long after, small networks of religious fundamentalists began appearing in Mosul, preaching to communities devastated by war and United Nations sanctions.

Then, in 2003, the United States invaded. One night just a few months afterward, the Americans showed up at the Woods and took over a huge abandoned military barracks across the street from Basim's property. The next morning, they started cutting down trees. "They said, 'This is for our security,'" Basim recalled. "I said, 'Your security doesn't mean destruction of the forest.'" Walls of concrete and concertina wire started to appear amid the pine and chinar stands. The barracks became a Joint Coordination Center, or J.C.C., where American troops worked with local

LOST IN THE WRECKAGE



We visited the locations of nearly 150 airstrikes across northern Iraq, seeking to determine which air force launched them and whom they killed. The American-led coalition now acknowledges that it was the "probable" source of many more of those strikes than previously disclosed. Here are the stories of some of the victims.

A. K. and A. G.

HOME OF MOHAMMED TAYEB AL-LAYLA

Dhubat, eastern Mosul

DATE

Jan. 10, 2017

3 CIVILIAN DEATHS

STATED TARGET

"Known ISIS weapons cache"

Ahmed al-Layla tried to persuade his parents to escape from Mosul with his sister, Eaman, and join him in Erbil, but they were stubborn. His father, Mohammed Tayeb al-Layla (below left), a former dean of engineering at Mosul University, refused to abandon his prized library, shelf after shelf of books on engineering and soil mechanics. As the Iraqi Army approached, neighbors told us, several ISIS fighters broke into the home, climbed to the roof and assumed sniper positions. Ahmed's father raced up in pursuit, with Ahmed's mother, Dr. Fatima Habbal (below right), a prominent gynecologist, close behind. Not long after, an airstrike flattened the home, killing the snipers, along with Ahmed's parents and sister.



security forces. Basim came to know some of the Americans; once, before the center acquired internet access, he helped a soldier send email to his mother back home. Sometimes he would serve as an impromptu translator.

Across Iraq, the American invasion had plunged the country into chaos and spawned a nationalist resistance — and amid the social collapse, the zealots seized the pulpit. Al Qaeda in Iraq recruited from Mosul's shanty towns and outlying villages and from nearby provincial cities like Tal Afar. By 2007, sections of Mosul were in rebellion. By then, the Americans had expanded the mission of the J.C.C., adding a center where Iraqis could file compensation claims for the injury or death of a loved one at the hands of American forces.

When the Americans withdrew in 2011, Basim felt as if almost everyone he knew harbored grievances toward the occupation. That same year, on one of his customary rambles around the internet, Basim came upon a TEDx Talk called “A Radical Experiment in Empathy” by Sam Richards, a sociology professor at Penn State. Richards was asking the audience to imagine that China had invaded the United States, plundered its coal and propped up a kleptocratic government. Then he asked the audience to put themselves in the shoes of “an ordinary Arab Muslim living in the Middle East, particularly in Iraq.” He paced across the stage, scenes from the Iraq conflict playing behind him. “Can you feel their anger, their fear, their rage at what has happened to their country?”

Basim was transfixed. He'd never seen an American talk this way. That night, he wrote an email. “Dear Dr. Richards, my name is Basim Razzo, and I am a citizen of Iraq,” he began. He described how Iraqis had celebrated the overthrow of Hussein but then lost hope as the war progressed. “Radical Islamists grew as a result of this war, and many ideas grew out of this war which we have never seen or heard before,” he said. “I thank you very much for your speech to enlighten the American public about this war.”

Richards invited Basim to begin speaking to his classes over Skype, and a friendship blossomed. Years later, Richards saw Basim's Facebook post describing the attack and ran it through Google Translate. He and his wife spent hours messaging with Basim, trying to console him. In the end, Richards had signed off, “This American friend of yours, this American brother, sends you a virtual hug.”

Now, as Basim lay in bed in the Special Orthopedic Hospital in Adana, he found his thoughts returning to the old Joint Coordination Center next to his house in Mosul and the condolence payments they used to offer. He knew that he would never recover the full extent of his losses, but he needed to clear his name. And he wanted

an accounting. He decided that as soon as he recuperated, he would seek compensation. It was the only way he could imagine that an Iraqi civilian might sit face to face with a representative of the United States military.

THE IDEA THAT civilian victims of American wars deserve compensation was, until recently, a radical notion floating on the edges of military doctrine. Under international humanitarian law, it is legal for states to kill civilians in war when they are not specifically targeted, so long as “indiscriminate attacks” are not used and the number of civilian deaths is not disproportionate to the military advantage gained. Compensating victims, the argument went, would hinder the state's ability to wage war. Even the Foreign Claims Act, the one American law on the books that allows civilians to be compensated for injury or death at the hands of United States military personnel, exempts losses due to combat.

Over the years, however, war planners have come to see strategic value in payments as a good-will gesture. During the Korean War, American commanders sometimes offered token cash or other gifts to wronged civilians, in a nod to local custom. These payments were designed to

NOT A SINGLE PERSON IN IRAQ OR SYRIA HAS RECEIVED A CONDOLENCE PAYMENT FOR A CIVILIAN DEATH SINCE THE WAR AGAINST ISIS BEGAN IN 2014.

be symbolic expressions of condolence, not an official admission of wrongdoing or compensation for loss. During the Iraq and Afghanistan conflicts, war planners began to focus more seriously on condolence payments, seeing them as a way to improve relations with locals and forestall revenge attacks. Soon, American forces were disbursing thousands of dollars yearly to civilians who suffered losses because of combat operations, for everything from property damage to the death of a family member.

Because the military still refused to consider the payments as compensation for loss, the system became capricious almost by design. Rebuilding a home could cost hundreds of thousands of dollars, on top of several thousands' worth of furniture and other possessions.

Medical bills could amount to thousands of dollars, especially for prostheses and rehabilitation. Losing government documents, like ID cards, could mean years of navigating a lumbering bureaucracy. The American condolence system addressed none of this. Payouts varied from one unit to the next, making the whole process seem arbitrary, mystifying or downright cruel to recipients: Payouts in Afghanistan, for example, ranged from as little as \$124.13 in one civilian death to \$15,000 in another.

In 2003, an activist from Northern California named Marla Ruzicka showed up in Baghdad determined to overhaul the system. She founded Civic, now known as the Center for Civilians in Conflict, and collected evidence of civilians killed in American military operations. She discovered not only that there were many more than expected but also that the assistance efforts for survivors were remarkably haphazard and arbitrary. Civic championed the cause in Washington and found an ally in Senator Patrick J. Leahy of Vermont. In 2005, Ruzicka was killed by a suicide blast in Baghdad, but her efforts culminated in legislation that established a fund to provide Iraqi victims of American combat operations with nonmonetary assistance — medical care, home reconstruction — that served, in practice, as compensation.

When the Americans withdrew in 2011, however, all condolence programs went defunct, and they were not revived when the United States began the war against ISIS in 2014. The Marla Ruzicka Iraqi War Victims Fund itself — the only program specifically designed to aid war victims still in effect — has turned to other priorities and no longer provides assistance to civilian survivors of American combat operations. When we asked the State Department whether civilian victims of American airstrikes could turn to the Marla Fund for assistance, they were unable to provide an answer.

The two most recent military spending bills also authorized millions of dollars for condolence payments, but the Defense Department has failed to enact these provisions or even propose a plan for how it might disburse that money. In fact, in the course of our investigation, we learned that not a single person in Iraq or Syria has received a condolence payment for a civilian death since the war began in 2014. “There really isn't a process,” a senior Central Command official told us. “It's not that anyone is against it; it just hasn't been done, so it's almost an aspirational requirement.”

With Mosul and Raqqa now out of ISIS control, the coalition is “not going to spend a lot of time thinking about” condolence payments, said Col. John Thomas, a spokesman for Central Command. “We're putting our efforts into community safety and returning refugees to some

sort of home.” While assisting civilian victims is no longer a military priority, some authorities appear to remain concerned about retaliation. About a year after the strike on Basim’s house, his cousin Hussain Al-Rizzo, a systems-engineering professor at the University of Arkansas at Little Rock, received a visit from an F.B.I. agent. The agent, he said, asked if the deaths of his relatives in an American airstrike made him in his “heart of hearts sympathize with the bad guys.” Hussain, who has lived in the United States since 1987, was stunned by the question. He said no.

IN LATE DECEMBER 2015, after three operations, Basim moved to Baghdad to live with Yahya in a five-bedroom house next door to his nephew Abdullah, Mohannad’s oldest son. Eight screws were drilled into his left hip, a titanium plate stabilized his right hip and a six-inch scar mapped a line across his abdomen. His pain was unremitting. He was out of work and had little more than the clothes he took when escaping Mosul. His computer, the photo albums, the wedding gifts Mayada had packed for Yahya — all of it was buried under rubble.

Basim channeled his frustrations into proving his case to the Americans. With a quiet compulsiveness, he scoured the web, studying Google Earth images. He asked a niece, still living inside Mosul, to take clandestine photographs of the site, including close-ups of bomb fragments. He inventoried his lost possessions. He contacted everyone he’d met who might have links to the American authorities: acquaintances from Michigan, his cousins in Arkansas, a relative who was an assistant professor at Yale University. His best hope was Sam Richards, the professor at Penn State: One of his former students was an adviser to Hillary Clinton’s presidential campaign, and she helped him get an appointment at the United States Embassy in Baghdad.

On a rainy Sunday in February 2016, Yahya drove Basim to the perimeter of the Green Zone in downtown Baghdad. He proceeded into the fortified compound by walker and then boarded a minibus for the embassy, carrying a nine-page document he had compiled. 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



HOME OF SALAM AL-ODEH

Downtown Qaiyara

DATE

March 19, 2016

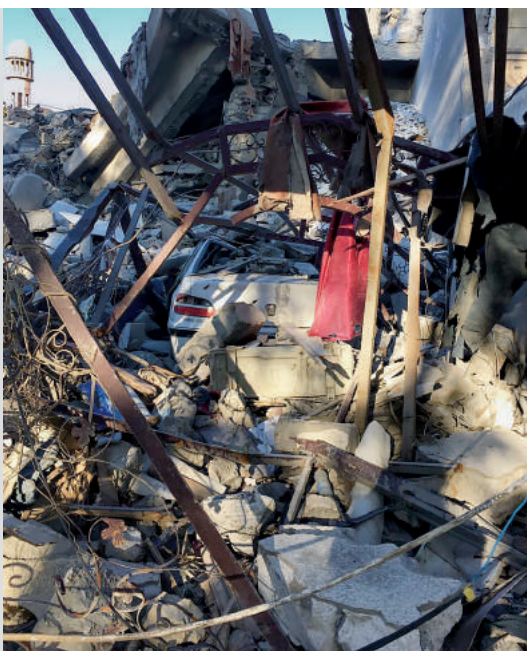
7 CIVILIAN DEATHS

STATED TARGET

“Known ISIS weapons cache”

When ISIS left a mortar in Qaiyara’s rail yard, a local informant passed on the coordinates for an airstrike. The strikes hit the rail yard (above), but ISIS had moved on. Instead, the homes of Salam al-Odeh and Aaz-Aldin Muhammad Alwan were hit. Salam’s wife, Harbia, hung on until she reached the hospital, where she told her relatives what happened, then died of her injuries. A few weeks later, her son Musab died of his wounds, too. Of the eight people living in the two homes struck, only Rawa (below), who was 2, survived.





HOME OF RAFI AL-IRAQI

Al-Zirai, eastern Mosul

DATE

Jan. 6, 2017

16 CIVILIAN DEATHS

STATED TARGET

“Known ISIS HQ facility”

In early 2016, an ISIS patrol forced its way into the home of Rafi al-Iraqi (below, with his children), demanding the family’s cellphones. Sama (right), Rafi’s 10-year-old daughter, burst into tears and produced her mother’s phone, which contained negative messages about ISIS that she had recently sent to her sister in Erbil. Rafi and his wife were arrested and interrogated, but only he was released. When Rafi asked about his wife, he was told, “We’ll bring her to you.” Not long after, the family received her bullet-riddled body. Almost precisely a year later, at the height of the Mosul offensive, an airstrike leveled Rafi’s house and two others next door. Only Rafi, his mother and his 12-year-old son, Mohammed (far left), survived.



ISIS” by the Iraqi authorities. This threatened to be a problem, especially after the city’s liberation.

The consular officer, who spoke to us on the condition of anonymity, was moved. “I have people coming in every day that lie to me, that come with these sob stories,” the officer remembered telling him, “but I believe you.” When Basim emerged onto the street, the rain was beating down, and a passer-by held out an umbrella as he hobbled to a taxi.

Two months passed, and Basim heard nothing. He wrote to the officer and reattached the report, asking for an update, but he received no reply. He tried again the next month and was told that his case had been “forwarded.” Then more silence.

We first met Basim not long after, in the spring of 2016, in a quiet cafe in Baghdad’s Mansour district. Basim’s cousin’s wife, Zareena Grewal, the Yale professor, had written an Op-Ed in The New York Times about the attack. We had already been investigating the larger problem of civilian airstrikes for several months, so we contacted him to learn more about his story. Nearly half the country was still under ISIS control, and all along Mansour’s palm-shaded sidewalks were the resplendent bursts of militia flags and posters of angelic-looking young men who had fallen on the front. 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.” (The consular officer later told us that when Basim’s case was referred to a military attorney, the attorney replied, “There’s no way to prove that the U.S. was involved.”)

In November, we wrote to the coalition ourselves, explaining that we were reporters working on an article about Basim. We provided details about his family and his efforts to reach someone in authority and included a link to the YouTube video the coalition posted immediately after the strike. A public-affairs officer responded, “There is nothing in the historical log for 20 SEP 2015,” the date the coalition had assigned to the strike video. Not long after, the video disappeared from the coalition’s YouTube channel. We responded by providing the GPS coordinates of Basim’s home, his emails to the State Department

and an archived link to the YouTube video, which unlike the videos on the Pentagon's website allow for comments underneath — including those that Basim's family members left nearly a year before.

"I will NEVER forget my innocent and dear cousins who died in this pointless airstrike," wrote Aisha Al-Rizzo, Tuqa's 16-year-old cousin from Arkansas.

"You are murderers," wrote Basim and Mohannad's cousin Hassan al-Razzo. "You kill innocents with cold blood and then start creating justification."

"How could you do that?" wrote another relative. "You don't have a heart."

Over the coming weeks, one by one, the coalition began removing all the airstrike videos from YouTube.

THE COALITION'S AIR war in Iraq is directed largely from the Combined Air Operations Center, quartered inside Al-Udeid Air Base in the desert outskirts of Doha, Qatar. As a shared hub for the Qatari Air Force, the British Royal Air Force and the United States Air Force and

COALITION OFFICERS SPEAK OF EVERY ONE OF THE ACKNOWLEDGED DEATHS AS TRAGIC BUT UTTERLY UNAVOIDABLE.

Central Command, among others, Udeid hosts some of the longest runways in the Middle East, as well as parking lots full of hulking KC-135 Stratotanker refueling planes, a huge swimming pool and a Pizza Hut. An alarm blares occasional high-temperature alerts, but the buildings themselves are kept so frigid that aviators sometimes wear extra socks as mittens.

