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# VIII

# Current Issues in Occupation Law: 2003 Civilian Deaths in Baghdad

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This article documents and analyzes civilian deaths caused by US forces in Baghdad from the end of major combat operations in May 2003 until October of that year. It is based on field research conducted in Iraq in September and October 2003 for Human Rights Watch. During that time, the author interviewed the witnesses to civilian deaths, family members of the deceased, victims who were non-lethal casualties, Iraqi police, lawyers and human rights activists, US soldiers, US Army judge advocates stationed in Iraq, and members of the United States-led Coalition Provisional Authority (CPA), responsible at the time for governing Iraq.

The research revealed many cases of upstanding and legally respectful work by the US military in Iraq's capital. Many soldiers and commanders were aware of their obligations as an occupying power under international humanitarian law and took appropriate measures to fulfill those obligations. At the same time, there were disturbing cases during the period under review in which soldiers used force in an excessive or indiscriminate manner, sometimes resulting in the death of Iraqi civilians. Many of these cases went uninvestigated, contributing to an atmosphere of impunity.

Clearly Iraq was and remains a hostile environment for US troops, with daily attacks by Iraqis or others opposed to the United States and coalition forces. But such

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The opinions shared in this paper are those of the author and do not necessarily reflect the views and opinions of the U.S. Naval War College, the Dept. of the Navy, or Dept. of Defense.

an environment does not absolve the military from its obligations under international law to use force in a restrained, proportionate and discriminate manner, and only when strictly required. Soldiers and commanders found to have used or tolerated the use of excessive or indiscriminate force must face appropriate administrative or criminal action.

Conditions in Iraq have changed a lot since the second half of 2003, particularly with the growth of the insurgency and the transfer of power to the Iraqi government and security forces. But the concerns about civilian casualties remain, both in Iraq and as a lesson for military occupations.

### *Numbers*

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. 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 removed from the scene. Factors such as this make it impossible for us to maintain an accurate account.[2]

While the coalition claims an accurate account of civilian deaths is impossible to obtain, Human Rights Watch collected data from a variety of sources for a database of post-war civilian casualties in Baghdad. Given its vast resources, the US military should be able to do the same, and not doing so suggests that civilian deaths are not of paramount concern.

Based on the data collected, US soldiers in Baghdad killed ninety-four civilians between May 1 and September 30, 2003, in legally questionable circumstances that merit an investigation. Human Rights Watch researchers 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.

More concretely, 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, 2003. Eighteen

of these deaths are documented in the Human Rights Watch report, *Hearts and Minds: Post-war Civilian Deaths in Baghdad Caused by U.S. Forces (Hearts and Minds)*,[3] published in October 2003. In addition, Human Rights Watch collected data on civilian deaths by US forces from the Iraqi police, human rights organizations, Western media and US military statements on the topic. In total, Human Rights Watch estimated the US military in Baghdad killed ninety-four civilians in questionable circumstances in the period May to September 2003.[4]

While this article does not present all the individual cases of civilian deaths documented in *Hearts and Minds*, it is worth looking at the pattern they reveal; namely, a disturbing trend by US forces of over-aggressive tactics, indiscriminate shooting in residential areas and a quick reliance on lethal force. In some cases, US forces faced a legitimate 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.

### *Categories of Excessive Force*

In Baghdad, civilian deaths can be categorized in three basic incident groups. First were deaths that occurred during US military raids on homes in search of arms or members of armed groups. The US military said in the fall of 2003 that it was implementing less aggressive tactics, and was increasingly taking Iraqi police on raids. But Baghdad residents in late 2003 still complained of aggressive and reckless behavior, physical abuse, and theft by US troops. When US 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 were civilian deaths caused by US soldiers who responded disproportionately and indiscriminately after they had come under attack at checkpoints or on the road. Human Rights Watch documented cases where, after an improvised explosive device detonated near a US convoy, soldiers fired high caliber weapons in multiple directions, injuring and killing civilians who were nearby. While the threat in those cases was often real, the indiscriminate response put civilians at risk.

Third were killings at checkpoints when Iraqi civilians failed to stop. At the time the research was conducted in the fall of 2003, US checkpoints constantly shifted throughout Baghdad. They were sometimes not well marked, although sign visibility was improving. A dearth of Arabic interpreters and poor understanding of Iraqi hand gestures added to the confusion, with results that were sometimes fatal for civilians. Soldiers sometimes shouted conflicting instructions in English with their guns raised: “Stay in the car!” or “Get out of the car!”

