

United States Senate

WASHINGTON, DC 20510

December 18, 2024

Robert Storch
Inspector General
Office of the Inspector General
United States Department of Defense
4800 Mark Center Drive
Alexandria, VA 20301

Dear Mr. Storch:

We write regarding deeply troubling reports that the Department of Defense (DoD) mishandled and continued to cover up alleged war crimes after U.S. Marines killed civilians in Haditha, Iraq, in 2005. We seek to understand whether DoD improperly withheld information from the public regarding this incident, and whether current DoD processes can ensure timely and complete investigations in response to reported instances of civilian harm.

DoD has repeatedly misled the public about what has come to be known as the “Haditha Massacre,” an incident in Haditha, Iraq in November 2005 in which 24 Iraqi civilians were killed.¹ Despite reports of civilian casualties, the Marine Corps failed to conduct an investigation until three months after the incident,² violating then-existing policy and law that required prompt reporting and thorough investigation.³ Lieutenant General Peter Chiarelli, Commander of U.S.-led forces in Iraq, at the time, was shocked that an investigation had not already occurred.⁴ As DoD’s subsequent Defense Legal Policy Board found, “[r]egardless of the motivations or accuracy of those who report U.S.- inflicted civilian casualties, it is essential to determine quickly and accurately the facts in each case and inform command” and if the command or local population believe “that U.S. forces may have improperly caused death or injury” there should be a “full administrative investigation” or referral to military criminal investigators.⁵ Initial military reports falsely described “improvised explosive devices” or “cross-fire between marines and attackers” as the cause of the civilian deaths only for a subsequent investigation to reveal

¹ KPBS, “Eight Marines Charged in Haditha Incident,” Alison St. John, December 21, 2006, <https://www.kpbs.org/news/2006/12/21/eight-marines-charged-in-haditha-incident>; ACLU, “ACLU to Seek Public Accountability in Haditha Investigations,” June 22, 2006, <https://www.aclu.org/press-releases/aclu-seek-public-accountability-haditha-investigations>.

² NBC News, “In Haditha killings, details came slowly,” Thomas E. Ricks, June 4, 2006, <https://www.nbcnews.com/id/wbna13124918>.

³ U.S. Department of Defense, Directive 5100.77, DoD Law of War Program, December 9, 1998, p. 2, document on file with the Office of U.S. Senator Elizabeth Warren.

⁴ NBC News, “In Haditha killings, details came slowly,” Thomas E. Ricks, June 4, 2006, <https://www.nbcnews.com/id/wbna13124918>; New York Times, “Contradictions Cloud Inquiry Into 24 Iraqi Deaths,” John M. Broder, June 17, 2006, <https://www.nytimes.com/2006/06/17/world/middleeast/17haditha.html>.

⁵ U.S. Department of Defense, Defense Legal Policy Board, Report of the Subcommittee on Military Justice in Combat Zones, “Military Justice in cases of U.S. Service members alleged to have caused the death, injury or abuse of non-combatants in Iraq or Afghanistan,” May 30, 2013, p. 76, <https://apps.dtic.mil/sti/tr/pdf/ADA585350.pdf>.

that several women and children were actually killed by close-proximity gunshot wounds.⁶ DoD’s later review – released almost eight years after the massacre in May 2013 – found that delayed reporting and investigations “made criminal charges hard to prove.”⁷

DoD’s 2013 review provided recommendations on how to improve and increase training at all levels and make other institutional corrections.⁸ Specifically, the review called for the appointment of a joint commander to “have a central role in the administration of military justice in a theater of operations” who is “ultimately responsible for conduct of his force” including “all forces, from every Service.”⁹ The DoD report also recommended expansion of a “battlefield ethics/lessons-learned training curriculum extrapolated from after action reports,” encouraging doctrine and deliberate planning to “require notice of civilian casualties to senior operational commands immediately,” directing “commanders to conduct an uncomplicated, prompt, initial fact-finding inquiry,” encouraging coordination with Military Criminal Investigation Organizations for support with investigations especially with “sensitive or high profile incidents such as civilian casualties,” and “amend[ing] the Manual for Courts-Martial to... detail the advantages of joint trial particularly in the deployed environment, and provide guidance for joint trials.”¹⁰