When we visited in May, several uniformed officials walked us through the steps they took to avoid civilian casualties. The process seemed staggeringly complex — the wall-to-wall monitors, the soup of acronyms, the army of lawyers — but the impressively choreographed operation was designed to answer two basic questions about each proposed strike: Is the proposed target actually ISIS? And will attacking this ISIS target harm civilians in the vicinity?

As we sat around a long conference table, the officers explained how this works in the best-case scenario, when the coalition has weeks or months

to consider a target. Intelligence streams in from partner forces, informants on the ground, electronic surveillance and drone footage. Once the coalition decides a target is ISIS, analysts study the probability that striking it will kill civilians in the vicinity, often by poring over drone footage of patterns of civilian activity. The greater the likelihood of civilian harm, the more mitigating measures the coalition takes. If the target is near an office building, the attack might be rescheduled for nighttime. If the area is crowded, the coalition might adjust its weaponry to limit the blast radius. Sometimes aircraft will even fire a warning shot, allowing people to escape targeted facilities before the strike. An official showed us grainy night-vision footage of this technique in action: Warning shots hit the ground near a shed in Deir al-Zour, Syria, prompting a pair of white silhouettes to flee, one tripping and picking himself back up, as the cross hairs follow.

Once the targeting team establishes the risks, a commander must approve the strike, taking care to ensure that the potential civilian harm is not "excessive relative to the expected military advantage gained," as Lt. Col. Matthew King, the center's deputy legal adviser, explained.

After the bombs drop, the pilots and other officials evaluate the strike. Sometimes a civilian vehicle can suddenly appear in the video feed moments before impact. Or, through studying footage of the aftermath, they might detect signs of a civilian presence. Either way, such a report triggers an internal assessment in which the coalition determines, through a review of imagery and testimony from mission personnel, whether the civilian casualty report is credible. If so, the coalition makes refinements to avoid future civilian casualties, they told us, a process that might include reconsidering some bit of intelligence or identifying a flaw in the decision-making process.

Most of the civilian deaths acknowledged by the coalition emerge from this internal reporting process. Often, though, watchdogs or journalists bring allegations to the coalition, or officials learn about potential civilian deaths through social media. The coalition ultimately rejects a vast majority of such external reports. It will try to match the incident to a strike in its logs to determine whether it was indeed its aircraft that struck the location in question (the Iraqi Air Force also carries out strikes). If so, it then scours its drone footage, pilot videos, internal records and, when they believe it is warranted, social media and other open-source information for corroborating evidence. Each month, the coalition releases a report listing those allegations deemed credible, dismissing most of them on the grounds that coalition aircraft did not strike in the vicinity or that the reporter failed to provide sufficiently precise information about the time and place of the episode. (The coalition counts

both aircraft and artillery attacks in its strike figures; we excluded artillery attacks.)

In the eyes of the coalition, its diligence on these matters points to a dispiriting truth about war: Supreme precision can reduce civilian casualties to a very small number, but that number will never reach zero. They speak of every one of the acknowledged deaths as tragic but utterly unavoidable. "We're not happy with it, and we're never going to be happy with it," said Thomas, the Central Command spokesman. "But we're pretty confident we do the best we can to try to limit these things."

Because so much of this process is hidden — through March, the coalition released only one internal investigation from Iraq, a strike that hit a civilian vehicle in the Hatra district southwest of Mosul — its thoroughness is difficult to evaluate independently. The pre-eminent organization that seeks to do so is Airwars, a nonprofit based in London that monitors news reports, accounts by nongovernmental organizations, social-media posts and the coalition's own public statements. Airwars tries to triangulate these sources and grade each allegation from "fair" to "disputed." As of October, it estimates that up to 3,000 Iraqi civilians have been killed in coalition airstrikes — six times as many as the coalition has stated in its public summaries. But Chris Woods, the organization's director, told us that Airwars itself "may be significantly underreporting deaths in Iraq," because the local reporting there is weaker than in other countries that Airwars monitors.

The coalition sees the same problem but draws the opposite conclusion. In a September opinion article in *Foreign Policy*, with the headline "Reports of Civilian Casualties in the War Against ISIS Are Vastly Inflated," Lt. Gen. Stephen J. Townsend, the coalition's former top commander, wrote: "Our critics are unable to conduct the detailed assessments the coalition does. They arguably often rely on scant information phoned in or posted by questionable sources."

Counting civilian deaths in war zones has always been a difficult and controversial endeavor. The Iraq Body Count project, which sought to record civilian deaths after the 2003 invasion using techniques similar to Airwars, was flooded with criticism for both undercounting and overcounting. The *Lancet*, a medical journal, published studies based on surveys of Iraqi households that detractors alleged were not statistically sound. Human Rights Watch and Amnesty International have conducted ground investigations, but usually for only a handful of strikes at a time. Yet the coalition, the institution best placed to investigate civilian death claims, does not itself routinely dispatch investigators on the ground, citing access and security concerns, meaning there has not been such a rigorous ground investigation of this

air war — or any American-led air campaign — since Human Rights Watch analyzed the civilian toll of the NATO bombing in Kosovo, a conflict that ended in 1999.

In our interview at the base, Lt. Gen. Jeffrey Harrigian, commander of the United States Air Forces Central Command at Udeid, told us what was missing. “Ground truth, that’s what you’re asking for,” he said. “We see what we see from altitude and pull in from other reports. Your perspective is talking to people on the ground.” He paused, and then offered what he thought it would take to arrive at the truth: “It’s got to be a combination of both.”

INVESTIGATING CIVILIAN HARM on the ground is difficult but not impossible. Last spring, we began our own effort, visiting Iraqi cities and towns recently liberated from ISIS control. Ultimately, we selected three areas in Nineveh Province, traveling to the location of every airstrike that took place during ISIS control in each — 103 sites in all. These areas encompassed the range of ISIS-controlled settlements in size and population makeup: downtown Shura, a small provincial town that was largely abandoned during periods of heavy fighting; downtown Qaiyara, a suburban municipality; and Aden, a densely packed city neighborhood in eastern Mosul. The sample would arguably provide a conservative estimate of the civilian toll: It did not include western Mosul, which may have suffered the highest number of civilian deaths in the entire war. Nor did it include any strikes conducted after December 2016, when a rule change allowed more ground commanders to call in strikes, possibly contributing to a sharp increase in the death toll.

The areas we visited had undergone intense attacks of all kinds over the previous two years: airstrikes, sniper fire, mortars, rockets, improvised explosive devices, demolitions by ISIS, demolitions by anti-ISIS vigilantes and more. Our approach required mapping each area, identifying the sites that had been struck from the air and excluding those damaged by Iraqi forces in close-quarters ground combat.

Finally, we determined who or what had been hit. In addition to interviewing hundreds of witnesses, we dug through the debris for bomb fragments, tracked down videos of airstrikes in the area and studied before-and-after satellite imagery. We also obtained and analyzed more than 100 coordinate sets for suspected ISIS sites passed on by intelligence informants. We then mapped each neighborhood door to door, identifying houses where ISIS members were known to have lived and locating ISIS facilities that could be considered legitimate targets. We scoured the wreckage of each strike for materials suggesting an ISIS presence, like weapons, literature and decomposed remains of fighters. We verified



A bombed-out home in Qaiyara.

every allegation with local administrators, security forces or health officials.

In Qaiyara’s residential district, where small wheat-colored homes sit behind low concrete walls, one or two structures had been reduced to rubble on almost every block. We went to all of them. A significant part of our efforts involved determining which air force — Iraqi or coalition — carried out each strike. Either way, according to official accounts, the air war in Qaiyara was remarkably precise: The coalition has stated that it killed only one civilian in or near the town, while the Iraqi Air Force has not acknowledged any civilian deaths in the area.

It was soon clear that many more had died. We visited one house that stood partly intact but for the rear alcove, which had been pancaked. A woman stepped out from the front of the

structure, three children orbiting her. She told us her name, Inas Hamadi. “My children died here,” she said. “It happened so quickly.” One of the surviving children, Wiham, 11, remembered waking up to the sound of aircraft and running under the stairs to hide with her six siblings and cousins. Then the house was struck, collapsing the staircase onto them. Riam, 8, and Daoud, 5, did not survive. “Daoud’s body was full of shrapnel,” Wiham said. “Riam had a hole beside her ear and a hole in her brain. She looked around and was dizzy.”

The strike was witnessed by neighbors, who helped rescue the children. Everyone agreed that the target was most likely the hospital or a pair of homes on the next street, all of which had been commandeered by ISIS. We collected the names and photographs of the dead and checked



satellite imagery to confirm the date range of the strike. The deaths were never reported, were never recorded in any public database and were not investigated by the coalition.

We continued in this fashion, door to door. What we found was sobering: During the two years that ISIS ruled downtown Qaiyara, an area of about one square mile, there were 40 airstrikes, 13 of which killed 43 civilians — 19 men, eight women and 16 children, ages 14 or younger. In the same period, according to the Iraqi federal police, ISIS executed 18 civilians in downtown Qaiyara.

In Shura and Aden, we found a similar discrepancy between the number of civilian deaths on the ground and the number reported by the coalition. Through dozens of interviews at each site in all three locations, along with our

house-to-house mapping, we tried to determine the reasons behind each airstrike that killed civilians. Coalition officials say ISIS fighters embedded in the population, making it difficult to avoid hitting civilians nearby. This appeared to be the case for about one-third of the deadly strikes — for example, a September 2016 strike on an ISIS-occupied primary school in Shura that killed three civilians in the vicinity.

But in about half of the strikes that killed civilians, we could find no discernible ISIS target nearby. Many of these strikes appear to have been based on poor or outdated intelligence. For example, last fall we visited a bombed-out house on the edge of Qaiyara, near the rail yard. It belonged to the family of Salam al-Odeh; neighbors and relatives told us the family had been sleeping one night when they awoke to the shudder of an airstrike nearby. Sometimes strikes came in pairs, so Salam's wife, Harbia, scooped up their baby, Bara, and ran out the door. Salam scrambled to save his other children — his daughter, Rawa, and his sons, Musab and Hussein. But then a second strike hit. Salam, the baby and Hussein were killed instantly. His wife hung on until she reached the hospital, where she told her relatives what happened, but then died from her injuries. A few weeks later, Musab died of his wounds too. Only Rawa, who was 2, survived. Several months later, we found the person who called in the strike, one of the coalition's main sources in Qaiyara, a local Iraqi official we are not identifying for his safety. He told us that while on a walk one day, he spotted an ISIS mortar under a clump of trees near the rail yard and transmitted the coordinates. (Neighbors also told us that ISIS had occupied and then abandoned a house in the area a year earlier, which a different informant may have told the coalition about.) By the time the information made its way to the coalition and it decided to act, the mortar had been moved.

Such intelligence failures suggest that not all civilian casualties are unavoidable tragedies; some deaths could be prevented if the coalition recognizes its past failures and changes its operating assumptions accordingly. But in the course of our investigation, we found that it seldom did either.

In June, for example, we visited an electrical substation occupying several blocks of the Aden neighborhood in eastern Mosul. On the evening of April 20, 2015, aircraft bombed the station, causing a tremendous explosion that engulfed the street. Muthana Ahmed Tuaama, a university student, told us his brother rushed into the blaze to rescue the wounded, when a second blast shook the facility. "I found my brother at the end of the street," he said. "I carried him." Body parts littered the alleyway. "You see those puddles of water," he said. "It was just like that,

but full of blood." We determined that at least 18 civilians died in this one attack and that many more were grievously wounded. News of the strike was picked up by local bloggers, national Iraqi outlets and ISIS propaganda channels and was submitted as an allegation to the coalition by Airwars. Months later, the coalition announced the results of its investigation, stating that there was "insufficient evidence to find that civilians were harmed in this strike." Yet even a cursory internet search offers significant evidence that civilians were harmed: We found disturbingly graphic videos of the strike's aftermath on YouTube, showing blood-soaked toddlers and children with their legs ripped off.

A key part of the coalition's investigation process is to match civilian casualty accusations against its own logs. Chris Umphres, an Air Force captain at Udeid who assesses allegations of civilian casualties, told us that military investigators possess the coordinates of "every single strike conducted by coalition forces," crucial information unavailable to the typical journalist. "We have 100 percent accountability of where all of our weapons are employed."

We found this to not always be the case. For every location we visited, we submitted GPS coordinates to determine whether it was the coalition or the Iraqi Air Force that bombed the site. At first, the coalition told us it did not have the time or the staff to check more than a handful of the coordinates. But eventually, a team of Air Force analysts at Udeid agreed to compare the dates and coordinates of each of the 103 sites in our sample with those the coalition had recorded in its airstrike log. If a strike in our sample occurred within 50 meters of a strike that was recorded in the logs, they classified it as a "probable coalition airstrike," while assessing those outside this range — that is, anything more than a couple of house-lengths away — as "unlikely."

By this measure, 30 of the 103 strike sites in the sample we submitted are probable coalition strikes. But other evidence suggests that the coalition was responsible for many more. Human rights organizations have repeatedly found discrepancies between the dates or locations of strikes and those recorded in the logs. In one instance, the coalition deemed an allegation regarding a strike in the Al-Thani neighborhood of Tabqa, Syria, on Dec. 20, 2016, as "not credible," explaining that the nearest airstrike was more than a kilometer away. After Human Rights Watch dispatched researchers to the ground and discovered evidence to the contrary, the coalition acknowledged the strike as its own.

We found many such discrepancies. For instance, the Air Force analysts said it was unlikely that the coalition had struck Qaiyara's water-sanitation facility because the logs recorded the nearest *(Continued on Page 68)*

Airstrikes*(Continued from Page 53)*

strike as 600 meters away, which would place it outside the compound entirely. Yet we discovered a video — uploaded by the coalition itself — showing a direct strike on that very facility. (When we asked Lt. Col. Damien Pickart, director of public affairs at Udeid, about this discrepancy, he said he could only report “what the strike log shows.”) Similarly, we were told that a strike we identified on Qaiyara’s main bridge was unlikely to be by the coalition, because the nearest strike was on a truck 150 meters away. We again found a coalition video showing a direct hit on the structure. Pickart explained the inconsistency by saying the coalition had conducted multiple strikes on various targets within an hourlong period, only one of which was included in the official log.

The most common justification the coalition gives when denying civilian casualty allegations is that it has no record of carrying out a strike at the time or area in question. If incomplete accounts like these are standard practice, it calls into question the coalition’s ability to determine whether any strike is its own. Still, even using the most conservative rubric and selecting only those 30 airstrikes the Air Force analysts classified as “probable” coalition airstrikes, we found at least 21 civilians had been killed in six strikes. Expanding to the 65 strikes that fell within 600 meters — for example, the strikes on the home of Inas Hamadi in Qaiyara and the electrical substation in Aden — pushed that figure to at least 54 killed in 15 strikes. No matter which threshold we used, though, the results from our sample were consistent: One of every five airstrikes killed a civilian.

To understand how radically different our assessment is from the coalition’s own, consider this: According to the coalition’s available data, 89 of its more than 14,000 airstrikes in Iraq have resulted in civilian deaths, or about one of every 157 strikes. The rate we found on the ground — one out of every five — is 31 times as high.

