

Hearts and Minds: Post-war Civilian Deaths in Baghdad Caused by U.S. Forces

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I. SUMMARY

This report documents and analyzes civilian deaths caused by U.S. military forces in Baghdad since U.S. President George W. Bush declared an end to hostilities in Iraq on May 1, 2003. It is based on research in Baghdad from September 18-30, and follow-up research on October 5 and 9. During that time, Human Rights Watch interviewed the witnesses to civilian deaths, family members of the deceased, victims who were non-lethal casualties, Iraqi police, lawyers and human rights activists, U.S. soldiers, officers from the U.S. Army Judge Advocate General's office (JAG) and members of the U.S.-led Coalition Provisional Authority (CPA), responsible for governing Iraq.

The U.S. military with responsibility for security in Baghdad is not deliberately targeting civilians. Neither is it doing enough to minimize harm to civilians as required by international law. Iraq is clearly a hostile environment for U.S. troops, with daily attacks by Iraqis or others opposed to the U.S. and coalition occupation. But such an environment does not absolve the military from its obligations to use force in a restrained, proportionate and discriminate manner, and only when strictly necessary.

The U.S. military keeps no statistics on civilian casualties, telling Human Rights Watch that it was "impossible for us to maintain an accurate account." Such an attitude suggests that civilian casualties are not a paramount concern.

Based on interviews with witnesses and family members, Human Rights Watch confirmed the deaths of twenty Iraqi civilians in Baghdad in legally questionable circumstances between May 1 and September 30. Eighteen of these deaths are documented in this report. In addition, Human Rights Watch collected data on civilian deaths by U.S. forces from the Iraqi police, human rights organizations, Western media and U.S. military statements on the topic. In total, Human Rights Watch estimates the U.S. military killed ninety-four civilians in questionable circumstances. Human Rights Watch did not verify each of these individual cases but, taken as a whole, they reveal a pattern of alleged illegal deaths that merit investigation.

As of October 1, 2003, the U.S. military had acknowledged completing only five investigations above the division level into alleged unlawful killings of civilians. In four of those incidents, the soldiers were found to have operated within the U.S. military's rules of engagement. In the fifth case, a helicopter pilot and his commander face disciplinary action for removing a Shi'a banner from a tower in al-Sadr City, which led to an armed altercation with demonstrators. A sixth investigation is ongoing: the killing of eight Iraqi policemen and one Jordanian guard by soldiers of the 82nd Airborne Division in al-Falluja on September 12.

The individual cases of civilian deaths documented in this report reveal a pattern by U.S. forces of over-aggressive tactics, indiscriminate shooting in residential areas and a quick reliance on lethal force. In some cases, U.S. forces faced a real threat, which gave them the right to respond with force. But that response was sometimes disproportionate to the threat or inadequately targeted, thereby harming civilians or putting them at risk.

In Baghdad, civilian deaths can be categorized in three basic incident groups. First are deaths that occur during U.S. military raids on homes in search of arms or resistance fighters. The U.S. military says it has begun using less aggressive tactics, and is increasingly taking Iraqi police with them on raids. But Baghdad residents still complained of aggressive and reckless behavior, physical abuse, and theft by U.S. troops. When U.S. soldiers encountered armed resistance from families who thought they were acting in self-defense against thieves, they sometimes resorted to overwhelming force, killing family members, neighbors or passers-by.

Second are civilian deaths caused by U.S. soldiers who responded disproportionately and indiscriminately after they have come under attack at checkpoints or on the road. Human Rights Watch documented cases where, after an improvised explosive device detonated near a U.S. convoy, soldiers fired high caliber weapons in multiple directions, injuring and killing civilians who were nearby.

Third are killings at checkpoints when Iraqi civilians failed to stop. U.S. checkpoints constantly shift throughout Baghdad, and are sometimes not well marked, although sign visibility is improving. A dearth of Arabic interpreters and poor understanding of Iraqi hand gestures cause confusion, with results that are sometimes fatal for civilians. Soldiers sometimes shout conflicting instructions in English with their guns raised: “Stay in the car!” or “Get out of the car!”

In all of these scenarios, U.S. soldiers can be arrogant and abusive. They have been seen putting their feet on detained Iraqis’ heads—a highly insulting offense. Male soldiers sometimes touch or even search female Iraqis, also a culturally unacceptable act.

Of course, not all soldiers behave in this way. Human Rights Watch met many U.S. military personnel who dealt respectfully with Iraqis and were working hard to train police, guard facilities and pursue criminals. Some of these soldiers expressed frustration at the lack of sensitivity shown by their colleagues. “It takes a while to get the Rambo stuff out,” one officer told Human Rights Watch.

In general, U.S. military police in Baghdad seem better suited for the post-conflict law enforcement tasks required by military occupation. More problematic were combat

units like the 82nd Airborne Division and the 1st Armored Division, who have been called upon to provide services for which they are not adequately trained or attitudinally prepared. Human Rights Watch documented eight Baghdad incidents involving these two divisions in which sixteen civilians died. Many of these soldiers fought their way into Iraq, and are now being asked to switch without proper preparation from warriors to police who control crowds, pursue thieves and root out insurgents. Military officials told Human Rights Watch they recognized the problem and were providing extra training. Their declared aim is to hand over policing functions to Iraqi security forces, but these institutions are still being built.

A central problem is the lack of accountability for U.S. soldiers and commanders in Iraq. According to CPA Regulation Number 17, Iraqi courts cannot prosecute coalition soldiers, so it is the responsibility of the participating coalition countries to investigate allegations of excessive force and unlawful killings, and to hold accountable soldiers and commanders found to have violated domestic military codes or international humanitarian law. The lack of timely and thorough investigations into many questionable incidents has created an atmosphere of impunity, in which many soldiers feel they can pull the trigger without coming under review.

Human Rights Watch welcomes the five investigations conducted thus far, but has reservations about some of the findings. Two of the five cases are documented in this report, and the evidence suggests that U.S. soldiers used excessive lethal force. There are also many questionable civilian deaths for which no investigation has taken place. The most notable example is the killing of up to twenty people by the 82nd Airborne in al-Falluja on April 28 and 30, documented in a May Human Rights Watch report, *Violent Response: the U.S. Army in al-Falluja*.

At the same time, some steps have been taken to reduce civilian deaths. Checkpoints are more clearly marked and some combat troops have received additional training for police tasks. Iraqi police are more frequently escorting U.S. soldiers on raids.

But more initiatives are required. Basic language and cultural training to teach soldiers hand gestures used and understood by Iraqis and essential Arabic words and phrases would minimize confusion at checkpoints or during raids. Soldiers should know that placing a foot on the head of a person forced to lie on the ground is a grave insult. Combat troops should receive additional training in post-conflict policing, as was provided to the 1st Armored Division.

The rules of engagement are not made public due to security concerns. But Iraqi civilians have a right to know the guidelines for safe behavior. The coalition should

mark all checkpoints clearly, for instance, and inform Iraqis through a public service campaign of how to approach checkpoints and how to behave during raids.

Of central importance are prompt investigations of and punishment for all inappropriate or illegal use of force, as required under international law. U.S. soldiers at present operate with virtual impunity in Iraq. Knowledge that they will be held accountable will be an effective restraint on the excessive, indiscriminate, or reckless use of lethal force.

II. RECOMMENDATIONS

To the United States and Other Coalition Governments

The Use of Force:

Under international humanitarian law, the occupying powers in Iraq are obligated to restore and ensure public order and safety. The means used to achieve security must conform with international humanitarian law and human rights standards. As such, the governments of the occupying coalition should ensure that:

- In law enforcement situations, U.S. and other coalition forces should use law enforcement means. In such situations, military forces should abide by the standards set forth in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the U.N. Code of Conduct for Law Enforcement Officials, and be provided with the equipment and training necessary for this purpose.
- U.S. and coalition governments deploy an adequate number of soldiers, military police or constabulary units trained in international law enforcement standards, and provide these units with the resources and equipment to meet Iraq's postwar law enforcement needs.
- U.S. and other coalition security forces not use firearms in policing situations, except where this is strictly necessary to defend coalition personnel or others against the imminent threat of death or serious injury. Whenever firearms are used, great care should be taken not to inflict injury on civilians.
- When there are exchanges of fire, coalition security forces avoid disproportionate harm to civilians or civilian objects.
- The U.S. government provides compensation to victims of unlawful use of force by U.S. security personnel where this has caused death, disablement, injury or destruction of property.
- U.S. Army soldiers and other coalition forces be trained to defuse tense non-combat situations without resorting to lethal force. Lethal force should be used only when necessary to meet an imminent threat to life and only in proportion to the actual danger presented in conformity with international standards.
- Coalition forces in Iraq be equipped with adequate crowd control devices to provide non-lethal alternatives to crowd control.
- Efforts to enhance communication with local communities should be intensified, starting with adequate provision of interpreters.

- Law enforcement officials from the coalition, as well as Iraqi police, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- Exercise restraint in such use and act in proportion to the seriousness of the offense and the legitimate objective to be achieved;
- Minimize damage and injury, and respect and preserve human life;
- Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- Ensure that relatives or close friends of the injured or affected persons are notified at the earliest possible moment.

At Checkpoints:

- Treat everybody with humanity and respect for cultural sensitivities. In particular, practices like putting feet on civilians heads should be avoided unless strictly necessary to establish control.
- Take further steps to better mark checkpoints with lights and large signs in Arabic.
- Provide soldiers at checkpoints with basic instruction in Arabic commands and hand signals to help them communicate better with civilians.
- Have interpreters available at all checkpoints at all times.
- Deploy female soldiers to search Iraqi women.
- Initiate a public service campaign to inform Iraqi civilians about proper behavior at checkpoints. Although the Rules of Engagement are not public, the civilians should have knowledge of the basic guidelines to avoid danger.

On Raids:

- Whenever possible, conduct raids together with Iraqi police.
- Provide sufficient interpreters for U.S. soldiers.
- Provide U.S. soldiers with non-lethal devices, such as stun guns and rubber bullets.
- Avoid verbal and physical abuse as well as destruction of the premises during a search. Provide compensation for damaged property.

Training:

- Provide additional training in policing methods to combat troops who are performing law enforcement tasks, such as the 82nd Airborne and the 1st Armored Division in Baghdad.

Accountability

- Monitor and track civilian casualties throughout Iraq. Military authorities should keep records, observe and analyze trends related to specific units and commanders, as well as tactics, in order to minimize civilian casualties.
- Military authorities should investigate all credible allegations of unlawful killings by coalition soldiers, and take appropriate administrative or criminal action against soldiers and commanders found to have used or tolerated the use of excessive or indiscriminate force.
- Make the investigation process more transparent by announcing the cases under investigation and publicizing the results.
- Investigations should be thorough, prompt and impartial. Consideration should be given to cases where complaints by relatives or other reliable reports suggest unnatural death in circumstances different than combat. The investigation shall be to determine the cause, and circumstances of the death or injury, those responsible, and any patterns or practices which may result in the violation of the rights of Iraqi civilians.
- Investigations should include a collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation should distinguish between natural death, accidental death, suicide and homicide.

III. STATISTICAL ANALYSIS OF CIVILIAN DEATHS

United States military and coalition forces in Iraq keep meticulous records of soldiers killed in duty, providing daily accounts to the press,¹ but they do not keep statistics on civilian deaths. “We know how many of us are killed or wounded because we know their names,” coalition military spokeswoman Lt. Kate Noble told Human Rights Watch. “But when we do return, the civilian casualties are moved or hospitalized.”²

At a press briefing in Baghdad on August 4, 2003, U.S. military spokesman Col. Guy Shields said there was “no accurate way” to keep a record:

Well, we do not keep records, and there—it—for the simple reasons that there’s really no accurate way. There’s times when we have conducted operations, and we’re pretty certain that there are casualties, and we’ll go back and check. And there’s nobody there. So that’s just—we do not keep records like that.³

In response to a Human Rights Watch request for information about civilian casualties, the coalition’s press office sent this reply:

It is tragic that civilians have died as a result of our operations and we are fully aware that every time a civilian is caught in the line of coalition fire, we potentially lose allies among the Iraqi population. In terms of statistics, we have no definitive estimates of civilian casualties for the overall campaign. It would be irresponsible to give firm estimates given the wide range of variables. For example, we have had cases where during a conflict, we believed civilians had been wounded and perhaps killed, but by the time our forces have a chance to fully assess the outcomes of the contact, the wounded or dead civilians have been

¹ Between May 1 and September 30, 2003, eighty-eight U.S. soldiers were killed in hostile deaths and more than 800 wounded. During that time, there were also ninety-four non-hostile deaths and 197 non-hostile injuries among U.S. troops since May 1. [See “One U.S. Soldier Killed in Iraq Bombing,” by Robert H. Reid, *Associated Press*, October 1, 2003, and “3 U.S. Soldiers Are Killed in 2 Separate Incidents in Iraq,” by Terence Neilan, *New York Times*, October 7, 2003.]

² Human Rights Watch interview with Lt. Kate Noble, Baghdad, September 20, 2003.

³ Department of Defense Briefing, “Coalition Provisional Authority Update Briefing to Include Background Briefing on Iraqi Compensation,” Baghdad, August 4, 2003.

removed from the scene. Factors such as this make it impossible for us to maintain an accurate account.⁴

While the coalition claims an accurate account of civilian deaths is impossible to maintain, Human Rights Watch collected data from a variety of sources for a database of post-war civilian casualties in Baghdad. Based on its research, Human Rights Watch estimates that U.S. soldiers killed ninety-four civilians between May 1 and September 30, 2003, in legally questionable circumstances that merit an investigation. Human Rights Watch did not verify each of these individual allegations but, taken as a whole, they reveal a pattern of alleged unlawful deaths that should prompt concern and investigations.

For the purposes of this report, a civilian casualty means an Iraqi not taking part in hostile acts against coalition forces who was killed by the U.S. military during a raid, at a checkpoint or after U.S. troops came under attack from a sniper, an ambush, or a roadside bomb. The database does not include those who died from unexploded ordinance from the war or from explosions caused when U.S. soldiers destroyed Iraqi arsenals. Likewise, civilians killed in traffic accidents with U.S. military vehicles are not included.

