

The State Department addressed China's comment that the UUV posed a threat to the safety of navigation:

First of all, [the UUV] was identified. It's—I think it says U.S. Navy right on the side of it. I can check, but I'm pretty sure it does. But there's no dispute about who it belonged to, and while it might not be manned, it was being operated remotely by U.S. Naval personnel and research scientists on the *Bowditch*, the ship that—from which it was operating.

So look, . . . while this might be an interesting discussion to have, it's kind of a waste of your time and mine, okay? The UUV belonged to the United States Navy, it was operating in international waters in accordance with international law, it was doing research—valuable scientific research—there was no threat to navigation, it was never just off on its own. I mean, it wasn't like they weren't monitoring what it was doing, right? It . . . didn't decide to just go rogue and . . . become a problem for navigation. So this is an academic exercise that's going to be fruitless for both you and me. It belongs to the United States and we're glad we have it back, it should never have been taken in the first place, end of story.²⁰

INTERNATIONAL CRIMINAL LAW

International Criminal Court Prosecutor Recommends Investigation of Potential War Crimes in Afghanistan, Including Actions by U.S. Military and Central Intelligence Agency
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On November 14, 2016, the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) released its annual Report on Preliminary Examination Activities (the Report).¹ The Report contained the OTP's updates on preliminary examinations of several situations, including in Afghanistan.² Of particular note, the OTP announced that it had identified a reasonable basis to seek Pre-Trial Chamber authorization for an investigation into allegations of war crimes committed by the United States—primarily from 2003 to 2004, but in some cases as recently as December 2014.³

The OTP's examination has focused on the conflict that began in Afghanistan in late 2001. At that time, a "United States-led coalition launched air strikes and ground operations in Afghanistan against the Taliban," eventually ousting that regime from power.⁴ In May–June 2002, "a new transitional Afghan government regained sovereignty" and worked to establish order, aided by the International Security Assistance Force (ISAF).⁵ Despite those efforts, the Taliban regained influence between 2003 and 2005.⁶ As a result, armed conflict between Afghan and international military forces and organized armed groups—most

²⁰ U.S. Dep't of State Press Release, Daily Press Briefing (Dec. 20, 2016), at <https://2009-2017.state.gov/r/pa/prs/dpb/2016/12/265846.htm>.

¹ See generally OFFICE OF THE PROSECUTOR, INT'L CRIM. CT., REPORT ON PRELIMINARY EXAMINATION ACTIVITIES (2016) (Nov. 14, 2016), available at https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE_ENG.pdf.

² See *id.*, paras. 17–20.

³ See *infra* notes 18–21 and corresponding text (describing allegations in more detail).

⁴ *Id.*, para. 195.

⁵ *Id.* The ISAF was established by the UN Security Council in Resolution 1386, and later came under NATO command. *Id.*

⁶ See *id.*, para. 196.

notably the Taliban, the Haqqani Network, and Hezb-e-Islami Gulbuddin—persisted throughout the country between May 2005 and December 2014.⁷

The ICC “may exercise its jurisdiction” over Rome Statute crimes if “[t]he State on the territory of which the conduct in question occurred” is a party to the statute.⁸ The ICC therefore has jurisdiction over crimes committed in Afghanistan after May 1, 2003, since Afghanistan did not deposit its instrument of ratification to the Rome Statute until February 10, 2003.⁹ However, some crimes may have occurred in Poland, Lithuania, and Romania, as “individuals captured in the context of the armed conflict in Afghanistan, such as presumed members of the Taliban or Al Qaeda, were allegedly transferred to detention centres located in those countries.”¹⁰ The ICC has jurisdiction over crimes committed in Poland and Romania after July 1, 2002, and in Lithuania after August 1, 2003.¹¹ Accordingly, the OTP could examine crimes committed in those countries after those dates, as long as those crimes were “sufficiently linked to the situation in Afghanistan.”¹²