Last December, 15 months after the attack, following a long, tangled chain of emails and phone calls, the coalition confirmed that it had indeed carried out an airstrike on Basim and Mohanad’s homes. It acknowledged that it had, in fact, conducted an internal inquiry — a “credibility assessment” — the previous autumn after Zareena Grewal, Basim’s relative at Yale, wrote the Op-Ed in *The Times*. The assessment, completed on Oct. 30, 2015, concluded that the allegation was “credible”; this meant the coalition had known for more than a year that it had “more likely than not” killed civilians and that it had recommended a full investigation into the strike, even as Basim’s attempts to reach the coalition were being ignored. Despite this finding, the

coalition neglected to include the incident in its public tally of deaths — which, in Iraq at that time, stood at 76 civilians — because of what Col. Joseph Scrocca, a coalition spokesman, called “an administrative oversight.”

Basim’s case had now become impossible to ignore. Based on the evidence we provided, Maj. Gen. Scott Kindsvater, then an Air Force deputy commander, ordered an internal investigation to determine what might have gone wrong on the night of the strike. And then, on Feb. 14, for the first time in the 17 months since the attack, Basim received an email from the coalition. “We deeply regret this unintentional loss of life in an attempt to defeat Da’esh,” Scrocca wrote, using another term for ISIS. “We are prepared to offer you a monetary expression of our sympathy and regret for this unfortunate incident.” He invited Basim to come to Erbil to discuss the matter. Basim was the first person to receive such an offer, in Iraq or Syria, during the entire anti-ISIS war.

Early in the morning of his scheduled meeting, Basim dreamed about Mayada. He could feel her skin next to his. He suddenly felt a surge of regret for things said and left unsaid, accrued over a lifetime together. He awoke in tears. “I washed my face,” he said, “did my morning prayer and sent her my prayers. It made me calmer.”

It was March 17. The air outside was soft and cool; Erbil had finally experienced rainfall after a parched winter. The coalition had asked Basim to go to Erbil International Airport, where he would be picked up and taken to meet coalition representatives and receive a condolence payment. He invited us to join him, and we agreed. Basim did not know how much money the Americans would offer, but he had spent hours calculating the actual damages: \$500,000 for his and Mohanad’s homes, furnishings and belongings; \$22,000 for two cars; and \$13,000 in medical bills from Turkey. We stood waiting in the parking lot. A white S.U.V. with tinted windows rolled by. A family emerged from a taxi, the father juggling two suitcases and a toddler, heading off on what appeared to be a vacation.

Basim checked his phone to see the latest messages from friends in Mosul. It had been a month since Iraqi forces seized the eastern half of the city, but the Woods were still too dangerous to visit because ISIS controlled the opposite bank and was lobbing mortars across the river. On the west side, thousands were trapped in the Old City, and Basim heard stories that ISIS was welding doors shut to keep people in their homes, holding them hostage against heavy artillery and air power. That morning, an airstrike flattened almost an entire city block in the Mosul Jidideh neighborhood — killing 105 civilians, according to the coalition, or possibly double that number, according to Airwars, in either case making it one of the largest aerial massacres since the war began.

It was late afternoon, 30 minutes past the

meeting time, when an S.U.V. rolled up, an American in Army fatigues behind the wheel. We climbed in, and the truck moved off through the sprawling airfield, past rows of parked helicopters, toward a set of hangars. Basim struggled to maintain his composure. He’d imagined this day a hundred times, but now he wasn’t sure what to say, how to act. The driver made small talk about the weather, the winter drought, the needs of farmers. He pulled the truck around to a prefab trailer ringed by blast walls. Inside, sitting around a large wooden table, were more American soldiers. Capt. Jaclyn Feeney, an Army attorney, introduced herself and invited Basim to be seated.

“We just wanted to start by expressing our deepest sympathies, not only on behalf of the Army but on behalf of myself,” she said. “We do take the closest care in what we do here, but it’s high risk, and sometimes we make mistakes. We try our best to prevent those mistakes, but we hope that since we did make a mistake here, we can do everything that we can to right it, as best we can. I know there’s nothing that I can say that can make up for the loss that you’ve — ”

“The only thing that cannot be returned is the loss of life,” Basim said. His hands gripped the armrests, as if he were using every ounce of energy to stay seated. He struggled to keep his voice steady. “Everything else could be redone or rebuilt. The loss of life is unreparable.”

“Certainly. We are prepared to offer you a condolence payment,” Feeney replied. “It’s not meant to recompensate you for what you’ve lost, or for rebuilding or anything like that. It’s just meant to be an expression of our sympathy, our apologies for your loss.”

Outside, a plane lifted off, and the room trembled. Feeney was holding documents in her hand. “And so for that reason, we are capped in the amount that we can give you. So the amount in U.S. dollars is \$15,000, which we will be paying you in Iraqi dinars, so 17,550,000 dinars. And so, if you’re willing to accept that — ”

Basim looked at her in disbelief. “No.”

“You’re not willing to accept that?”

“This is — this is an insult to me. No, I will not accept it. I’m sorry.”

Feeney looked stunned. “I’m sorry also,” she said.

Moments passed, and everyone sat in silence. Feeney explained again that they were capped by their own regulations. Basim replied, “This is, I have to say, I’m sorry to say, ridiculous.” Basim said he wanted official documentation proving his innocence, so that he could return safely to Mosul one day. Feeney promised to make some calls. The meeting quickly came to an end.

Basim walked out into the late-afternoon air. Traffic at the airport had picked up: buses overloaded with families, children sticking their elbows out of taxis. Basim drove home in disbelief, as if he were living through an elaborate

hoax and the Americans would call back any minute with a serious offer. The truth was, he never expected to recover the full extent of his material losses, and he knew the military was not in the business of compensation, only condolence, but after so many months, so much back and forth, the humiliation burned. “This is what an Iraqi is worth,” he said.

At home, he considered his options. He wanted a lawyer — but from where? Could an Iraqi find an American attorney? The amount the coalition had offered exceeded its own guidelines, which stipulated \$2,500 per Iraqi, but did not cover Mohannad and Najib, which meant he — or his sister-in-law — would potentially have to endure this process again. He considered traveling to the United States to find an advocate, but getting a visa was almost impossible. Once, in the first months after the attack, he even wanted to move there, seek asylum. Now the thought seemed absurd.

Despite everything, Basim could not bring himself to hate Americans. In fact, this experience was further evidence for a theory he had harbored for a while: that he, fellow Iraqis and even ordinary Americans were all bit players in a drama bigger than any of them. A few weeks later, he spoke to Sociology 119, Sam Richards’s Race and Ethnic Relations class at Penn State. “I have nothing against the regular American citizen,” he told the class of some 750 students. “I lived among you guys for eight years. I was never bothered by any person — in fact, many of them were very helpful to me.”

“This situation of war,” he continued, “big corporations are behind it.” This is where the real power lay, not with individual Americans. He’d come to believe that his family, along with all Iraqis, had been caught in the grinder of grand forces like oil and empire, and that the only refuge lay in something even grander: faith. He had rediscovered his religion. “There was some bond that grew between me and my God. I thanked him for keeping my son alive. I thanked him that my operation was successful. Now I can walk.”

It was the same God who had written out his whole life from the 40th day in the womb. Basim’s faith in this divinely authored fate had become a calming current, coursing through his every waking moment. “Sometimes I go out with my friends,” Basim told the students. “But when I come back home, when I go to bed and thoughts start coming into my head about my wife, what would have happened probably five years from now, my daughter would be in college, she wanted to study this and that — there isn’t a day that goes by that I don’t think about them. But in the end, life goes on.”

This spring, Iraqi forces pushed deeper into western Mosul, into the Old City, a hive of stacked houses that lean over narrow streets. The neighborhood was being pounded with

airstrikes and mortars, while ISIS was refusing to allow people to leave. Basim learned that three in-laws of Abdullah, Mohannad’s son — a pregnant woman, her husband and his father — had tried to bribe their way to the east side but were caught and beheaded. Nearly everyone was telling such stories. Meanwhile, word spread that Basim had taken his case to the coalition, and aggrieved families started to reach out for advice. Basim felt like an elder statesman of heartbreak, and he offered whatever counsel he could. The strike on his house remained a great mystery, though, and not a day passed when he did not retrace the hours and days before the attack, wondering what could have brought it on.

In April, through the Freedom of Information Act, we finally obtained a portion of the coalition’s internal probe of the strike on the Razzo homes. As Basim read though a dozen partly redacted pages, a story began to emerge — the coalition had been receiving intelligence that his and Mohannad’s houses were an ISIS command center. The report suggests that this may have been because of the J.C.C. next door; Basim recalled that ISIS briefly occupied the J.C.C. when it first conquered Mosul but had long since abandoned the facility. Yet the coalition’s intelligence source apparently passed along this outdated information and in the process confused his house with the J.C.C.

Next, according to the report, the coalition dispatched a drone to surveil the property. Over three days, in 15-to-30-minute windows, his house was filmed. The investigation acknowledged that “no overtly nefarious activity was observed,” but nonetheless everything the coalition witnessed confirmed its conviction that it was filming a terrorist headquarters. No weapons were visible, but the report noted that ISIS “does not obviously brandish weapons,” so as to go undetected. Occasionally Basim or Mohannad would open their shared gate to the street, allowing a guest to enter. The coalition simply saw men opening a gate, an action that it determined was consistent with the activity of an ISIS headquarters. And, perhaps most important, the report stated that the coalition did not observe any women or children outdoors — although in the ISIS-controlled city, women rarely left the house to avoid the religious police, and most filming had occurred under the blistering afternoon sun, when almost everyone stayed indoors.

Though the Razzos hadn’t known it, the burden of proof had been on them to demonstrate to a drone watching them from above that they were civilians — guilty until proved innocent. In the end, 95 minutes of unremarkable footage had sealed the fate of Mayada, Tuqa, Mohannad and Najib. The report concluded that there was “no evidence indicating carelessness or bad faith” on the part of the coalition and that its targeting process “remains sound.” (It also declared that because of an equipment error, the drone footage

no longer existed for investigators to review.) Yet to Basim, the truth seemed just the opposite: The coalition had disregarded ground realities and acted on flimsy intelligence.

Not long after receiving the report, Basim decided to return to the Woods. It was risky to visit — ISIS was still controlling neighborhoods on the opposite bank — but he wanted to see, to touch, what was left, and he took us along. We set out in the early morning, driving past dusty abandoned villages, through checkpoints sporting brilliant hoists of red, blue and green militia flags and onto a broad boulevard, teeming with pushcart vendors and street children. Whole city blocks were flattened. Basim was not caught off guard by the destruction, which he expected based on the videos he’d seen, but he was surprised by the traffic. He regarded the passing scenes as if he were a tour guide, recounting the history of each neighborhood. It appeared to be an affectation of calm, a studied attempt to withstand the torment of return, but the truth eventually surfaced. “I’m numb,” he said. “I’m just numb.”

We drove past more ruined buildings. Around the wreckage of one stood a concrete wall, still intact, where ISIS had painted two hands open in supplication. Basim translated the inscription: THANK GOD FOR EVERYTHING YOU HAVE. IF YOU DO, HE WILL GIVE YOU MORE.

We headed toward the Tigris River. As we approached, we could see the apartments, houses and minarets on the other side, still under ISIS control. And then suddenly, the city was gone. We entered the Woods, which remained a bucolic oasis. The trees were heavy with figs, apricots and lemons, and the air buzzed with mosquitoes. We pulled up to a pale yellow gate. Basim lingered outside for a moment, afraid to approach. He then opened it and stepped onto his property for the first time in 18 months. We followed him along an overgrown stone path. He stopped in front of a smashed-up wall surrounded by chunks of concrete. Rebar snaked out like hairs. “This was the laundry room,” he said.

To the right stood what was once his kitchen. A faint rotten odor emerged from within. The remnants of a table and three chairs were visible. Scattered amid the shattered glass and charred metal bars were pages of recipes: Cookies & Cream Freeze, Chocolate Mousse Torte.

We moved over the rest of the debris. Marble shards, concrete blocks, several mattresses, two satellite dishes, a Spalding tennis racket, an iron, a book of equations, a bathroom sink. The backyard was intact. “At least we still have a swimming pool!” Basim said, laughing absently.

He circled back to the laundry room. There he spotted in a corner, poking out of the rubble, a white platform heel. It belonged to Tuqa. “I told her they were too high and that she would fall,” he said. He could picture her wearing them, coming down the stairs. ♦

EXHIBIT B: News Stories Regarding Reprisal Violence Against Suspected ISIS Members



Stream of floating bodies near Mosul raises fears of reprisals by Iraqi militias

Unidentified corpses are being fished out of the Tigris river, with human rights observers suggesting government forces are behind the deaths

Fazel Hawramy in Qayyarah

Sat 15 Jul '17 04.00 EDT



2,604

The bodies washed up with grim regularity on the banks of the Tigris downstream from Mosul, a daily reminder of the vicious fight against [Islamic State](#) that played out a few dozen miles away.

All were heavily decomposed, most bound and blindfolded, some mutilated. The corpses began arriving last spring, but as the mission to oust Isis fighters from the once-thriving city intensified, so too did the number of dead floating towards the west bank town of Qayyarah.

“I see dead bodies in the water daily,” said Ahmed Mohammed, a driver, speaking earlier this year. “The number has increased since early April. There were five bodies floating in the river recently in one single day. They are young men with their hands tied behind their back and are blindfolded.”

Iraqi prime minister Haider al-Abadi this week declared victory after nearly nine months of fierce fighting to displace the extremist group from the city where it proclaimed its “caliphate” in 2014. But as Mosul lies in ruins – and [the last women and children emerge from the rubble](#) – a bloody picture of the [campaign](#)’s impact is emerging.

Local people who spotted corpses midstream would try to catch them and then call the army, Mohammed said. Soldiers then take them to a makeshift morgue at the city’s general hospital, run by

Mansour Maroof Mansour.



Qayyarah hospital. Photograph: Fazel Hawramy

Most of the dead found in the river with some identifiable features intact were young men who appeared to be in their late 20s, said Mansour, but he has learned little else about who they were.

“We can’t identify the bodies in the river. They are very decomposed and there is nothing on them to use for identification,” he said, standing in a room filled with dozens of bodybags. None had been claimed, and even that toll of the unknown dead is not exhaustive; some bodies are lost.

“(Once) the body of a boy also floated by but we could not catch it as it was too small and went through the gaps in the barrier,” said the driver Mohammed, who is haunted by guilt at letting the young boy drift away.

Human rights organisations had raised alarm about the number of unsolved killings in and around [Mosul](#) city and in particular the corpses washing up along the Tigris river. Human Rights Watch (HRW) said evidence points to government forces, killing suspected Isis members or collaborators without trial or due process.

Advertisement

Warning of the killings in April, [Lama Fakih](#), deputy Middle East director for HRW said: “The bodies of bound and blindfolded men are being found one after the other in and around Mosul and in the Tigris

river, raising serious concerns about extrajudicial killings by government forces. The lack of any apparent government action to investigate these deaths undermines the government's statements on protecting detainee rights."

Little has been done to investigate the killings, however. "The horrors that the people of Mosul have witnessed and the disregard for human life by all parties to this conflict must not go unpunished," Lynn Maalouf, research director for [Amnesty International](#) in the Middle East, said.