Methodology

Human Rights Watch used six sources to obtain data:

1. Direct interviews with witnesses or the family of victims accounted for twenty-one deaths.
2. Records from Iraqi police in Baghdad account for fifty-four civilian deaths. At Human Rights Watch's request, Baghdad's two district headquarters, in al-Rasafa and al-Karkh, sent orders to the police stations in their respective jurisdictions to send all reports of civilian casualties by U.S. forces since May 1. Those records were collected from Al-Rasafa on September 25 and from al-Karkh on September 27. Twenty-four civilian deaths were reported from al-Rasafa and twenty-eight from al-Karkh.

The numbers are not precise because the Iraqi police are still rebuilding after the war. Human Rights Watch did not confirm all of their reports, and some of the deaths may not have been caused by U.S. troops. On the other hand, not all civilian casualties are reported to the police. In its own interviews, for example, Human Rights Watch documented eight cases that did not appear in police records. In addition, because the

⁴ E-mail sent to Human Rights Watch from coalition press office on September 29, 2003.

data was collected in the last week of September, some reports from that month may not have made it into the data set.

3. A local human rights group, The Human Rights Organization in Iraq, reported thirty-three cases of civilian casualties in Baghdad. It provided Human Rights Watch with the names and addresses of victims, plus the date and location of incidents. Four of the reported deaths were confirmed by a second source.

4. Western news media reported fifteen civilian deaths, but Human Rights Watch included only those deaths reported with a victim's name. General mention of a death without a name were excluded.⁵

5. Other non-governmental organizations reported six civilian deaths. Amnesty International documented two killings in Baghdad and Occupation Watch, an international coalition of peace and justice groups, provided information about four, three of which were confirmed by Human Rights Watch.⁶

6. U.S. military press releases reported three civilians killed in two incidents,⁷ and the U.S. Judge Advocate General's office confirmed a fourth.⁸ Although names were not provided, because the reports came from the U.S. military, the cases were included. One name was also reported in the media.⁹

⁵ The articles which mention a civilian casualty by name are: "Civilian Deaths Stoke Iraqis' Resentment," by Vivienne Walt, San Francisco Chronicle, August 4, 2003; "Farah Tried to Plead with the US Troops But She Was Killed Anyway," by Peter Beaumont, The Observer, September 7, 2003; "In Iraq, One Incident, Two Stories," by Scott Peterson, Christian Science Monitor, September 28, 2003; "Angry Iraqis Tell of U.S. Troops Fatal Errors," by Ken Dilanian and Drew Brown, Knight Ridder, September 10, 2003; "How and Why Did Iraqi Die? 2 Tales of Anger and Denial," by John Tierney, New York Times, August 26, 2003; "As Iraqis Die, Hate for U.S. Spreads," by Gary Marx, Chicago Tribune, August 17, 2003; "Iraqi Gunmen Curse America at Protester's Funeral," by Esmat Salaheddin, Reuters, June 19, 2003; "U.S. Soldiers Shoot Dead Two Iraqi Policemen," by Rory Mulholland, Agence France Presse, August 11, 2003; "Iraqis Mourn Family Lost in U.S. Shooting," by Ken Dilanian, Philadelphia Inquirer, August 12, 2003; "Jittery U.S. Soldiers Firing in the Dark Kill Six Iraqis Trying to Get home Before Curfew," by Scheherezade Faramarzi, Associated Press, August 10, 2003.

⁶ Amnesty International, Memorandum on Concerns Relating to Law and Order, AI INDEX: MDE 14/157/2003, July 23, 2003, and Human Rights Watch interview with Nermin al-Mufti, Baghdad, September 29, 2003.

⁷ "Forces Kill Two Iraqis at Checkpoint," Coalition Joint Task Force-Seven press release, July 29, 2003; and "Iraqi Woman Killed During Attack on U.S. Soldiers," Coalition Joint Task Force-Seven press release, August 2, 2003.

⁸ Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

⁹ The victim was Izhar Mahmud Ridha, killed on August 1 in the al-Mansur neighborhood. See "As Iraqis Die, Hate for U.S. Spreads," by Gary Marx, Chicago Tribune, August 17, 2003.

Twenty-three deaths were reported by two or more sources, leaving a total of ninety-four.

Gender and Age of Victims

Of the ninety-four reported civilian deaths, eight were of women. This reflects the fact that women in Iraq have led very private lives since the war, mostly due to the lack of public security.¹⁰

The data provides the ages for twenty-five of the ninety-four civilian casualties (26.6%), four of them women.¹¹ Twenty-two of the casualties for whom ages are known, or 88%, were adults between the ages of seventeen and fifty years old.

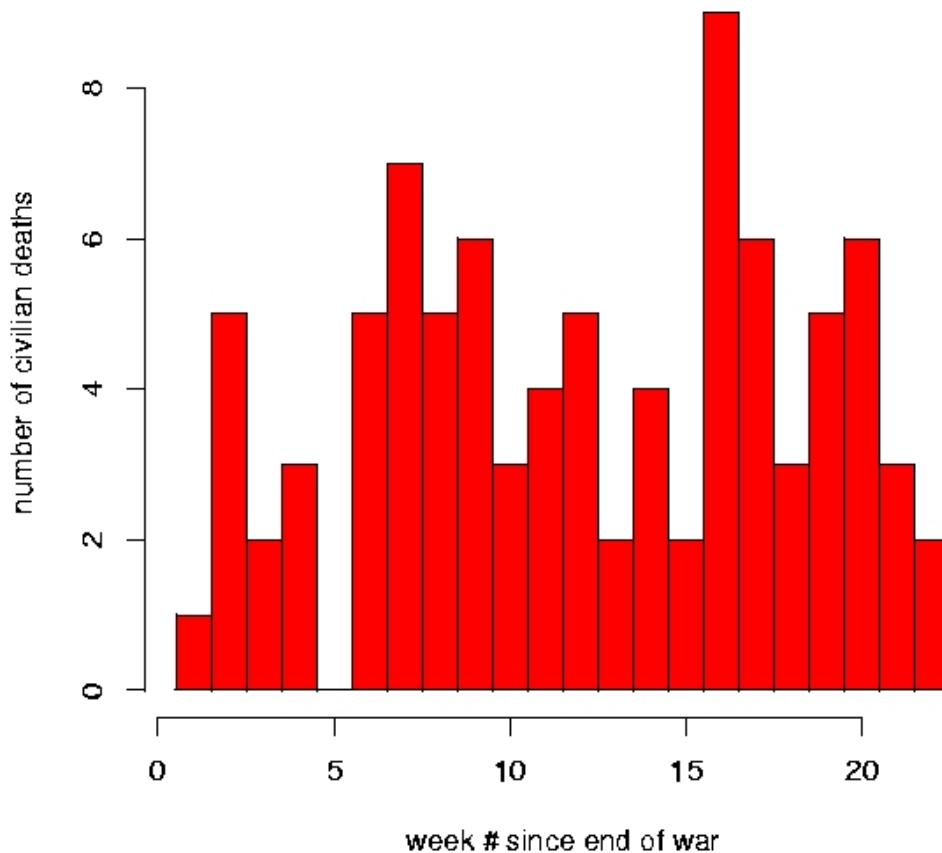
Civilian Deaths Over Time

Of the ninety-four reported civilian deaths, Human Rights Watch documented the exact date in 88 cases, or 93.6%.¹² As Graph 1 shows, the patterns of deaths over time appears to include two surges and two decreases. The apparent decline in September could be due to improved checkpoint visibility, increased reliance on Iraqi police during raids and other police actions, and a general transition from combat operations. At the same time, the statistics may be low because they were collected at the end of September, before reports could be filed with the police or local human rights groups and therefore make their way into the data set. In addition, as the graph shows, previous decreases were followed by a surge, and this pattern may occur again in the future.

¹⁰ For details on conditions in Baghdad for women and girls, see Human Rights Watch Report, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, July 2003.

¹¹ The ages of female victims were eight, seventeen, nineteen and seventy-five years-old.

¹² In four cases, only the date when the incident was reported to the police is known. In two cases, there is no date at all.



Graph 1 - Questionable Civilian Deaths in Baghdad Over Time

U.S. Military Units Involved

Iraqis rarely knew the unit of soldiers responsible for inflicting casualties. Through its own research or media reports, however, Human Rights Watch identified at least the military division, if not the specific unit, in eight incidents involving sixteen civilian deaths. Of these, the 82nd Airborne was involved in four incidents in which seven civilians were killed and the 1st Armored Division was involved in four incidents in which nine civilians were killed. Four civilians were killed in an operation by Task Force 20, a combined CIA-Army special forces team established to capture Iraq's former rulers, but it is not clear if they were responsible for the shooting.

The following is a list of civilian casualties in Baghdad for which the specific U.S. military unit is known:

82nd Airborne

- Mardan Muhammad Hassan and Farah Fadhil al-Janabi on September 1 in Mahmudiyya killed by soldiers from the 3rd Battalion, 505th Parachute Infantry Regiment. (See case study below.)
- Iraqi guards Ra`ad Fahd Shallal, Sa`id Majid Sa`dun and `Abbas `Uday `Abbas `Aday on July 10 in the al-Bayya` neighborhood. (See case study below.)
- Muhammad Subhi Hassan al-Qubaisi on June 26 in the Hay al-Jihad neighborhood. (See case study below.)
- `Uday Ahmad Mustafa on July 10 behind the Baya'a Police Station/al-Dora Patrol Station. (See case study below.)

1st Armored Division

- `Ali Muhsin, killed on August 11 by the 1st Battalion, 36 Infantry.¹³
- Lt. `Ala` `Ali Salih and Sgt. Muhammad Hilal Nahi, killed on August 9 on the Abu Ghraib road by soldiers from the 1st Battalion, 41st Infantry of the 1st Armored Division's 3rd Brigade. (See case study below.)
- Izhar Mahmud Ridha killed on August 1 in the al-Mansur neighborhood by soldiers from the 1st Armored Division's 3rd Brigade.¹⁴
- Soldiers from Alpha Company, 2nd Battalion, 3rd Field Artillery Regiment of the 1st Armored Division¹⁵ shot and killed Saif Ra`ad `Ali Sa`id al-`Azawi when he failed to stop at a checkpoint. In a second car, soldiers killed `Adil `Abd al-Karim `Abd al-Karim al-Kawwaz and three of his children, Haidar, `Ula and Mirvat. (See case study below.)

IV. TRAINING AND TRANSITION FROM COMBAT

13 "How and Why did Iraqi Die? 2 Tales of Anger and Denial," by John Tierney, New York Times, August 27, 2003.

14 "As Iraqis Die, Hate for U.S. Spreads," by Gary Marx, Chicago Tribune, August 17, 2003.

15 Commander of the 2nd Battalion, 3rd Field Artillery is LTC William S. Rabena.

U.S. combat troops in Baghdad like the 82nd Airborne and 1st Armored Division are being asked to perform law enforcement and policing tasks for which they are not prepared. According to soldiers and commanders, there was inadequate training and equipment for what the military calls SASO (Stability and Support Operations) and an inadequate supply of Arabic interpreters.

The problem was articulately presented by an unnamed U.S infantry commander in an After Action Report filed April 24, 2003 and since declassified (See Appendix II).¹⁶ “After less than 48 hours after the first battlefield engagement,” the commander said:

members of this company team were tasked to conduct checkpoint operations southwest of al-Najaf. With no training, soldiers were expected to search vehicles, interact with civilians with no CA [Civil Affairs] or PSYOPS [Psychological Operations] support, detain EPW's [Enemy Prisoners of War], and confiscate weapons. Less than 48 hours after this, the unit was again heavily engaged in combat operations. The radical and swift change from combat operations to SASO and back to combat operations over and over again causes many points of friction for the soldiers and their leaders.

With the exception of a class given to the platoon leaders, there were no formal classes or training conducted by CA prior to the operation. No training on checkpoint operations or dealing with civilians was received.

The commander also noted that the unit's limited supply of construction and barrier materials for checkpoints was exhausted by the time they had reached Baghdad. Soldiers had to use “destroyed cars, flower pots, bicycle racks, and whatever else was available for force protection.” Interpreters, he wrote:

were not available to the company team at any point during the operation. These interpreters are critical to the team's ability to interact with civilians, discern their problems, and broadcast friendly unit intentions. Often times the unit had crowds and upset civilians to deal with and absolutely no way to verbally communicate with them.

The report emphasized the “fundamental shift in attitude” demanded of the troops as they shifted from combat to law enforcement tasks:

¹⁶ Unclassified After Action Report, “SUBJECT: Operation Iraqi Freedom After Action Review Comments,” April 24, 2003, conducted by TM C/3-15 Infantry, Task Force 1-64 [http://www.strategypage.com/dls/articles/20030912.asp]. See Appendix II for full text.

The soldiers have been asked to go from killing the enemy to protecting and interacting, and back to killing again. The constant shift in mental posture greatly complicates things for the average soldier. The soldiers are blurred and confused about the rules of engagement, which continues to raise questions, and issues about force protection while at checkpoints and conducting patrols. How does the soldier know exactly what the rule of engagement is? Soldiers who have just conducted combat against dark skinned personnel wearing civilian clothes have difficulty trusting dark skinned personnel wearing civilian clothes.

Other officers have reflected the above concerns. In an interview published on a U.S. Army-related website, a 2nd Lt. from the 82nd Airborne described the complications of Iraq's post-war scene:

Pulling the trigger against groups of Fedayeen was easy compared to this post-war environment where we are still taking casualties daily. Understanding why one village waves and blows kisses at you while the next one down the road sets up ambushes and IEDs is not as easy as friendly/enemy, don't kill/kill. We are ambassadors with our thumbs on the selector lever and always scanning for a set-up. It's so hard to help and interact with a people when you trust no one. Getting your soldiers to understand the need to be hot/cold, on/off, at war/at peace with only milliseconds between the two is very challenging.¹⁷

An article from the August 10, 2003, newsletter of the 1st Armored Division based in Iraq described how platoon leaders were adapting urban operations because the tasks in Iraq—patrols, raids and checkpoints—were different from the combat exercises for which they had trained. “[I]n Iraq, civilians are not merely an occasional presence, as urban terrain training often depicts civilians,” the author wrote. “Instead, interactions with civilians often comprise the entire mission.”¹⁸

“Our mentality as soldiers is combat,” said Lt. Lucas Hale, from the 1st Armored Division, who is trying to modify urban combat techniques (Military Operations in Urban Terrain, or MOUT) in the field. “We don’t deal with civilians well as a whole. But in Iraq, you have to understand that 99 percent of the people [we encounter] are simple people who just want to get on with their lives.”¹⁹

17 Interview with 2nd LT. Andy Blickhahn 325th AIR, 82nd ABN Div, available at www.companyteam.army.mil

18 “1AD Units Modify MOUT Training to Suit the Situation,” by Lisa Burgess, The Old Ironsides Report, Volume I, Issue 20, August 10, 2003.