The OTP’s Report considered a series of challenges to actions taken by the Taliban, Afghan government forces, and U.S. military forces. The OTP “has received 112 communications [from sources not specified in the Report] pursuant to Article 15 in relation to the situation in Afghanistan.”¹³ Before the OTP can ask the Pre-Trial Chamber to authorize a full-dress “investigation,” it must first “determine whether there is a reasonable basis to proceed with an investigation into the situation,”¹⁴ taking into account the three factors identified in the Rome Statute: jurisdiction, admissibility, and the interests of justice.¹⁵ If the OTP then files a request for authorization with the Pre-Trial Chamber, and if the Chamber likewise finds that “there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court,” then it “shall authorize the commencement of the investigation.”¹⁶

The OTP Report makes clear that the first step in this process has now taken place. Specifically, with respect to the United States, the Office determined:

... that there is a reasonable basis to believe that, at a minimum, the following crimes within the [ICC]’s jurisdiction have occurred:

...

⁷ See *id.*

⁸ Rome Statute of the International Criminal Court, Art. 12, para. 2(a), July 17, 1998, 2187 UNTS 3 [hereinafter Rome Statute].

⁹ OFFICE OF THE PROSECUTOR, *supra* note 1, para. 193; see also Rome Statute, *supra* note 8, Art. 126, para. 2 (addressing ratification and entry into force).

¹⁰ OFFICE OF THE PROSECUTOR, *supra* note 1, paras. 199–200.

¹¹ *Id.*, para. 194.

¹² *Id.*, para. 200.

¹³ *Id.*, para. 192.

¹⁴ *Id.*, para. 3; see also Rome Statute, *supra* note 8, Art. 15(3) (“If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected.”).

¹⁵ Rome Statute, *supra* note 8, Art. 53, para. 1(a)–(c). Admissibility requires consideration of two separate factors. OFFICE OF THE PROSECUTOR, *supra* note 1, para. 5. The first, complementarity, “involves an examination of the existence of relevant national proceedings in relation to the potential cases being considered for investigation by the [OTP].” *Id.*, para. 6. The second, gravity, “includes an assessment of the scale, nature, manner of commission of the crimes, and their impact, bearing in mind the potential cases that would likely arise from an investigation of the situation.” *Id.*, para. 7.

¹⁶ Rome Statute, *supra* note 8, Art. 15(4).

(c) War crimes of torture and related ill-treatment, by US military forces deployed to Afghanistan and in secret detention facilities operated by the Central Intelligence Agency, principally in the 2003–2004 period, although allegedly continuing in some cases until 2014.¹⁷

The Report then elaborated on the crimes within the ICC’s jurisdiction that the U.S. military forces might have committed. Discussing crimes committed by Afghan government authorities, the Report noted that

[m]ultiple sources have reported on the prevalence of torture in Afghan government detention facilities, including the Afghanistan Independent Human Rights Commission, UNAMA, and a fact-finding commission appointed by the President of Afghanistan in 2013. This conduct reflects a pattern of alleged criminality . . . for which a state of total impunity persists. At present, an estimated 35–50% of conflict-related detainees may be subjected to torture in Afghan detention facilities.¹⁸

Regarding U.S. actors, the Report stated:

The information available provides a reasonable basis to believe that, in the course of interrogating these detainees, and in conduct supporting those interrogations, members of the US armed forces and the . . . CIA . . . resorted to techniques amounting to the commission of the war crimes of torture, cruel treatment, outrages upon personal dignity, and rape.

These acts are punishable under articles 8(2)(c)(i) and (ii) and 8(2)(e)(vi)¹⁹ of the [Rome] Statute. Specifically:

- Members of US armed forces appear to have subjected at least 61 detained persons to torture, cruel treatment, outrages upon personal dignity on the territory of Afghanistan between 1 May 2003 and 31 December 2014. The majority of the abuses are alleged to have occurred in 2003–2004.
- Members of the CIA appear to have subjected at least 27 detained persons to torture, cruel treatment, outrages upon personal dignity and/or rape on the territory of Afghanistan and . . . Poland, Romania and Lithuania . . . between December 2002 and March 2008. The majority of the abuses are alleged to have occurred in 2003–2004.

These alleged crimes were not the abuses of a few isolated individuals. Rather, they appear to have been committed as part of approved interrogation techniques in an attempt to extract “actionable intelligence” from detainees. According to information available, the resort to such interrogation techniques was ultimately put to an end by the authorities concerned, hence the limited time-period during which the crimes allegedly occurred.