The violence upstream casts a long shadow in Qayyarah, which was freed from Isis rule at the start of the nine-month Mosul campaign. Most residents are reluctant even to talk about the bodies in the river. "I don't know anything about that subject," said one fishmonger in the newly re-opened market, buzzing with soldiers and militia fighters.

Isis exploited Iraq's sectarian tensions to facilitate its rise to power. Many Sunnis who felt disenfranchised by the Shia majority government or feared becoming targets of security forces welcomed or at least tolerated the group's arrival in 2014. As the extremism and violence of Isis world view became clearer, many Sunnis left or privately turned against the group, but suspicions of collaboration linger and in some Sunni areas a sense of apprehension remains.

"Blood for blood," reads graffiti on a wall of a house in Qayyarah that locals say belonged to Ali Khether, a well-known Isis commander who had lived in the town. He is described by one as "The child of adultery, Ali Khether, the Daeshi" – a name that refers to Daesh, a pejorative name for Isis.

Close by stands the town's small stadium where Isis, with the aid of local people, killed dozens, with the most cursory of trials, on charges ranging from spying for the security services to homosexuality

Now as Isis retreats to the Syrian city of Raqqa and desert areas of western [Iraq](#), those who were on the receiving end of their brutality for over two years have set up their own militia groups. Loosely attached to the Popular Mobilisation Units (PMU), they are taking the law into their own hands.

"PMU militias have carried out a systematic pattern of violations, including enforced disappearance, [extrajudicial executions](#) and other unlawful killings and torture of Sunni Arab men and boys, seemingly in revenge for IS attacks," said Amnesty International in a report earlier this year.

Security forces who retook the town found the bodies of many Isis victims that had been dumped in the river, said Walid Khaled an officer at Qayyarah police station, but he had no idea who the more recent waves of dead might be. "We don't know where they come from, they are unidentified," he said.

Some in the town say the bodies are more Isis victims killed by the last fighters holed up in Mosul, but the Iraqi security forces had blocked the river around 20km outside the city with a floating boom designed to stop fighters sneaking out or reinforcements getting in by water. Territory further down river towards Qayyarah has been in the control of Iraqi security forces for months.

A soldier guarding a floating bridge connecting Munirah village, around 20km south of Mosul on the western bank, refused to give his name, but appeared to confirm that extrajudicial killings were taking place beside the river.

He showed the Guardian a video of himself and other soldiers, dragging a limp body with a bloody face along the edge of the water. "He was Daesh hiding in the reeds and we killed him," the soldier said with satisfaction.

Newsweek®

REVENGE: YAZIDIS ACCUSED OF EXECUTING IRAQI CITIZENS, INCLUDING CHILDREN, OVER ISIS GENOCIDE

BY CALLUM PATON ON 12/28/17 AT 8:29 AM



01:2601:49

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Militiamen from Iraq's persecuted Yazidi community have been accused of executing 52 civilians by the international NGO Human Rights Watch, which said it believed they were revenge killings.

The U.S.-based rights group [said in a report](#) Wednesday that on June 4, Yazidi fighters from Iraq's popular mobilization forces detained and then killed dozens of civilians, including children, from a tribe as they fled clashes between Islamic State militant group (ISIS) and Iraqi government forces.

[Related: After ISIS defeat, millions of Shiite Muslims make world's largest pilgrimage in Iraq](#)

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The Yazidis, who suffered some of the worst violence visited on ethnic minorities by ISIS as it overran towns and villages in northern Iraq in 2014, reportedly [viewed the tribe](#) as having been complicit in the extremists' atrocities.

One legal advisor for the Ezidkhan Brigade, which is accused of carrying out the killings, said the local tribe were "dogs who deserved to die."



Kurdish Peshmerga show what they say is a mass grave of more than 50 Yazidis killed by ISIL on November 15, 2015 in Sinjar, Iraq. Kurdish forces, with the aid of massive U.S.-led coalition airstrikes, liberated Sinjar from ISIS extremists.

JOHN MOORE/GETTY IMAGES

The United Nations has said the systematic killing and subjugation of the Yazidis carried out by ISIS amount to acts of genocide. The militant group killed thousands from the Kurdish-speaking minority who they deemed to be heretics for their adherence to a non-Muslim faith.

ISIS also abducted thousands of women and girls who they kept as sex slaves, sending orphaned Yazidi boys to military training camps.

However, Human Rights Watch has accused fighters from the group, working alongside Iraqi government forces in fighting ISIS in the north of the country over the course of the last year, of carrying out a series of reprisal killings. As well as the June executions, Yazidi fighters are implicated in two other incidents of enforced disappearance.

“As the ground fighting against [ISIS] winds down in Iraq, state security forces need to turn their focus to preventing retaliation and upholding the rule of law,” said Lama Fakih, deputy Middle East director at Human Rights Watch.

“Past atrocities against the Yazidis don’t give its armed forces a free pass to commit abuses against other groups, whatever their past.”

The Iraqi government has declared victory against ISIS, after the militants were driven out of their de facto capital in the nation’s second largest city of Mosul in July. Since then Iraqi federal anti-terror forces, the army and popular militias have expunged the extremists from their last enclaves on the country’s eastern border with Syria.

Despite the massive territorial gains Iraqi Kurdish officials have said around 3,200 Yazidi women and girls abducted by ISIS remain missing.



July 11, 2014 12:00AM EDT

Available in العربية English Français

Iraq: Campaign of Mass Murders of Sunni Prisoners

Set International Inquiry Into Massacres by Security Forces, Allied Militias



Members of the Iraqi security forces patrol an area near the borders between Karbala Province and Anbar Province on June 16, 2014. © 2014 Reuters.

(Baghdad) – Iraqi security forces and militias affiliated with the government appear to have unlawfully executed at least 255 prisoners in six Iraqi cities and villages since

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forces and government officials indicate that Iraqi soldiers or police, pro-government Shia militias, or combinations of the three extrajudicially executed the prisoners, in nearly all cases by shooting them. In one case the killers also set dozens of prisoners on fire, and in two cases they threw grenades into cells.

More than a dozen residents and activists in the attack areas told Human Rights Watch they believed that as ISIS began freeing Sunni prisoners elsewhere as it advanced south, Iraqi security forces and militia killed the prisoners to prevent them from joining the rebellion, as well as to avenge ISIS killings of captive government troops. The murder of detainees during armed conflict is a war crime and, if carried out on a large scale or in a systematic manner, as a state policy, would be a crime against humanity.

Iraq's government has in the past denied allegations that it summarily executed prisoners. The Defense and Interior Ministries did not reply to requests for comment from Human Rights Watch on the five cases it documented.

Human Rights Watch interviewed more than 35 people in person or by telephone about the five attacks. They included witnesses and relatives of those killed, security and other government officials, and local activists. Many had fled their homes and spoke on condition of anonymity, fearing reprisals by government forces. Human Rights Watch also reviewed video footage, still photos and media reports of the killings.

Reuters news agency, quoting police sources, reported that in a sixth attack, on June 23 in central Babil province,

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security forces and militias are Shia, while the murdered prisoners were Sunni. At least eight of those killed were boys under age 18.

The mass extrajudicial killings may be evidence of war crimes or crimes against humanity, and appear to be revenge killings for atrocities by ISIS, a Sunni extremist group that in the past month has captured large areas from the Shia-led central government. ISIS, which on June 30 changed its name to Islamic State, summarily executed scores of captured soldiers, Shia militiamen, and Shia religious minorities in areas it controls.

“Gunning down prisoners is an outrageous violation of international law,” said Joe Stork, deputy Middle East director at Human Rights Watch. “While the world rightly denounces the atrocious acts of ISIS, it should not turn a blind eye to sectarian killing sprees by government and pro-government forces.”

An international commission of inquiry or a similar mechanism should investigate serious violations of the laws of war and international human rights law by all sides in the Iraq conflict, including by government forces, pro-government militias, and ISIS and associated forces, Human Rights Watch said. The inquiry should be mandated to establish the facts, and identify those responsible for serious violations with a view to ensuring that they are held accountable. The inquiry should collect and conserve information related to abuses for future use by judicial institutions.

Human Rights Watch documented five massacres of prisoners between June 9 and 21 – in Mosul and Tal Afar in

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The government has been fighting Sunni armed groups in Anbar since January 1. ISIS and other Sunni armed groups captured Mosul, Iraq's second-largest city and capital of Nineveh province, on June 10, then moved through other areas across Iraq.

The majority of prisoners killed in the five attacks had been rounded up under article 4 of Iraq's anti-terrorism law, but had not been charged with any crime. Some had been imprisoned for months, while others were detained shortly after ISIS began its takeover of Mosul on June 9.

In the first attack, on the night of June 9, prison guards removed 15 Sunni prisoners from their cells at the Counterterrorism and Organized Crime prison, in the heart of Mosul, a former prisoner told CNN. The prisoner later told Human Rights Watch that the men were Sunnis from the minority Turkmen community. Amnesty International quoted a second prisoner as saying the guards removed 13 prisoners and that he then heard gunfire. A short time later, both prisoners said, a prison guard threw a hand grenade into one cell. The prisoner who spoke with Amnesty said six prisoners were killed in the grenade attack.

Two days later, Mosul residents discovered 15 decomposing bodies of men who had been shot, and in some cases handcuffed or blindfolded, near an abandoned potato warehouse in Mosul, two residents and the prisoner who spoke with Human Rights Watch said. That prisoner said he went to the site and recognized two fellow prisoners who had been among the 15 men led away by the prison guards.

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assault rifles and other weapons in four cells of that city's Counterterrorism and Organized Crime prison. Witnesses, local government officials, and local civil society activists told Human Rights Watch that the attack killed at least 51 prisoners. The attack took place before dawn, as ISIS was poised to capture Tal Afar, and the dead included three teenage boys, they said.

The counterterrorism prison in Tal Afar is a branch of the counterterrorism prison in Mosul, a local government official said. Both were under the control of the Interior Ministry, whose acting head is Prime Minister Nuri al-Maliki.

That same night, according to police and government sources, 43 detainees were killed inside the al-Wahda police station, near Baaquba, the capital of Diyala province, 50 kilometers northeast of Baghdad. Police sources told Human Rights Watch that the prisoners died in crossfire during an ISIS attack on the prison, but other local civil government officials said that prison guards and Shia militiamen killed the prisoners.

A medical worker at Baaquba general hospital, where first responders took the dead prisoners, told Human Rights Watch that he saw the 43 bodies. All were shot in the head execution-style and their limbs were broken, he said. Another detainee, Ahmed Zeidan, the only known survivor, died the next day an hour after police took him from the hospital where he was being treated.

The medical worker said the police came for Zeidan shortly after he told the Diyala governor, Amer al-Mujamaii, from his hospital bed that prison guards and

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Tal Afar and Jumarkhe, and that Asa'ib Ahl al-Haq, a powerful pro-government Shia militia active in Baghdad, areas around the capitol, and Diyala, also carried out the killings in Jumarkhe and facilitated the police in the prisoner killings in Baaquba.

An international inquiry into violations of the laws of war and international human rights law by all sides in the Iraq conflict investigation should include examining whether security forces, working with pro-government militias, have pre-emptively killed prisoners. The United States and other countries engaged in Iraq should halt military assistance to the Maliki government until it takes concrete steps to halt crimes like killing prisoners, Human Rights Watch said.

Maliki also needs to remove and prosecute all commanders involved in these slaughters, Human Rights Watch said. Killing prisoners, even those who were combatants, is a war crime.

"In each case that Human Rights Watch investigated, the accounts we heard point directly to Iraqi security forces and pro-government militia slaughtering captive men in large numbers as ISIS and allied fighters were poised to seize the area," Stork said. "This isn't one rogue commander on the loose - this seems to be a widespread campaign of killing Sunni prisoners in cold blood."

For additional details on the cases Human Rights Watch documented, please see below.

Mosul: Prison Attack and Bodies Outside Potato Warehouse

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The medical worker said he saw bullet wounds in Zeidan's stomach and legs, which had not been there before he had been taken away from the hospital.

On the morning of June 17, pro-government Shia militiamen killed at least 43 male prisoners inside an army base in the village of Jumarkhe, also in Diyala. At least three were boys, said a man who saw the bodies and a soldier from the base. All were Sunnis whom Iraqi forces had rounded up a week to 10 days earlier from Jumarkhe and surrounding villages, and all had been burned to death or shot, they said.

In Rawa, on June 21, soldiers from the al-Jazeera and Badiyya operations command, which oversees the Iraqi government's military operations in Anbar province, killed 25 prisoners and injured three others whom they were holding in their military base, according to a Rawa resident who found the bodies in the prison a short while later and spoke to the three survivors. The survivors told him police killed the prisoners, he said, and two were boys ages 12 and 16.

Two days later, on June 23, 69 prisoners were killed in Hilla, according to figures police sources gave to Reuters. Hilla's governor told Reuters that the prisoners were killed as police were transporting them from a prison in Hilla to another prison in Baghdad when armed opposition militants attacked the convoy. But police sources told Reuters that police extrajudicially executed the men in their Hilla prison cells.

Human Rights Watch spoke to 16 residents, two local human rights activists and 10 local government officials.

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appear to have executed 15 prisoners, then dumped them in a ravine, according to interviews with three people who saw the bodies, and three government officials who said they were briefed on the killings. A former prisoner said one guard also threw a grenade into a cell, and a second prisoner told Amnesty International that the grenade attack killed at least six prisoners.

ISIS fighters entered the outskirts of Mosul on June 8. By the time they captured the city the morning of June 10, Iraqi forces had abandoned their posts. Three witnesses told Human Rights Watch that after fighting ended, and residents emerged from their homes on June 11 and 12, they saw about 15 decomposing bodies off the side of the road in an area that had been under army control.

The bodies lay in a ravine next to the Al-Karama industrial zone in eastern Mosul, about 100 meters from a base for the Iraqi army's 2nd division and near an abandoned potato warehouse, according to four local and regional officials as well as four local residents. A former prisoner first featured in a CNN report told Human Rights Watch that at least two of the bodies were of 15 fellow detainees he knew from the Counterterrorism and Organized Crime prison, whom he saw guards take away in handcuffs on January 9. The prison is in the Hayy al-Tayaran neighborhood, near the airport and across the city from the industrial zone.

Two of the Mosul residents said they saw the bodies in the ravine on the afternoon of June 12. One of them, a lawyer, gave Human Rights Watch video footage and photos of the site. He said he was driving by the potato warehouse on the way back from checking on a relative and stopped when he saw a large crowd gathered off the side of the

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The crowd was filming something. I got out of my car and took a look. Down in a crevice by the side of the road I saw a pile of bodies. Some of them were handcuffed. Some of them were blindfolded. Some appeared burned. Some of them appeared to be in pieces. They were not in uniforms.

The lawyer said he did not know who killed them.

The video clips and photos taken by the lawyer show men lying in contorted positions in the gravel of a ravine, with crowds of onlookers, including children, filming their corpses and stepping over the bodies. Many of their faces were blackened because of decomposition. Human Rights Watch counted 15 bodies in the video and photos, including at least one with handcuffs and one with a blindfold.