19 Ibid.

U.S. Judge Advocate General (JAG) and CPA legal officials who spoke with Human Rights Watch were sympathetic to these concerns, and they agreed that combat troops had not all received adequate training for post-war tasks. Special instructors were brought in to assist the 1st Armored Division, they said. “They must come to terms with this kind of environment,” Australian Col. Mike Kelly said. “Policing requires a different skill set.”²⁰

According to the JAG, the U.S. Marines are performing better in the peacekeeping role because they were “quicker to adapt.” And Military Police are better trained for crowd control, checkpoints and other peacekeeping tasks. In general, they said, the biggest problems have been in Baghdad due to the intense urban environment and the high level of resistance.

V. CASE STUDIES

The Checkpoint in al-Slaikh

On the evening of August 7, 2003, U.S. soldiers from the Alpha Company, 2nd Battalion, 3rd Field Artillery Regiment of the 1st Armored Division conducted a weapons search in the Tunis district of Baghdad’s al-Slaikh neighborhood. According to residents, troops blocked the main street at two points with armored vehicles as soldiers went through homes and shops. One checkpoint was established on the corner of Bilal Habashi Street and Street 5.

Around 9:15 p.m., a transformer blew on one of the electrical poles nearby. The electricity in the immediate area was out, although it is not clear whether this was because of the blown transformer or whether the lights had been out before the explosion. Two cars drove down Bilal Habashi Street, apparently unaware of the checkpoint. The first car with three young men approached the checkpoint at a high speed, music blaring. Soldiers yelled at the driver to stop and fired warning shots, a witness said, but when the car passed the checkpoint, the soldiers opened fire. Two men survived but the driver, Saif Ra’ad ‘Ali Sa’id al-‘Azawi, was killed. Behind him, a car

²⁰ Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

with six members of the al-Kawwaz family was fired upon without warning before it reached the checkpoint. The father and three children were killed.²¹

Car One: The Killing of Saif Ra`ad `Ali Sa`id al-`Azawi, age 20

As U.S. soldiers were searching homes and shops in the neighborhood—around 9:00 p.m.—Saif Ra`ad `Ali Sa`id al-`Azawi, aged twenty, asked his father for permission to borrow his blue Opel station wagon. A student at the industrial high school, Saif was excited by successful exam grades he had just received.²² His father agreed so Saif picked up two friends, `Abbas Shihab Ahmad al-Amary and `Ali Hussain al-Juburi, and drove off to visit a third friend named Ahmad.

According to `Abbas al-Amary, the three young men were driving home around 9:30 with the music playing loud. “The district had electricity but before we arrived at the top of the side street which takes us home there was a dark area,” he told Human Rights Watch.²³

A resident of the neighborhood who lives and works near the corner of Bilal Habashi Street and Street 5 had a better view from the front of his tire repair shop. Ahmad Abd al-Samad Fatuhi told Human Rights Watch that Saif’s car was moving fast and the music was loud. The soldiers warned him to stop, he said, but he did not slow down. He told Human Rights Watch:

At that time, the electricity in the district was cut off and the interior light of Saif’s car was turned on, which prevented him from seeing outside clearly. He was accompanied by two other passengers, it seems that they were his friends. The Americans gave Saif a warning to stop the car by one of the African-American soldiers who yelled “Stop! Stop!” but Saif did not stop the car because I think he was afraid of hijackers. As I mentioned earlier, the area was dark and without electricity. After that, one of the American soldiers started to shoot warning shots at the ground, but Saif did not stop the car and he penetrated the American checkpoint. The result of this action was an

21 Some media reported that on the same night U.S. forces killed another man, `Ali Hikmat Salman, on a road nearby and, in an interview with Human Rights Watch, Salman’s family supported this claim. [Human Rights Watch interview with `Ali Salman’s mother, Samira Sabri, Baghdad, October 5, 2003. See also “Jittery U.S. Soldiers Firing in the Dark Kill Six Iraqis Trying to Get Home Before Curfew,” by Scheherezade Faramarzi, Associated Press, August 10, 2003.] Based on interviews in the neighborhood, however, Human Rights Watch believes that `Ali Salman probably died on the highway in a traffic accident unrelated to U.S. troops.

22 Human Rights Watch interview with Ra`ad `Ali Saied al-Azawi, Baghdad, September 26, 2003.

23 Human Rights Watch interview with `Abbas Shihab Ahmad al-Amary, Baghdad, September 26, 2003.

immediate shooting at Saif's car which led to Saif's death and to the injury of his two friends.²⁴

This account was confirmed by another resident, Muhammad Sa`d `Adil al-Bayati, interviewed separately. He told Human Rights Watch:

I saw Saif's car driving very fast. He was accompanied by two other people in the car. The person in the backseat had his head out the sun roof, the inside lights were on and the stereo was playing loudly. I shouted at him loudly: "Saif stop! There is a checkpoint there! There is an American checkpoint ahead!" but he did not hear me because he was driving very fast. I shouted at him, "the Americans will shoot you—there is an American checkpoint!" but he did not stop.²⁵

The passenger `Abbas al-Amary said that none of the men in the car had seen any signs to indicate a checkpoint or any soldiers asking them to stop. Before they understood they were at a checkpoint, he said, they had come under fire from U.S. troops:

Suddenly Saif's car was fired on and another car which was behind us [see al-Kawwaz family below]... I could not see where the shooting was coming from. I was sitting in the back seat of the car because when the shooting started I lowered my head. The shooting was full-automatic and the source of the gunfire was more than two machine guns. It continued for several minutes. After it stopped, I raised my head, I saw Saif's face because he was on the side, and his face was opposite me. As I said, I was in the middle of the back seat. I started shouting and so did our friend [^Ali] but Saif did not reply. We realized he had passed away.²⁶

On the side of the street, Muhammad Sa`d `Adil al-Bayati was also hit by a bullet in the right leg, suggesting that the shooting was not targeted exclusively on Saif's car. He was hiding behind a parked car, he said, but was shot when he tried to crawl home.²⁷

24 Human Rights Watch interview with Ahmad Abdel Samad Fatuhi, Baghdad, September 29 and October 5, 2003.

25 Human Rights Watch interview with Muhammad Sa`d `Adil al-Bayati, Baghdad, October 5, 2003.

26 Human Rights Watch interview with `Abbas Shihab Ahmad al-Amary, Baghdad, September 26, 2003.

27 Human Rights Watch interview with Muhammad Sa`d `Adil al-Bayati, Baghdad, October 5, 2003.

According to both the passenger al-Amary and the witness Fatuhi, U.S. soldiers approached Saif's car and pulled the two surviving men out. The car was burning and Saif's body was inside, but no one tried to put the fire out or to take the body from the wreck. Al-Amary told Human Rights Watch what happened next:

They came to the car and opened the front and the back doors of the right side, pointing guns to our heads. They took us out of the car and told us through a interpreter to shut up. 'Ali and I begged the interpreter to take Saif from the car but the interpreter said "Shut up, it's nothing to do with you." After they removed us from the car, they made us lay down on our stomachs on the ground. After five minutes, they took us to another place ten to fifteen meters away from the car where the American vehicles were parked. While they took me there I saw the front of Saif's car burning—the engine was burning. Again I asked the interpreter to take Saif from the car, but the interpreter did not reply. They left Saif in the car while we were lying on the ground.²⁸

'Abbas al-Amary and his friend 'Ali al-Juburi were eventually put in a truck. A wounded man and young girl from the other car joined them, and all four were taken to a U.S. military base. The man and girl, both from the al-Kawwaz family, were taken to another room, and 'Abbas and 'Ali soon learned that they had died.

While all this was happening, Saif's father had no idea his son had been killed. Around 9:30 p.m., when he returned home from evening prayers, he went looking for his son. Neighbors told him that U.S. troops had killed several people in cars and that one of the cars was burning. He told Human Rights Watch:

I was horrified and rushed to see. I found the car there with no American troops. The car was completely burnt—nothing could identify it except a small iron box which contains the car's spare parts. I knew the car was ours and Saif's corpse was charcoal. They killed an honest, peaceful young man who wanted to live in peace.²⁹

'Ali al-Jaburi and 'Abbas al-Amary were held and interrogated for two days at the base, 'Abbas said. They received medical treatment for their light wounds. In total, they were held for more than one month, first at a center near the Shaab Stadium, then at the airport, and finally at a juvenile facility in al-Salihiyah before being released by a judge at

²⁸ Ibid.

²⁹ Human Rights Watch interview with Ra'ad 'Ali Saied al-Omran al-Azawi, Baghdad September 26, 2003.

the al-A`dhamiyya court. According to `Abbas al-Amary, the judge said they were free to go because no charges had been filed.

Car Two: The Killing of `Adil `Abd al-Karim al-Kawwaz, 42, Haidar `Adil `Abd al-Karim al-Kawwaz, 19, `Ula `Adil `Abd al-Karim al-Kawwaz, 17, and Mirvat `Adil `Abd al-Karim al-Kawwaz, 8

Around 9:20 p.m. on the same evening, August 7, `Adil `Abd al-Karim al-Kawwaz began the short drive home from his in-laws' house. His pregnant wife, Anwar Kadhim Jawad, was in the front seat and their four children sat in the back. By 9:30, `Adil and three of his children were dead.

Anwar Jawad told Human Rights Watch what happened:

The Americans were stopping cars. There were no signs. We came close to them and the Americans began to shoot. Their cars had no lights on. There were two tanks. Our car had its lights on. We were 100 meters away. I heard nothing first—we were astonished by the shots. My husband was shouting but they were shooting... I saw the bullets flying. It was the first time I had seen someone get shot and I saw my husband get hit on the left.³⁰

According to Ahmad Fatuhi, the neighborhood resident who witnessed the shooting, U.S. soldiers opened fire on the car without warning. "The car's front lights were dimmed," he said. "The Americans opened fire on that car without any warning or signal to stop the car, and they killed four members of one family."³¹

Haidar `Adil al-Kawwaz, aged nineteen, and `Ula `Adil al-Kawwaz, aged seventeen, were killed instantly. Their father `Adil `Abd al-Karim al-Kawwaz, aged 42, and his daughter Mirvat `Adil al-Kawwaz, aged 8, were badly wounded but still alive. U.S. soldiers took them from the car and brought them to a military base in a truck, together with the two survivors from the first car, `Abbas al-Amary and `Ali al-Juburi [see above]. Both `Adil and Mirvat died, either there or perhaps at a hospital where they were taken that night.

Human Rights Watch inspected the al-Kawwaz family car, a 1984 white Volkswagen Passat. The car had twenty-eight bullet holes on the front and left side, including four in the front windshield (see photos).

30 Human Rights Watch interview with Anwar Khdim Jawad, Baghdad, September 26, 2003.

31 Human Rights Watch interview with Ahmad Abdel Samad Fatuhi, Baghdad, September 29 and October 5, 2003.

Anwar Jawad, who gave birth to a baby boy named Hassan one week after the incident, was summoned to visit the U.S. military on September 24. Two officers, who she thought were named Col. William Rabena and Col. Mansur, offered her \$11,000.³² A document she signed said that she received the money “as an expression of sympathy.”³³ The family is requesting formal compensation as well.

The Investigation

U.S. military authorities conducted an investigation to determine whether soldiers from the Alpha Company, 2nd Battalion, 3rd Field Artillery Regiment of the 1st Armored Division had acted inappropriately by shooting at the two cars. According to the military coalition’s public affairs office as well as the U.S. Judge Advocate General’s office, the shootings were considered a “regrettable incident,” but it was determined that the soldiers had “acted in accordance with the rules of engagement.”³⁴ It is unclear how this was determined in the case of the al-Kawwaz car, which was fired upon without warning.

The Killing of ‘Uday Ahmad Mustafa

In the early afternoon of July 10, twenty-four-year-old ‘Uday Ahmad Mustafa walked from his house in the Hay al-A’lam neighborhood to an auto-repair yard nearby. He was helping a friend fix his car, his brother said.³⁵

The auto yard, a wide dusty street lined with mechanics and tire repair shops, lies behind the Iraqi police’s al-Dora Patrol Station, a two-story white building that was recently remodeled. Inside were Iraqi police as well as U.S. military police who were providing training. On the roof, in four sand-bagged positions, were soldiers from the Second Brigade of the 82nd Airborne Division, commanded by Col. Kurt Fuller.

‘Uday’s actions and what he held in his hand is a matter of debate. According to workers on the street, ‘Uday held a silver engine distributor as he walked past the shops. The U.S. military claims he was threatening the police station with a gun. Both sides agree that, approximately eighty yards from the station, he was shot twice and killed.

32 Col. Peter Mansoor is commander of the 1st Armored Division’s 1st Brigade and LTC William S. Rabena is commander of the 2nd Battalion, 3rd Field Artillery.

33 The receipt calls the money a “Solatia payment from CERP” and is from Cpt. Robert Brewer and ordered by Cpt. Casey D. Coyle.

34 Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly, Major P.J. Perrone, Baghdad, September 23, 2003.

35 Human Rights Watch interview with Mustafa Ahmad Mustafa, Baghdad, September 23, 2003.

One of the witnesses, a mechanic named Sabri Nayif, told Human Rights Watch what he saw:

He was walking with the distributor in his hand. He asked in the shop next to mine because he wanted to fix it. His back was to the station. I was working in my shop. I heard the first shot. I thought something in my shop had exploded, like a tire. But I saw a man in front bending over for one minute... After one minute, there was another shot and he fell to the ground.³⁶

‘Ali Hassan, a falafel vendor who witnessed the incident from the other side of the street, gave a similar account, but said the time between the two shots was a few seconds rather than one minute. He told Human Rights Watch:

I heard the shot and I saw him hit, and then I heard the second shot and he fell to the ground. It was a few seconds in between. After the first, he grabbed his stomach. He turned to look where he was shot from, and then he was shot again.³⁷

Both witnesses said the Iraqi police arrived after a few minutes and were surprised to see that a man had been killed. People who had gathered around the body accused the police of killing the man, but the police said the shooter was a soldier on the roof. They took the man to the hospital.

