

No. 21-1496

IN THE
Supreme Court of the United States

TWITTER, INC.,

Petitioner,

v.

MEHIER TAAMNEH, ET AL.

Respondents.

On Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

**BRIEF OF *AMICI CURIAE* RETIRED UNITED STATES
GENERALS WHO SERVED IN IRAQ AND AFGHANISTAN,
IN SUPPORT OF RESPONDENTS**

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INTEREST OF AMICI CURIAE¹

The undersigned *amici curiae* (“*Amici*”) served in the United States military in various leadership capacities in Iraq and Afghanistan between 2003 and 2017. During that time, *Amici* witnessed the rise of al Qaeda in Iraq (“AQI”) and its later transformation into the Islamic State of Iraq and Syria—better known by its acronym ISIS.² Accordingly, *Amici* have an interest in this case and its effect on the United States’ continued ability to effectively combat foreign terrorist organizations.

Amici’s experiences confronting radical Islamist terrorist groups in Iraq, Syria, and Afghanistan provide insights into the practical global antiterrorism issues raised by this appeal. *Amici* submit this brief to urge the Court to consider the pragmatic implications of narrowing liability under the counterterrorism statutes at issue. Following decades of combat and surveillance, the United States military and its intelligence agencies understand that the most effective way to prevent terrorist attacks by groups such as AQI and ISIS is to weaken or destroy the terrorist organizations that commit those attacks. Twitter, Google, and Facebook (“*Defendants*”) attempt to escape liability by construing the Anti-Terrorism Act (“ATA”), 18 U.S.C. §2333, and associated statutes narrowly, to inculcate only those who knowingly assist specific acts of violence, for example by providing a weapon or bomb. This ignores the practical reality of

¹ *Amici* certify that no party or party’s counsel authored this brief in whole or in part and that no person other than *Amici* or their counsel made a monetary contribution to its preparation or submission.

² ISIS is referred to by varied names, such as ISIL (Islamic State of Iraq and the Levant) or simply the Islamic State (“IS”). This brief will refer to it as “ISIS.”

effective counterterrorism measures, which demand liability against those, such as Defendants, who provide substantial support to terrorist organizations and their agents. A contrary finding would undermine the interests of *Amici*, and substantially curtail the ability of 18 U.S.C. §2333 to serve its intended purpose and combat gruesome acts of terror.³

INTRODUCTION AND SUMMARY OF ARGUMENT

Amici's experience confronting ISIS (and its predecessor, AQI) makes clear that the most effective way to prevent terrorist attacks is to weaken or destroy the terrorist organizations that commit those attacks. During the occupation of Iraq, Coalition Forces (the multinational task force in Iraq, led by the U.S.) were forced to confront an almost unimaginable level of violence spawned by AQI under the leadership of Abu Musab al-Zarqawi and his disciples. This violence included kidnappings and shootings; deploying car bombs, truck bombs, roadside improvised explosive devices (IEDs); and suicide bombings. Over the course of eight years, Coalition Forces made thousands of arrests and killed hundreds of terrorists, including Zarqawi himself. But while implementing various measures to reduce casualties from terrorist attacks was important (e.g., improving the design of U.S. armored vehicles, reinforcing checkpoints, interdicting terrorists before they reached their tar-

³ *Amici* take no position on the question of whether Section 230 of the Communications Decency Act should continue to shield social media companies and other internet providers from liability for the consequences of third-party content and they take no position on the ultimate merits of the scienter allegations set forth in the operative *Taamneh* complaint.

gets), targeting the leadership and starving sources of support was always the most critical objective in the effort to defeat the *organization*.