The O[TP] considers that there is a reasonable basis to believe these alleged crimes were committed in furtherance of a policy or policies aimed at eliciting information through

¹⁷ OFFICE OF THE PROSECUTOR, *supra* note 1, para. 198; *see also* Rome Statute, *supra* note 8, Art. 5, para. 1(b)–(c) (noting that “[c]rimes against humanity” and “[w]ar crimes” fall within the ICC’s jurisdiction).

¹⁸ OFFICE OF THE PROSECUTOR, *supra* note 1, para. 208.

¹⁹ [Editors’ note: These provisions define “war crimes” to include, respectively, “[v]iolence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture”; “[c]ommitting outrages upon personal dignity, in particular humiliating and degrading treatment”; and “[c]ommitting rape, sexual slavery, enforced prostitution, forced pregnancy, . . . enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions.” Rome Statute, *supra* note 8, Art. 8, para. 2(c)(i)–(ii), (e)(vi).]

the use of interrogation techniques involving cruel or violent methods which would support US objectives in the conflict in Afghanistan. Likewise, there is a reasonable basis to believe that all the crimes identified herein have a nexus to the Afghanistan conflict.²⁰

According to the Report, the allegations rose to the level required to satisfy both elements of admissibility:²¹

Complementarity: US civilian and military courts can exercise their jurisdiction over conduct that would constitute a crime within ICC subject-matter jurisdiction (i.e. war crimes, crimes against humanity, and genocide), when committed abroad by US nationals.

In its most recent response to the Committee Against Torture . . . , the US indicated that “more than 70 investigations concerning allegations of detainee abuse by military personnel in Afghanistan conducted by the Department [of Defence] resulted in trial by courts-martial, close to 200 investigations of detainee abuse resulted in either non-judicial punishment or adverse administrative action, and many more were investigated and resulted in action at a lower level.” Specific public information on the incidents and persons forming the subject of those proceedings is, however, limited. According to the information available, the [OTP] was unable to identify any individual in the armed services prosecuted by courts martial for the ill-treatment of detainees within the Court’s temporal and territorial jurisdiction. The vast majority of investigations and prosecutions relating to detainee ill-treatment were for conduct in Iraq. A small number of court martial proceedings (7) were for ill-treatment in Afghanistan that took place in 2002.

The Department of Justice conducted a two-year preliminary review (from August 2009 to June 2011) of allegations related to the abuse of detainees in the custody of the . . . CIA . . . , which reviewed allegations regarding the ill-treatment of 101 detainees. According to the information available, the scope of this review appears to have been limited to investigating whether any unauthorised interrogation techniques were used by CIA interrogators, and if so, whether such conduct could constitute violations of any applicable criminal statutes. In his public statements about those proceedings, the US Attorney General further emphasized that “the Department of Justice . . . will not prosecute anyone who acted in good faith and within the scope of the legal guidance given by the Office of Legal Counsel regarding the interrogation of detainees.” As a result of the review, the Attorney-General conducted full criminal investigations only into the cases of two detainees who had died in CIA custody. Both investigations were completed in August 2012 and did not result in any indictments or prosecutions because, according to the Attorney-General, “the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt.”²²

While proceedings appear to have been limited to the conduct of interrogators and to incidents where interrogation methods were not authorised at the time, the O[TP] is seeking to obtain further clarifications on the scope of relevant preliminary reviews and investigations before finalising its determination on the admissibility of the related potential cases.

Criminal investigations are reportedly on-going in Poland, Romania and Lithuania regarding alleged crimes committed in relation to the CIA detention facilities on their respective territories. The information available has not allowed the O[TP] to discern the actual contours of such national cases, such that their scope could be said to cover the potential cases under the analysis.

Gravity: There is specific information indicating that at least 88 persons in US custody were allegedly tortured. The information available suggests that victims were deliberately subjected to

²⁰ OFFICE OF THE PROSECUTOR, *supra* note 1, paras. 211–13.

²¹ See *supra* note 15 (discussing complementarity and gravity components of admissibility).

