

Congress of the United States
Washington, DC 20515

November 20, 2017

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

Dear Secretary Mattis,

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

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found that many of the civilian deaths resulted not from proximity to legitimate ISIS targets but from flawed or outdated intelligence that misidentified civilians as enemy combatants.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

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

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

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

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

I also request the Pentagon answer the following questions:

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

Thank you for your attention to this critical issue.

Sincerely,



Ted W. Lieu
Member of Congress