Even after that report, senior DoD leadership appeared to continue to cover up evidence of the massacre. In 2014, only one year after the DoD report was released, General Michael Hagee, the Marine Corps Commandant at the time of the Haditha killings, “bragged about keeping the Haditha photos secret.”¹¹ Those heartbreaking photographs of Iraqi civilians that appear to have been murdered in their homes, including women and children huddled on a bed in their pajamas with gunshot wounds to the head, paint a horrifying picture of what actually occurred that day when U.S. Marines methodically made their way through several Iraqi homes that were filled with families.¹² Congressional, military, and Pentagon officials reviewed the military investigation into the civilian deaths and found that “evidence indicates that the civilians were killed during a sustained sweep by a small group of [M]arines that lasted three to five hours and included shootings of five men standing near a taxi at a checkpoint, and killings inside at least two homes that included women and children.”¹³

⁶ New York Times, “Military to Report Marines Killed Iraqi Civilians,” May 26, 2006, Thom Shanker, Eric Schmitt, and Richard A. Opiel Jr., <https://www.nytimes.com/2006/05/26/world/middleeast/26haditha.html>.

⁷ U.S. Department of Defense, Defense Legal Policy Board, Report of the Subcommittee on Military Justice in Combat Zones, “Military Justice in cases of U.S. Service members alleged to have caused the death, injury or abuse of non-combatants in Iraq or Afghanistan,” May 30, 2013, p. 80, <https://apps.dtic.mil/sti/tr/pdf/ADA585350.pdf>.

⁸ *Id.*

⁹ *Id.*, pp. 3-4.

¹⁰ *Id.*, p. 5.

¹¹ New Yorker, In the Dark, “The Haditha Massacre Photos That the Military Didn’t Want the World to See,” August 27, 2024, Madeleine Baron, <https://www.newyorker.com/podcast/in-the-dark/the-haditha-massacre-photos-that-the-military-didnt-want-the-world-to-see>.

¹² *Id.*

¹³ New York Times, “Military to Report Marines Killed Iraqi Civilians,” May 26, 2006, Thom Shanker, Eric Schmitt, and Richard A. Opiel Jr., <https://www.nytimes.com/2006/05/26/world/middleeast/26haditha.html>.

DoD claimed it would not release the photographs due to concerns about the surviving family members of the Iraqis killed that day – but those same family members ultimately assisted journalists in obtaining and finally publishing them.¹⁴

This is not the only example of DoD intentionally withholding information on potential war crimes from the public. Following the Haditha killings and DoD’s slow drip of information, DoD denied *New Yorker* reporters’ formal Freedom of Information Act requests for DoD records of alleged war crimes in Iraq and Afghanistan since September 11, 2001.¹⁵ After four years of suing DoD under the Freedom of Information Act, “the agencies released enough documentation to [*New Yorker* staff] that, assisted by other source materials, [they] were able to put together a collection of seven hundred and eighty-one alleged war crimes, perpetrated against more than eighteen hundred alleged victims, that the U.S. military took seriously enough to investigate.”¹⁶ Of those, “at least sixty-five per[cent] had been dismissed by investigators who didn’t believe that a crime had even taken place” and with those that were “identified as warranting prosecution or punishment... meaningful accountability was rare.”¹⁷

