**UNITED STATES CENTRAL COMMAND**
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

1 October 2008

MEMORANDUM FOR Acting Commander, United States Central Command

SUBJECT: (U) Executive Summary of AR 15-6 Investigation into new information relative to civilian casualties from engagement by U.S. and Afghan Forces on 21-22 AUG 2008 in Azizabad, Shindand District, Herat Province, Afghanistan.

Ref: (U) AR 15-6, *Procedures for Investigating Officers and Boards of Officers*, dated 2 Oct 2006

1. (U) On 09 September 2008, I was appointed to conduct an AR 15-6 inquiry into new information surrounding civilian casualties in Azizabad on 21-22 August 2008. This memorandum provides an executive summary of the detailed facts, findings and recommendations in the attached investigation report.

2. (U//~~FOUO~~) **BLUF.** The allegations that U.S. or Afghan Forces committed violations of the Rules of Engagement or the Law of War during the 21-22 August 2008 fire fight in Azizabad that allegedly resulted in the death of approximately 90 civilians are unsubstantiated. Our investigation determined approximately 55 persons were killed (33 civilians and 22 Anti-Coalition Militants (ACM)).

3. (U) **FIVE Ws.** Who: U.S. and Afghan forces. What: Demonstrated due diligence in engaging positively identified, hostile ACM with close air support (CAS) and small arms. When: The night of 21-22 August 2008. Where: Azizabad, Shindand District, Herat Province. Why: Intelligence indicated that an ACM Commander and 20-30 fighters were holding a Shura in Azizabad.

4. (U//~~FOUO~~) SUMMARY OF EVENTS AS THEY OCCURRED. Based on credible information, U.S. and Afghan Forces executed an operation to capture/kill a High Value Individual. After receiving fire on infiltration, U.S. and Afghan Forces engaged hostile ACM positions with a combination of small-arms fire, crew served weapons and CAS assets. During the operation, the Ground Force Commander, delegated his authorities to the On-Scene-Commander (OSC), due to the OSC's "situational awareness" of the battlefield. Working with the AC-130H crew, the OSC established positive identification of legitimate targets prior to engagement. Unfortunately and unknown to the U.S. and Afghan Forces, the ACM chose fighting positions in close proximity to civilians.

5. (U) EVIDENTIARY SUPPORT. This investigation report contains 28 interviews resulting in more than 20 hours of recorded testimony from Afghan government officials, Afghan village elders, officials from IGOs/NGOs, US and Afghan service members, 236 documents and 11 videos.

SUBJECT: Executive Summary of investigation of possible civilian casualties during a Coalition operation in Azizabad, Shindad District, Afghanistan on 21-22 August 2008

6. (U) DIRECTED FINDINGS.

a. (U) (2.a) How many persons were killed and/or wounded as a result of this combined operation?

(U) **Finding:** Approximately 55 individuals were killed during the operation (22 ACM and 33 civilians).

(1) (U) How many of these persons were women and/or children?

(U) **Finding:** Of the 33 civilians believed killed during the fighting, we were only able to identify or discern from the videos a minimum of eight (8) men, three (3) women and 12 children.

(2) (U) How many of these persons can be reliably determined to be enemy combatants?

(U) **Finding:** 22 ACM were killed in the engagement.

b. (U) (2.b) Aside from the CJTF-101 investigation, have any other investigations been conducted with respect to the subject operation?

(U) **Finding:** UNAMA, GIRoA provided summarized reports. AIHRC provided evidentiary pieces, and the ICRC was allegations only. Additionally, due to primarily relying on villager statements, limited forensics, and no access to a multi-diciplined intelligence architecture, their reports lack independent evidence to support the allegations of higher numbers of civilian casualties.

(1) (U) If so, you will obtain copies of such investigations and determine their validity.