In all of these scenarios, US soldiers were sometimes arrogant and abusive. They were seen putting their feet on detained Iraqis' heads—a highly insulting offense. Male soldiers sometimes touched or even searched female Iraqis, also a culturally unacceptable act, although female soldiers or searchers were increasingly deployed.

Of course, not all soldiers behaved in this way. Human Rights Watch met many US military personnel who dealt respectfully with Iraqis and were working hard to train police, guard facilities and pursue criminals in difficult conditions. 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 said.

### *A Case Study: The Checkpoint in al-Slaikh*

On the evening of August 7, 2003, 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 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.[5]

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

As US soldiers were searching homes and shops in the neighborhood—around 9:00 p.m.—Saif Ra`ad `Ali Sa`id al-`Azawi, age 20, 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.[6] 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 said.[7]

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 said 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 immediate shooting at Saif's car, which led to Saif's death and to the injury of his two friends.[8]

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

> 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.[9]

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 US 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.[10]

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.[11]

According to both the passenger al-Amary and the witness Fatuhi, US 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 explained 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 an 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.[12]

`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 US 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 Saif. Neighbors told him that US 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.[13]

`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-Salihiyya before

being released by a judge at 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.[14]

According to Ahmad Fatuhi, the neighborhood resident who witnessed the shooting, US 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."[15]

Haidar `Adil al-Kawwaz, age 19, and `Ula `Adil al-Kawwaz, age 17, were killed instantly. Their father `Adil `Abd al-Karim al-Kawwaz, age 42, and his daughter Mirvat `Adil al-Kawwaz, age 8, were badly wounded but still alive. US 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. Both `Adil and Mirvat died, either there or perhaps at a hospital where they were taken that night.

A Human Rights Watch researcher inspected the al-Kawwaz family car on September 26, 2003, a 1984 white Volkswagen Passat. The car had twenty-eight bullet holes on the front and left side, including four in the front windshield.

Anwar Jawad, who gave birth to a baby boy named Hassan one week after the incident, was summoned to visit the US military on September 24. Two officers, who she thought were named Colonel William Rabena and Colonel Peter Mansoor, offered her $11,000.[16] A document she signed said she received the money "as an expression of sympathy."[17] The family is requesting formal compensation as well.

US 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 US Army judge advocates assigned to Combined Joint Task Force 7, then the organisation running the US military's efforts in Iraq, the shootings were considered a "regrettable incident," but it was determined that the soldiers had "acted in accordance with the rules of engagement."[18] It is unclear how this was determined in the case of the al-Kawwaz car, which was fired upon without warning.

### *Training and Transition from Combat*

In late 2003, a fundamental problem in Baghdad was that combat troops were asked to perform law enforcement and policing tasks for which they were not adequately trained or attitudinally prepared. Of the cases documented in *Hearts and Minds*, for instance, eight Baghdad incidents resulting in sixteen civilian deaths involved either the 82nd Airborne Division or the 1st Armored Division. Many of the soldiers from these divisions had fought their way into Iraq, and were then asked to switch quickly from warriors to police who controlled crowds, pursued thieves and rooted out insurgents. According to soldiers and commanders, there was inadequate training and equipment for these Stability and Support Operations (SASO) and an inadequate supply of Arabic interpreters.

The problem was explained in detail by an unnamed US infantry commander in an After Action Report filed April 24, 2003, since declassified. "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.[19]

With the exception of a class given to the platoon leaders, there were no formal classes or training conducted by Civil Affairs personnel prior to the operation. Soldiers received no training on checkpoint operations or interacting with civilians.

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."[20] Interpreters, he wrote:

> [W]ere 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.[21]

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

> 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 reflected the above concerns. In an interview published on a US Army-related website, a second lieutenant from the 82nd Airborne Division 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.[22]

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."[23]

"Our mentality as soldiers is combat," said Lieutenant Lucas Hale, who was 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."[24]

US judge advocates and CPA legal officials who spoke with Human Rights Watch in the fall of 2003 were sympathetic to these concerns, and they agreed that not all combat troops had 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 Colonel Mike Kelly said, "Policing requires a different skill set."[25]

According to the judge advocates, the US Marines performed better in the peacekeeping role because they were "quicker to adapt." And Military Police were better trained for crowd control, checkpoints and other peacekeeping tasks. In general, they said, the biggest problems were in Baghdad due to the intense urban environment and the high level of armed resistance. Clearly this was before the later fighting in Falluja and Najaf and the insurgency's development in central and western Iraq.

### *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."[26]

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.

In 2003, the United States military did not fulfill that obligation. The lack of timely and thorough investigations into questionable incidents created an atmosphere of impunity, in which soldiers felt they could pull the trigger without coming under review.