Recent reporting by the *New Yorker* on the Haditha incident has disclosed additional details that were never acknowledged or addressed by DoD, including information on a five-year-old girl who had been shot in the head in one home.¹⁸ Her body was on a bed in a bedroom surrounded by the bodies of her three-year-old sister, five-year-old sister, eight-year-old brother, ten-year-old sister, and mother.¹⁹ Everyone on the bed was dressed in pajamas and had been shot and killed by Marines.²⁰ One Marine admitted to criminal investigators that he recognized that the people in the room were women and children before he began shooting and even “described seeing a child with short hair standing on the bed” and stated, “[k]nowing it was a kid, I still shot him.”²¹ Two teenage sisters knelt on the floor near the bed where their mother and four siblings were killed.²² The fifteen-year-old sister was shot to death by a Marine who had aimed his rifle under the bed and shot at them.²³ The other sister survived and told the *New Yorker* the harrowing details of that day.²⁴ In another home, a thirty-two-year-old mother, and her four-year-old-son were shot dead as they were kneeling in their living room; the mother’s “arm [was] around her son, perhaps in a final attempt to protect him” and the mother “appears to be injured in the upper back” while her son “was determined by military investigators to have a bullet wound in his

¹⁴ *New Yorker*, In the Dark, “The Haditha Massacre Photos That the Military Didn’t Want the World to See,” August 27, 2024, Madeleine Baron, <https://www.newyorker.com/podcast/in-the-dark/the-haditha-massacre-photos-that-the-military-didnt-want-the-world-to-see>.

¹⁵ *New Yorker*, In the Dark, “The War Crimes That The Military Buried,” Parker Yesko, September 10, 2024, <https://www.newyorker.com/podcast/in-the-dark/the-war-crimes-that-the-military-buried>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *New Yorker*, In the Dark, “The Haditha Massacre Photos That the Military Didn’t Want the World to See,” August 27, 2024, Madeleine Baron, <https://www.newyorker.com/podcast/in-the-dark/the-haditha-massacre-photos-that-the-military-didnt-want-the-world-to-see>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

head.”²⁵ Criminal investigators “concluded that the Marine who shot the four-year-old-boy was likely standing less than six feet away.”²⁶

We expect and require the U.S. military to uphold the law, rules, and ethics code that service members swear to obey. Ensuring fair and swift justice for any violations of the rules of war supports good order and discipline in the armed forces while also building trust with the American people and the international community. As DoD’s own review concluded, “the events that transpired in Haditha caused a public outcry that called into question the legitimacy of U.S. armed forces’ actions in Iraq and negatively affected the [counterinsurgency] mission.”²⁷

Almost 17 years after the Haditha killings, in August 2022, Defense Secretary Lloyd Austin approved and released the Civilian Harm Mitigation and Response Action Plan (CHMR-AP) —“an action plan that created new institutions and processes to strengthen DoD’s ability to mitigate civilian harm during military operations, thereby optimizing aspects of military operations and improving strategic outcomes.”²⁸ Objective six of the CHMR-AP is for DoD to establish processes to assist in “collecting and maintaining accurate information, reporting publicly and to Congress, and building trust.”²⁹ While the CHMR-AP is an important step to prevent harm and increase accountability, the Government Accountability Office found “some DoD component officials do not know what constitutes improvement.”³⁰

The 2013 DoD review of investigations into civilian deaths and prosecutions of DoD personnel accused of war crimes included several recommendations for changes to DoD’s policy on military justice for war zone investigations.³¹ We seek to understand DoD’s implementation of these policy changes, DoD’s current practices to investigate and report civilian harm, and whether they are equipped to better hold military personnel accountable. Please conduct a DoD IG investigation to answer the following questions by December 30, 2024:

1. Has DoD captured and integrated the effective and efficient reporting, investigative, and response procedures concerning civilian casualties used in Iraq and Afghanistan into joint doctrine and further implemented by Service regulations?³²

²⁵ *Id.*

²⁶ *Id.*

²⁷ U.S. Department of Defense, Defense Legal Policy Board, Report of the Subcommittee on Military Justice in Combat Zones, “Military Justice in cases of U.S. Service members alleged to have caused the death, injury or abuse of non-combatants in Iraq or Afghanistan,” May 30, 2013, p. 129, <https://apps.dtic.mil/sti/tr/pdf/ADA585350.pdf>.