Soon thereafter, soldiers from 82nd Airborne arrived. They searched the area for weapons, finding none, witnesses said. They then broke the window of a nearby car, which had parked there before the shooting, and found a pistol inside, claiming it was the weapon that ‘Uday had held.

One Iraqi man who did not wish to be named was present when the 82nd Airborne arrived at the scene. Everyone on the street was saying the victim had held a distributor, he told Human Rights Watch. But one man in the crowd told him quietly that the victim had held a pistol.³⁸

This is also the view of the 82nd Airborne. Human Rights Watch spoke with Major Jenkinson from the division’s 2nd Brigade, based near the al-Dora Patrol Station. Based on the military’s investigation, he said, the victim appeared to be having an argument

³⁶ Human Rights Watch interview with Sabri Nayif, Baghdad, September 23, 2003.

³⁷ Human Rights Watch interview with ‘Ali Hassan, Baghdad, September 23, 2003.

³⁸ Human Rights Watch interview, Baghdad, September 23, 2003.

with someone nearby. He came out of a shop waving a pistol and fired some shots in the air, before aiming it at the police station, at which point he was fired upon. There were “two shots, maybe,” he said. When the Iraqi police arrived, he told Human Rights Watch, they found the gun.³⁹

In Major Jenkinson’s opinion, the soldier (from an Alpha Company) operated within the rules of engagement, which allows a soldier to engage a target that “threatens U.S. forces or the compound.” No measures were taken against the soldier involved. “In this case, the Iraqi police backed us up, so there was no issue,” he said.

Iraqi police with knowledge of the case hotly disputed that claim. One high-ranking police officer, who declined to be named for fear of angering the 82nd Airborne, insisted the police found no weapon at the scene. He suggested that the U.S. military had found a random gun in a parked car to justify the killing of ‘Uday. The Iraqi police at the al-Dora Patrol Station had a good relationship with the U.S. Military Police, he said, but the 82nd Airborne was aggressive and rude. “They don’t understand Iraqis,” he complained. “They must know that if they kill one person, they must deal with the tribe. The whole tribe will be upset.”⁴⁰

Human Rights Watch spoke with a soldier with the U.S. Military Police who had knowledge of the al-Dora Patrol Station and the killing of ‘Uday Ahmad Mustafa. He did not question the soldier’s decision to shoot ‘Uday, accepting the argument that the Iraqi had threatened the station, or at least that the soldier had perceived a legitimate threat. But the behavior of the 82nd Airborne after the incident was arrogant and undiplomatic and caused unnecessary tension, he said.⁴¹

It is possible that ‘Uday Ahmad Mustafa held a pistol instead of a distributor, as the U.S. military and one unnamed Iraqi said. It is even possible that he raised the gun, thereby threatening the soldiers on the roof or possibly people inside the station. According to the official autopsy report, viewed by Human Rights Watch, the victim was shot from front to back, which contradicts the shop owner’s testimony that ‘Uday had his back to the station.⁴²

But Human Rights Watch questions whether it was necessary to fire lethal shots, especially the second shot after ‘Uday apparently no longer posed a threat. U.N.

39 Human Rights Watch interview with Major Jenkinson, Baghdad, September 23, 2003.

40 Human Rights Watch interview, Baghdad, September 23, 2003.

41 Human Rights Watch interview, Baghdad, September 29, 2003.

42 Ministry of Health, Forensic Institute, Number 4185, July 27, 2003.

policing standards applicable to a situation of military occupation require soldiers to avoid the use of lethal force except as necessary to protect life. Even if 'Uday Ahmad Mustafa had held a gun, a man with a pistol eighty yards away posed a minimal threat to a soldier behind sandbags on the roof. In the very least, warning shots might have averted the loss of life.

On October 5, Human Rights Watch submitted a request for more information on the case to the 82nd Airborne, 2nd Brigade's legal department. As of October 16, there had been no response, despite promises to have a reply within four days.⁴³

The Killing of Farah Fadhl al-Janabi and Mardan Muhammad Hassan

In the early morning of September 1, soldiers from the 82nd Airborne's 3rd Battalion, 505th Parachute Infantry Regiment raided the apartment of Fadhl Hamza Hussain al-Janabi in al-Mahmudiyya on the outskirts of Baghdad after receiving a tip from a local pool hall about "bad guys" in the neighborhood. Al-Janabi's nineteen-year-old daughter Farah was killed, as was a neighbor. The army claims it came under fire during the raid, both from the apartment and later from the roof or a high window. There is no evidence to support this claim but, even if true, witness testimony and ballistics evidence point to a disproportionate and indiscriminate use of lethal force that killed two civilians and put others at risk.

Mr. al-Janabi was not home on the night of the attack but was sleeping with four of his children in a new apartment he had just rented and where the family was planning to move. That night in apartment number seven, on the first floor of building 198 at al-Qadissiyya complex were his wife, Malak Salman Dawud, their daughter Farah, nineteen, and their son Harun, sixteen.

Just after midnight, Malak and Farah were sleeping and Harun was turning on the television because the electricity had returned. All three family members were shocked around 12:15 a.m. by loud knocks and demands to open the front door. "We thought it was looters or criminals because we heard only Arabic," Harun said.⁴⁴ Malak thought it was angry Shi'a from the neighborhood.⁴⁵ This was the day after the car-bomb attack at the Imam 'Ali shrine in al-Najaf that killed 124, including the important Shi'a leader Ayatollah Muhammad Bakr al-Hakim. Tension in Iraq was high.

43 Human Rights Watch discussion with Specialist Juan Arevalo, 82nd Airborne, 2nd Brigade legal division, Baghdad, September 29, 2003. The head of the brigade's legal team, regimental judge advocate, is Capt. Patrick Murphy.

44 Human Rights Watch interview with Harun Rashid Fadhl al-Janabi, al-Latifiyya, Setpember 19, 2003

45 Human Rights Watch interviews with Fadhl Hamza Hussain al-Janabi, al-Latifiyya, September 19, 2003, and Baghdad, September 21, 2003.

As is currently allowed in Iraq, the family had an assault rifle for protection. Malak retrieved it and gave it to her son. "He thought to shoot it to scare them away," she said. "Just to show there is a man inside with a weapon." According to Malak and Harun, he fired one bullet into the wall or ceiling. U.S. soldiers dispute that claim, saying they received direct fire through the door.

U.S. soldiers burst through the front door shooting. Standing in the hall, Farah was hit in the foot. Malak told Human Rights Watch:

We were shocked and did not know what to do. My daughter was hit. I tried to pull her from the door. The door broke open from the bullets. I saw U.S. soldiers in uniform with the red spotlight of a laser and he shot a kind of cannon and there was fire in the room.⁴⁶

According to Malak and Harun, the wounded Farah tried to hide in the kitchen. U.S. soldiers tossed a grenade through the window while she was there, which exploded and inflicted lethal wounds.

Once the soldiers had the situation under control, a neighbor carried the injured Farah to the front door. She was alive, he said, but with bad cuts on her legs and burns on the face and hands.⁴⁷ According to neighbors, she lay there alive for three hours, but the soldiers, speaking through a interpreter from either Lebanon or Syria, would not let them take her to the hospital.⁴⁸ Around 4:30 a.m., the soldiers took her away, but she was either already dead or she died shortly thereafter.

The soldiers returned around 5:00 a.m. and arrested the son, Harun, and a neighbor, 'Ali 'Abd al-Hussain. The sixteen-year-old Harun was handcuffed and a black bag was put over his head. He was held at the U.S. military camp in al-Mahmudiyya for four days, he said, the only minor in detention among a group of adults.

The next day, the father, Fadhil, went to the U.S. base in town to look for his daughter. Soldiers informed him that she was at the police station. Outside the station he found her body in an ambulance together with another victim, but the Iraqi police would not let him take the body until a U.S. officer arrived. Despite his requests to remove her

⁴⁶ Human Rights Watch interview with Malak Salman Dawud, al-Latifiyya, September 19, 2003.

⁴⁷ Human Rights Watch interview with Khudair Tuma'a, al-Mahmudiyya, September 19, 2003.

⁴⁸ Human Rights Watch interview with Khudair Tuma'a and his wife, al-Mahmudiyya, September 19, 2003

body from the hot van, Fadhl said, he was not allowed to do so until 1:00 p.m. when an American officer gave his approval.

The other body in the ambulance was that of the second victim of the same raid, Mardan Muhammad Hassan, a thirty-eight-year-old former employee of the Iraqi Navy from Basra who was visiting his family. According to the victim's brother, Muhammad Qassim Muhammad Hassan, Mardan was shot while walking outside.

Qassim was visiting a friend nearby when the raid began. "I am used to bombing from the Iran-Iraq war," he said. "But this was intensive and heavy. Nobody could go out."⁴⁹ Fearing for Qassim, Mardan's mother asked him to go looking for his brother. According to Qassim, a random bullet hit Mardan while he was outside. "It was just one bullet but it worked like a drill," Qassim said. "Some eyewitnesses told me they saw him get shot but they could not go out to help him. I spoke with the Americans and they said my brother resisted. But there was no resistance here."

Soldiers from the 82nd Airborne who participated in the raid disputed the witness accounts. They claim that Harun shot at them through the door when they arrived, and that they took fire from the building roof or one of the top-floor apartments once the raid was over.

Human Rights Watch did not speak directly with these soldiers, and a request submitted to the legal department of the 82nd Airborne's 2nd Brigade on October 5 was never answered. But a journalist from the *Christian Science Monitor* reported the views of the Bravo Company, 3rd Battalion, 505th Parachute Infantry Regiment out of Fort Bragg, N.C., which had arrived in Iraq in early September.⁵⁰

According to the soldiers, they moved in on the family after getting intelligence from a local pool hall. Neighbors told Human Rights Watch that Fadhl al-Janabi had been a member of the Party, which may have motivated someone to denounce him to U.S. troops.

Contrary to witness testimony, the soldiers claimed they used English at the apartment door, yelling "U.S. Army" and demanding the family to open the door. They used a "knock and talk" approach, they said, but "instantaneously" came under fire from inside.

"If you knock on the door and people shoot, there is not much left to talk about," said 1st Sgt. Wylie Hutchinson. "Nobody in this unit wants to see dead people—we're here to

49 Human Rights Watch interview with Qassim Muhammad Hassan, al-Mahmudiyya, September 19, 2003.

50 "In Iraq, One Incident, Two Stories," by Scott Peterson, *Christian Science Monitor*, September 28, 2003.

help... [and performed] exactly the same as any 82nd Airborne company would do on month No. 1 or month No. 12.”⁵¹

U.S. soldiers said Farah was dead when they found her in the kitchen, and that an AK-47 assault rifle lay beside her. In addition to anti-U.S. and pro-Saddam leaflets, they claim to have found at least two assault rifles, bandoliers of bullets, and four empty rifle magazines with 50 to 60 empty bullet casings. Four U.S. soldiers reportedly suffered burn wounds in the raid.

The soldiers confirmed that they had used a percussion grenade, but they said the second explosion that killed Farah was sparked by an Iraqi or U.S. tracer round that hit a propane tank. U.S. medics treated Harun but came under small arms fire from the roof or a high window as they evacuated their casualties, 1st Sgt. Hutchinson said.

The ballistics evidence at the scene does not support the claim that U.S. soldiers took fire from inside the apartment and from the roof, and puts into question the military’s assertion that the raid was strictly “by the book.”

Of particular concern is the north side of building 198, where U.S. soldiers were standing after the raid. Human Rights Watch counted 177 high-caliber bullet marks on the wall facing north spanning an area thirty yards wide and ten yards high. This does not include the bullets that entered apartments through windows. In just one inspected apartment, number 4 on the second floor, Human Rights Watch counted five bullet marks in the kitchen.

The company commander, Capt. J. C. White, said the soldiers, “returned fire at just the right level to gain control of the situation.” But even if the army had come under small arms fire, the sustained and dispersed shooting on a residential building with high-caliber machine guns was both excessive and indiscriminate. At the same time, no bullet marks were visible on the buildings across the street from the northern wall, also an apartment block, to prove that U.S. soldiers came under fire.

The Killing of Ra`ad Fahd Shallal, Sa`id Majid Sa`dun and `Uday `Abbas `Aday

Human Rights Watch documented two cases of friendly fire deaths in Baghdad. The first incident took place on July 10 in the Baya'a neighborhood, where soldiers from the 82nd Airborne killed three Iraqi guards.

51 Ibid.

According to the U.S. military, looters were trying to rob a liquor store on a main street. Non-uniformed guards based at the sanitation treatment plant across the street left their post, which they were not supposed to do, and tried to fight the criminals off. A mobile patrol pulled up at that point and, not understanding that guards were fighting looters, opened fire on both groups. The criminals got away but three Iraqi guards were killed: Ra`ad Fahd Shallal, Sa`id Majid Sa`dun and `Uday `Aday.⁵²

A witness to the attack, however, had a different version of events. Falah Mahdi `Awad was walking home from his fruit stand around 10:30 p.m. when the incident took place. He heard shooting on the main street and, before he realized what was happening, “the Americans fired at me,” he said.⁵³ `Awad was hit on the left side near the waist, and Human Rights Watch saw the scar from that wound. He spent fifteen days in al-Yarmuk Hospital, he said, and underwent two operations.⁵⁴

According to `Awad, no criminals tried to loot the liquor store that night, but someone did try to set the store ablaze. He also did not hear any shots before the U.S. soldiers arrived to suggest the Iraqi guards were fighting thieves.