(U~~//FOUO~~) **Finding:** We received copies of all available investigations. The AIHRC will not release an early version of their report that is scheduled for release on 15 October 2008. The validity of the investigations provided by these organizations are in question. The investigations did not provide independent evidence of higher civilian casualties, predominantly relied on inconsistent villager statements and a "blood soaked rug", their casualty lists relied mainly on one source, and the evidence was tainted by alleged witnesses' interests in seeking financial, political, and/or survival agendas. Additionally, no forensics was conducted and their claims were not supported by graves, video or intelligence.

c. (U) (2.c.) Have lists of the dead and wounded been compiled in connection to the subject operation?

(U) **Finding:** Yes. Lists were compiled from UNAMA, AIHRC, GIRoA, ICRC.

SUBJECT: Executive Summary of investigation of possible civilian casualties during a Coalition operation in Azizabad, Shindad District, Afghanistan on 21-22 August 2008

(1) (U) If so, obtain copies of the lists and determine their validity.

(U) **Finding:** Civilian casualty lists were compiled but judged to be invalid due to investigative shortfalls, and Afghan cultural realities such as no recent census, birth/death certificates and inconsistent burial evidence. See the immediately preceding finding.

(2) (U) When (and to whom) were any such lists provided (e.g., GIRoA and/or UNAMA officials; local civic or religious leaders; members of the news media, etc.)?

(U) **Finding:** The four lists we received were provided by the Azizabad villagers or through the Herat Provisional Delegation on or about 25 September 2008 to AIHRC, ICRC, GIRoA and UNAMA. The first three lists are identical and the UNAMA list is a close derivative (82 out of the 89 claimed matched) – the deviation cannot be explained.

d. (U) (2.d) Were any photographs or video images made with respect to possible casualties that may have resulted from the subject operation?

(U) **Finding:** Yes, photographs taken after the engagement by U.S. forces were obtained along with 11 videos. All appear to be valid reference geographic locations but claims from their content can't be substantiated. Photographs: U.S. Forces photos, Videos: total of 11 - Fox News videos (raw footage (1) and edited (1)), AIHRC provided seven (7) videos UNAMA provided four (4) videos; two (2) were duplicates of AIHRC submissions.

(1) (U) If so, obtain copies of the photographs and videos and determine their validity?

(U) **Finding:** Photographs and videos appear to be valid reference geo-specific location confirmed by on-site inspection, but we cannot substantiate claims (lists of 90 persons) derived from videos content.

(2) (U) When (and to whom) were such images shown and/or provided to other persons (e.g., GIRoA and/or UNAMA officials; local civic or religious leaders; members of the news media, etc.)?

(U) **Finding:** Approximately 24 August 2008 and provided to at least UNAMA, AIHRC, GIRoA and selected media outlets.

e. (U) (2.e) When, where, and by whom, was any medical attention or care provided to those who may have been killed or wounded as a result of the subject operation?

(U) **Finding:** The two (2) wounded on the objective were treated by U.S. Forces (as shown by U.S. and Afghan Force statements, U.S. Forces' photos, IGO reports and Fox News video). The wounded were initially transported to FOB Thomas for follow-on treatment, then to the Herat PRT where the female child died. Although UNAMA claims nine (9) superficially wounded

treated at the Shindand Hospital, according to a local doctor - no civilians were treated at the Shindand Hospital or on site after the engagement.

(1) (U) Were any inquiries, determinations, and/or reports made by medical care providers as to the extent and particulars of any casualties that resulted from the subject operation?

(U) **Finding:** Yes.

(2) (U) When (and to whom) was such information reported and/or provided to other persons (e.g., GIRoA and/or UNAMA officials; local civic or religious leaders; members of the news media, etc.)?

(U) **Finding:** 25 August 2008, UNAMA.

f. (2.f.) (U) How long did it take to recover casualties/remove rubble from the area of the subject operation?

(U) **Finding:** Majority of the deceased removed from the rubble 22 - 23 August 2008.

(1) (U) Where and when were any deceased persons buried?