²⁸ Lieber Institute West Point, Articles of War, “The New U.S. Department of Defense Instruction on Civilian Harm Mitigation and Response,” Dan E. Stigall, December 21, 2023, <https://lieber.westpoint.edu/new-us-department-defense-instruction-civilian-harm-mitigation-response/>.

²⁹ U.S. Department of Defense, Civilian Harm Mitigation and Response Action Plan (CHMR-AP), August 25, 2022, p. 17, <https://media.defense.gov/2022/Aug/25/2003064740/-1/-1/1/CIVILIAN-HARM-MITIGATION-AND-RESPONSE-ACTION-PLAN.PDF>.

³⁰ U.S. Government Accountability Office, Report to Congressional Committees, “CIVILIAN HARM, DoD Should Take Actions to Enhance Its Plan for Mitigation and Response Efforts,” March 2024, p. 28, <https://www.gao.gov/assets/870/867076.pdf>.

³¹ U.S. Department of Defense, Defense Legal Policy Board, Report of the Subcommittee on Military Justice in Combat Zones, “Military Justice in cases of U.S. Service members alleged to have caused the death, injury or abuse of non-combatants in Iraq or Afghanistan,” May 30, 2013, pp. 29-46, <https://apps.dtic.mil/sti/tr/pdf/ADA585350.pdf>.

2. Does DoD require deliberate planning for any campaign to include detailed joint guidance appropriate to the operating environment and area of operations for reporting through operational channels, investigations and UCMJ/administrative disposition of alleged or discovered incidents of civilian casualties from military operations?³³
3. Does DoD require deliberate planning for operations to include notice of civilian casualties to senior operational commanders immediately or as soon as circumstances permit, in a manner prescribed by the senior joint force commander?³⁴
 - a. Does DoD require that notification to be made at least to the first General Court-Martial Convening Authority (GCMCA) in the operational chain of command, and to the Geographic Combatant Commander?³⁵
4. When suitable operational environments and tactical considerations permit, are commanders required to conduct “uncomplicated,” prompt, initial fact-finding inquiries in civilian casualty cases to determine the readily available facts, likely cause, and extent of U.S. or coalition force involvement?³⁶
 - a. If so, what is the rate of compliance?
5. If a command-prescribed preliminary inquiry suggests that U.S. forces may have improperly caused death or injury, or it appears the local population or leadership believes this to be the case, does DoD require a full administrative investigation or referral to the relevant MICO, as appropriate?³⁷
 - a. If so, what is the rate of compliance?
6. Does DoD require administrative investigations of civilian casualty incidents to be conducted by teams from echelons above the unit involved in the incident or by teams from outside the unit’s immediate area of operations, at the discretion of the senior commander (O-6 or above) responsible for operations in the region or as directed by higher command authority?³⁸
 - a. If so, what is the rate of compliance?
7. Does DoD require initial inquiries into civilian casualty incidents to include a determination as to the extent and type of additional investigation required, as appropriate?³⁹
 - a. If so, what is the rate of compliance?
8. Does DoD require the assessment of whether a civilian casualty incident is a LOAC violation reportable under the DoD Law of War Program to be a separate determination from the civilian casualty report and investigation requirement?⁴⁰
 - a. If so, what is the rate of compliance?
 - b. Does DoD require the determination of a LOAC-reportable incident to be made at the command level directed by the responsible GCMCA, but at no lower level than an O-6 commander with a judge advocate on his or her staff?

³² U.S. Department of Defense, Defense Legal Policy Board, Report of the Subcommittee on Military Justice in Combat Zones, “Military Justice in cases of U.S. Service members alleged to have caused the death, injury or abuse of non-combatants in Iraq or Afghanistan,” May 30, 2013, p. 29, <https://apps.dtic.mil/sti/tr/pdf/ADA585350.pdf>.

³³ *Id.*, pp. 29-30.

³⁴ *Id.*, p. 30.

³⁵ *Id.*, p. 30.

³⁶ *Id.*, p. 30.

³⁷ *Id.*, p. 31.