The liquor store owner, Muthanna Jassim Khudair, shared this view, saying that someone threw a Molotov cocktail into his shop to set it on fire. Five days before the incident, he said, someone had fired a rocket propelled grenade at his shop, and he believed both attacks were from Islamist militants trying to close him down for selling alcohol.⁵⁵

Major Jenkinson from the 82nd Airborne’s 2nd Brigade told Human Rights Watch that the robbery had started with two rocket propelled grenades. The Iraqi guards left their post across the street and tried to fight the criminals away. At that point, a U.S. gun truck section rolled up. The Iraqi guards were not in uniform and they were back lit from the fire. “We felt horrible,” he said. “We trained those guys. We had to retrain the guys and put them back out there.”⁵⁶

52 Human Rights Watch saw autopsy reports for the three killed men. Ra`ad was hit by two bullets—one under the right shoulder and one on the right side of the neck [Ministry of Health, Forensic Institute, Number 4929, August 12, 2003.] Saadi died from a fractured skull and brain damage caused by a bullet [Ministry of Health, Forensic Institute, Number 4929, August 12, 2003.] `Uday was hit by one bullet in the head [Ministry of Health, Forensic Institute, Number 4234, August 12, 2003.]

53 Human Rights Watch interview with Falah Mahdi `Awad, Baghdad, September 26, 2003.

54 al-Yarmuk Hospital, Number 4739, Dr. Mahdi Jassim Musa.

55 Human Rights Watch interview with Muthanna Jassim Khudair, Baghdad, September 26, 2003.

56 Human Rights Watch interview with Major Jenkinson, Baghdad, September 23, 2003.

The military did not conduct an investigation into possible wrongdoing, but the families of the three killed guards each received \$2,500, according to a lawyer who dealt with the case.⁵⁷

On October 5, Human Rights Watch submitted a request for more information on the case to the 82nd Airborne, 2nd Brigade's legal department but, as of October 16, there had been no response, despite promises of a reply within four days.⁵⁸

The Killing of Lt. 'Ala' 'Ali Salih and Sgt. Muhammad Hilal Nahi

On Saturday, August 9, around 8:00 a.m., three Iraqi policemen from the al-Yarmuk police station went to guard the Jordanian embassy in Baghdad. A car bomb had exploded outside the embassy two days before, killing at least ten people. Only one of the three policemen was in uniform, and their white Hyundai car had no police markings.

In the early afternoon, a white Kia minibus drove by with four people. According to one of the Iraqi policemen present, Hamza 'Atiya Muhsin, the men in the car opened fire on the police in their unmarked car and sped away.

The policemen followed in pursuit, with Hamza 'Atiya Muhsin behind the wheel. From his position in the front passenger seat, Lt. 'Ala' 'Ali Salih shot at the minivan with his pistol, trying to blow the tires. The police followed the assailants onto the highway in the direction of Abu Ghraib.

They also called for back-up, and another police car, this one marked, was soon in the chase. At that point, the speeding cars came close to a U.S. military checkpoint with two tanks manned by soldiers from the 1st Battalion, 41st Infantry of the 1st Armored Division's 3rd Brigade. Hearing shots and apparently not realizing who was who, the U.S. soldiers opened fire on the white Hyundai carrying the three police as the criminals in front sped away. Hamza 'Atiya Muhsin told Human Rights Watch what happened next:

I stopped the car on the side of the street. Meanwhile, the policeman in the back [Sgt. Muhammad Hilal Nahi] said "Hey, I think I'm shot in the hip." One tank was to our side and another was behind but came up to us. Lt. 'Ala' opened the door and stepped out with his hands up. He

57 Human Rights Watch interview with Muhammad Zamil al-Sa'idy, Baghdad, September 28, 2003.

58 Human Rights Watch discussion with Specialist. Juan Arevalo, 82nd Airborne, 2nd Brigade legal division, Baghdad, September 29, 2003. The head of the brigade's legal team, regimental judge advocate, is Capt. Patrick Murphy.

threw his gun aside and said “No, police. No, police.” The distance between the tank and the car was about thirty-five meters. Then a bullet hit him in his right eye. He fell to the ground. I hid between the car seats. The tank was perpendicular to our car. I saw it and then I heard the Americans shouting very loudly. From the other police car, about twenty meters away, someone said on a megaphone, “no, police!”

When I hid between the seats, there were shots at the car by the Americans. I didn’t know what happened to the policeman in the back. I got out of the car and I hid next to the car and took out my police badge. The Americans came, took my badge and hit me and beat me on my head with their weapons. They kicked me, cuffed my hands and kicked me twice in the face. Then they put their boot on my head. Then they took me to the tank. They kicked me again and they put me near the tank. Capt. ‘Ala’ came and told the Americans to give me to him. They refused. They told him they must take me to their base for an investigation, and they threw me in the tank. I saw them. They kicked Lt. ‘Ala’ as he lay there dead. The interpreter was with them. He told them that the victims were from the Iraqi police but they didn’t care.⁵⁹

A foreign journalist spoke with an Iraqi guard stationed nearby, who said he saw U.S. soldiers kicking one of the policemen while he was on the ground, although it is not clear whether this was Lt. ‘Ala’ or Hamza Muhsin. The same journalist also interviewed Hamza Muhsin shortly after the incident and saw “cuts to his nose and head, a black eye...and bruises over much of his back and on his chest.” The journalist’s inspection of the white Hyundai revealed “six bullet holes on the passenger side, ten bullet holes in the front window, which had remained intact, one on the driver’s side and one in the roof.”⁶⁰

The soldiers took Hamza Muhsin to a nearby base. His hands were uncuffed after forty-five minutes, he said, but they held him there for a few hours for questioning. “Then the MP came and told me they were sorry there had been a mistake,” he said. “They took some photos because my face was swollen from the kicks.”

The Investigation

59 Human Rights Watch interview with Hamza ‘Atiya Muhsin, Baghdad, September 28, 2003.

60 “U.S. Soldiers Shoot Dead Two Iraqi Policemen – Police,” by Rory Mulholland, Agence France Presse, August 11, 2003.

The military conducted an investigation into the two deaths. According to the military press office and the JAG, the investigation determined that soldiers of the 41st Infantry, had “acted in accordance with the rules of engagement.”⁶¹ A military spokesman later told the press that the unit involved was the 1st Battalion, 41st Infantry, part of the 1st Armored Division’s 3rd Brigade.⁶² Human Rights Watch also spoke with a U.S. Military Police officer who had knowledge of the case. He said the MPs conducted their own investigation because they were upset their trainees had been killed, but he did not comment about the beatings or the details of Lt. `Ala’s death.⁶³

The Killing of Muhammad Subhi Hassan al-Qubaisi

Muhammad Subhi Hassan al-Qubaisi and Wafa’ `Abd al-Latif have four sons, aged twelve to twenty. The two youngest are twins, Muhammad and Mustafa. According to the family, the older boys liked to sleep on the roof during the hot summer months. The older brothers made the younger twins carry their bedding upstairs.

The same ritual took place on June 26. But on this night, a foot patrol of the 82nd Airborne was in the neighborhood, Hay al-Jihad, as young Muhammad went upstairs around 10:30 p.m. Apparently mistaking the bedding for a weapon, the soldiers shot Muhammad dead. Muhammad’s mother Wafa’ `Abd al-Latif told Human Rights Watch what happened next:

I was downstairs. I heard the shot and Mustafa shouted “Muhammad!” We brought Muhammad downstairs and he was bleeding. I held him. The soldiers were moving around and when they heard the shot, they came here. Maybe they thought they had been attacked.⁶⁴

Two neighbors took the wounded Muhammad to the hospital in a car, but U.S. soldiers at a nearby checkpoint did not let them through because the 11:00 p.m. curfew was approaching. One of the neighbors, Yassir `Ala’, told Human Rights Watch that he and another neighbor, Jassim Muhammad, put Muhammad in his car.⁶⁵ The interpreter with the soldiers said he would call ahead to the checkpoint to let the car through but he either did not call or the message did not get through because the road was blocked, `Ala’s said. Instead, the soldiers made them sit in the car for fifteen minutes and then

61 Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

62 “Questions Arise Over Friendly Fire Probe,” by Tarek al-Issawi, Associated Press, September 25, 2003.

63 Human Rights Watch interview, Baghdad, September 26, 2003.

64 Human Rights Watch interview with Wafa’ `Abd al-Latif, Baghdad, September 23, 2003.

65 Human Rights Watch interview with Yassir `Ala’, Baghdad, September 23, 2003.

forced the two men to lie on the ground while Muhammad was bleeding in the back. Muhammad died in the meantime and they were told to return home.

The U.S. military offered Muhammad's father, Subhi Hassan al-Qubaisi, \$500 to cover the funeral expenses, but the father told Human Rights Watch he had engaged a lawyer and was requesting more. Some members of his tribe were pressuring him to take revenge, he said, but he was still hoping the incident could be resolved "with some forgiveness and some compensation."⁶⁶

The U.S. military did not conduct an investigation into the incident. Human Rights Watch requested information on the case from the legal department of the 82nd Airborne's 2nd Brigade on October 5 but, despite promises of a reply within four days, there had been no response as of October 16.⁶⁷ According to Major Jenkinson, with whom Human Rights Watch spoke briefly about the case, Muhammad was not holding bedding, but an assault rifle. "The kid had an AK-47 on the steps," he said.⁶⁸

"The soldiers determined the situation was hostile and engaged the individual," U.S. military spokesman Maj. Sean Gibson told the press at the time of the incident. "It was not until after the search was under way that they discovered that it was an eleven-year-old boy."⁶⁹

Checkpoint in al-Mansur

Car One: Killing of Zaid 'Imad Ghazal Ibrahim al-Ruba'i, 14

Car Two: Killing of Klemantine Salim 'Abd al-Karim, 75, Tamir Alber Alias Kasira, 40, and Mazin Alber Alias Kasira, 35

On July 27, U.S. soldiers from Task Force 20, a special operations team searching for Saddam Hussain and other former ruling elite, conducted a raid on the home of Shaikh Abdul Karim al-Gubair in the upscale al-Mansur neighborhood. Soldiers set up checkpoints in the area while the operation took place, although it is not clear whether these soldiers were from Task Force 20 or another unit. One witness said all the

66 Human Rights Watch interview with Subhi Hassan al-Qubaisi, Baghdad, September 24, 2003.

67 Human Rights Watch discussion with Specialist Juan Arevalo, 82nd Airborne, 2nd Brigade legal division, Baghdad, September 29, 2003. The head of the brigade's legal team, regimental judge advocate, is Capt. Patrick Murphy.

68 Human Rights Watch interview with Major Jenkinson, Baghdad, September 23, 2003.

69 "American Soldier Shot at Baghdad Market," by Jim Krane, Associated Press, June 27, 2003.

Humvees at the checkpoint had the same sign—a horse and two crossed swords—but another witness saw Humvees with “<20>” on the doors.

One witness told Human Rights Watch that three cars were fired upon when they did not realize they were supposed to stop, killing four or five people, one in one car and three or four in the other. Press reports said a hospital in the area reported at least five Iraqis killed and up to eight wounded.⁷⁰ The U.S. military acknowledged two deaths in one car, although it is not clear to which car the military is referring.⁷¹

According to the witness interviewed by Human Rights Watch, four or five U.S. Humvees blocked a small street near the al-Sa’ah Restaurant at 5:00 p.m. One vehicle was parked in the road and soldiers were diverting traffic. The soldiers left after five minutes, leaving no sign other than the vehicle that cars should not pass, but local shop owners were warning drivers to stay away. A man who worked in an optician’s shop across the street, Ahmad Ibrahim al-Shaikh al-Jaburi, told Human Rights Watch what happened next:

A gray Chevrolet Malibu appeared from the other side of the alley, not from the main street. The Americans started waving for the car to stop, but it did not stop. One of the soldiers who was sitting on top of one of the Humvees turned his machine gun mounted on top of the Humvee and started shooting at the Chevrolet with the machine gun. There was more shooting, probably from one of the [other] soldiers. They hit the car from a distance of fifty meters. The front windshield of the car was full of bullet holes. As a result, the driver of the car lost control and the car stopped slowly after colliding with a Humvee. After the car stopped and the shooting ended, the driver got out of the car raising his hands, and seconds later he collapsed. The soldiers surrounded the car and took out the other passenger and they began to drag him in the street. This was done by one soldier who was pulling him by his shoulder, his legs were being dragged. They put him on the pavement next to a house under construction which belonged to Fahd al-Shajra, the former minister of education.⁷²

⁷⁰ “Witnesses: U.S. Forces Raid Baghdad House, Kill Iraqi,” Associated Press, July 27, 2003, and “Iraqis Kill Five More U.S. Soldiers,” by Jonathan Steele, The Guardian, July 28, 2003, and “U.S. Comes Up Empty-handed in Raid of Home,” by Sabah al-Anbaki and Paul Wiseman, USA Today, July 28, 2003.

⁷¹ Coalition Joint Task Force – Seven press release #030729c, “Forces Kill Two Iraqis at Checkpoint,” July 29, 2003.

⁷² Human Rights Watch interview with Ahmad Ibrahim al-Shaikh al-Jaburi, Baghdad, October 9, 2003.

The driver of that car was Muhanad `Imad Ghazal Ibrahim al-Ruba`i, seventeen years old. He told Human Rights Watch that he was driving with his younger brother Zaid, fourteen, and their cousin Fahd Ahmad, sixteen, to pick up food rations. U.S. soldiers were blocking the road with bricks and told him to turn around, so he took another street to the main road which seemed open. He asked some young Iraqi men if the road was clear and they said it was, as long as Muhanad drove slowly and stopped when ordered. He told Human Rights Watch what happened next:

We started driving slowly towards the Americans preparing to stop, abiding by what the young men had informed us to do. But the soldiers were hidden on both sides of the street—we could not see them. We could see two Humvees a long way from us. One was parked on the pavement and the other was nearer to us but the road was not blocked. While we were driving slowly, and as we were approaching the Humvee nearer to us, there was an intensive shooting at our car from all sides and directions. When the shooting started I lowered my head so I lost control of the car. The car continued to move very slowly until it collided with a Humvee and stopped. Fragments from two bullets hit my head, so when I saw the blood flowing from my head I lost consciousness until the car collided with the Humvee and stopped. For that reason I did not know what had happened to my cousin, who was sitting next to me, or my brother, who was sitting in the back.⁷³

According to Muhanad al-Ruba`i, he and his cousin Fahd were dragged from the car and forced to sit on the pavement. He was given some bandages, he said, but also beaten every time he tried to ask about his brother Zaid. After approximately thirty minutes, he said, two U.S. soldiers in civilian clothes with beards, machine guns and pistols in their belts arrived in a pick-up truck. Muhanad and Fahd were put in the back together with a uniformed soldier.