(U~~//FOUO~~) **Finding:** Since 24 June 08, 48 graves in a 20km radius from Azizabad (of 150 gravesites, 11 were active gravesites). The distribution of the 48 individual graves are 18 graves in Azizabad, 17 graves in Raza Shariff, four (4) graves in the Azizabad madrassa, two (2) graves in Kanak, and seven (7) single graves in seven (7) gravesites. According to the General Director of the Haj, in the GIRoA, all casualties in this incident would have been buried one body per grave.

(2) (U) Where and when were any remains placed for open viewing prior to the burial?

(U) **Finding:** On or about 22 – 23 August 2008 in the Azizabad mosque.

g. (2.g.) (U) What was the extent of any efforts made by the U.S. and/or GIRoA military personnel to determine the number of persons who may have been killed and/or wounded as a result of the operation?

(U) **Finding:** 29 August 2008, CJTF-101 informal investigation was completed.

(1) (U) What was the extent of any such effort with respect to determining how many of the dead or wounded may have been women and/or children?

(U) **Finding:** The U.S. Force investigation determined approximately two (2) females, four (4) children.

h. (U) What, if any, measures have been taken to offer any condolence payments or other payments to any surviving casualties or the families of any deceased persons resulting from the subject operation?

(U) **Finding 1:** No condolence payments have been made by U.S. Forces.

(U) **Finding 2:** The GIRoA paid $2000 USD to each family of the alleged 90 civilians killed, $1000 USD for each person wounded, plus government sponsored trip to the Haj. According to the UNAMA investigation, GIRoA official, Minister of Haj and Islamic Affairs Nmatullah Sharrani paid a total of 9,300,000 Afghanis to Azizabad Elders.

7. ADDITIONAL FINDINGS:

a. (U) **Finding:** U.S. and Afghan Forces did not commit any violations of the Law of War or Rules of Engagement. The use of force was in self-defense, necessary and proportional based on the information the On-Scene-Commander had at the time.

b. (U) **Finding:** There a planned ceremony in Azizabad to commemorate the death of Timor Shah scheduled for 22 August 2008.

c. (U/~~/FOUO~~) **Finding:** There was a planned ACM Shura in Azizabad in conjunction with above commemoration.

d. (U/~~FOUO~~) **Finding:** The Operation was not triggered by clan-on-clan rivalry but rather credible intelligence.

e. (U) **Finding:** Most likely, some of the ACM in Azizabad were also security contractors for Armor Group. Due to airfield expansion, Armor Group was forced to sub-contract. Armor Group issued sub-contractors old uniforms; the sub-contractor may not have had tight controls on sensitive items (weapons, uniforms, IDs). Additionally, there has been historical precedence of Armor Group employees "moonlighting" for Reza Khan as security. If discovered, the employees found "moonlighting" were fired, per Armor Group policy.

f. (U) **Finding:** There were contracted demining operations conducted in vicinity of Shindand Airfield run by Armor Group Mine Actions for which some of their employees were residents of Azizabad. Demining employees were not allowed to take mines or equipment off-site and the demined munitions from the Shindand Airfield were all anti-personnel mines not anti-tank mines found by U.S. Forces after the operation.

8. RECOMMENDATIONS.

a. **Recommendation**: (U) In order to preserve the evidence following a military operation, U.S. Forces will attempt to comprehensively document casualties, communicate the facts and

evidence to GIRoA, IGOs, and NGOs; conduct Key Leader Engagements / Shuras, make solatia payments as appropriate, and coordinate immediate humanitarian assistance support.

b. **Recommendation**: (U~~//FOUO~~) All future investigations into disputed civilian casualties will be conducted as joint U.S. / GIRoA efforts whenever possible.

c. **Recommendation**: (U~~//FOUO~~) In civilian casualty investigations, direct investigating officers to work with appropriate IGOs / NGOs to gain any / all information.

9. (U) The POC for this action is the undersigned.

MICHAEL W. CALLAN
Brig Gen, USAF
Investigating Officer