ISIS was exceptional among terrorist groups in seizing considerable territory and forming a new proto-state—not just subverting an existing government, as Hamas did in the Gaza Strip and Hezbollah has done in Lebanon—but conquering territory across two countries, temporarily erasing the border between them, and establishing a purported Islamic “Caliphate” (a political-religious state referencing the medieval era). The organization’s support initially came in the form of assistance from state sponsors of terrorism, donations from wealthy individuals sympathetic to its agenda, and localized criminal activity. But terrorist organizations like AQI/ISIS are not static; to survive, they evolve, adapt, and innovate. Once ISIS firmly controlled territory, it generated revenue from diverse sources including taxes and extortion, income from oil sales, looting banks, museums and archeological sites, and a variety of both overtly criminal enterprises like kidnapping and ransom as well as more ordinary commercial activities ranging from agriculture to mining.

As detailed below, AQI also exhibited early signs of sophistication in adapting new technologies, and by the time it morphed into ISIS, **social media played a central role in making it, at least for several years, the most successful and most vicious terrorist group in modern history.**

For example, unlike most Islamist terrorist groups, ISIS recruited not just local sympathizers from the region, but more than 10,000 disaffected individuals from across the globe, an issue many countries are still dealing with as some of these volunteers now return home. That massive

recruitment effort, carried out to a significant degree through the Defendants' social media platforms, is one key to ISIS's initial success.

ISIS's social media savvy—and the powerful tools Defendants provided to it—was unquestionably a key to ISIS's success. In 2014, the Department of Defense's National Defense University explained that ISIS had at that time shown considerable strength thanks to that savvy:

ISIS, however, has projected the most power and shown the most innovation with technology and media. It demonstrates a masterful understanding of effective propaganda and social media use, producing a multidimensional global campaign across multiple platforms. ISIS has used these platforms to exhibit intimidation, networking, recruitment, justice, and justification.⁴

As noted above, foreign terrorist organizations (“FTOs”) like ISIS, and its progenitor, AQI, were (and remain) complex and evolving organizations and their tactics and strategy adapt over time both on the battlefield and in cyberspace, evading simple or neat categorization.

There is no doubt that certain individuals and entities provide active support to terrorist organizations because they share those organizations' ideology or political objectives. However, as set forth below, many individuals and commercial entities – including banks and corporations – have provided material support to ISIS for profit: because

⁴ Heather Marie Vitale and James M. Keagle, A Time to Tweet, as Well as a Time to Kill: ISIS's Projection of Power in Iraq and Syria, Defense Horizons, NAT'L DEFENSE UNIV. 1 (Oct. 2014).

they believed ISIS's bloody terrorism was an insufficient reason to cease engaging with them if doing so would adversely affect their profits or business model.

Congress criminalized such conduct – irrespective of a defendant's motive – because it empirically determined that violence is a “wholly foreseeable” consequence of *any* assistance to an FTO. *Holder v. Humanitarian L. Project*, 561 U.S. 1, 36 (2010). And in choosing *Halberstam v. Welch*, 705 F.2d 472 (D.C. Cir. 1983), as the “framework” for liability under 18 U.S.C. § 2333(d)(2), Justice Against Sponsors of Terrorism Act (“JASTA”), Pub. L. No. 114-222, 130 Stat 852 (2016), §2(a)(5), Congress deliberately targeted aiders and abettors engaged in acts that might appear “neutral standing alone,” but were undertaken with awareness that they would assist FTOs like ISIS. *Halberstam*, 705 F.2d at 488. In light of their firsthand experience with the operations, infrastructure, and support systems of AQI and ISIS, *Amici* dispute Defendants' arguments concerning the proper reading of JASTA.

Anticipating how terrorist organizations actually work, Congress created a flexible and open-ended civil remedy for assisting them, noting that: “The substance of such an action is not defined by the statute, because the fact patterns giving rise to such suits will be as varied and numerous as those found in the law of torts.” S. Rep. No. 102-342, at 5 (1992). From 1994 to 2002, Congress created complementary criminal liability for secondary actors by adopting multiple ATA sections that penalize the provision of material support for terrorism. *See* 18 U.S.C. §§ 2339A-C. The civil liability created in the ATA supplements the criminal liability through the efforts of private attorneys general.