At this point, Muhanad said, a Toyota Corona turned onto the alley from the main street. The two soldiers in civilian clothes got out of the truck and, together with the soldier in the back, opened fire on the car. Muhanad told Human Rights Watch:

They were all shooting at the Toyota; the shooting lasted for three to five minutes. When shooting stopped the two American civilians with other soldiers went to the car and took the two passengers out of the car, they only took out the wounded and they left the driver inside the car because he was dead.⁷⁴

⁷³ Human Rights Watch interview with Muhanad `Imad Ghazal Ibrahim al-Ruba`i, Baghdad, October 9, 2003.

⁷⁴ Ibid.

The witness from the optician's shop, Ahmad al-Jaburi, confirmed this account. He told Human Rights Watch:

I saw a Toyota Corona driving from a side street on the right side of the alley. The side street was open, there were no soldiers there or even a checkpoint. As soon as the car reached the intersection where the side street connects to the alley, there was intensive shooting at the car which led to the death of all the passengers. I think there were either three or four passengers. I saw an old woman with gray hair opening the door of the car. She started walking towards the soldiers for a few meters and then she collapsed. She was covered with blood.⁷⁵

Soldiers brought the elderly woman and another injured person from the car to the pick-up truck, and put them in the back with Muhanad and Fahd. The driver of the Corona was dead and stayed in the car. Muhanad recalled:

They brought the two wounded to the pick-up. One was an old woman with gray hair and another was a young man. When they brought the lady she started asking about her sons and she was screaming in pain. There was blood all over her body, her body was full of blood. She begged them for some water but one of the soldiers started hitting her in the stomach and she kept quiet. After that a soldier came and sat with us in the back of the pick-up.⁷⁶

Loaded with the four wounded civilians, the pick-up drove to the presidential palace, accompanied by four Humvees and an armored personnel carrier (APC). The door of the Humvees had the marking "<20>", Muhanad said. At the presidential palace, two helicopters took the wounded to what Muhanad believed was the airport, although he was blindfolded after they landed. He and Fahd were held briefly and then told they could go. A Humvee left them on a road near the highway around 9:30 p.m., he said, and they luckily got a ride home from a farmer who lived nearby. When they returned home, they learned that Zaid had died.

Human Rights Watch also interviewed a relative of the three people shot in the Corona. Yelda Hermiz, who lived with the three victims, said they were on their way to church when the incident took place. The driver of the car was Mazin Alber Alias Kasira, an air conditioner technician who had a partially amputated leg. He was killed instantly and the family retrieved the body that night from al-Yarmuk hospital, after searching hospitals in

75 Human Rights Watch interview with Ahmad Ibrahim al-Shaikh al-Jaburi, Baghdad, October 9, 2003.

76 Human Rights Watch interview with Muhanad 'Imad Ghazal Ibrahim al-Ruba'i, Baghdad, October 9, 2003.

the city. As for Klemantine and Tamir, however, the family had no information until September 28, two months and one day after the incident. “On that day, Americans came to our house and asked us to come to the airport to receive their corpses,” she said.⁷⁷

In addition to these deaths, the witness al-Jaburi said he saw soldiers shoot at a third car, a Toyota Landcruiser that had driven down the alley and parked. One person in the car was wounded in the stomach, he said, and Iraqis took this person to the hospital. From all the shooting, two parked cars also caught fire and were destroyed, one of them belonging to a worker in al-Jaburi’s shop. They received \$4,500 in compensation from the U.S. Army. Negotiations for compensation were conducted with Lt. Col. Richard Bowyer from the 1st Armored Division, who apologized for the incident.

The U.S. military issued a press statement on July 29 that acknowledged two deaths in one car. “The forces fired on the vehicle when it did not slow down at the checkpoint and started to run the barriers, appearing to be hostile,” the statement said. “Coalition forces were not involved in any other incident in the area.”⁷⁸ On the day of the incident, a military spokesman, Staff Sgt. J.J. Johnson, told the press “there are rules of engagement when somebody approaches a checkpoint.... The soldiers have a right to defend themselves.”⁷⁹

The U.S. military maintains the secrecy of its rules of engagement for security reasons. But soldiers and commanders should not hide behind the secrecy of its rules to tolerate the beating of detainees and the denial of medical care to the wounded.

A Bomb and Shooting on Haifa Street

On July 3, around 9:15 a.m., a group of school children was walking home on Baghdad’s central Haifa Street. Six children around the age of twelve stopped in front of one of their friend’s apartments, building 74, when a large explosion nearby threw them to the ground. According to family members, two of the children died and seven were wounded. One of those wounded was twelve-year-old ‘Aliyya ‘Adil Na`ama, who had just finished her English exam. ‘Aliyya’s sister, who was upstairs when the bomb went off, told Human Rights Watch:

77 Human Rights Watch interview with Yelda Hermiz, Baghdad, October 9, 2003.

78 Coalition Joint Task Force – Seven press release #030729c, “Forces Kill Two Iraqis at Checkpoint,” July 29, 2003.

79 “U.S. Comes Up Empty-handed in Raid of Home,” by Sabah al-Anbaki and Paul Wiseman, USA Today, July 28, 2003.

Someone knocked. When I opened the door, someone was carrying `Aliyya and her cheek was hanging down. The left side of her face was gone. I could not see her eyes because of the blood.⁸⁰

After surgery, `Aliyya and another injured boy, Ahmad Wahid, were taken to Germany for medical care by a German humanitarian organization.

According to the U.S. military, the explosion was from an RPG fired at a convoy of three military vehicles from a car on the street. “An innocent Iraqi citizen sitting on a street corner was also killed by the blast, according to reports we are hearing,” Major Scott Patton told the press.⁸¹

The military did not comment on its response, which witnesses said involved heavy and indiscriminate shooting that killed the driver of the attacking car and wounded civilians in the area. One witness named Majid Sa`di told the press that he saw the car of the alleged attacker riddled with bullets and he thought the driver was dead.⁸²

Human Rights Watch found another witness to the incident, a man coincidentally driving down Haifa Street, who was seriously wounded by a gunshot to the leg [see photo]. Interviewed in the al-Wassity Hospital the day before he was to undergo his fourth operation, Haidar Hussain Karim al-Fitlawi said he was driving his blue Volkswagen Passat down Haifa Street towards the gas station when the explosion took place. Suddenly, he said, he came under fire from U.S. troops. He told Human Rights Watch:

They hit my car with more than ten bullets. Five of them hit the fuel tank but luckily it did not catch fire. I got out of the car and I was lying on the ground. I could just feel my leg bent over my shoulder. I lay there bleeding for ten minutes. People stopped a small bus and put the injured in there. I remember a little child in there. They took us all to al-Karama Hospital.⁸³

According to al-Fitlawi, no U.S. soldiers were hurt in the attack, although it is doubtful he would have had a good look given the shooting. “The Americans were very scared,” he said. “That is why they were shooting at everyone and everything.”

80 Human Rights Watch interview with Hawra `Adil Na`ama, Baghdad, September 28, 2003.

81 “Three Iraqis killed, 10 US soldiers wounded as violence flares in Iraq,” by James Hossack, Agence France Presse, July 3, 2003.

82 Ibid.

83 Human Rights Watch interview with Haidar Hussain Karim al-Fitlawi, Baghdad, September 28, 2003.

VI. HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

Under International Humanitarian Law (IHL), the coalition led by the United States is the “Occupying Power” in Iraq. Its conduct as an occupying power is governed primarily by two major international instruments that relate to the treatment of civilians during war and in occupied territories: the 1907 Hague Regulations annexed to the Convention (IV) Respecting the Laws and Customs of War on Land, and the 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

An occupying power is responsible for respecting the fundamental human rights of the population under its authority. All persons shall be treated humanely and without discrimination. This includes respecting family, honor and rights, the lives of persons, and private property, as well as religious and customary beliefs and practice. Women shall be especially protected against any attack. Everyone shall be treated with the same consideration by the occupying power without any adverse distinction based, in particular, on race, religion or political opinion. Private property may not be confiscated. However, an occupying power may take such measures of control and security as may be necessary as a result of the war.

An occupying power is specifically prohibited from carrying out reprisals and collective penalties against persons or their property and from taking hostages. The Fourth Geneva Convention permits the internment or assigned residence of protected persons for “imperative reasons of security.” This must be carried out in accordance with a regular procedure permissible under international law and allow for the right of appeal and for review by a competent body at least every six months. The Fourth Geneva Convention provides detailed regulations for the humane treatment of internees.

International Humanitarian Law applies to situations of belligerent occupation as well as situations where hostilities rise to the level of armed conflict. However, the application of IHL (as codified in the Geneva Conventions, its protocols, and other sources) does not preempt the application of international human rights law, particularly non-derogable rights such as the right to life. In situations of this complexity, both legal regimes complement and reinforce each other.

When considering which legal standards apply to a particular situation, it is incumbent to distinguish between a legitimate military response in situations of armed confrontation,

such as exchanges of fire between U.S. and other coalition forces and armed Iraqi opponents of the occupation, and law enforcement and public security requirements. Declaring a situation to be “a state of armed conflict” does not negate the obligation of the occupying power to apply law enforcement standards to maintaining checkpoints, conducting raids on civilian homes and shops, or controlling civilian protests, even if some of these protests turn violent and require dispersal by soldiers or law enforcement officials.

The U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials⁸⁴ and the U.N. Code of Conduct for Law Enforcement Officials⁸⁵ provide international standards governing the use of force in law enforcement. These principles, while not legally binding, provide authoritative guidance and reflect a high level of consensus by the international community about the standards that states are required to apply on the use of force and firearms by law enforcement officials. The Basic Principles define “law enforcement officials” to include “all officers of the law, whether appointed or elected, who exercise police powers, especially the power of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.”⁸⁶

Principle 9 of the Basic Principles states:

Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.⁸⁷

The Basic Principles provide that law enforcement officials shall “as far as possible, apply non-violent means before resorting to the use of force and firearms.” (Principle 4). The Basic Principles also call for proportionality in the amount of force used (Principle

⁸⁴ U.N. Doc. A/CONF.144/28/Rev.1 (1990), adopted in 1990 by the Eighth U.N. Congress on the Prevention of Crime and Offenders.

⁸⁵ G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979), adopted by the U.N. General Assembly on December 17, 1979.

⁸⁶ Basic Principles, “Note.”

⁸⁷ Ibid, Principle 9.

5), for the adoption of reporting requirements where force or the use of firearms lead to injury or death (Principle 6), and for governments to ensure that “arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law” (Principle 7).

The U.N. Code of Conduct for Law Enforcement Officials applies similar international human rights standards for law enforcement. Article 3 of the Code requires that “[l]aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” The official commentary accompanying Article 3 sets forth detailed standards applying to the use of firearms, arguing for restraint in their use (“The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children”), and recognizing the principle of proportionality in the use of firearms (“In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved”).

In a meeting with Human Rights Watch, officials from the U.S. JAG and the CPA General Counsel’s office agreed that U.S.-led coalition forces were governed by the Fourth Geneva Convention. There had been no cessation of hostilities in Iraq, they said, and therefore the coalition was in “a state of armed conflict and a state of occupation.”⁸⁸

The Geneva Conventions set less stringent conditions for resorting to lethal force when dealing with persons actively engaged in hostilities, but the basic principle remains the same: to protect civilians. Under international humanitarian law, the prohibition against firing on civilians remains absolute, and combatants must at all times distinguish between military and civilian targets. Indiscriminate or disproportionate military actions are strictly prohibited.

Guerilla fighters in Iraq do not have the treaty obligations of a state. They are, however, bound to conduct operations in an armed conflict situation in conformity with the basic humanitarian principles that prohibit under all circumstances targeting civilians or carrying out indiscriminate attacks, or attacks that disproportionately harm civilians. Suicide car and truck bombings like those against the United Nations headquarters in Baghdad and the Imam ‘Ali mosque in al-Najaf are war crimes that violate the most fundamental principles of international humanitarian law.⁸⁹

88 Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

89 See Iraq: End Deliberate Attacks on Civilians, Human Rights Watch press release, August 30, 2003, and Attack on U.N. Headquarters Condemned, Human Rights Watch press release, August 19, 2003.

VII. ACCOUNTABILITY

Coalition Forces in Iraq are not subject to Iraqi law. According to Coalition Provisional Authority Regulation Number 17, coalition personnel are “immune from local criminal, civil and administrative jurisdiction and from any form of arrest or detention other than by persons acting on behalf of their parent states.”⁹⁰

Given the absence of Iraqi legal structures to hold coalition forces accountable, it is incumbent on the occupying powers of the participating countries to investigate all allegations of abuse, and to punish those found to have violated domestic military codes, international humanitarian law, or human rights standards. Both the laws of war and non-derogable human rights standards require the investigation of suspicious or apparently unlawful killings, even during times of armed conflict. As of mid-October 2003, the United States military was not fulfilling that obligation, thus creating an atmosphere of impunity for U.S. troops.

Two types of investigations are possible in the U.S. military: administrative and criminal. Administrative procedures such as a Commander’s Inquiry or an Army Regulation 15-6 investigation can result in “adverse administrative action,” such as fines, extra duty or confinement. Criminal investigations involve a military court and can lead to a court martial.

Human Rights Watch is not aware of any criminal investigations into cases of alleged use of excessive or disproportionate force. As of October 1, the U.S. military said it had completed five administrative investigations above the division level, and all of them under the authority of the Deputy Commanding General in Iraq. They are as follows:

1. Two Iraqi police killed on August 9 (see case study above). The investigation determined that soldiers from the 1st Battalion, 41st Infantry of the 3rd Brigade of the 1st Armored Division acted in accordance with the rules of engagement. While the soldiers perhaps mistook an unmarked police car for criminals, witnesses claim that Lt. ‘Ala’ ‘Ali Salih was killed after he was standing outside the car with his hands up. One of the surviving policeman was beaten while in custody.

⁹⁰ Coalition Provisional Authority Regulation Number 17, Status of the Coalition, Foreign Liaison Missions, Their Personnel and Contractors, June 27, 2003. (All CPA regulations are available at www.cpa-iraq.org.)

