

KEY AREA OF DISPUTE ON DRONE NUMBERS: NUMBER OF STRIKES

Dianne Feinstein is out with a statement applauding that I Con the Record has released drone kill numbers that – she suggests – proves the spooks know something we don't and that the number of civilian casualties hasn't been that high.

"I want to commend the administration for taking this important step toward transparency by releasing information on the number of civilian deaths as a result of U.S. drone strikes. I believe more can be done, but this release of data is a good start.

"I've been calling on the administration to release drone strike data for years. Varying numbers have been tallied by outside organizations but as today's report makes clear, the government has access to unique information to help determine the number of civilian deaths. The American people should be able to weigh the necessity of counterterrorism programs with as much information as possible.

"I do believe that great care is taken to avoid noncombatant casualties during drone strike operations. Since 2009, the Senate Intelligence Committee has devoted significant time and attention to targeted strikes by drones, with a specific focus on civilian casualties.

"While a single civilian death is one too many, I believe this program is more precise than many alternatives such as strikes with cruise missiles, where far more civilians would be at risk."

A fair response to Feinstein, I think, is to point to this piece from the Human Rights Watch researcher who tallied their count of civilian deaths in Yemen. As she notes, counting just the cases she has investigated on the ground would say there were only 7 other civilian casualties later in Yemen and in other theaters.

The US strikes on Al-Majalah in December 2009 killed 14 fighters with Al-Qaeda in the Arabian Peninsula—but they also killed 41 Bedouin civilians, more than two-thirds of them women and children, according to a Yemeni government probe. In an investigation for Human Rights Watch, I tallied the same toll. Yet the US government has never publicly acknowledged the Al-Majalah killings. Instead, two classified diplomatic cables released by Wikileaks revealed, the Obama administration made a concerted effort to conceal its role in the attack.

The White House release on July 1 of casualty figures for airstrikes outside conventional war zones since 2009 should have shed light on how many civilians were killed in attacks such as the one in Al-Majalah. Instead, its data dump, at the start of a holiday weekend, continues President Barack Obama's obfuscation of its lethal strike program against armed groups such as Islamic State and Al-Qaeda. Even if the government's definition of a "combatant" were fully consistent with international law, which only applies to armed conflict situations, the release raises more questions than it answers.

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Did the US kill only 7 civilians in 466 strikes? In 2012-13, I led Human Rights Watch investigations into seven of the US counterterrorism strikes in Yemen from 2009 to 2013 that were alleged to

have killed civilians. We visited strike sites when possible, examined the remnants of ordnance, and interviewed a range of witnesses, relatives, tribal leaders and Yemeni officials—corroborating our findings in ways that the DNI cannot simply dismiss. We found that at least 57 of those killed were civilians, along with possibly 14 others, 12 of them in a strike on a wedding convoy. Subtracting our numbers from the DNI's minimum estimates leaves only seven civilian deaths in the 466 strikes that we did not investigate. That would be a remarkably low toll. But based on the obscure data the Obama administration revealed last week, we cannot know if it is accurate.

Viewed this way, it's easy to see how ODNI's numbers *cannot* add up. There must be some more basic reason their numbers are so different from every other outlet, having to do with methodology or scope. I've pointed to some potential explanations: CIA didn't hand over all their numbers to ODNI, they didn't include everything we'd include in terms of areas outside active hostilities, some strikes (and the al-Majalah one would be a likely candidate) were attributed to either the home country or some other ally (cough, KSA), even if the US conducted the strike; remember the US did a lot of "side payment" strikes in Pakistan to win the right to do our own strikes.

In other words, if "side payment" strikes – in Pakistan and Yemen (some of the latter of which may have been done for Saudi Arabia) – were the ones that killed a bunch of civilians, they might not show up in I Con the Record's numbers.

But here's how it would seem we could move forward: try to come to some agreement as to how many actual strikes are.

As Micah Zenko pointed out, there is a very big

discrepancy between the numbers of total strikes counted by NGOs and the government. Effectively, the Administration doesn't count 18% of the known air strikes as their own (based off the NGO average).

It's easy to see where a disagreement about individual casualties, and of what type, would come from, but not of airstrikes themselves. Unless airstrikes generally assumed to be US airstrikes are being counted as someone else's.

Update: Fixed that Yemen would be the recipient of side payment strikes, not Saudi Arabia.