³⁸ *Id.*, p. 31.

³⁹ *Id.*, p. 31.

⁴⁰ *Id.*, p. 31.

- c. Does DoD require commanders and MCIOs to de-conflict and coordinate concurrent command assessments and criminal investigations to ensure timely disposition of investigatory matters?⁴¹
 - d. Does DoD require commands to consider how criminal investigations will be coordinated as part of the Joint Planning Process?
- 9. Does DoD require training on battlefield ethics/lessons-learned training extrapolated from after action reports during all levels of professional military education, formal and informal schooling, exercises, and unit training?
 - a. If so, what is the rate of compliance?
- 10. Does DoD train ethical leadership to the lowest level in garrison and throughout deployments?⁴²
 - a. If so, what is the rate of compliance?
- 11. Did DoD reassess the DoD Law of War Program to ensure currency and consistency with best practices?⁴³
 - a. If so, what is the rate of compliance?
- 12. Does DoD require campaign planning to address communications with non-government organizations (NGOs) in the area of operations?⁴⁴
 - a. If so, what is the rate of compliance?
- 13. Did DoD remove from current joint doctrine the default that disciplinary authority shall be exercised by Service component commanders and instead specify in joint doctrine that discipline is the responsibility of joint force commanders at all levels?⁴⁵
 - a. If so, what is the rate of compliance?
- 14. Does DoD require the joint force commander to determine and prescribe the military justice jurisdictional responsibility in the area of operations, during the joint-planning process?⁴⁶
 - a. If so, what is the rate of compliance?
- 15. Does DoD require deployment orders to prescribe at least concurrent joint force command UCMJ authority with the Service component commander over forces which operational control (OPCON) passes or that are physically in the area of operation?⁴⁷
 - a. If so, what is the rate of compliance?
- 16. Did DoD review the sourcing of joint staffs and joint task forces and how Service component commands support the joint force commander (JFC) to consider alternatives for supporting joint convening authorities, to include assignment or temporary attachment of personnel to the joint headquarters, and designation of a Service component to support the joint convening authority?⁴⁸
 - a. If so, what is the rate of compliance?

⁴¹ *Id.*, p. 32.

⁴² *Id.*, p. 33.

⁴³ *Id.*, p. 33.

⁴⁴ *Id.*, p. 34.

⁴⁵ *Id.*, p. 34.

⁴⁶ *Id.*, p. 35.

⁴⁷ *Id.*, p. 35.

⁴⁸ *Id.*, p. 36.

17. Did DoD's joint doctrine clarify that the joint force commander may prescribe guidelines for subordinate commanders to report the progress of investigations and prosecutions for civilian casualties?⁴⁹
 - a. If so, what is the rate of compliance?
18. Was Article 2, UCMJ, amended to allow for jurisdiction over all U.S. government contractors on the battlefield, regardless of U.S. government departmental affiliation?⁵⁰
 - a. If so, what is the rate of compliance?
19. Does DoD require all contractors entering the operational environment to receive appropriate battlefield ethics training, as a term of their contract?⁵¹
 - a. If so, what is the rate of compliance?
20. Does DoD require contractors to notify commanders of incidents and respond to Commander's Critical Information Requirements (CCIR), especially when they are involved in civilian incidents that occur in a commander's battlefield space, as a term of their contract?
 - a. If so, what is the rate of compliance?
21. Did DoD develop a mechanism to ensure that contracting officers inform commanders of contractor presence and contract terms and processes to respond to contractor misconduct?⁵²
 - a. If so, what is the rate of compliance?
22. Does DoD joint doctrine and planning guidance address MCIO support that provides timely and effective investigation processes to sensitive and high-profile incidents such as civilian casualties in the current or anticipated operational environment?⁵³
 - a. If so, what is the rate of compliance?
23. Does DoD doctrine and operational planning provide for a certified forensics capability close to the area of operations to better support criminal investigations, particularly those involving civilian casualties?⁵⁴
 - a. If so, what is the rate of compliance?
24. Does DoD joint doctrine establish a process to ensure that appropriate MCIO expert investigative capabilities, regardless of Service, can respond immediately to augment assets in the area of operations to cases involving potentially criminal civilian deaths or injuries?⁵⁵
 - a. If so, what is the rate of compliance?
25. Does DoD joint and Service doctrine and planning include a preference for trials forward—in a deployed environment—when practicable?
 - a. If so, what is the rate of compliance?
26. Does DoD require a determination to be made, during the joint planning process, as to when additional legal support will be needed to support battalion, or equivalent level deployed operations?⁵⁶
 - a. If so, what is the rate of compliance?