2. In an incident not documented in this report, conflict erupted in Baghdad on August 13 when residents accused the U.S. military of trying to tear a black religious banner from a communications tower. According to residents in the Shi'a neighborhood of al-Sadr City, a U.S. helicopter tried to tear the banner down around 11:00 a.m. An angry crowd gathered and assaulted a U.S. convoy on the ground. While fighting to retreat, one Iraqi was killed and four were injured. The military said they had killed a man who fired an RPG; Iraqis said the victim was a young boy.⁹¹

The U.S. military at first said the helicopter had flown too close to the tower and rotor wash blew the banner down.⁹² “Apparently the helicopter either blew down the banner or somehow that banner was taken down, and we are taking steps to ensure that doesn’t happen again,” said the commander of coalition troops in Iraq, Lt. Gen. Ricardo Sanchez.⁹³ Human Rights Watch saw a video of the incident filmed by someone on the ground, which is for sale in Baghdad’s video shops. The helicopter is seen hovering over the banner for a long time and, although it is filmed from a distance, it appears as if someone in the helicopter is trying to take the banner down.

The military issued an apology the following day. “What occurred was a mistake and was not directed against the people of al-Sadr City,” said a statement signed by Lt. Col. Christopher K. Hoffman of the 2nd Squadron, 2nd Armored Cavalry Regiment. “I am personally investigating this incident and will punish those that are responsible.”⁹⁴

The military’s investigation determined that “some U.S. forces members exercised poor judgment,” and disciplinary action is being taken, the military’s press office said. Head of the U.S. Judge Advocate General in Iraq, Lt. Col. Marc Warren, told Human Rights Watch the helicopter pilot was being taken before a flight review board and administrative action would also be taken against the commander under

91 See “Tensions Simmer in Baghdad After Clash Between U.S. Troops, Shiite Protesters,” by Rory Mulholland, Agence France Presse, August 14, 2003. Human Rights Watch tried unsuccessfully to learn the name of the victim. Four people were injured, however: Ibrahim Najm ‘Abdulla, 13, Haitham Saddi Muhammad, 21, Qassim Harb Fraih, 33, and Haidar Abd al-Hassan Shati, 28 [Human Rights Watch interviews in al-Sadr City, September 28, 2003.]

92 “U.S. Troops Kill at Least One Iraqi in Capital Protest,” by Drew Brown and Ken Dilanian, Knight Ridder News Service, August 14, 2003.

93 “U.S. Military Apologizes to Shiite Muslims,” by Sameer N. Yacoub, Associated Press, August 14, 2003, and “U.S. Army Apologizes to Shiite Clerics Over Deadly Clash,” by Alexandre Peyrille, Agence France Presse, August 14, 2003.

94 Ibid.

article 15 of Army regulations. The commander faces a variety of possible sanctions, from fine to confinement.⁹⁵

3. Two cars fired upon at a checkpoint in the Tunis district of al-Slaikh on August 7, killing Saif Ra`d `Ali Sa`id al-`Azawi in the first car and four members of the al-Kawwaz family in the second car (see case study above.) According to the military press office and U.S. JAG, an investigation determined that it was “a regrettable incident” but soldiers from the Alpha 2-3 Field Artillery had “acted in accordance with the rules of engagement.”⁹⁶
4. According to the military press office and U.S. JAG, an investigation was conducted into a checkpoint incident in the al-Mansur neighborhood that left one person dead and one injured. Human Rights Watch did not investigate this case. The soldiers involved were found to have acted in accordance with the rules of engagement, but a recommendation was made to better mark checkpoints with chemical lights. Compensation was also paid to the victims in this case.⁹⁷
5. On August 17, U.S. soldiers shot and killed *Reuters* cameraman Mazen Dana, aged forty-three, outside Abu Ghraib prison on the outskirts of Baghdad. Mazen was the twelfth journalist killed since the war began, and the second *Reuters* journalist to die.⁹⁸ *Reuters* said Dana and his sound engineer had asked soldiers for permission to film. After the killing, the U.S. military issued an apology and said soldiers thought his camera was an RPG. A military spokesman expressed condolences at the time but said troops would not fire a warning shot if they felt threatened. “I can’t give you details on the rules of engagement, but the enemy is not in formations, they are not wearing uniforms,” Col. Guy Shields told the press asking about the incident. “During war time, firing a warning shot is not a necessity. There is not time for a warning shot if there is potential for an ambush.”⁹⁹

95 Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

96 Ibid.

97 Ibid.

98 On April 8, a U.S. M1A1 Abrams fired a shell at the 15th floor of the Palestine Hotel in Baghdad, killing *Reuters* cameraman Taras Protsyuk and Spanish cameraman with Telecinco Jose Couso. The Committee to Protect Journalists, which investigated the incident, determined that, while not deliberate, the attack was avoidable. See “Permission to Fire,” by Joel Compagna and Rhonda Roumani, Committee to Protect Journalists, May 2003.

99 “Soldiers Kill Journalist After Mistaking His Camera for an RPG Launcher in Iraq,” by Tarek al-Issawi, Associated Press, August 17, 2003.

A military investigation determined that the soldiers involved had acted within the rules of engagement. The military's Criminal Investigation Division (CID) also took part in the investigation, JAG officials told Human Rights Watch, but not because it was a criminal investigation; rather, the CID lent its technical skills.¹⁰⁰

Reuters responded angrily that it had not been informed directly of the investigation's results. In a letter to U.S. Defense Secretary Donald Rumsfeld, Reuters chief executive Tom Glocer said, "I certainly don't believe that my government intentionally targets Reuters or anyone else's journalists but let's just say protecting journalists isn't high enough on the Pentagon's priority list."¹⁰¹

In addition to the cases mentioned above, a high-level investigation is ongoing into the friendly fire killing of eight Iraqi police and a Jordanian guard by the 82nd Airborne in al-Falluja on September 12. The U.S. military apologized for the incident and appointed Brig. Gen. Jeffrey Schloesser, assistant commander of the 101st Airborne Division, to head an investigation. The U.S. JAG was not aware of other investigations ongoing as of September 23, although officials said they might not know of investigations conducted on the division level.

In addition to the six cases documented in this report that are not being investigated, one glaring absence from the list was the first major altercation in al-Falluja on April 28 and 30, when U.S. troops killed an estimated twenty Iraqis and wounded up to seventy others. Human Rights Watch conducted an in-depth investigation into those two incidents and presented its finding in a May 2003 report, *Violent Response: The U.S. Army in al-Falluja*. The report called on U.S. authorities to conduct a full, independent and impartial investigation to determine the circumstances that led to the shootings, and to hold accountable anyone found to have committed violations of international humanitarian law.

100 Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

101 "Reuters ire at Iraq Death Probe," http://news.bbc.co.uk/2/hi/middle_east/3142518.stm, last accessed October 17, 2003.

VIII. COMPENSATION

Based on the Foreign Claims Act, inhabitants of foreign countries may request compensation for negligent or wrongful acts by U.S. forces that result in death, injury or loss of property. Payments are not authorized for damage, injury or death that results from combat activities of U.S. forces. As such, claims before May 1 fall under the so called “combat exclusion,” as do claims after May 1 related to combat.

By the U.S. military’s own admission, what defines combat in Iraq after May 1 is not always clear. In August 2003, a coalition official tried to explain the parameters at a background briefing for the press:

We’re still in the middle of combat operations. So there’s a presumption that it’s not combat, but if the facts indicate otherwise, it still could be included as a combat activity. Like if you had a checkpoint set up and someone runs the checkpoint, that would be a combat claim in that instance...

If, in the course of combat activity, there was a reasonable act by one of our soldiers in identifying a target, but upon reflection, it turns out that that was a shot that we all wish could have been taken back, that would probably be subject to the combat exclusion and be excluded as a claim...

However, for those instances where we believe—or our commander believes that there was either a wrongful act by a soldier or a violation of the rules of engagement, those matters are typically investigated. They are either investigated by administrative investigation appointed by the commander, or by military law enforcement authorities, depending upon the facts of the particular case.¹⁰²

In an interview with Human Rights Watch, JAG and CPA officials said what defined combat in Iraq was a “gray area.” Many of the cases, said Australian Col. Mike Kelly, are “not susceptible to easy dismissal or easy payment.”¹⁰³

According to the JAG, compensation claims are reviewed by Foreign Claims Commissions. Up to the brigade level, a one-member commission has authority to give up to \$2,500 and, up the division level, \$15,000. On the coalition level, a three-member

102 U.S. Department of Defense Briefing, Baghdad, Iraq, August 4, 2003.

103 Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Major P.J. Perrone, Baghdad, September 23, 2003.

commission can give up to \$50,000. Claims above that go to the U.S. Army Claims Service.

In addition, commanders can give up to \$2,500 for what is called a “gratuitous payment.” Such money does not require a ruling and implies no liability on the part of the coalition. As one officer explained, “we just call the brigade to see if the claim is accurate. If they say ‘yeah, we made a mistake,’ then we pay up to \$2,500 on the spot.”¹⁰⁴

Iraqis can submit claims in a number of places in Baghdad. First, there are twelve Civilian Military Action Centers, known as CMACs, in the various neighborhoods, intended to interact with the local population. A CPA office in Baghdad also has an Iraqi Assistance Center where people can file claims. Individuals may also go directly to brigade headquarters, which have retained Iraqi lawyers to help process claims.

The claims review process takes approximately one month. If a claim is denied, individuals may resubmit their request if additional evidence is provided.

In response to a request from Human Rights Watch, the coalition press office provided figures on compensation up to September 18, 2003. As of that date, the coalition had received 5,394 claims. Foreign Claims Commissions had adjudicated 4,148 claims, 1,874 of which were denied. In total, the coalition had paid \$901,545 in claims. Of these payments, twenty-one were for more than \$15,000.¹⁰⁵

104 Human Rights Watch interview, Baghdad, September 20, 2003.

105 E-mail sent to Human Rights Watch from coalition press office on September 29, 2003.

APPENDIX I: Reported Civilian Deaths in Baghdad, May 1st-September 30

Victim	Age	Gender	Incident Date	Incident Location	Responsible Unit
Durayd Yusuf Kadhim		male	2-May		
Isma`il Khalaf		male	4-May	near al Shu`la Bridge Najd al-Shu`la	
Jabbir Isma`il Khalaf		male	4-May	near al Shu`la Bridge Najd al-Shu`la	
Nadum Saddam Talar		male	5-May	al-Dura	
Riad `Abd al-Sada Hamza		male	5-May	al-Kifah	
Khalid Rahumi Ahmad	59	male	9-May	Ziyuna neighborhood	
Ahmad Hashim Zinad		male	13-May	al-Sadr City	
Muhammad Tahir Ibrahim		male	15-May	al-Khulany neighborhood	
Khalid Juhi		male	18-May	Qaradat Maryam	
Ghanima Jassim Muhammad		male	20-May	al-Skak	
Muhammad Wannas al-Rubai`y		male	20-May	Bab al-Sharqi	
Muhammad Sa`id Mijit		male	2-Jun		
Hassan `Abd al-Hussain `Alwan		male	3-Jun	al-Karkh	
Firas Khudair		male	6-Jun	al-Shurja neighborhood	
Hamid Majid	40	male	7-Jun	al-Taji, near al-Sha`b police station, al-Sha`b	
Muhammad Rajih		male	7-Jun	near al-Sha`b police station	
`Ali Yusif Ya`qub `Alami		male	10-Jun	near al-Turath Akarabi school	
Hana' Falah		male	10-Jun		
Uthman `Abdallah		male	10-Jun		
`Abd al-Karim `Abd al-Latif Jassim		male	11-Jun	al-Karkh	
Ajid Nahud `Awadi Khudairal-Dulaymi		male	11-Jun	al-Alamain, near the canal	
`Ala' Fraih Muftin		male	11-Jun	al-Sa`dun	
Saif Ziad Muhammad `Abdallah		male	11-Jun	al-Hurriya, near his home	

Mushan Hassan Muhammad		male	15-Jun	Alabaid village, Abu Ghraib	
Jamal Nasir `Abbas Karaguli		male	16-Jun		
Ja`far Musa Hashim		male	18-Jun	Palace North Gate, Qaradat Maryam	
Sattar Jabbar Lafta		male	18-Jun		
Tariq Muhammad		male	18-Jun	Palace North Gate, Qaradat Maryam	
Ahmad Hashim `Abud		male	22-Jun	Hay Al-`Amid	
`Ali Jawad Ubaid Khazil		male	25-Jun		
`Ubaid Ibrahim Isma`il		male	25-Jun		
`Amir `Abd al-Karim		male	26-Jun		
Baha' Sagban Farhan		male	26-Jun	Abu Ghraib, al-Zaidan	
Muhammad Subhi Hassan al-Qubaisi	12	male	26-Jun	Hay al-Jihad	2nd Brigade, 82nd Airborne
`Ali Hanun Muhammad `Ali		male	29-Jun	al-Kifah neighborhood	
Tahsin `Ali Hussain		male	1-Jul	Slaikh	
`Ali Yusuf		male	3-Jul		
Ra`id Fahd Shallal		male	10-Jul	al-Bia`a	2nd Brigade, 82nd Airborne
Sa`di Majid Sa`dun		male	10-Jul	al-Bia`a	2nd Brigade, 82nd Airborne
`Uday `Abbas `Adai		male	10-Jul	al-Bia`a	2nd Brigade, 82nd Airborne
`Uday Ahmad Mustafa	24	male	10-Jul	Behind Dura Patrol station, Hay al-l`lam	2nd Brigade, 82nd Airborne
Umar `Abid al-Munaf		male	13-Jul		
`Ali Taha Hussain		male	16-Jul	al-Kifah neighborhood	
Sabah Juwad		male	16-Jul	al-Sadr City, Miradi Market	
Taha Hussain Muhammad		male	16-Jul	al-Kifah	
Khalil Hussain `Ali		male	18-Jul	Bab al-Slaikh neighborhood	
Walid Zaidan Muhammad	34	male	22-Jul		
`Ali Hamid Muhsin	31	male	26-Jul	al-Taji district, al-Shu`la	
Klemantine Salim `Abd al-Karim	75	female	27-Jul	al-Mansur	Task Force 20 operation