Specifically, as of October 1, when Human Rights Watch completed its research, there were no known criminal investigations into cases of alleged use of excessive or disproportionate force by US soldiers in Iraq. The US military said it had completed five administrative investigations above the division level, all of them under the authority of the Deputy Commanding General in Iraq, but the findings of these investigations raised serious concerns. In four of the five investigations, soldiers were found to have operated within the rules of engagement. In the fifth case, a helicopter pilot and his commander faced disciplinary action for trying to tear down

a Shi`a banner in Sadr City in Baghdad, an incident that provoked a violent clash with demonstrators on August 13.

Human Rights Watch conducted its own investigation into two of the five cases, and found evidence to suggest that soldiers had used excessive force, including shooting a person who had his hands in the air and beating a detainee. There are also many questionable civilian deaths for which no investigation had taken place. The most notable example is the killing of up to twenty people by the 82nd Airborne Division in Falluja on April 28 and 30, documented in a June 2003 Human Rights Watch report, *Violent Response: the U.S. Army in al-Falluja*.[27]

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 Division 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 in the year 2003 for which the specific US military unit is known:

**82nd Airborne Division**

- Mardan Muhammad Hassan and Farah Fadhil al-Janabi on September 1 in Mahmudiyya killed by soldiers from the 3rd Battalion, 505th Parachute Infantry Regiment.[28]
- Iraqi guards Ra`ad Fahd Shallal, Sa`id Majid Sa`dun and `Abbas `Uday `Abbas `Aday killed on July 10 in the al-Bayya` neighborhood.[29]
- Muhammad Subhi Hassan al-Qubaisi killed on June 26 in the Hay al-Jihad neighborhood.[30]
- `Uday Ahmad Mustafa killed on July 10 behind the Baya'a Police Station/al-Dora Patrol Station.[31]

**1st Armored Division**

- `Ali Muhsin, killed on August 11 by the 1st Battalion, 36th Infantry.[32]
- 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 3rd Brigade.[33]
- Izhar Mahmud Ridha killed on August 1 in the al-Mansur neighborhood by soldiers from the 3rd Brigade.[34]

• Soldiers from Alpha Company, 2nd Battalion, 3rd Field Artillery Regiment[35] 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.[36]

### *Recommendations*

Since late 2003, the US military has taken some steps to reduce civilian deaths in Iraq. Checkpoints became more clearly marked and combat troops received additional training for police tasks. Iraqi police and military were more frequently escorting US soldiers on raids, or conducting those raids themselves, and over the past year the Iraqi security forces have assumed the burden of policing tasks. Accountability has apparently improved after the abuse scandal at Abu Ghraib.

But more initiatives are required. One basic step is to continue improving the language and cultural training to teach soldiers hand gestures used and understood by Iraqis and essential Arabic words and phrases, which would minimize confusion at checkpoints or during raids.

The US military's 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.

US soldiers and other coalition forces should also be better 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.

To properly perform post-conflict policing, US soldiers need adequate supplies of non-lethal crowd control devices like tear gas and rubber bullets. Efforts to enhance communication with local communities should be intensified, starting with adequate provision of interpreters.

When civilian deaths do occur, they should be documented and investigated. 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.

Of central importance are prompt investigations of and punishment for all inappropriate or illegal use of force, as required under international law. In 2003 US soldiers operated with a large degree of impunity in Iraq. Knowledge that they will be held accountable will be a helpful restraint on the excessive, indiscriminate, or reckless use of lethal force.