Local and regional officials who fled Mosul after it fell to ISIS confirmed the presence of the bodies in the ravine and told Human Rights Watch they had been informed by local government security sources that they were most likely prisoners killed by Iraqi forces. They said they did not have additional information because of their inability to investigate incidents since the city's fall.

Amnesty International and CNN, each citing a different former prisoner, reported on June 27 and June 28, respectively, that the bodies in the ravine were those of prisoners in Mosul's counterterrorism prison. The former prisoner who spoke with Amnesty said he saw guards take away 13 prisoners on June 9, not 15 as the other prisoner told CNN and Human Rights Watch.

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Human Rights Watch interviewed four prisoners who survived, the father of one of the slain prisoners, seven regional and local political and security officials, two local journalists, and two local activists who had investigated the attacks.

Most said the pro-Maliki Badr Brigades were de-facto commanders of the counterterrorism base and prison at the Castle. The survivors provided first names of the gunmen, whom they said they heard calling out to each other during the attack. The gunmen could not have been with ISIS because ISIS did not enter the city until dawn, they said.

Human Rights Watch viewed videos of four interviews of prisoners by an Iraqi journalist in Mosul's main hospital hours after the attack, and reviewed photos and video of the slain prisoners, including a video that was aired by CNN on June 28.

Officials and former prisoners gave varying estimates of the number of prisoners inside the prison but all agreed there were at least 60, most Sunni farmers and laborers from Tal Afar and surrounding areas who had been rounded up in the preceding weeks and months under article 4. The surviving prisoners, local officials and activists told Human Rights Watch that the attack took place a few hours before ISIS entered Tal Afar, as Iraqi security forces fled the city. For the three preceding days, the prisoners said, ISIS had been shelling the castle. But before dawn that day, they awoke to what they said was the sound of heavy vehicles pulling into the castle compound and then gunfire inside the prison cells.

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six prisoners and injured several others.

The prisoner first interviewed by CNN told Human Rights Watch that all 15 prisoners taken by the guards were Sunnis from the minority Turkmen community in Tal Afar. Later that night, he said, ISIS entered the prison and freed the remaining inmates. The former prisoner said that when he heard about the bodies near the potato warehouse, he went to see them on July 11. He said he recognized two friends among the 15 whom he saw guards lead out of the prison.

Local and regional officials told Human Rights Watch that the counterterrorism prison at the time was under the direct control of Prime Minister Maliki, who is also acting interior minister. One regional official said a security source who was in the prison at the time told him that an officer with the counterterrorism unit of Iraq's National Investigation and Information Directorate, which ran the prison, carried out the grenade attack, throwing three grenades and killing as many as 15 prisoners.

Tal Afar: Massacre at Castle Prison

At about 2 a.m. on June 16 in Tal Afar, 50 kilometers west of Mosul, at a second Counterterrorism and Organized Crime Prison inside a historic hilltop fortress known as the Castle, three gunmen killed at least 51 prisoners, at least three of them boys ages 15 to 17, according to a local government official and four former prisoners who witnessed the attack.

The counterterrorism prison in Tal Afar is a sub-section of the Counterterrorism and Organized Crime prison in Mosul, local and regional officials said, and is also under

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heard the gunmen shout "Corner! Corner," a routine command for inmates to gather in the corner opposite the door, before storming one cell. They also said they heard the sound of three weapons – two assault rifles and a weapon firing faster rounds that one of them believed to be a machinegun.

One of those survivors, a 52-year-old laborer, said the gunmen moved "very fast."

I heard a lot of noises and shooting in the other cell rooms. I heard the prisoners crying "Ya Rab Sa'edna!" [God Help us] and "Allahu Akbar!" [God is Greatest] over the sound of the gunfire. I ran into the bathroom to hide. Then I heard the noise of Kalashnikovs and of a machine gun in my cell ... It lasted not more than two minutes. I acted like a dead man, I didn't move for about 5 to 10 minutes.

A 14-year-old survivor who was imprisoned with his 15-year-old brother described the gunmen entering their cell, containing between 16 and 19 inmates:

We heard something strange just outside the door. Then the gunmen opened the small windows in the doors and the doors themselves, and right away they began shooting. I hid behind another prisoner but I was still shot in my upper arm and thigh. I can't describe to you those next three to four hours. I just lay there with those dead bodies around me. One of those dead bodies was my brother.

The survivors in the bathroom said that they could hear the voices of four men, one of whom appeared to be a

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Two survivors said they recognized one of the gunmen's voices and one of the names as those of men who were frequently in the prison but were not regular guards. One prisoner who heard but did not see the gunmen said that the regular guards would have known to search for prisoners in the bathroom.

Once the shooting stopped, the survivors in the bathroom said they heard the sound of vehicles leaving the compound. They waited several more minutes before creeping out. The laborer said he was the first to emerge and had no way out except to pass through the largest cell:

I saw the bodies of my fellow prisoners, their limbs limp, their blood on the bedding on the floor. I only saw two who were still alive, but they were badly injured. They said, "Please help us." I took one of them out to the courtyard of the building, but I couldn't bring myself to go back into the cell. I saw that the gate to the prison was open. Without being able to control myself, I ran away.

But when the sun rose and I saw townspeople heading up to the prison, I decided to go back to help. I saw a lot of my friends were killed in the other rooms as well. In the first room I saw four dead people. In the second room, seven dead people. In the next room, 16 people.

Another prisoner who said he followed the laborer out of the bathroom said the injured prisoners were "crying out for help, shouting things like, 'Oh God, what has happened!'"

Human Rights Watch obtained video and still photos of

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"They launched mortars and hand grenades at the police station and an emergency unit from nearby houses," he said, "and exploded two car bombs, one in front of the police station and one in front of the emergency unit." Al-Shimmari said the attack lasted about five hours, and that about 100 ISIS fighters were able to enter the police station with AK-47s. In their ensuing fight with police and a team of Special Weapons and Tactics (SWAT) reinforcements, he said, 44 prisoners and one policeman were killed in crossfire.

Al-Shimmari told Human Rights Watch that nine ISIS fighters also died but none were arrested, and said he could not identify the prisoners or the ISIS fighters who died by name. He identified the policeman who he said was killed in the crossfire as Wissam Kudhair Abbas.

Al-Shimmari's account differs from that of a military spokesman, Lt. Gen. Qassim al-Moussawi. The Associated Press reported that al-Moussawi said at a news conference on June 17 that 52 inmates were killed by mortar shells when ISIS fighters attacked the police station.

Despite these accounts, two government officials, one an employee at the hospital where the prisoners' bodies were taken and the other a relative of one of the prisoners killed, said the prisoners were all shot, most of them "execution style" in the head, and not killed randomly in crossfire or by mortar strikes.

An official close to the Diyala governorate told Human Rights Watch that he saw the prisoners' bodies on June 17 and that most had bullet wounds in the head. He said that Diyala's governor, Amer al-Mujamaili, visited the sole

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their bodies and the cell walls. A human rights activist in Tal Afar said the photos were of the victims.

One relative of a prisoner who was killed told Human Rights Watch that as soon as word spread the night of June 15 that ISIS was poised to enter Tal Afar, he had "begged" local Shia sheikhs to ensure that the police and militiamen did not carry out reprisal attacks:

They told me, "Don't worry, nothing will happen." But when I got to the prison the next morning I really cannot describe what I saw. They were killed so brutally. These were the acts of barbarians.

Baaquba: Killings in al-Wahda Police Station

On June 16, at least 43 detainees were shot to death in the al-Wahda police station near Baaquba, the capital of Diyala province east of Baghdad. Another detainee was severely injured, and died the following day after police took him from the hospital where he was recovering from bullet wounds, and where paramedics took the survivor and bodies of the prisoners. Diyala's police chief told Human Rights Watch that the detainees died in crossfire when armed men attacked the police station, but based on accounts from three government officials and a surviving prisoner, Human Rights Watch concluded that police deliberately killed the detainees.

Diyala's police chief, Brig. Gen. Jamil al-Shimmari, who said he did not witness the attack, told Human Rights Watch that he was in contact with police at the al-Wahda police station via telephone when ISIS fighters attacked the police station at 8 p.m. At the same time, he said,

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him and returned his body one hour later. The governor's spokesman later told Reuters that the survivor told the governor that police had attacked the prisoners.

A member of the medical staff at the Baaquba General Hospital, where first responders took the bodies of the murdered prisoners, told Human Rights Watch that he saw ambulance drivers bring 44 bodies to the hospital morgue. He said employees in the morgue told him that, in addition to multiple gunshot wounds, most of the prisoners had broken arms and legs, suggesting that the men were tortured before they were killed.

The medical staff member told Human Rights Watch that the lone surviving prisoner, Ahmed Zeidan, arrived at the hospital alive about 9 a.m. the day after the attack.

"Ambulance drivers at first brought Zeidan to the morgue in a body bag with all the others," he said. "When the doctors at the morgue opened the bag, they realized he was alive and sent him back to the hospital."

That was when the governor spoke with Zeidan, the medical staff member said. The medical staff member said he overheard Zeidan telling the governor that no armed group attacked the al-Wahda police station and that police threw two grenades into the cell holding the 44 prisoners, then opened fire on them. Zeidan also told the governor that the men who killed the prisoners broke their arms and legs before throwing the grenades and shooting them so they could not run away, the medical staff member said.

Shortly after the governor's visit, police arrived at the hospital and removed Zeidan, the medic said. "He could

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he was conscious. When they returned his body an hour later, he was dead. He had additional gunshot wounds in his legs and stomach.”

The medical staff member said he could not identify the police unit that took Zeidan from the hospital.

The official close to the Diyala governorate said that he and the governor tried to visit the prison the day after the attack to look for evidence of mortar shelling that would support the Diyala police account, but they were unable to enter the prison and did not see any signs of a fight outside the police station.

“Prison guards and other men wearing civilian clothes – we think they’re from the [pro-government] militias – prevented us from entering the police station,” the official told Human Rights Watch. “They aimed their guns at us and threatened to kill us if we didn’t leave.”

The official questioned security officials’ accounts of how the prisoners died. “Whether mortars were launched or they were killed in crossfire, how is it that so many prisoners died while only one policeman was killed?” he asked. “They came up with a good story, but it raises questions that need to be answered.”

On June 19, Reuters **reported** that the mayor of Baaquba, Abdullah al-Hyali, said he visited the local morgue and saw that most of the prisoners had bullet wounds in their heads, including his nephew. The mayor also told Reuters that his nephew had been “severely tortured and his nails were extracted.” Human Rights Watch could not reach the mayor for confirmation.

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The Baaquba hospital medical staff member told Human Rights Watch that he and other employees wanted to stop police from taking Zeidan, the wounded survivor, but that the presence of Asa’ib Ahl al-Haqq and other militias in the area made them afraid to do so:

The hospital is protected by a private security company, and we also have a company of local policemen who are supposed to protect the hospital. But they can’t really do anything. These are militias we’re talking about. Asa’ib could come and put me in a truck and take me to Baghdad whenever they want and there is nothing I can do about it.

The official close to Diyala’s government and residents Reuters **interviewed** said most of the prisoners were being held for petty crimes rather than terrorism-related charges. Some of the prisoners had judicial orders of release, the official said, but the prison continued to hold them because they wanted money from the families to release them.

Jumarkhe: Security forces, Militia Blamed for Killing at Least 45 Local Prisoners

On June 17, the morning after the killings in Baaquba, fleeing pro-government forces set fire to an Iraqi army base outside Jumarkhe, a village about 25 kilometers northeast of Baaquba. Local residents who rushed to the base after the pro-government forces fled found 43 or 44 dead prisoners inside the base, shot execution-style or burned, according to five villagers who saw the bodies, as well as a soldier from the base, a provincial government official, and a provincial human rights activist who interviewed several other residents about the attack.

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The governor has a conflict with other parties, and this political pressure made him distort the truth. I explained the facts to the governor but he apparently has political gains to be made by lying.

Police Chief al-Shimmari similarly dismissed the mayor’s statements that he saw bullet wounds in the prisoners and that the mayor’s nephew was tortured.

Abu Ahmed, a relative of one of victims of the attack, said some of the prisoners killed had been detained for petty crimes but that most had not been charged. He told Human Rights Watch that police arrested his 18-year-old cousin, whose name he asked be kept confidential, two hours before the attack because “someone overheard him mocking Colonel Hooby [the police chief of al-Wahda police station]” earlier that day:

The next morning we were told that all the prisoners in al-Wahda police station were dead. People at the police station told us that the bodies were at the Baaquba Hospital. We went there, and the morgue employees told us that a lot of people died by bullet wounds and some died of fragments from grenades. I saw bullet wounds in [my cousin’s] head and chest.

Abu Ahmed attributed the killings to the pro-government Shia militia Asa’ib Ahl al-Haqq, which at least 10 Diyala residents told Human Rights Watch had been “in control of security” in Baaquba and surrounding areas. He said that the police station is in his neighborhood, Beni Zeid, and that, “Many policemen in that police station ran away after this attack. “I have seen Asa’ib is in the police

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All the prisoners were Sunnis from nearby villages whom the pro-government forces had rounded up about a week to 10 days earlier, around the time Mosul fell, they said. At least three of those killed were boys about 15 or 16 years old, a villager and the soldier said, while a second villager said he recognized two boys and had heard that a third boy had been killed.

The pro-government forces took two other prisoners with them as they fled the base that morning and killed them on their way out of the village, the soldier said.

The eight sources blamed a combination of Iraqi soldiers, SWAT members, and the pro-government Asa’ib Ahl al-Haqq and Badr Brigades militias for the attack. Local residents told Human Rights Watch that the Badr Brigades had arrived in the area several days before the attack to bolster beleaguered Iraqi army troops during fighting with ISIS.

The government official and the soldier said that all three groups had been controlling the base. The government official added that he was “certain” that the pro-government forces killed the prisoners because “the insurgents did not take over the army base – they just passed through the area.”

The morning of June 17, the second day of heavy fighting in Diyala province, villagers noticed smoke and flames coming from the base, one local man told Human Rights Watch. Shortly afterward, two villagers said, Iraq troops and militia fled in military vehicles with white flags, a sign of surrender. But the pro-government forces were shooting as they went, three villagers said. “They were

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Local men rushed to the army base, about one kilometer outside of Jumarthe, hoping to free the prisoners, all those interviewed said.

Human Rights Watch interviewed four men who said they were among the first to enter the prison inside the army base, while part of it was still in flames. Three of them said they were relatives of those killed. The men said they found four prisoners shot in the back of the head and the rest so badly charred that they only recognized them by the few remaining fragments of their clothes. Many of the bodies had been covered with blankets that were also burned, they said. One of the relatives said he saw a barrel of gasoline in one of the areas that had not caught fire.

One of the villagers said of the dead:

Some of them were burned 100 percent. Others of them were still burning and we tried to stop the flames. Some of them were so badly burned that they only weighed about 20 to 40 kilos. We used blankets and planks of wood to carry the bodies out. The bodies were so small from the burning that in some blankets we put two or three bodies.

Three villagers said many of the prisoners had been part of the so-called Awakening Movement, US-funded Sunni coalitions formed in 2006 to protect their neighborhoods, whom Mallki had promised to integrate into the Iraqi security forces but failed to do so. Most had been seized under article 4 of the anti-terrorism law, they said.

