

Congress of the United States
House of Representatives
Washington, DC 20515-0533

March 28, 2017

The Honorable James Mattis
Secretary of Defense
1300 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Mattis:

Having served on active duty as a JAG officer, I am highly disturbed by reports that recent U.S.-led coalition airstrikes have caused large numbers of civilian casualties in Syria and Iraq.¹ As you know, the Law of Armed Conflict (LOAC) prohibits not only the targeting of civilians, but also the disproportionate use of military force. As a Member of the House Foreign Affairs Committee, I am also deeply concerned that deaths of innocent children and women from U.S. airstrikes sets us back strategically, makes it more difficult to secure peace, and increases terrorist recruitment. This letter seeks answers from the Trump Administration that the American public deserves to know.

A recent U.S. airstrike in Mosul, Iraq apparently killed well over 100 civilians.² Two recent airstrikes by the U.S. led coalition in Syria allegedly killed numerous civilians. One airstrike allegedly hit a school in the town of Mansoura, Syria killing 30 civilians.³ Another airstrike allegedly hit a mosque in Al Jinah, Syria killing multiple civilians.

The *Washington Post* reports that “[i]n the first two months of the year, U.S. strikes were responsible for more civilian casualties than Russian strikes for the first time since Russia intervened in Syria’s civil war in 2015, according to Airwars figures.”⁴ The *New York Times* reports that according to an Iraqi special forces officer, there has been “a noticeable relaxing of the coalition’s rules of engagement since President Trump took office.”⁵

¹ Ishaan Tharoor, “The Innocent lives already lost amid Trump’s war on terror,” *Washington Post*, 27 March, 2017.

² Ghazi Balkiz, Muwafaq Mohammad, and Arwa Damon, “Mosul: 112 civilian bodies pulled from site of coalition airstrike,” *CNN*, 27 March 2017.

³ Anne Barnard, “U.S. Airstrike in Syria Is Said to Kill Dozens of Civilians,” *New York Times*, 22 March 2017.

⁴ Loveday Morris and Liz Sly, “Panic spreads in Iraq, Syria as record number of civilians are reported killed in U.S strikes,” *Washington Post*, 28 March 2017.

⁵ Tim Arango and Helene Cooper, “U.S. Investigating Mosul Strikes Said to Have Killed Up to 200 Civilians,” *New York Times*, 24 March 2017.

The significant increases in civilian casualties are set against the backdrop of comments made by Donald Trump during his campaign for President. He said that “the other thing with the terrorists is you have to take out their families.”⁶ He also stated that, with regard to ISIS, he would “bomb the shit out of ‘em.”⁷ These comments suggest Donald Trump either does not understand the Law of War or doesn’t care. The American public needs to know if Trump’s prior statements are being implemented through policy changes that have now resulted in large increases in civilian deaths caused by U.S. bombs.

International law, the Uniform Code of Military Justice, and Department of Defense policies such as Army Field Manual FM 27-10 require U.S. armed forces to comply with LOAC. When I served on active duty, one of my tasks was to brief commanders on LOAC. Under the Law of War, there are two fundamental principles that protect non-combatants. The principle of distinction requires that civilians and civilian property cannot be the object or purpose of a military attack. The principle of proportionality requires that the loss of life and damage to property incidental to attacks must not be excessive in relation to the concrete and direct military advantage expected to be gained.

The substantial increases in civilian deaths caused by U.S. military force in Syria and Iraq brings into question whether the Trump Administration is violating the Law of War. The large number of civilian casualties also suggests a possible breakdown in target selection, intelligence gathering, or operational execution.