Congress then went even further, enacting JASTA in 2016 to establish an express cause of action against defendants who “aid and abet” terrorists or conspire with them. In adopting JASTA, Congress emphasized that: “[t]he purpose of this Act is to provide civil litigants with the *broadest possible basis*, consistent with the Constitution of the United States, to seek relief against persons, entities, and foreign countries, wherever acting and wherever they may be found, that have provided material support, directly or indirectly, to foreign organizations or persons that engage in terrorist activities against the United States.” JASTA § 2(b) (emphasis added).

Defendants, however, argue that they cannot be liable under an aiding and abetting theory for ISIS’s attack on the Reina nightclub because the statute requires that they knowingly assist the specific act of international terrorism that injured the Plaintiffs, rather than the terrorist organization that committed the attack. Petitioner, for example, asserts that Plaintiffs were required to plausibly plead that its assistance to ISIS was motivated to cause terrorism or directly connected to the Reina nightclub attack. *See* Twitter Br. 21.

Defendants’ reading of JASTA is mistaken. It is not only contrary to the statutory text, the principles guiding liability set forth in *Halberstam*, and JASTA’s legislative history, but it would render the statute toothless since the aiders-and-abettors who assist specific terrorist attacks are almost invariably terrorists themselves or closely related to them. In *Amici’s* experience, a civil statute that reaches only the conduct of fellow terror cell members or individuals who assist in the last stages of an attack would be effectively meaningless. Even the donors to AQI and ISIS who supported them for ideological or political reasons were rarely if ever privy to the planned commission of specific

attacks. Indeed, except for certain commercial technologies, it would be highly unusual if a specific attack could be traced to such support, as forensic units with which *Amici* worked in the battlespace could attest.⁵

Take the Reina nightclub attack itself. It was perpetrated by an Uzbek national named Abdulkadir Masharipov who had visited an al Qaeda training camp in Afghanistan in 2010, later joined ISIS, and was directed by an ISIS leader in Syria to move to a city in Turkey with his family and await further instructions. Those instructions came on Christmas Day in 2016 when an ISIS handler he knew as “Abu Shuhada” (“Father of Martyrs”) instructed him to launch an attack on New Year’s Eve in Istanbul. Abu Shuhada, Masharipov said, was responsible for Islamic State operations in Turkey.⁶ According to Defendants, civil liability would extend only to “Abu Shuhada” and the members of the Turkish ISIS cell that knew in advance about the attacks and assisted Masharipov. Construing the statute in this way would render it a dead letter, essentially mocking American victims of terrorism with a meaningless remedy they can pursue only against members of terror cells in foreign countries. The U.S. government was clearly correct (and sadly prescient considering Defendants’ arguments

⁵ Furthermore, of the thousands of attacks perpetrated by AQI/ISIS since 2004, even among those terrorist cells members the U.S. intelligence community knows to have directly assisted specific attacks, there are almost none who are even subject to personal jurisdiction in a U.S. court, let alone have reachable assets amenable to a civil judgment.

⁶ Ahmet S. Yayla, *The Reina Nightclub Attack and the Islamic state Threat to Turkey*, Combatting Terrorism Center, https://ctc.westpoint.edu/wp-content/uploads/2017/03/CTC-Sentinel_Vol10Iss328.pdf.

here) when it told the Court of Appeals for the Seventh Circuit in 2001 that a “restrictive reading of the statute would mean that Congress created a largely hollow remedy if it merely allows suits against terrorists who pull the trigger or plant the bomb.” U.S. Amicus Br., *Boim v. Quranic Literacy Inst. & Holy Land Found. for Relief & Dev.*, No. 01-1969, et al., 2001 WL 34108081, at *18. (7th Cir. Nov. 14, 2001).