⁴⁹ *Id.*, p. 36.

⁵⁰ *Id.*, p. 37.

⁵¹ *Id.*, p. 37.

⁵² *Id.*, p. 37.

⁵³ *Id.*, p. 38.

⁵⁴ *Id.*, p. 39.

⁵⁵ *Id.*, p. 39.

⁵⁶ *Id.*, p. 39.

27. Did DoD establish litigation resources to support the prosecution and defense of complex civilian casualty cases, or similar high-profile cases?⁵⁷
 - a. In doing so, did DoD consider maintaining continuity of counsel, when possible, for the duration of major cases while ensuring this does not adversely affect the counsels' potential for professional development and promotion?
 - i. If so, what is the rate of compliance?
 - b. Did DoD review personnel policies as they relate to trial and defense counsel, and other court personnel, who may become involved in complex long-running cases involving civilian casualties to ensure protection from adverse career impacts?
 - c. If so, what is the rate of compliance?
 - d. Did DoD implement specialized trial advocacy and investigative training for judge advocates involved with civilian casualty cases arising in a deployed environment?
 - i. If so, what is the rate of compliance?
 - e. Are Services required to consider methods of pooling military judges and defense counsel, or managing them across the Services because timely and effective military justice depends on their initial and continuing availability?
 - i. If so, what is the rate of compliance?
28. Does DoD require deliberate planning processes to consider establishing pretrial confinement facilities close to the area of operations?⁵⁸
 - a. If so, what is the rate of compliance?
29. Has DoD created an administrative investigation central repository for GCMCA command directed investigations concerning civilian casualties and other investigations concerning civilian casualties it deems necessary to retain?⁵⁹
 - a. If so, what is the rate of compliance?
30. Was the Manual for Courts-Martial (MCM) amended to strike the preference for liberal treatment of motions to sever and allow prosecutors the discretion to examine the facts and circumstances of individual cases to determine when and if a joint trial is desirable?⁶⁰
 - a. If so, what is the rate of compliance?
 - b. If not, does DoD require senior judge advocate leaders to review current training and policy with a view towards encouraging greater use of joint trials even under the existing MCM guidelines?
31. Did DoD review whether increased uniformity in non-judicial processes across Services, such as the standard of proof for Article 15, UCMJ, is appropriate?⁶¹
 - a. If so, what is the rate of compliance?
32. Did DoD develop doctrine to care for, support, and inform victims and witnesses in cooperation with available Host Nation institutions in deployed environments, particularly local nationals in civilian casualty cases?⁶²
 - a. If so, what is the rate of compliance?
33. Did DoD develop an informational leaflet or handout relating to the judicial process for family members of those accused of crimes?

⁵⁷ *Id.*, p. 40.

⁵⁸ *Id.*, p. 41.

⁵⁹ *Id.*, p. 41.

⁶⁰ *Id.*, p. 42.

⁶¹ *Id.*, p. 43.

⁶² *Id.*, p. 43.