One of the villagers who helped carry out the dead told Human Rights Watch that, "Many were ordinary citizens -

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died on their way to the hospital ... Some of the survivors were beneath the dead; their executioners clearly thought they were all dead.

When I saw the bodies I called back the officer and asked him what happened, why the soldiers killed them. He told me, "All those are terrorists and they deserved it."

The Rawa resident said one of the dead was the driver of Saba`awy Hussein, the brother of the toppled Iraqi leader Saddam Hussein and the former head of general security and police intelligence. "He was initially still alive, but his body was so riddled with bullets. ... We couldn't even do a tourniquet. He died on the way to the hospital."

The man said that one survivor, a 25-year-old Syrian man, told him police killed his five brothers in the attack, including one who was 16.

The Rawa resident said he and the other men who went to the prisoners also identified a 12-year-old boy from Baghdad among the survivors He said he knew of at least 10 Sunni armed groups fighting in Rawa but that he had not seen the ISIS flag in the city.

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None of those interviewed knew if the burned men had been shot before being set on fire. They said relatives did not bring the prisoners to medical examiners but instead buried them in their villages.

Rawa: Killings of Prisoners at the al-Jazeera and Badiyya Operations Command Base

On the morning of June 21 in Rawa, a city in Anbar province, Iraqi soldiers killed 25 prisoners before fleeing an attack on their base by armed Sunni militants. Human Rights Watch spoke with one resident of Rawa who said he saw the bodies of the slain detainees inside the prison shortly after they were killed.

The man was fearful for his security and hesitant to speak at length about the case. He said the attack on the prisoners was carried out by members of the al-Jazeera and Badiyya Operations Command, which oversees the Iraqi government's military operations in Anbar. He said the attack took place around 10:30 a.m., shortly before ISIS and other Sunni fighters reportedly took over Rawa. He told Human Rights Watch that after he heard reports from other villagers of an attack by Sunni armed groups on the base, he called an officer he knew at the base who told him that the Iraqi army evacuated the base after "negotiating" their departure with "the armed men."

He said that he and several other men went to the base around 3 p.m. to check on the wellbeing of the prisoners:

When we entered we started hearing moaning and screaming.

We followed the sounds of these voices. We reached a cell where we found a pile of dead bodies on the floor. At the beginning we counted 21 dead and seven injured. Another four

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world.

\$50	\$100
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EXHIBIT C: The New York Times Editorial Board: “Telling The Truth About The Cost Of War”

Opinion | EDITORIAL

Telling the Truth About the Cost of War

By THE EDITORIAL BOARD NOV. 23, 2017

A half-century ago, the Pentagon’s misleading claims about civilian deaths in Vietnam eroded public trust and, ultimately, support for the war. The United States military today claims to have learned the hard lessons of that and subsequent wars. It’s put in place an elaborate system intended to minimize civilian casualties, including an Obama-era requirement that forces have “near certainty” that no civilian will be harmed before launching an attack. Intelligence analysts select targets, “targeteers” study models to calculate the most precise angles to strike, teams of lawyers evaluate plans and the Pentagon later discloses the few civilians who still, inevitably and tragically, wind up getting killed.

It turns out this is all, at least partly, an illusion. The Pentagon is killing far more civilians than it acknowledges, according to a recent report in The New York Times and other findings. A system intended to ensure transparency and accountability appears, instead, to be enabling the Pentagon to fool itself as well as the rest of us about the true cost of its strikes. It is often feeding bad intelligence into its intricate targeting system in the first place and then failing to thoroughly investigate civilians deaths after an attack.

The American-led military coalition has claimed, for instance, that the ratio of civilian deaths to airstrikes in the operation against the Islamic State in Iraq is one for every 157 strikes. The New York Times Sunday Magazine’s account found a ratio of one civilian death for every five airstrikes — more than 31 times the Pentagon’s claim. The true number, wrote the authors, Azmat Khan and Anand Gopal, “is at

such a distance from official claims that, in terms of civilian deaths, this may be the least transparent war in recent American history.”

Ms. Khan’s and Mr. Gopal’s reporting provided the first systematic, ground-based sample of airstrikes in Iraq since the operation began in 2014. They visited the sites of nearly 150 airstrikes in northern Iraq after ISIS was expelled, and they interviewed hundreds of witnesses, survivors and others. They photographed bomb fragments and mapped the destruction with satellite imagery, and they took the data to experts at the United States base in Qatar.

The article’s organizing narrative was the tragic story of Bassim Razzo, whose wife, daughter, nephew and brother were killed in 2015 in coalition airstrikes on their side-by-side homes in Mosul, the main ISIS stronghold in Iraq. Video and written records showed that the coalition misidentified the two compounds as an ISIS car-bomb factory or command center. Before the writers took up the case, coalition officials had not included the Razzo family in its accounting of civilian victims. When Mr. Razzo asked for compensation, the military eventually offered the insulting sum of \$15,000.

The Costs of War project at Brown University estimates over 200,000 civilians have been killed in Afghanistan, Iraq and Pakistan since 2001. Most experts attribute a majority of the civilian deaths to extremists.

Although international law obligates combatants to minimize harm to civilians, it is unrealistic to think that all civilian deaths can be prevented. Yet the reporting by Ms. Khan and Mr. Gopal suggests that America could be doing far more to protect civilians. They said they found a “consistent failure” by the American-led coalition to investigate claims carefully and to keep proper records. Some deaths occurred because civilians were close to ISIS targets. Many others, however, appear to have been recorded wrongly by “flawed or outdated intelligence that conflated civilians with combatants.” The article said the military seldom recognized its failures or made changes to prevent civilian deaths.

To some extent, the American people may be blind to this carnage, having been lulled by their military and political leaders into believing that advanced technology and precision strikes kill the bad guys while sparing the innocent. This seductive

concept took hold with video of seemingly pinpoint strikes during the first Persian Gulf war and was reinforced since by widespread use of drone strikes by Presidents George W. Bush, Barack Obama and Donald Trump against faraway targets.

However precise the weapons, careful the planners and skilled the fighters, war inevitably includes mistakes that kill civilians. Leaders need to be honest that there is no such thing as antiseptic combat, while Americans need to understand the full cost and consequences of military actions undertaken in their names.

These are not idle concerns. The pace of attacks and civilian casualties seems to be rising, and with them the potential for alienating the very people America hopes to save. The anti-ISIS fight has quickened and moved into crowded cities, but the president has also given field commanders more authority to make battlefield decisions in an ill-defined hunt for terrorists.

Civilian deaths impose another penalty. They become a recruiting tool for terrorists and undermine counterterrorism operations. It's up to Congress to ensure true accountability and transparency, if the administration does not, by holding hearings and demanding answers.

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A version of this editorial appears in print on November 24, 2017, on Page A26 of the New York edition with the headline: The Truth About the Cost of War.

EXHIBIT D: The Atlantic: “An Accounting for the Uncounted”

An Accounting for the Uncounted

The human cost of the war on ISIS has become too easy for Americans to ignore. We in the Obama administration helped shape that war.



A convoy of US forces armoured vehicles drives near the village of Yalanli, on the western outskirts of the northern Syrian city of Manbij, on March 5, 2017.

Delil Souleiman / AFP / Getty

ROBERT MALLEY AND STEPHEN POMPER

DEC 16, 2017 | **GLOBAL**

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Every now and again, an article is published about something you know you should know, but don't want to know.

“The Uncounted,” Azmat Khan and Anand Gopal’s groundbreaking [piece](#) about the civilians killed in the U.S. campaign against the Islamic State—and the considerable gap between their tally of such deaths and the numbers reported by the Pentagon—is one of them. We cannot speak to the precise data, but their *New York Times*

Magazine piece, and the verified tragedy of the Razzo family at its center, are emblematic of a bigger story that unfortunately rings true.

Basim Razzo was a member of one of the oldest families in Mosul, and the article recounts the night he woke up to find his roof collapsed and home destroyed—the result of an American bomb. Though Razzo himself survived, the attack took from him his wife and daughter, and the story chronicles his investigation into why it occurred. He finds, to his horror, that his house was deliberately targeted; American drones had monitored it for three days before striking, apparently acting on outdated reports that it was an ISIS command center. The drone footage failed to confirm those reports. It also failed to refute them. That, apparently, was sufficient for the U.S. military to proceed.

The *Times* story is one of faulty intelligence driving wrong-headed assumptions that decimate innocent lives and embitter survivors. It is a story about how a legal and bureaucratic fog can make it almost impossible for tragic mistakes to come to light, too often leaving instead a false sense of comfort that such mistakes never happened at all. And it is a story about a policy that warrants honest discussion, and change. We both worked with that policy up close. In the Obama White House, one of us was responsible for human rights, the other for coordinating the counter-ISIS campaign. In this respect, we were part of an administration that fell short.

At the outset, two points. First, painful lessons of the article aside, the U.S. military is staffed up and down its ranks with officers who care about and seek to protect innocent life. Likewise, President Obama and his senior National Security Council team were convinced of the moral and strategic importance of preserving civilian life in conflict, understood transparency as important to democratic accountability, and were committed to operating within the rule of law.

Second, the *Times* article carries the unmistakable implication that things will get worse. The Trump administration has celebrated a no-holds-barred approach to the fight against ISIS, given greater deference to ground commanders, loosened restrictions imposed by its predecessor, and expanded the fight to an ever-growing number of Middle Eastern and African theaters. This adds up to a quasi-automatic

recipe for greater civilian casualties. Independent monitoring organizations have tracked the numbers, and invariably they point to a serious uptick in civilian deaths in Iraq and Syria since January 2017. The explanation lies partly in the transition in Iraq and Syria toward the final, more urban phase of the conflict in the heavily populated cities of Mosul and Raqqa. But partly only. It also lies in policy guidance, as well as in matters such as tone, attitude, and priorities set at the very top—including by the commander in chief. These have a way of trickling down and affecting performance on the battlefield.

And yet. Those dead civilians that *The New York Times* found not to have been counted were not counted by the Obama administration. They were not counted by people who were intent on limiting civilian casualties and ensuring transparency. That those safeguards proved inadequate even in the hands of an administration that considered them a priority raises particularly vexing questions.

Some answers are relatively straightforward because they have to do with *them* rather than with us: ISIS hid among civilians, used them as human shields, and did what it needed to do either to deter coalition airstrikes or ensure they would come at high cost. Like al-Qaeda, ISIS presents the well-known but difficult dilemma of how to deal with non-uniformed combatants. Exposing innocents to harm is at the core of their tactics, and exaggerating those harms to generate public outrage is at the front of their playbook.

Yet those explanations go only so far. War by its very nature presents wrenching choices, but those choices—some at the policy level, others at the operational one—need to be made, and all can have momentous implications for civilians. In making the critical decision to use military force, a government crosses a threshold into a zone where imprecision and uncertainty, both bearing on innocent people's lives, will infect every level of decision making. How much tolerance is there for civilian casualties within legal limits? How does one identify a target? What standard of reliability should be applied to making such a determination? Once that decision is reached, what procedures are in place to verify it was correct, and to make amends and provide compensation if it was not?

What the *Times* story tells us is how in Iraq (but surely in other theaters as well) those imprecisions and uncertainties too often cost innocent people their lives, and then led their deaths to be unacknowledged. Broad criteria for who or what could be targeted were superimposed upon imperfect systems for identifying those targets, which were exacerbated by the opacity of after-action verification and reparation procedures. All of this was compounded by a natural tendency to give U.S. military operators the benefit of the doubt. So should a question arise about what actually happened, the Pentagon was unlikely to classify casualties as civilians absent a high level of certainty. Basim Razzo's family was doubly victimized by this process, which both led them to be wrongly targeted and then made their devastating losses too easy to ignore.

The issue was aggravated by the type of struggle the United States has chosen to conduct in Iraq and Syria and in which, one can reasonably predict, it will again be engaged in the foreseeable future. This is not the kind of counterterrorism effort that focuses on targeting individuals deemed to present a direct and imminent threat to the United States, which is where Obama tried to guide U.S. actions in theaters away from hot battlefields, such as Somalia or Yemen. Rather, the counter-ISIS campaign aims to degrade and defeat the organization as a whole, deeming its very existence a danger to America's security. There were civilian casualties and reports of undercounting in the former cases as well, of course. But the magnitude inevitably increased as the scope and goal of the battle expanded, and the strategic imperative of keeping civilian casualties to an absolute minimum receded.

Nor was this a typical counterinsurgency, for it didn't entail the sizeable U.S. ground presence that was a hallmark of operations in Afghanistan or, earlier on, Iraq itself. Those operations produced better knowledge of the terrain, allowed direct engagement with communities, and enabled efforts—sometimes successful, sometimes not—to avoid alienating the local population. In Afghanistan in particular, senior commanders saw civilian protection and reparations as integral to the core mission and directed their troops to act accordingly. In contrast, in the counter-ISIS campaign, the U.S. part of the fighting chiefly relied on airpower, and much of the territory where strikes occurred was under ISIS control. It was neither

fish nor fowl, but a hybrid: a counterinsurgency objective pursued by means of counterterrorism tactics.

That choice is understandable. The military campaign was a hybrid because ISIS was too—unlike al-Qaeda’s small, clandestine cells, it was part state, part insurgency, part terrorist organization. The Pentagon was engaging in a novel type of warfare against a far larger network than it had previously taken on, where pre- and post-strike intelligence collection was critical but the intelligence base relatively shallow, the expected pace of operations high, and the number of U.S. troops on the ground low. But that choice, and related choices, carried real consequences. It mattered that the military did not place the same strategic emphasis on civilian protection that it had come to apply in Afghanistan. It mattered that the administration didn’t apply to Iraq and Syria the more restrictive targeting safeguards it had developed for locations more remote from hot battlefields, like Somalia and Yemen, which—however imperfect—helped contain the scope of U.S. operations. The campaign against ISIS, in short, had the breadth and scope of a counterinsurgency effort, but without the built-in means and incentives that are supposed to restrain it.

Then, there is the issue of undercounting—documented not solely in the counter-ISIS campaign but in other theaters of operations as well. The Obama administration was not blind to the problem. It pressed for fuller and more regular casualty reporting, shared previously non-public statistics about its operations, probed press and NGO accounts, worked with field organizations to see if there might be creative mechanisms for paying amends in areas where the U.S. was absent, and helped craft a presidential order that memorialized what the government considered best practices when it came to review and amends procedures. One of us has [written](#) about the importance of these and related measures elsewhere, but both of us believe that these steps did not do enough.

What might an overall better approach to civilian casualties look like? For starters, it could set in place standards that ensure we err more often on the side of caution in identifying targets and establish more realistic thresholds for acknowledging error. It could make available more information about who and what the U.S. considers

targetable so that those standards can be fully discussed and debated. It could appoint and empower individuals within the Defense Department, on both the civilian and military sides, whose sole responsibility would be to reduce civilian casualties, make the assessment process more transparent, and facilitate prompt and adequate reparations whenever possible. And it could open up the post-strike assessment to outside eyes. This last idea is likely to be received as heresy inside the U.S. government. But it's at least worth pondering whether someone from outside the chain of command—possibly from outside the executive branch altogether—should be able to check the Pentagon's work, bringing the kind of perspective that only comes with distance. The media and civil society play a critical role—the *Times* story is a clear example—but the U.S. government should be able to perform this sort of check on itself.