## *Notes*

1. Between May 1 and September 30, 2003, 88 US soldiers were killed in hostile deaths and more than 800 wounded. During that time, there were also 94 non-hostile deaths and 197 non-hostile injuries among US troops. *See, e.g.,* Robert H. Reid, *One U.S. Soldier Killed in Iraq Bombing*, ASSOCIATED PRESS, Oct. 1, 2003, and Alex Berenson, *Roadside Bombs Kill 3 Soldiers and a Translator in Iraq*, NEW YORK TIMES, Oct. 7, 2003, at A18.
2. E-mail sent to Human Rights Watch from coalition press office on September 29, 2003.
3. HEARTS AND MINDS: POST-WAR CIVILIAN DEATHS IN BAGHDAD CAUSED BY U.S. FORCES, Oct. 2003, *available at* http://www.hrw.org/reports/2003/iraq1003/.
4. 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; 3) A local human rights group, The Human Rights Organization in Iraq, reported thirty-three cases of civilian casualties in Baghdad; 4) Western news media reported fifteen civilian deaths, but Human Rights Watch included only those deaths reported with a victim's name; 5) Other non-governmental organizations reported six civilian deaths; 6) US military press releases reported three civilians killed in two incidents, and the US Combined Joint Task Force 7 Judge Advocate General's office confirmed a fourth. Twenty-three deaths were reported by two or more sources, leaving a total of ninety-four.
5. Some media reported that on the same night US 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, Oct. 5, 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 US troops. *See also* Scheherezade Faramarzi, *Jittery U.S. Soldiers Firing in the Dark Kill Six Iraqis Trying to Get Home Before Curfew*, ASSOCIATED PRESS, Aug. 10, 2003, *available at* http://www.signonsandiego.com/news/world/iraq/20030810-1225-iraq-adeadlynight.html.
6. Human Rights Watch interview with Ra'ad `Ali Saied al-Azawi, Baghdad, Sept. 26, 2003.
7. Human Rights Watch interview with `Abbas Shihab Ahmad al-Amary, Baghdad, Sept. 26, 2003.
8. Human Rights Watch interviews with Ahmad Abdel Samad Fatuhi, Baghdad, Sept. 29 and Oct. 5, 2003.
9. Human Rights Watch interview with Muhammad Sa`d `Adil al-Bayati, Baghdad, Oct. 5, 2003.
10. Interview with `Abbas Shihab Ahmad al-Amary, *supra* note 7.
11. Interview with Muhammad Sa`d `Adil al-Bayati, *supra* note 9.
12. *Id.*
13. Interview with Ra'ad `Ali Saied al-Omran al-Azawi, *supra* note 6.
14. Human Rights Watch interview with Anwar Khdim Jawad, Baghdad, Sept. 26, 2003.
15. Interviews with Ahmad Abdel Samad Fatuhi, *supra* note 8.
16. Colonel Peter Mansoor was commander of the 1st Armored Division's 1st Brigade and Lieutenant Colonel William S. Rabena was commander of the 2nd Battalion, 3rd Field Artillery.
17. The receipt, viewed by Human Rights Watch, calls the money a "Solatia payment from CERP" and is from Captain Robert Brewer and ordered by Captain Casey D. Coyle.
18. Human Rights Watch interview with Colonel Marc Warren, Colonel Mike Kelly, and Major P. J. Perrone, Baghdad, Sept. 23, 2003.
19. Operation Iraqi Freedom After Action Review Comments, Apr. 24, 2003, *available at* http://www.strategypage.com/dls/articles/20030912.asp.

20. *Id.*
21. *Id.*
22. Interview with Second Lieutenant Andy Blickhahn 325th Airborne Infantry Regiment, 82nd Airborne Division, *available at* www.companyteam.army.mil, as of October 2003.
23. Lisa Burgess, *1AD Units Modify MOUT Training to Suit the Situation*, THE OLD IRONSIDES REPORT, Vol. I, Issue 20, Aug. 10, 2003.
24. *Id.*
25. Interview with Colonel Marc Warren, Colonel Mike Kelly and Major P.J. Perrone, *supra* note 18.
26. Coalition Provisional Authority Order 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, however, Order Number 17 was revised on June 27, 2004. Under Section 2, paragraph 3 of the revised regulation, "All MNF, CPA and Foreign Liaison Mission Personnel, and International Consultants shall be subject to the exclusive jurisdiction of their Sending States. They shall be immune from any form of arrest or detention other than by persons acting on behalf of their Sending States. . . ." Although the language has been revised, the effect is the same—coalition forces are not subject to Iraqi law.
27. VIOLENT RESPONSE: THE U.S. ARMY IN AL-FALLUJA, June 2003, *available at* http://www.hrw.org/reports/2003/iraqfalluja/.
28. HEARTS AND MINDS, *supra* note 4, at 26–9.
29. *Id.* at 29–31.
30. *Id.* at 33–4.
31. *Id.* at 23–6.
32. John Tierney, *How and Why did Iraqi Die? 2 Tales of Anger and Denial*, NEW YORK TIMES, Aug. 27, 2003, at A1.
33. HEARTS AND MINDS, *supra* note 4, at 31–3.
34. Gary Marx, *As Iraqis Die, Hate for U.S. Spreads*, CHICAGO TRIBUNE, Aug. 17, 2003, at 1.
35. Commander of the 2nd Battalion, 3rd Field Artillery is Lieutenant Colonel William S. Rabena.
36. *See* text accompanying notes 6–18. *See also* HEARTS AND MINDS, *supra* note 4, at 18–23.