Mazin Alber Alias Kasira	35	male	27-Jul	al-Mansur	Task Force 20 operation
Tamir Alber Alias Kasira	40	male	27-Jul	al-Mansur	Task Force 20 operation
Ziad `Imad Khazil Ibrahim al-Ruba`l	14	male	27-Jul	al-Mansur	Task Force 20 operation
Muhammad Mubarak Serhid	47	male	28-Jul	al-Nasr wa al-Salam	
Izhar Mahmud Ridha		female	1-Aug	al-Mansur	3rd Brigade, 1st Armored Division
Sa`d Wali `Arid Lazim		male	4-Aug	near al-Hussain village	
`Adil `Abd al-Karim al-Kawwaz	42	male	7-Aug	Slaikh, Tunis district	Alpha Co., 2nd Batt, 3rd Field Artillery Regiment, 1st Armored Division
Haidar `Adil `Abd al-Karim al-Kawwaz	19	male	7-Aug	Slaikh, Tunis district	Alpha Co., 2nd Batt, 3rd Field Artillery Regiment, 1st Armored Division
Mirvat `Adil `Abd al-Karim al-Kawwaz	8	female	7-Aug	Slaikh, Tunis district	Alpha Co., 2nd Batt, 3rd Field Artillery Regiment, 1st Armored Division
`Ula `Adil `Abd al-Karim al-Kawwaz	17	female	7-Aug	Slaikh, Tunis district	Alpha Co., 2nd Batt, 3rd Field Artillery Regiment, 1st Armored Division
Saif Ra`d `Ali Sa`id al-Azawi	20	male	7-Aug	Slaikh, Tunis district	Alpha Co., 2nd Batt, 3rd Field Artillery Regiment, 1st Armored Division
Muhammad Muftin Sa`d		male	8-Aug	Abu Ghraib	

Lt. `Ala' Ali Salih		male	9-Aug	Abu Ghraib Street	1st Battalion, 41st Infantry, 3rd Brigade, 1st Armored Division
Sgt. Muhammad Hilal Nahi		male	9-Aug	Abu Ghraib Street	1st Battalion, 41st Infantry, 3rd Brigade, 1st Armored Division
Ali Muhsin	17	male	11-Aug		1st Battalion, 36 Infantry, 1st Armored Division
Farid `Abd al-Qahir	23	male	11-Aug		
Monayad Faris Alyas Kiryakus		male	12-Aug	front of Banyas Hotel, district 39, Sa`dun St.	
Maziad Rahim Karim		male	13-Aug	al-Rashid Bank in al-Shurja	
Rahim Karim `Abdallah		male	13-Aug	al-Rashid Bank in al-Shurja	
Zainab Jawad Kadhim		female	16-Aug		
Mazen Dana	41	male	17-Aug	outside Abu Ghraib prison	
Hssain Hammadi Chichan		male	18-Aug	al-Bia`a	
Ziad Sa`di Jassim `Awad al-`Azawi	21	male	18-Aug	al-Jumhuriyya St. near Republic Sq, al-Jumhuriyya	
Ahmad Fawzi al-Ziadi		male	26-Aug	Bab al-Sharqi	
Qusay Hussain Mansi		male	26-Aug	Ghazal Market	
Adil Majid Faraj	24	male	27-Aug	al-Kadhimiyya, al-Qarada	
Arkan `Abd al-Wahid Hussain `Abbas	31	male	27-Aug	al-Kadhimiyya	
Wissam `Abd al-Hussain Majed Radhi		male	28-Aug	Feda'yin camp, Hay al-Muthana	
Haitham Ahmad Rashid		male	31-Aug		
Russid Hatim Ahmad		female	31-Aug	al-Rashid	

Farah Fadhil al-Janabi	19	female	1-Sep	al-Qadissiyya bld. Complex, al-Qadissiyya	Bravo Co., 3rd Battalion, 505th Parachute Infantry Regiment, 82nd Airborne
Mardan Muhammad Hassan	38	male	1-Sep	al-Qadissiyya bld. Complex, al-Qadissiyya	Bravo Co., 3rd Battalion, 505th Parachute Infantry Regiment, 82nd Airborne
Muslim `Aziz `Isa Khalaf		male	1-Sep	Palestine Street	
Hussam Ahmad Latif		male	2-Sep	Fadhl neighborhood, al-Kifah St.	
FNU LNU (reported by U.S. military)			10-Sep	al-Mansur	
Muhammad Jassim `Abdallah		male	12-Sep	Haitark, al-Sadr City	
Muhammad Sabbag `Awada		male	12-Sep	Abu Ghraib, college of agriculture	
Ghazi Ghazi Mutlak		male	18-Sep	al-Sadr City, Miradi Market	
Halush Musa Sbayir		male	20-Sep	al-Sadr City, Hussainiyya	
FNU `Abbas		female	complaint filed w/ police on 8/18		
FNU Talib Khudair		male	complaint filed w/ police on 7/20		
FNU Shnawa Muhammad Jassim		male	complaint filed w/ police on 7/28		
Iyad Jassim Zbun Khalaf Yassin		male	complaint filed w/ police on 9/12	al-Ghazaliyya police district, al-Ghazaliyya	

Akram Ahmad		male	??	al-Mishahida village, al-Taji	
Ra'id Hussain Kadhim	24	male	??	al- Kadhamiyya	

APPENDIX II: After Action Report

After Action Report, “SUBJECT: Operation Iraqi Freedom After Action Review Comments,” April 24, 2003, conducted by TCM C/3-15 Infantry, Task Force 1-64 [declassified].¹⁰⁶

After less than 48 hours after the first battlefield engagement, members of this company team were tasked to conduct checkpoint operations southwest of al-Najaf. With no training, soldiers were expected to search vehicles, interact with civilians with no CA (Civil Affairs) or PSYOPS (Psychological Warfare) support, detain EPW's (Enemy Prisoners of War), and confiscate weapons. Less than 48 hours after this, the unit was again heavily engaged in combat operations. The radical and swift change from combat operations to SASO and back to combat operations over and over again causes many points of friction for the soldiers and their leaders.

With the exception of a class given to the platoon leaders, there were not formal classes or training conducted by CA prior to the operation. No training on checkpoint operations or dealing with civilians was received.

Material resources continued to be an issue. The team brought extra CL IV on all vehicles in anticipation of having to conduct blocking operations but the capability to haul the quantities required by SASO was not there. Having emplaced checkpoints on four different occasions, by the time the unit reached Baghdad, there was no remaining CL IV (construction and barrier materials). The unit was in desperate need of materials for force protection. It took weeks for materials to arrive; in the meantime the unit utilized destroyed cars, flower pots, bicycle racks, and whatever else was available for force protection.

Interpreters were not available to the company team at any point during the operation. These interpreters are critical to the team's ability to interact with civilians, discern their problems, and broadcast friendly unit intentions. Often times the unit had crowds and upset civilians to deal with and absolutely no way to verbally communicate with them.

Lack of information from higher headquarters greatly complicated the task of converting from high intensity conflict to SASO. Weeks after occupying Baghdad in force, the unit is still unable to direct the civilian populace to humanitarian agencies other than the Red Crescent. We have no way to direct people to places to receive food and water, to search

¹⁰⁶ “SUBJECT: Operation Iraqi Freedom After Action Review Comments,” April 24, 2003, conducted by TCM C/3-15 Infantry, Task Force 1-64 [declassified], <http://www.strategypage.com/dls/articles/20030912.asp>, last accessed October 17, 2003.

for loved ones, to locate deceased personnel. The unit did not have the ability to answer any questions simply because of the unsynchronized and unplanned operations of the Civil Affairs community and other non-governmental organizations.

The problem with the switching from combat to SASO is the impact on the soldiers and leaders of the unit. Transitioning from combat to SASO requires a substantial and fundamental shift in attitude. The soldiers have been asked to go from killing the enemy to protecting and interacting, and back to killing again. The constant shift in mental posture greatly complicates things for the average soldier. The soldiers are blurred and confused about the rules of engagement, which continues to raise questions, and issues about force protection while at checkpoints and conducting patrols. How does the soldier know exactly what the rule of engagement is? Soldiers who have just conducted combat against dark skinned personnel wearing civilian clothes have difficulty trusting dark skinned personnel wearing civilian clothes.

[Recommendations]:

- A. Integrate SASO training into the unit METL (MISSION-ESSENTIAL TASK LIST). This has provided ample instances where units are conducting both combat and stability operations at the same time. Thus, we should no longer expect to be able to compartmentalize ourselves as either “war fighter” or “peacekeeper”. With the ever-present threat of terrorist attack, it is critical that soldiers know the correct tactics, techniques, and procedures for providing security while also enforcing peace.
- B. Heavy duty CL IV materials are required for blocking positions and should be maintained at the task force or BCT level. Lift and freight assets need to be responsive and capable of delivering reinforcing materials in short order.
- C. Civil Affairs, pysops, and interpreters must be integrated at the company team level. Every checkpoint must have an interpreter and these interpreters must be with the company team throughout the operation as it is impossible to predict when you may be required to fight or keep the peace.
- D. Improved information flow and the quicker establishment of Civil Military Operations Centers. Units occupying positions in built up areas make frequent contact with civilians. Information and a centralized theme must be passed to the company team level as quickly as possible to ensure the proper message is being sent to the populace, and in turn, input from the populace is reaching the highest levels. The company team level is the level where the interaction with the populace occurs.

E. We must train our leaders and soldiers in the conduct of SASO operations. Leaders must be sensitive to the flux between war fighting and peacekeeping and the demands of each not only on the unit but the individual. We owe it to our soldiers to train them on the differences. It is the responsibility of leaders to ensure PVT Plunger and PVT Snuffy know what the proper posture or attitude is and to enforce it.

APPENDIX III: Witness Account From *Frontline* Cameraman Scott Anger

Frontline cameraman Scott Anger witnessed the shooting of a civilian in the center of Baghdad. His testimony below is taken from the website:

<http://www.pbs.org/wgbh/pages/frontline/shows/truth/etc/anger.html> where video footage of the incident can also be seen. The incident is part of a *Frontline* documentary on Iraq, "Truth, War & Consequences," produced by Martin Smith.

It was over 110 degrees that afternoon and I was thankful to be back in the hotel, relaxing in the air-conditioned lobby and sipping a cold drink. I was trying to cool down after a hot morning of filming when a translator for National Public Radio dashed into the room. He breathlessly told me that two American Humvees were burning in the middle of the street in Baghdad's business district, Karada, five blocks from the hotel. I grabbed my camera and ran out the door.

As Ehab, my driver, wheeled out onto the main street in Karada, we could see thick, black smoke in the distance. Cars jammed the road in front of us, forcing us to jump over the concrete center divide and drive against oncoming traffic. People were pouring out of the shops and into the street, crowding it so badly that Ehab had to stop the car more than a block from the burning vehicles.

American soldiers were running around yelling and pointing, but I was too far away to understand what they were saying. I quickly set the camera on the tripod and started recording. Within seconds, soldiers carrying a limp body on a stretcher came into my viewfinder. They struggled frantically to push the body into a Humvee. Once in, they sped away. I was reframing my camera on the burning vehicles when I heard the first shots through my earphones.

Through the shimmering heat waves down the block, I could see U.S. soldiers firing at the top floors of a nearby building. At first it was small arms and hand-held weapons. Then a soldier in the turret of a Humvee began firing a .50 caliber machine gun up at the building. A Bradley fighting vehicle quickly rolled into view and began firing explosive shells. Rounds from the weapons riddled the building's upper reaches, blasting out chips of concrete with every strike.

Crowds cautiously ducked but continued to gather and watch as the firing intensified down the block. Vehicles continued driving by as people yelled in Arabic to head off drivers of cars unknowingly heading towards the firefight ahead.

I was crouched between a row of new refrigerators stacked on the sidewalk and a beat up Toyota pickup parked in front of a shop. The heat was unreal. Sweat dripped on my camera and into my viewfinder. People crowded forward, pushing up to get a better view. Tempers flared and an argument broke out on the crowded sidewalk. Two men began screaming at each other in Arabic. I glanced over in time to see one take a swing at the other, who was standing between the refrigerators and some washing machines. When I turned back, someone had stepped in front of my camera blocking my view. I stopped recording, stood up, and heard a very loud burst of gunfire.

A split second later, there was the sound of cardboard boxes being hit with sticks. At this point, I realized we were being shot at and that I was hearing bullets strike the appliance boxes next to me.

My reaction was to run. I grabbed the camera, which was still attached to the tripod, and turned around. When I did, I saw a man's head next to me jerk back as bits of hair and blood exploded into the air. The crowd, in complete unison, turned and started running. People screamed and pushed. I saw another person fall as I ran as fast as I could toward the corner of the nearest building.

By the time I got around the corner, the shooting in my direction was finished. Firing could still be heard further down the block.

I peeked around the corner of the building and saw a large pool of blood near where I had been. Someone had dragged the wounded man into the appliance shop. American soldiers, crouching behind their vehicles, still pointed guns in our direction. It was clear that they were the ones who had opened fire on the crowd.

People screamed in Arabic and motioned towards the shop. A Western journalist waved a white piece of cloth and walked out into the middle of the street yelling to the soldiers to not fire. As he did, a group of men ran down to the shop, picked up the wounded man and ran out looking for a car willing to take him to a hospital. His eyes were rolled back and he was not breathing.

More than an hour after the shooting, a squad of American soldiers walked to where a young boy was washing away the blood stains between the refrigerator boxes on the sidewalk. I followed with my camera. Some men were gathered around, and the soldiers

asked them about the people shot. The soldiers didn't have a translator and were asking the questions in English, not Arabic.

Since I witnessed the event, I decided to tell them what I saw. I explained the chain of events -- that there had been a fistfight -- and that at least two men were shot. I told the soldier in charge that the victims had been taken to the hospital and one of them looked deceased. I asked them why they fired into the crowd.

Without saying a word, the soldier turned away from me and asked the gathering group of Iraqi men if the "gunman" was shot. No one answered. I interrupted and said that as far as I knew -- and I was standing next to the man who was shot -- there was no gunman in the crowd. (Four other journalists in the crowd at the time told me later that the only shots fired were from the American soldiers.) Apparently satisfied, the Americans walked away.

I never found out what the fistfight was about or why a man died on that hot sidewalk in Baghdad. I can understand the American soldiers being hot, tired and probably scared. But they overreacted. To compound the mistake, they incorrectly claimed that there had been a gunman in the crowd to justify their actions.

During my nearly 20 years as a working journalist, I've been shot at on three other occasions. Each time, I've made a vow to never get into a similar situation again.

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*Human Rights Watch
Middle East and North Africa Division*

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