All this matters and would help. But as long as the United States pursues counterterrorism through military means, civilian casualties inevitably will ensue. And so the discussion about how to reduce their number, while welcome, ought to involve a larger debate about the type of warfare America is waging and the technological advances that have allowed—even encouraged—it to be waged. Those advances have enabled more targeted airstrikes, often conducted by unmanned aircraft that are more precise and present fewer risks to U.S. personnel. Yet those same factors also lower the costs of warfare in the eyes of the U.S. public, and thus the threshold for military intervention in areas where we would be unwilling to deploy large numbers of ground troops. Consider this question: Had the fight against al-Qaeda or ISIS required the deployment of substantial U.S. ground troops, is it realistic to assume we would have been involved in so many theaters, for so many years, with so little prospect of bringing the conflict to a decisive end?

It's a treacherous trifecta: the promise of greater precision and certainty of fewer U.S. casualties; which leads to more frequent use of military force in more diverse theatres without a substantial U.S. ground presence; which entails diminished ability both to gather information about who is being targeted before a strike and assess what happened afterward. With the human costs of wars substantially

shifted to the other side, it has become easier to initiate, perpetuate, and forget them.

And the debate about the number of civilian casualties also ought to involve the deeper question of why, some 17 years after 9/11, the United States remains as intensely engaged in a seemingly endless military campaign against ever-mutating affiliates of al-Qaeda and ISIS, with all its unintended, yet unavoidable, consequences. During George W. Bush's presidency, many of us on the other side of the partisan divide decried his early reference to a "war on terror," because terrorism defines a tactic, not an enemy; because military force is only a very partial way of addressing its root causes; and, yes, because the so-called collateral damage inflicted on civilians by the military campaign risked reproducing the very conditions on which terrorist groups thrive.

As critics, it turns out, we got it only half right. We stopped calling it a global war on terror. But in many respects we continued conducting the campaign as if it were one. We adjusted our methods but retained much of the substance, waging an ever-expanding war against an enemy whose affiliates kept proliferating. The paradox is that arguably no senior official in recent years has been as clear-eyed or as sober about the myths and realities of terrorism, its real and imaginary costs, and the dangers of overreacting to it, than was President Obama. That he too ultimately felt compelled to focus as he did on the military aspects of counterterrorism speaks to the threat posed by organizations that are at least partially engaged in plotting overseas operations, as well as to the difficult tradeoffs between taking greater care at the risk of moving more slowly, or being more aggressive at the risk of incurring higher human cost.

It speaks volumes, too, about the state of American politics. Had Obama persisted in making an eminently rational case about the perils of hyping the terrorist threat, and had a terrorist attack on U.S. soil succeeded, he risked forfeiting the American people's trust. Against a political backdrop that was partisan, polarized, demagogical, and prone to scapegoating outsiders, such an attack almost certainly would have prompted calls for retaliation of the most reckless and aggressive sort.

And so he leaned on the side of preempting that risk. He took decisions that expedited the destruction of ISIS's so-called caliphate. But, in so doing, he took another step toward becoming the commander in chief of an ill-defined battle against terrorists.

In an [article](#) one of us co-authored several months ago with Jon Finan, Secretary of State John Kerry's former chief of staff, we recognized that force at times would be needed to confront terrorist groups while lamenting our excessive focus on, and over-militarization of, the effort; described the often hidden costs of a national obsession to which the Obama administration itself had partly succumbed; feared how far President Trump might go; and hoped for a necessary, albeit improbable, honest conversation about the real magnitude of the terrorist threat and how to deal with it.

That all remains true—and, given the direction taken by the Trump administration, even more so today than at that time. It's also true that until this changes, an increasing number of innocent lives will suffer the consequence. Some will be counted. Others, not. All will have paid a terrible price.

ABOUT THE AUTHORS

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**EXHIBIT E: New York Times Op-Ed by
Senator Patrick Leahy: “What We Owe the
Innocent Victims of America’s Wars”**

Opinion | OP-ED CONTRIBUTOR

What We Owe the Innocent Victims of America's Wars

By PATRICK LEAHY NOV. 22, 2017

WASHINGTON — In “The Uncounted,” their article in *The New York Times Magazine* last week, Azmat Khan and Anand Gopal laid bare a tragic reality of American military operations against the Islamic State: the untold harm inflicted on civilians.

That the Islamic State is guilty of horrific atrocities is common knowledge. But most Americans seem unaware of the human toll of our own actions, the consequences this has for our national security and our reputation, and that too often the civilian casualties we cause are the result of avoidable mistakes. This must change.

Since the Sept. 11 terrorist attacks, the number of violent extremist groups has grown across multiple continents. From Syria to Somalia to Pakistan, the United States is combating many of these groups — usually with bombs and missiles. Large numbers of innocent people are invariably caught in the middle.

There are practical ways that we can improve how we protect civilians as we fight violent extremists. These changes will improve our military operations and make our country safer in the long run.

Contrary to what some believe, taking all reasonable and feasible precautions to protect civilians, and mitigating the resulting anger when we harm them, does not need to impede military operations. In fact, the United States military has

recognized that doing so is critical to our success, and it has rules of engagement designed to avoid harming civilians. But while the accuracy of our weapons has steadily improved, too often they hit the wrong targets.

The Pentagon says that only 89 of approximately 14,000 airstrikes in the air war against the Islamic State have killed civilians. But The New York Times Magazine's reporters — conducting extensive on the ground and satellite research — found that one in five airstrikes resulted in civilian deaths. As shocking as this disparity is, the number is almost certainly a low estimate because it does not reflect the heavy bombing of Mosul and other densely populated areas that have taken place this year.

The truth is, the military is not doing all it can to avoid killing and wounding civilians. It relies on information that is too often flawed or incorrectly interpreted. Pentagon officials, who point to their extensive procedures for distinguishing military targets from civilians, too often rely on skimpy, outdated and inconclusive intelligence gleaned from informants of dubious reliability and surveillance conducted from high altitudes, or from video analyzed half a world away by people without expertise about the country or its culture. Even the Pentagon's logs of its actions are unreliable and incomplete.

These are solvable problems. It is incumbent on our military leaders to urgently address them. This should start with the secretary of defense immediately commissioning a team of experts, including military and intelligence officers and representatives of organizations like the Center for Civilians in Conflict, which has extensive experience in documenting civilian casualties. This team should conduct a comprehensive analysis of every aspect of the current procedures for identifying and verifying potential targets and make recommendations for improvement.

We can also do a lot more to assist innocent victims of our airstrikes.

Soon after the invasion of Afghanistan, in response to repeated instances of American bombs killing scores of civilians, Congress created the Afghan Civilian Assistance Program, a \$10 million annual appropriation implemented by the Agency for International Development.

Marla Ruzicka, a young activist from California who traveled to Afghanistan to call attention to civilian casualties, was the inspiration for that program. When the military shifted its focus to Iraq, Ms. Ruzicka followed the bombs. Based on information she collected, I worked with her as Congress created the Iraqi War Victims Fund. Ms. Ruzicka died in a car bombing in Iraq in 2005. The fund was renamed after her.

But after most American troops withdrew from Iraq, the Marla Ruzicka Iraqi War Victims Fund, a \$7.5 million program replenished annually to provide assistance to innocent victims of American military operations, was redirected to address other needs in Iraq.

Given the large number of Iraqi civilians who have been killed or wounded as a result of the United States' bombing, the Marla Fund, now implemented by the State Department, should be reactivated.

The Marla fund is not the only way we can assist innocent victims. During Operation Iraqi Freedom, military commanders recognized the need for a "condolence" program for the families of innocent victims of American combat operations. Although it was cobbled together hastily and not applied uniformly, it at least recognized and addressed civilian casualties in a tangible way.

In 2014, I wrote legislation providing clear authority and guidance for future condolence payments. While the Pentagon recently reaffirmed that such payments "are an important tool for DOD," the military says it has not made a single monetary payment to innocent victims of American military operations in Syria, and none in Iraq since 2011.

This is inexcusable and it is counterproductive. The Pentagon has explicit authority to provide amends to civilians harmed by our mistakes, as it did before 2011, in accordance with the new guidance that I negotiated with the Pentagon three years ago.

In order to identify eligible victims, the Pentagon needs to improve the accuracy of its own airstrike data and overhaul the often perfunctory way it investigates

reports of civilian casualties. Ideally, Pentagon investigators should obtain timely information from witnesses who were present or who live in the vicinity.

If that is not feasible, then the Pentagon needs to improve substantially its collaboration with nongovernmental organizations, investigative reporters and local authorities who have access to bombing sites, the wounded and witnesses. That collaboration could include specifying the type of information Pentagon investigators need and procedures for collecting and preserving evidence.

No one disputes that civilian casualties are inevitable in war. At the same time, it seems that the United States military will be fighting violent extremists for the foreseeable future. This means the lives of more civilians will be put at risk. The way we conduct our operations and how we react when mistakes are made will be critical to our success.

This is not only a moral imperative, it is in America's interest. If we harm civilians when it could reasonably have been avoided, and if we fail to fairly and promptly help the innocent victims, the local population will turn against us — and make the fight against violent extremists even more difficult.

As hard as the Pentagon already tries to avoid civilian casualties, it is clear that it can and must do better.

Correction: November 24, 2017

A previous version of this article misstated the findings of New York Times Magazine reporters. They found that one in five airstrikes resulted in civilian deaths, not necessarily that 2,700 airstrikes resulted in civilian deaths.

Patrick Leahy (@SenatorLeahy) is a Democratic senator from Vermont.

Follow The New York Times Opinion section on Facebook and Twitter (@NYTopinion), and sign up for the Opinion Today newsletter.

**EXHIBIT F: Congressman Ted Lieu Release &
Letter: Rep. Lieu Urges Pentagon To Explain
Reports of Underreported Civilian Casualties
From Airstrikes Against ISIS**



Representing California's **33rd** District

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REP LIEU URGES PENTAGON TO EXPLAIN REPORTS OF UNDERREPORTED CIVILIAN CASUALTIES FROM AIRSTRIKES AGAINST ISIS

November 27, 2017 Press Release

WASHINGTON – Today, Congressman Ted W. Lieu (D – Los Angeles County) sent a letter to Secretary of Defense James Mattis urging the Department of Defense to respond to and take corrective actions following a New York Times story suggesting the Pentagon underreported civilian casualties resulting from airstrikes against ISIS. Rep. Lieu, who served on active duty as a JAG, asked for clarification on the steps the Pentagon is taking to mitigate civilian casualties during Operation Inherent Resolve.

In the letter, Mr. Lieu asked:

- In 2015, how many civilians were killed and how many were injured under Operation Inherent Resolve?
- In 2016, how many civilians were killed and how many were injured under Operation Inherent Resolve?
- In 2017 (up to November 1 of this year), how many civilians were killed and how many were injured under Operation Inherent Resolve?
- Were there any changes to the Rules of Engagement in 2017 for Operation Inherent Resolve? If so, what were the changes?
- Is a JAG or Department of Defense attorney involved in every targeting decision for Operation Inherent Resolve?

READ THE FULL TEXT OF THE LETTER [HERE](#)

Congress of the United States
Washington, DC 20515

November 20, 2017

The Honorable James Mattis
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Mattis,

Thank you for your service to our nation. I support the Pentagon's mission of defeating ISIS and other terrorist networks. I write today, however, regarding a disturbing *New York Times* investigative report that details significant civilian casualties—and large discrepancies in Pentagon reporting on such casualties—resulting from coalition airstrikes under Operation Inherent Resolve. The report also found that many civilians, including women and children, were killed by coalition airstrikes nowhere near ISIS targets. If the findings are accurate, the coalition's conduct not only may violate the Law of Armed Conflict, it may also help ISIS in recruiting efforts and make cooperation with our partners more difficult. I request that the Department of Defense answer the questions set forth in this letter, and conduct an investigation into these serious allegations.

The *New York Times*, after an 18-month investigation, reported, “We found that one in five of the coalition strikes we identified resulted in civilian death, a rate more than 31 times that acknowledged by the coalition. It is at such a distance from official claims that, in terms of civilian deaths, this may be the least transparent war in recent American history.” The Times investigation found that many of the civilian deaths resulted not from proximity to legitimate ISIS targets but from flawed or outdated intelligence that misidentified civilians as enemy combatants. These airstrikes started under the Obama Administration and continue under the Trump Administration.

When I served on active duty, one of my duties was to teach the Law of Armed Conflict to military personnel. Striking civilians nowhere near enemy targets can violate the Law of Armed Conflict. I understand the Coalition goes through a step by step process to select targets and avoid civilian casualties. If the findings in this investigation are true, then the Coalition's targeting process is not adequate and needs to be improved.

Failure to limit civilian casualties not only can violate the Law of War, it also weakens our national security. On March 10, 2017, three dozen former U.S. national security officials wrote a letter to you warning that “even small numbers of unintentional civilian deaths or injuries—whether or not legally permitted—can cause significant strategic setbacks” by increasing violence from militant groups or prompting U.S. partners and allies to reduce collaboration.

In response to my March 28 letter to you on this very same topic, Acting Assistant Secretary Mark Mitchell wrote that, “protecting civilians is a fundamental part of U.S. and coalition objectives in defeating ISIS.” Unfortunately, the findings of the *New York Times* investigation suggest the coalition is not properly executing U.S. policy in terms of limiting

civilian casualties and is not accurately reporting civilian casualties. I urge the Department to investigate and take corrective action.

I also request the Pentagon answer the following questions:

1. In 2015, how many civilians were killed and how many were injured under Operation Inherent Resolve?
2. In 2016, how many civilians were killed and how many were injured under Operation Inherent Resolve?
3. In 2017 (up to November 1 of this year), how many civilians were killed and how many were injured under Operation Inherent Resolve?
4. Were there any changes to the Rules of Engagement in 2017 for Operation Inherent Resolve? If so, what were the changes?
5. Is a JAG or Department of Defense attorney involved in every targeting decision for Operation Inherent Resolve?
6. Does the Pentagon agree with the findings of the *New York Times* investigation? If not, what are the disagreements and the basis for the disagreements?

Thank you for your attention to this critical issue.

Sincerely,



Ted W. Lieu
Member of Congress

**EXHIBIT G: Center for Civilians In Conflict:
‘NYT Civilian Casualties Story Should Be a
‘Wake Up Call’ for US Military’**

NYT Civilian Casualties Story Should Be a ‘Wake Up Call’ for US Military

November 16, 2017

In response to today’s story in *The New York Times* on civilian casualties in Iraq, Executive Director Federico Borello issued the following statement:

“Today’s *New York Times* report on civilian casualties in Iraq is extremely disturbing. With 20 percent of all air strikes resulting in civilian deaths but no deep on-the-ground investigations, no one knows what the actual human toll might be. It’s concerning that the US military’s logs are in such poor shape that they have no good way to understand the true impact of their operations on the civilian population. And it’s literally adding insult to injury that existing amends programs and funds are not being used to acknowledge and dignify victims’ loss. You can’t claim to be conducting the most precise air campaign in history and taking great care to avoid civilian casualties when you lack the data to back that up.

“So now is the time for the US military to acknowledge a simple reality: it is killing too many civilians and it needs to ask itself the hard question of why that is so. And what it’s going to do about it.