²² See generally U.S. Dep’t of Justice Press Release, Statement of Attorney General Eric Holder on Closure of Investigation into the Interrogation of Certain Detainees (Aug. 30, 2012), at <https://www.justice.gov/opa/pr/statement-attorney-general-eric-holder-closure-investigation-interrogation-certain-detainees> (providing more details about the background and results of the investigation, which was conducted by Assistant U.S. Attorney John Durham).

physical and psychological violence, and that crimes were allegedly committed with particular cruelty and in a manner that debased the basic human dignity of the victims. The infliction of “enhanced interrogation techniques,” applied cumulatively and in combination with each other over a prolonged period of time, would have caused serious physical and psychological injury to the victims. Some victims reportedly exhibited psychological and behavioural issues, including hallucinations, paranoia, insomnia, and attempts at self-harm and self-mutilation. The gravity of the alleged crimes is increased by the fact that they were reportedly committed pursuant to plans or policies approved at senior levels of the US government, following careful and extensive deliberations.²³

The Report then indicated that “[t]he O[TP] is concluding its assessment of factors set out in Article 53(1)(a)-(c), and will make a final decision on whether to request the Pre-Trial Chamber authorisation to commence an investigation into the situation in the Islamic Republic of Afghanistan since 1 May 2003, imminently.”²⁴

The United States’ response to the Report was brief. The day after the release of the Report, State Department Press Office Director Elizabeth Trudeau stated that the United States “do [es] not believe that an ICC examination or investigation with respect to the actions of U.S. personnel in relation to the situation in Afghanistan is warranted or appropriate.”²⁵ She gave two reasons for this position. First, “the United States is not a party to the Rome Statute and has not consented to ICC jurisdiction.”²⁶ Second, the United States “ha[s] a robust system of accountability.”²⁷ It has

supported ICC investigations and prosecution of cases that we believe advance our values in accordance with U.S. law. . . . [B]ut we hold ourselves to the highest possible standards [W]e believe that we have national systems of accountability that are more than sufficient.²⁸

Moreover, according to Trudeau, the United States had “extensively examined the conduct of our own forces in Afghanistan,” and “[i]n many cases, people were held accountable.”²⁹

²³ OFFICE OF THE PROSECUTOR, *supra* note 1, paras. 219–24.

²⁴ *Id.*, para. 230.

²⁵ U.S. Dep’t of State Press Release, Daily Press Briefing by Elizabeth Trudeau (Nov. 15, 2016), at <https://2009-2017.state.gov/r/pa/prs/dpb/2016/11/264350.htm>.

²⁶ *Id.* Trudeau did not elaborate on the basis for this assertion regarding ICC jurisdiction.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* Worth recalling in this regard is President Obama’s Executive Order 13491, issued on January 22, 2009. See Exec. Order No. 13,491, 3 C.F.R. §199 (2009). That order made three primary changes to the United States’ interrogation program. First, it revoked Executive Order 13440, issued by President Bush, which had identified the acceptable “conditions of confinement and interrogation practices . . . to be used with an alien detainee who [wa]s determined . . . to be a member or part of or supporting al Qaeda, the Taliban, or associated organizations,” such that “a program of detention and interrogation approved by the Director of the C[IA] [would] fully compl[y] with the obligations of the United States under Common Article 3 [of the Geneva Conventions].” Exec. Order No. 13,440 §3(b), 3 C.F.R. §229, 230 (2007). Second, the order required:

Consistent with the requirements of the Federal torture statute, 18 U.S.C. 2340–2340A, section 1003 of the Detainee Treatment Act of 2005, 42 U.S.C. 2000dd, the Convention Against Torture [and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, 1465 U.N.T.S. 85, S. Treaty Doc. No. 100–20 (1988)], Common Article 3, and other laws regulating the treatment and interrogation of individuals detained in any armed conflict, such persons shall in all circumstances be treated humanely and shall not be subjected to violence to life and person (including murder of all kinds, mutilation, cruel treatment, and torture), nor to outrages upon personal dignity (including humiliating and degrading treatment), whenever such individuals are in the custody or under the effective control of an officer, employee, or other agent of the United States Government or detained within a facility owned, operated, or controlled by a department or agency of the United States.

