Inedependent report finds US shooting of Reuters soundman in Iraq unlawful

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London - U.S. soldiers breached their rules of engagement when they shot dead an Iraqi working for Reuters last year and the shooting was "prima facie unlawful", an independent investigation commissioned by Reuters has found.

Soundman Waleed Khaled was killed and cameraman Haider Kadhem was wounded on August 28 2005 when U.S. troops opened fire on their car in western Baghdad as they covered the aftermath of an insurgent attack on Iraqi police.

Investigating the incident at the request of Reuters, The Risk Advisory Group, a leading risk management consultancy, said the use of force was neither proportionate nor justified.

"We conclude, based on the independent evidence and the evidence of Haider Kadhem, that no hostile act took place and no act could have been legitimately mistaken as indicating hostile intent," the Risk Advisory's Group's investigation report said.

"The engagement was therefore in breach of U.S. Rules of Engagement and, in our opinion, on the current evidence was prima facie unlawful."

One key piece of evidence - the video footage filmed by Kadhem immediately before and during the shooting, was seized by the U.S. military after the incident. The military showed the footage to several Reuters staff but then said it had been separated from the case file and subsequently lost.

"The 'lost' video contains the very best evidence of what transpired," the Risk Advisory Group said. "As a matter of good evidential practice, we find it very difficult to understand any circumstances in which it would have been appropriate to separate an original exhibit from the case papers."

The investigation was led by a former special investigator in Britain's Royal Military Police, who retired from the military after 23 years of service. The findings were reviewed by Risk Advisory Group's Chief Executive, a barrister and former prosecutor for Britain's Serious Fraud Office.

An earlier U.S. army investigation concluded that soldiers had acted within the rules of engagement when they opened fire.

“The report shows that Waleed Khaled's death was avoidable and his killing was not justified” said Reuters Global Managing Editor, **David Schlesinger**. “We call upon the US Military to order a full, independent and objective inquiry into this terrible incident.”

Schlesinger added: “It is clear that Khaled was a journalist acting as a professional. He was not a threat, he did nothing hostile, and he should not have been shot and killed. A tragedy like this must not be allowed to pass without us truly learning the lessons from it.”

Some safety recommendations made by a previous U.S. investigation into the fatal shooting of Reuters cameraman Mazen Dana in 2003 have yet to be implemented.

"There have been too many cases of journalists being killed by U.S. troops while reporting the news in Iraq," Schlesinger said. "Clearly, better training, clearer rules of engagement and understanding of journalists' special roles are a must in order to prevent further tragedies."

The Risk Advisory Group's investigation included interviews with witnesses and Reuters staff, examination of U.S. military documents, ballistic evidence from the car, and a reconstruction of the incident to establish what the soldiers could have seen. Further detail from the report and about the incident is below.

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Notes to Editors

- Waleed Khaled was killed and cameraman Haider Kadhem was wounded when U.S. troops opened fire on their car in western Baghdad as they covered the aftermath of an insurgent attack on Iraqi police.
- The Risk Advisory Group report concludes that, based on independent evidence and the evidence of Haider Khadhem,

that no hostile act took place and no act could have been legitimately mistaken as indicating hostile intent. Therefore the use of force was not justified under the rules of engagement.

- Furthermore, for the following reasons, the degree of force used was not proportionate to the threat as there was no threat prior to the engagement:
  (i) The vehicle was stationery when it was fired upon
  (ii) The ballistic evidence supports the contentions that shots were fired to kill or injure the occupants; and
  (iii) The shots continued after the car had ceased moving
- Soldiers who fired on the car from the roof of a nearby mall testified to the U.S. military's investigation that they saw a passenger hanging out of the vehicle's window holding what appeared to be a rocket-propelled grenade (RPG). They said the passenger quickly moved back inside the car before they could confirm with binoculars whether he was holding a weapon. The soldiers said they initially fired warning shots, and then fired to disable the vehicle.
- Kadhem said that he was filming through the car's windscreen, and at one point leaned slightly out of the window to get a better view. He then saw a soldier on the roof of the mall and moved the camera away from the window. Kadhem said shooting then began and Khaled began to reverse away at speed. Several bullets hit the car, killing Khaled, and the vehicle then swerved and crashed into a barrier. Kadhem said shooting continued after the car had stopped moving.
- The Risk Advisory Group report said independent evidence, including a reconstruction of the incident using a replica RPG, suggested that the soldiers were too far away to be able to see an RPG, and so could not have mistaken Kadhem's camera for a weapon. "We do not find such confusion credible," it said.
- Reuters staff and a security consultant working for Reuters who were shown the video from Kadhem's camera by the U.S. military say it supported Kadhem's testimony that he did not hang out of the window with his camera, that shooting began when the car was stationary, and that it continued after the car came to a stop again

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