“The *Time’s* in-depth reporting should be a wake-up call for the commanders of Operation Inherent Resolve. Hopefully,

they will take this opportunity to use their authority and discretion to prioritize on-the-ground investigations of allegations of civilian harm, identify the problems and mistakes that led to the harm, and then fix them.

“This is not a partisan issue. We are as dismayed that the incidents reported by the *Times* happened on President Obama’s watch as much as we’re alarmed by the increase in the number and frequency of airstrikes under President Trump. We at CIVIC have worked with the US military and its partners in Iraq and Afghanistan for almost 15 years to better protect civilians and track civilian harm, and we will continue to do so. But if the US is really serious about decreasing the number of civilian casualties, it should show the sincerity of its words through actions to reduce them and make amends for civilian harm.”

Background:

- [The Uncounted \(NYT\)](#)
- [BuzzFeed News Investigation Leads To US Admission It Caused Civilian Deaths In Mosul](#)
- [“At 3 P.M. My Son Came Home. By 9 P.M. He Was Dead.”\(BuzzFeed\)](#)
- [Policy Brief on Civilian Protection in the Current Mosul Campaign \(CIVIC\)](#)
- [Protection Of Civilians In Mosul: Identifying Lessons For Contingency Planning \(CIVIC\)](#)
- [Civilian Harm Tracking: Analysis of ISAF Efforts in Afghanistan \(CIVIC\)](#)

**EXHIBIT H: Center for Civilians In Conflict:
“The NYT Story on Civilian Casualties Should
be Required Reading in Pentagon”**

The NYT Story on Civilian Casualties Should be Required Reading in Pentagon

November 16, 2017 By Christopher Allbritton



[Today's story by Azmat Khan and Anand Gopal in the *New York Times Magazine*](#) should be required reading for all those involved in Operation Inherent Resolve, which the Pentagon often refers to as the most precise air campaign in history.

It's the story of one Iraqi, Basim Razzo, who lost his family and home to a US air strike on the night of Sept 20, 2015. He was lying in bed next to his wife, Mayada, when an American aircraft dropped two munitions directly on his and his brother's house next door. His wife, daughter, nephew, and brother were all killed. Based on videos posted to its

YouTube channel, the American-led coalition said the strike “Destroys Daesh VBIED Facility Near Mosul, Iraq 20 Sept 2015,” and until Basim petitioned the US government for answers, it considered his family members legitimate kills in the war against ISIS.

But this article is also a story of thousands of Iraqi civilians killed and injured by air strikes. It’s a story about their families left grasping for answers in the face of US military bureaucracy. And it’s a story about how “the most precise air campaigns in military history,” as a Central Command spokesperson described it, isn’t.

Khan and Gopal were exhaustive in their research, and the US military could take some lessons in how to conduct on-the-ground investigations. They describe their reporting like this:

Our own reporting, conducted over 18 months, shows that the air war has been significantly less precise than the coalition claims. Between April 2016 and June 2017, we visited the sites of nearly 150 airstrikes across northern Iraq, not long after ISIS was evicted from them. We toured the wreckage; we interviewed hundreds of witnesses, survivors, family members, intelligence informants and local officials; we photographed bomb fragments, scoured local news sources, identified ISIS targets in the vicinity and mapped the destruction through satellite imagery. We also visited the American air base in Qatar where the coalition directs the air campaign. There, we were given access to the main operations floor and interviewed senior commanders, intelligence officials, legal advisers and civilian-casualty assessment experts. We provided their analysts with the coordinates and date ranges of every airstrike — 103 in all — in three ISIS-controlled areas and examined their responses. The result is the first systematic, ground-based sample of airstrikes in Iraq since this latest military action began in 2014.

We here at Center for Civilians in Conflict (CIVIC) are obviously dismayed by the findings of this report. We’ve spent a decade working with the US military to better understand how civilian harm occurs and to incorporate those lessons into various stages of planning operations so civilians are better protected—including through better investigations and record keeping. There has been some success in places like Afghanistan, but it is obvious much work remains. [We will continue to call on militaries and governments](#) to place civilian protection at the center of their planning.

EXHIBIT I: Project On Government Oversight: “The American People Need to Know More About the Costs of Our Wars”

Straus Military Reform Project

CENTER FOR DEFENSE INFORMATION
AT POGO

DONATE

The American People Need to Know More About the Costs of Our Wars

By: **Mandy Smithberger** | November 22, 2017



Photo: **USSOCOM** For most Americans, the wars being conducted on our behalf are something that receive little more than an occasional mention on the nightly news or make a fleeting appearance in our social media feeds. That gap becomes even larger when the Department of Defense (DoD) keeps from us accurate information about the real human costs of war (or lacks the information altogether).

Civilian Casualties Under-Reported



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Not only are these civilian deaths deeply troubling from a humanitarian perspective, they also risk undermining our efforts in the region and increasing retaliation against our troops. Moreover, not knowing the real cost of these strikes also undermines the ability to make appropriate policy decisions about our objectives and tactics. The *New York Times Magazine* investigation found many of these civilian deaths were the result of “flawed or outdated intelligence that conflated civilians with combatants.”

Risks of retaliation may only be increasing due to two recent policy changes. The first, which the *Times* pointed out, is a change regarding condolence payments. In Iraq, Syria and Afghanistan, the U.S. makes payments to civilians for property damage and family members killed. Despite Congress authorizing funding for these condolence payments, the *Times* found “not a single person in Iraq or Syria has received a condolence payment for a civilian death since the war began in 2014.”

The second cause is the decision to loosen the **rules of engagement**. Rules of engagement specify how and when deadly force may be employed by the military in a particular zone of operations. They generally include restraints on disproportionate actions that would violate the law of war, such as guarding against harm to civilians or their property. Political leaders and military commanders **put these rules in place** to ensure the national policy objectives match the actions of the troops on the ground. They are meant to ensure the means used in war match the ends being sought and prevent the unintended consequences that may arise from an excessive use of force.

There have been myriad efforts to try to avert Americans’ gaze from the real human costs of war.

Secretary of Defense James Mattis told the Armed Services committees last month that pilots may now target suspected Taliban and Islamic State militants in Afghanistan, even if these individuals are not engaging U.S. troops. These expanded rules of engagement will increase the opportunity for error, especially when combat actions are based on bad intelligence.

The *Times* investigation makes clear there must be more oversight and transparency for how we count casualties in combat, and Congress should hold the military accountable for these numbers as they assess proposals to increase troops and spending for these wars.

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Afghanistan before 2015 on identifying, responding to, or reporting suspected instances of child sex abuse,” the IG wrote. This training was mandated by the **fiscal year 2015 National Defense Authorization Act**. The IG identified 16 allegations of child sexual abuse between 2010 and 2016, but could not confirm that no other allegations had been reported.

The investigation was sparked by the Army’s decision to **discharge Green Beret Sgt. 1st Class Charles Martland** for beating up an Afghan police commander who was sexually abusing a boy. Representative Duncan Hunter (R-CA) challenged the decision to discharge Martland. “[H]e and others felt they could no longer stand by and allow the [Afghan Local Police] to commit atrocities,” Hunter **wrote in a letter** to then-Secretary of Defense Ash Carter. “To intervene was a moral decision, and SFC Martland and his Special Forces team felt they had no choice but to respond.” The Army later **reversed the decision**, and **Hunter introduced legislation** to mandate reporting sexual abuse on U.S. bases.

More questions were raised after Lance Cpl. Gregory Buckley was murdered after he expressed concerns about an Afghan National Police Commander’s alleged sexual abuse of boys. “The reason we were here is because we heard the terrible things the Taliban were doing to people, how they were taking away human rights,” Dan Quinn, a former Special Forces captain **told the *New York Times*** in 2015. “But we were putting people into power who would do things that were worse than the Taliban did—that was something village elders voiced to me.”

Under the “**Leahy Law**” the U.S. government is prohibited from using funds for security forces who commit gross violations of human rights. DoD officials told DoD IG that child sexual abuse by Afghan National Defense and Security Forces could rise to that level. But the Leahy Law is rarely enforced. “DoD decisions to withhold funding or apply the notwithstanding authority for [Gross Violations of Human Rights], including instances of child abuse committed by [Afghan National Defense and Security Forces] ...only occur about once a year,” the DoD IG found.

“[D]espite the valiant efforts of whistleblowers like Buckley and Martland, Afghan child abuse appears to be an interminable feature of America’s forever war,” **Jared Keller noted in *Task and Purpose***.

Conclusion

There have been myriad efforts to try to avert Americans’ gaze from the real human costs of war. President George H.W. Bush banned photographs of military coffins, a policy left in place for 18 years and only **lifted in 2009**. Service members and their families have had to fight DoD to admit the health risks at places like **Area 51**, **Camp Lejeune**, and at **open-air burn pits** on U.S. bases in Iraq and Afghanistan.



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people need to have a full accounting of all of the consequences of those decisions.



By: **Mandy Smithberger**, Director, CDI Straus Military Reform Project

Mandy Smithberger is the Director of the Straus Military Reform Project at the Center for Defense Information at the Project On Government Oversight.

Topics: Military Reform, Other Items of Interest, Inspectors General, Iraq, Afghanistan and Terror

**EXHIBIT J: Assistant Secretary of Defense
Response Letter to Senator Patrick Leahy**



SPECIAL OPERATIONS /
LOW INTENSITY CONFLICT

ASSISTANT SECRETARY OF DEFENSE
2500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2500

The Honorable Patrick J. Leahy
United States Senate
437 Russell Senate Office Building
Washington, DC 20510-4502

Dear Senator Leahy:

Thank you for your October 31, 2017, letter that follows the Department's initial correspondence concerning how the Department of Defense (DoD) addresses civilian casualties that occur in the course of U.S. or allied operations. I include below the additional information that you request. If you believe it would be helpful to discuss these responses in further detail, I am also happy to meet with you or your staff.

DoD takes extraordinary measures to reduce and mitigate civilian casualties because it is the legal, moral, and ethical thing to do and part of a sound military strategy. As stated in the July 2016 Executive Order related to civilian casualties and as consistent with long-standing DoD practices related to protecting civilians, minimizing civilian casualties can help maintain the support of partner governments and vulnerable populations and enhance the legitimacy and sustainability of U.S. operations critical to our national security.

As you know, the Islamic State of Iraq and Syria (ISIS) often entrenches itself in urban areas as part of military strategy, including to gain a defensive tactical advantage. As a result, this year, the Defeat-ISIS campaign operated primarily in densely-populated urban areas. Unfortunately, and despite our best efforts, the risk to civilians generally increases when we engage the enemy in an urban environment. The risk to the civilian population in such circumstances is made even more acute when the party in control of a populated area has failed to take reasonable steps to protect civilians from the effects of combat, including by separating the civilian population in the urban area from their forces and equipment; using distinctive and visible signs to identify protected persons and objects in the urban areas; and carrying their arms open and making their forces visually distinct from civilians. This risk to civilians is made particularly grave with regard to our efforts against ISIS, because ISIS also purposely uses civilians as human shields. With these risks in mind, U.S. military planning has carefully accounted for these civilian protection challenges associated with urban combat. Now that we have liberated the key ISIS strongholds of Raqqa and Mosul, the current fighting in Syria and Iraq has moved away from densely-populated areas, which will mitigate the impact on civilians.

Due to the importance of addressing civilian casualties, the Coalition has improved its visibility into, and accountability for, such allegations. From October through early November of 2017, the Coalition Civilian Casualty Assessment Team (CCCAT) traveled throughout the



region and reviewed procedures and processes to increase the efficiency of assessments. The team also trained approximately 30 members of Coalition components in the assessment process to ensure allegations of civilian casualties are addressed as quickly as possible. In addition, the number of personnel in the CCCAT has more than doubled since June 2017 to accelerate the assessment process. In Raqqa alone, we are working on hundreds of cases and the CCCAT will continue to work toward bringing these cases to resolution.

The process for civilian casualty accounting and the centralized reporting procedure is as follows. When the Coalition receives an allegation, all the information from the report goes into a database. The Coalition assesses the credibility of each allegation, regardless of the source. Assessments may include a number of forms of review, including interviewing pilots and other personnel involved in the targeting process, reviewing available strike and surveillance video, and analyzing information provided by U.S. and partner governments, non-governmental organizations (NGOs), partner forces, and open-source reporting. U.S. civilian casualty assessments are based on available classified and unclassified intelligence information. DoD acknowledges that there are differences between U.S. military assessments of the number of civilian casualties in Iraq and Syria and reporting from NGOs. The preceding information illustrates that the combination of sources available to the U.S. military is unique and may provide insights unavailable to NGOs.

The Coalition publishes a monthly, detailed report that lists the allegations that were found credible and non-credible, and allegations that are still under assessment. The U.S. military remains committed to considering any new, credible information regarding civilian deaths that may emerge after the initial review. We revise previous assessments as appropriate.

DoD recognizes the value of interagency and whole-of-society collaboration in these efforts. We are in constant communication with USAID, the Department of State, and NGOs concerning civilian casualty mitigation. Last week, Secretary Mattis hosted a roundtable discussion with members of the NGO community that focused on issues related to civilian casualties. We plan to make this part of an ongoing discussion with the NGO community.

Through a 2016 National Security Council-led interagency process, the Department of State and DoD formalized a civilian casualty information-sharing mechanism for Iraq and Syria. This information-sharing mechanism requires DoD to disseminate civilian casualty reports to the relevant combatant commands, the Coalition, the Joint Staff, and DoD regional and functional offices. The CCCAT then determines if the information is credible and whether further action is warranted.

As you note in your letter, further action may include using DoD authorities and funding to extend *ex gratia* payments and offer condolences to families of injured or killed civilian persons. To date, no *ex gratia* payments have been made in Iraq since 2011 under the Commanders' Emergency Response Program (CERP). However, two *ex gratia* payment offers have been made in Operation INHERENT RESOLVE since 2015. Numerous factors may be at issue in a commander's decision not to make such *ex gratia* payments. For example, the vast majority of airstrikes in Syria have been in areas controlled by ISIS. Unlike counterinsurgency operations in Iraq before 2011, U.S. forces do not currently have widespread, day-to-day

interaction with potential claimants on the ground in Syria or Iraq. When commanders identify a situation in which it is appropriate to extend an *ex gratia* payment, DoD has the authority and funds to do so, including from section 8107 of the 2017 Consolidated Appropriations Act.

I appreciate your continued attention to this critical issue. We have learned in recent conflicts, including in Afghanistan and Iraq, that civilian casualty incidents resulting from tactical actions can have strategic consequences. Mitigating civilian harm garners local support, preserves troop safety, and helps foster support for U.S. interests at the national and international levels. These factors highlight our moral imperative to protect civilians, and emphasize why our military leaders make it a priority to respond to civilian casualty allegations in a thorough and timely manner. Given the technology and resources available, civilian casualty mitigation measures have made a remarkable impact. With that said, I assure you that we always continue to learn, adapt, and improve civilian casualty mitigation measures during military operations wherever U.S. military forces are engaged.

Sincerely,

A handwritten signature in black ink, appearing to read "M. E. Mitchell". The signature is fluid and cursive, with a large, stylized initial "M".

Mark E. Mitchell
Acting