In addition, the United States has entered into bilateral immunity agreements (BIAs) with numerous countries in order to “ensure that U.S. persons will not be surrendered to the I[CC] without [the United States’] consent.”³⁰ Of the countries referenced in the Report as possible locations for U.S. war crimes, only Afghanistan has a BIA with the United States.³¹ That agreement states that, “[b]earing in mind Article 98 of the Rome Statute,” among other obligations, “[p]ersons of one Party present in the territory of the other shall not, absent the expressed consent of the first Party, be surrendered or transferred by any means to the I [CC] for any purpose.”³² Article 98(2), in turn, indicates that the ICC

may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the [ICC], unless the [ICC] can first obtain the cooperation of the sending State for the giving of consent for the surrender.³³

However, the proper interpretation of that provision remains in dispute, and it is unclear how the BIA with Afghanistan would affect the ICC’s jurisdiction.³⁴

It remains unclear whether any investigation will actually take place. Even after the OTP determines that there is a reasonable basis to proceed with an investigation, it must submit a request to the Pre-Trial Chamber for authorization—which, as noted, it has not yet done.³⁵

Exec. Order No. 13,491 §3(a), 3 C.F.R. §199, 200. In addition, the order stated that “an individual in the custody or under the effective control of an officer, employee, or other agent of the United States Government, or detained within a facility owned, operated, or controlled by a department or agency of the United States, in any armed conflict, shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in Army Field Manual 2–22.3.” *Id.* §3(b), 3 C.F.R. §199, 200–01. Third, the order indicated that “[t]he CIA shall close as expeditiously as possible any detention facilities that it currently operates and shall not operate any such detention facility in the future.” *Id.* §4(a), 3 C.F.R. §199, 201.

³⁰ U.S. Dep’t of State Press Release, U.S. Signs 100th Article 98 Agreement (May 3, 2005), at <https://2001-2009.state.gov/r/pa/prs/ps/2005/45573.htm>.

³¹ See *Resources: Bilateral Immunity Agreement Campaign*, AM. NON-GOVERNMENTAL ORGS. COAL. FOR THE INT’L CRIM. CT., at <http://www.amicc.org/bilateral-immunity-agreements>. That BIA was signed on September 20, 2002, Agreement Regarding the Surrender of Persons to the International Criminal Court, U.S.-Afghanistan, Aug. 23, 2003, Temp. State Dep’t No. 03-119, KAV 6308, available at <https://www.state.gov/documents/organization/183325.pdf> [hereinafter Afghanistan BIA], and it is still in force, see U.S. DEP’T OF STATE, TREATIES IN FORCE: A LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES IN FORCE ON JANUARY 1, 2016 2, available at <https://www.state.gov/documents/organization/267489.pdf>. The United States also executed a BIA with Romania on August 1, 2002. Philip T. Reeker, *Press Statement, U.S. and Romania Sign Article 98 Agreement*, U.S. DEPT. OF STATE (Aug. 1, 2002), at <https://2001-2009.state.gov/r/pa/prs/ps/2002/12393.htm>. However, it appears that the United States does not currently view that BIA as being in force. See U.S. DEP’T OF STATE, TREATIES IN FORCE, *supra*, at 370–73 (listing agreements in force with Romania).

³² Afghanistan BIA, *supra* note 31, at 1.

³³ Rome Statute, *supra* note 8, Art. 98, para. 2; see also *id.* Art. 89, para. 1 (“States Parties shall, in accordance with the provisions of . . . Part [IX of the Statute] and the procedure under their national law, comply with requests for arrest and surrender.”).

³⁴ See Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States Relating to International Law*, 108 AJIL 547, 549–50 (2014) (summarizing background and criticism of United States’ use of BIAs); see also EMILY C. BARBOUR & MATTHEW C. WEED, THE INTERNATIONAL CRIMINAL COURT (ICC): JURISDICTION, EXTRADITION, AND U.S. POLICY 7–10 (Mar. 16, 2010), available at <https://fas.org/sgp/crs/row/R41116.pdf> (discussing possible effects of BIAs with respect to Rome Statute provisions).