- a. If so, what is the rate of compliance?
34. Was the UCMJ amended to permit alternatives to live testimony at trial in cases arising in a combat environment when non-military witnesses refuse to provide in-person testimony, and when witnesses are not reasonably available?⁶³
 - a. If so, what is the rate of compliance?
35. Was the MCM amended to authorize a convening authority to transfer convening authority functions to another convening authority's jurisdiction after a case has been referred to trial?⁶⁴
 - a. If so, what is the rate of compliance?
36. Does DoD doctrine include the use of a Consolidated Disposition Authority to exercise convening authority over geographically dispersed accused when cases or accused return to continental United States (CONUS)?⁶⁵
 - a. If so, what is the rate of compliance?
37. Did DoD review how search warrant authority can be acquired to permit military Services to quickly and efficiently obtain electronic communications and records without lengthy Department of Justice involvement?⁶⁶
 - a. If so, what is the rate of compliance?
38. To increase accountability amongst leaders for failing to appropriately respond to civilian casualty incidents, was the MCM amended to increase the maximum punishment for dereliction of duty to ensure appropriate sanctions in civilian casualty cases?⁶⁷
 - a. If so, what is the rate of compliance?
39. Has DoD developed uniform guidelines for the release of information concerning administrative sanctions imposed on service members?⁶⁸
 - a. If so, what is the rate of compliance?
40. Has DoD routinely met with the International Committee of the Red Cross (ICRC) to solicit views and provide feedback about ICRC global initiatives?⁶⁹
 - a. If so, what is the rate of compliance?
41. Has DoD continued to invite the ICRC to participate in Laws of Armed Conflict (LOAC) training during pre-deployment mission rehearsal exercises?
 - a. If so, what is the rate of compliance?
42. Do Military Criminal Investigative Organizations (MCIOs) regularly report progress to the joint force commander, as well as within their respective Service channels?
 - a. If so, what is the rate of compliance?
43. Do operational commanders make timely support of MCIO investigations a priority?
 - a. If so, what is the rate of compliance?
44. Does DoD continue to pay compensation to victims in the deployed environment quickly and in accordance with existing doctrine?
 - a. If so, what is the rate of compliance?

⁶³ *Id.*, p. 44.

⁶⁴ *Id.*, p. 44.

⁶⁵ *Id.*, p. 44.

⁶⁶ *Id.*, p. 45.

⁶⁷ *Id.*, p. 45.

⁶⁸ *Id.*, p. 46.

⁶⁹ U.S. Department of Defense, Defense Legal Policy Board, Report of the Subcommittee on Military Justice in Combat Zones, "Military Justice in cases of U.S. Service members alleged to have caused the death, injury or abuse of non-combatants in Iraq or Afghanistan," May 30, 2013, p. 46, <https://apps.dtic.mil/sti/tr/pdf/ADA585350.pdf>.

45. Do convening authorities conduct combined Article 32, UCMJ preliminary trial hearings for several service members when their underlying misconduct arises from the same series of events?
 - a. If so, what is the rate of compliance?
46. Are preliminary inquiries conducted in every civilian casualty incident involving death or serious injury?⁷⁰
 - a. If so, what is the rate of compliance?
47. Did DoD improperly withhold information from the public regarding the civilian killings in Haditha, Iraq in 2005?
 - a. If so, what was the justification for withholding this information and has it been released?
48. Does DoD maintain a central repository for cases involving civilian casualties and suspected violations of LOAC, and require the Defense Intelligence Agency and Combatant Commanders to maintain records in compliance with Department of Defense Directive 2311.01?⁷¹
 - a. If so, how complete is the central repository?
 - b. Does DoD require each Service to submit documents and maintain records to ensure the database is current and complete?
 - i. What is the rate of compliance for each Service?

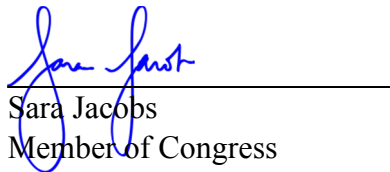
Sincerely,



Elizabeth Warren
United States Senator



Chris Van Hollen
United States Senator



Sara Jacobs
Member of Congress

⁷⁰ *Id.*, p. 47.

⁷¹ U.S. Department of Defense, Directive 2311.01, DoD Law of War Program, July 2, 2020, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/231101p.pdf?ver=2020-07-02-143157-007>.