Whether or not there have been violations of LOAC, the deaths of significant numbers of women and children at the hands of U.S. military personnel are not only tragic, those civilian deaths directly harm our national security. Over three dozen former U.S. national security officials wrote you a letter 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 partners and allies to reduce collaboration with America.⁸

Military generals, national security officials and nonprofit organizations such as Human Right First have identified numerous reasons why minimizing harm to civilians increases U.S. national security. Protecting civilians helps secure cooperation from allies and partners; protect our troops; reduce terrorist recruitment; maintain public confidence and legitimacy; and ensure the U.S. does not set a dangerous precedent. If a small number of civilian deaths can cause significant strategic setbacks, imagine what the large numbers of civilian deaths caused by recent U.S. airstrikes will do.

⁶ Tom LaBianco, “Donald Trump on terrorists: ‘Take out their families,’” *CNN*, 3 December, 2015.

⁷ “Trump Re-enacts Carson’s Alleged Stabbing, Says He’ll ‘Bomb the S**t Out Of’ ISIS,” *Huffington Post*, 12 November, 2015.

⁸ Charlie Savage and Eric Schmitt, “Trump Administration Is Said to Be Working to Loosen Counterterrorism Rules,” *New York Times*, 12 March 2017.

The American public deserves to know what is going on in Syria and Iraq. The apparently large numbers of children and civilian adults being killed by U.S. forces is not acceptable. Please answer the following questions:

1. How many civilian deaths and injuries have occurred that were directly or indirectly caused by U.S. forces in Syria from January 20, 2017 to March 31, 2017? How many of the deaths were children under the age of 18?
2. How many civilian deaths and injuries have occurred that were directly or indirectly caused by U.S. forces in Iraq from January 20, 2017 to March 31, 2017? How many of the deaths were children under the age of 18?
3. Has the Trump Administration relaxed or altered the rules of engagement in Syria? If yes, what are the changes?
4. Has the Trump Administration relaxed or altered the rules of engagement in Iraq? If yes, what are the changes?
5. What process does the Department of Defense use to ensure compliance with LOAC in Syria? Who approved the two airstrikes in Syria described in this letter?
6. What process does the Department of Defense use to ensure compliance with LOAC in Iraq? Who approved the airstrike in Mosul, Iraq described in this letter?
7. Does a JAG officer review targets before they are struck in Syria? If so, please describe the process.
8. Does a JAG officer review targets before they are struck in Iraq? If so, please describe the process.
9. Did a JAG officer review the target selection for the two airstrikes in Syria described in this letter? If so, what was the recommendation of the JAG officer?
10. Did a JAG officer review the target selection for the airstrike in Mosul, Iraq described in this letter? If so, what was the recommendation of the JAG officer?
11. Since January 20, 2017, has anyone overruled a recommendation from a JAG officer not to strike a target in Syria or Iraq? If so, please describe the circumstances.
12. Have any U.S. personnel violated LOAC in Syria or Iraq since January 20, 2017? If so, please describe the circumstances.

13. What steps are you taking to assess the causes of civilian casualties in the airstrikes mentioned in this letter?
14. What changes will you make to prevent similar mass civilian casualties from occurring in the future?
15. What role did intelligence provided by local partners play in the airstrikes described in this letter?
16. What steps do you take to vet and analyze intelligence provided by local sources when making targeting decisions?
17. What steps are you taking, beyond training in LOAC, to ensure local partner forces are trained in civilian harm mitigation?
18. In Syria, who is the U.S. supporting, what are U.S. objectives, and what is the end-state our military is trying to achieve?
19. In Iraq, what are U.S. objectives and what is the end-state our military is trying to achieve?

Thank you for your attention to these important questions. I respectfully request that you provide answers no later than 15 days from receipt of this letter.

Sincerely,



Ted W. Lieu
Member of Congress

cc:

The Honorable Rex Tillerson, U.S. Secretary of State
The Honorable Ed Royce, Chairman, House Foreign Affairs Committee
The Honorable Eliot Engel, Ranking Member, House Foreign Affairs Committee
The Honorable Mac Thornberry, Chairman, House Armed Services Committee
The Honorable Adam Smith, Ranking Member, House Armed Services Committee