³⁵ See Rome Statute, *supra* note 8, Art. 15, paras. 3–4. The Pre-Trial Chamber applies the same factors as the OTP in deciding whether to authorize the investigation. It has interpreted the reasonable basis standard to require “a sensible or reasonable justification for a belief that a crime falling within the jurisdiction of the Court ‘has been or is being committed.’” Situation in the Republic of Kenya, Case No. ICC-01/09-19-Corr, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, para. 35 (Mar. 31, 2010).

The Chamber has approved all three previous investigative requests from the OTP, regarding situations in Kenya, Cote d'Ivoire, and Georgia.³⁶ However, the Chamber's review can take several months, and the judges might request more information from the OTP before making a decision.³⁷ Neither the ICC nor the OTP have made any indications since the Report was released that an investigation of the situation in Afghanistan is forthcoming.

USE OF FORCE AND ARMS CONTROL

United States Strikes Houthi-Controlled Facilities in Yemen, Reaffirms Limited Support for Saudi-Led Coalition Notwithstanding Growing Concerns About Civilian Casualties
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Since March 2015, the United States has supported a Saudi-led military coalition fighting a Houthi insurgency that seized control of Yemen's capital and governmental institutions in 2014.¹ At the request of ousted Yemeni President Abdo Rabbo Mansour Hadi, the Saudi-led coalition launched an air campaign in Yemen to "defend Saudi Arabia's border and to protect Yemen's legitimate government."² To support these efforts, President Obama authorized the "provision of logistical and intelligence support to [coalition] military operations" and the establishment of a "Joint Planning Cell with Saudi Arabia to coordinate U.S. military and intelligence support."³ The United States has disclaimed any direct offensive role in the conflict⁴ while acknowledging that it has provided support by refueling coalition warplanes,⁵ supplying targeting intelligence,⁶ and sending U.S. military personnel to assist the planners of the coalition's air campaign.⁷

³⁶ David Bosco, *Exclusive: International Criminal Court Poised to Open Investigation into War Crimes in Afghanistan*, FOREIGN POLICY (Oct. 31, 2016), at <http://foreignpolicy.com/2016/10/31/exclusive-international-criminal-court-poised-to-open-investigation-into-war-crimes-in-afghanistan/>.

³⁷ *Id.*

¹ U.S. Dep't of State, Fact Sheet: U.S. Relations with Yemen (Feb. 2, 2017), at <https://www.state.gov/r/pa/ei/bgn/35836.htm>.

² White House Press Release, Statement by NSC Spokesperson Bernadette Meehan on the Situation in Yemen (Mar. 25, 2015), at <https://obamawhitehouse.archives.gov/the-press-office/2015/03/25/statement-nsc-spokesperson-bernadette-meehan-situation-yemen>.

³ *Id.*

⁴ *Id.* (stating that "U.S. forces are not taking direct military action in Yemen in support of this effort").

⁵ E.g., Matthew Rosenberg & Mark Mazzetti, *U.S. Ship off Yemen Fires Missiles at Houthi Rebel Sites*, N.Y. TIMES (Oct. 12, 2016), at <https://www.nytimes.com/2016/10/13/world/middleeast/yemen-rebels-missile-warship.html> (reporting that, as of October 2016, the U.S. military had "refueled more than 5,700 aircraft involved in the [Saudi-led] campaign").

⁶ E.g., Missy Ryan, *Civilian Casualties in Yemen Bring Charges of U.S. Responsibility for Saudi Actions*, WASH. POST (Oct. 3, 2016), at https://www.washingtonpost.com/world/national-security/civilian-casualties-in-yemen-bring-charges-of-us-responsibility-for-saudi-actions/2016/10/03/29a9b606-864d-11e6-ac72-a29979381495_story.html (reporting that the Pentagon provided the Saudi military lists of "no-strike" locations, including civilian targets and infrastructure).

⁷ E.g., Robert Wall, *U.S. Military Working to Prevent Weapons Shortfall in Islamic State, Yemen Strikes*, WALL ST. J. (Nov. 10, 2015), at <https://www.wsj.com/articles/u-s-military-working-to-prevent-weapons-shortfall-in-islamic-state-yemen-strikes-1447143660> (reporting a November 2015 statement by a commander of the U.S. Air Force Central Command that the U.S. military had a small detachment of personnel helping coordinate activities in the Saudi Arabian center planning air strikes).