

October 31, 2024

Lloyd J. Austin III
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Austin,

The undersigned humanitarian, human rights, and protection of civilians organizations write to urge you to use the remaining months of the Biden administration to take tangible steps to respond to civilian harm from US operations, in line with your leadership on civilian protection and the Department of Defense's important new policy commitments.

Our organizations have welcomed the prioritization of civilian harm mitigation and response under your tenure, including the Civilian Harm Mitigation and Response Action Plan (CHMR-AP) and the Department of Defense Instruction on Civilian Harm Mitigation and Response (CHMR DoD-I). In particular, we welcomed these policies' emphasis on responding to civilian harm, including through condolence or *ex gratia* payments and public and private acknowledgments. Condolence payments can provide both tangible assistance and deep symbolic meaning to civilian families grieving and rebuilding from unimaginable loss.

Section 1213 of the FY20 National Defense Authorization Act, as amended, provides the Department of Defense \$3 million annually to make *ex gratia* payments to civilians harmed by US and coalition operations.¹ Numerous civilians whose harm the Department has already investigated and publicly acknowledged have made requests for these payments – yet the Department has largely failed to use these funds, reporting only one such payment since 2020.

As the Biden administration's term comes to a close, we request that you take immediate steps to, at a minimum, make *ex gratia* payments in the relatively small subset of cases where a) the Department has confirmed that civilian harm occurred; and b) the affected civilians have made requests for such payments and are reachable via their civil society representatives. Responding to these requests aligns with the commitments of the CHMR-AP and CHMR DoD-I, and would cement a critical piece of your legacy in reforming US civilian harm policies and practices.

The Department also has before it civilian harm reports that are at the stages of initial assessment or re-investigation based on new information or to correct faulty initial assessments. We urge the Department to prioritize swift re-investigation of past cases that may have been erroneously dismissed and to consider *ex gratia* payments in confirmed cases if consistent with the families' wishes.

¹ The Department has up to \$3 million left to spend on *ex gratia* payments by the end of December 2024. The Department will also have another \$3 million available to it in January 2025 to spend by the end of that calendar year.

The Department has what it needs to make these payments in the coming months, from the policy architecture, to the funding, to the requests and documentation from civilians and their representatives. What we are asking for now is your leadership in ensuring these families are not forgotten.

Signed,

Airwars

Amnesty International USA

Bridges Faith Initiative

Ceasefire Centre for Civilian Rights

Center for Civilians in Conflict (CIVIC)

Center for Victims of Torture

Friends Committee on National Legislation

Human Rights Watch

Mwatana for Human Rights

Center for International Human Rights, Northwestern Pritzker School of Law

PAX

Relieve US

September 11th Families for Peaceful Tomorrows

Syria Justice and Accountability Centre

Victim Advocates International

Zomia Center