Defendants also argue that they cannot be liable for ISIS’s attack on the Reina nightclub because any knowing assistance they provided to ISIS was a “routine commercial activity.” Twitter Br. 49. But here, Plaintiffs allege that Defendants’ awareness of their role in ISIS’s illegal activities need not be inferred from their unusual assistance to it; their awareness is evident from the fact that “both the U.S. government and the public at large have urged Defendants to stop providing [their] services to terrorists.” J.A. 88, 90; *see also* J.A. 88-91 (reciting media coverage of and government reactions to Petitioner’s services to ISIS). In addition, Plaintiffs allege that in response to specific complaints about ISIS’s use of their platforms, Defendants “have at various times determined that ISIS’s use of [their] [s]ervices did not violate Defendants’ policies,” and “permitted ISIS-affiliated accounts to remain active, or removed only a portion of the content posted on an ISIS-related account.” J.A. 134-135; *see also* J.A. 137 (describing how Google placed an age restriction for viewing terrorist videos). *Amici* have observed numerous examples of significant assistance rendered to AQI/ISIS in both unusual and “routine” ways. Both forms of assistance helped facilitate countless acts of terrorism. Accordingly, to the extent that all other requirements of JASTA are met, Defendants’ knowledge that they were assisting specific ISIS accounts and users should satisfy the statute’s state of mind requirement.

Defendants also argue that “[a]ny provider of widely available goods or services—be it financial services providers, oil companies, pharmaceutical companies, commercial airline companies, and more—that is aware that terrorists can exploit its goods or services to their own unlawful ends is at risk under the Ninth Circuit’s approach.” Google/Facebook Br. 19. But this grossly overstates matters. Awareness that terrorists *can* exploit a defendant’s goods or services does not give rise to Section 2333(d)(2) liability; awareness by a defendant that it *is actually assisting* terrorists by providing certain goods or services *does* give rise to such liability. The fact that Defendants’ social media platforms are widely available to billions of people around the world may make those services both qualitatively and quantitatively different from goods or services provided on an individual basis, but the scope and ease of access to Defendants’ platforms does not foreclose liability as a matter of law; it merely suggests that additional facts may be necessary to establish Defendants’ state of mind that may not be necessary in other contexts.

Finally, the two most important factors determining the substantiality of assistance – nature of the act assisted, and amount and kind of assistance – clearly point to the substantiality of the assistance here. The seriousness of the consequences of the acts assisted is undisputed. From our experience in the battlespace, *Amici* are also in full agreement with the Ninth Circuit’s determination that the services Defendants provided “were central to ISIS’s growth and expansion, and that this assistance was provided over many years.” Pet. App. 65a.

The service members who protect our nation abroad are the greatest assets that our country possesses in the world-wide effort to counter terrorism. It has been *Amici*’s

great honor to lead them in Iraq, Afghanistan, and elsewhere. ISIS and other foreign terrorist organizations threaten the safety of those service members and greatly endanger the military and political objectives that the United States has spent many years and billions of dollars to accomplish.

Amici therefore write to urge the Court to find that neither the law nor sound public policy should immunize any individual, corporation, or association that knowingly provides substantial assistance to a designated FTO or its agents, regardless of whether that assistance is “ordinary” or “routine.”

FACTUAL BACKGROUND

A. The formation of al Qaeda in Iraq and its subsequent metamorphosis into the Islamic State

A detailed history of AQI and ISIS is well beyond the scope of this brief, but the evolution of these terrorist organizations will hopefully provide the Court with some useful context regarding the underlying factual issues in this case: namely, the structure and growth trajectory of the FTO at issue; the brutality and complexity of the attacks executed by the same; and finally, the vital role of Defendants’ services in facilitating AQI and ISIS’s growth and campaign of terror.⁷

AQI began as an offshoot of Ansar al-Islam, an affiliate of al-Qaeda that operated in a small corner of Sulaymani-

⁷ Unless otherwise indicated, the following history is adopted from the official U.S. Army history of the Iraq war: Col. Joel D. Rayburn, et al., *THE U.S. ARMY IN THE IRAQ WAR*, Vols. 1 and 2 (U.S. Army War College Press, Jan. 2019) (“Rayburn”).

yah Province in Iraq prior to the overthrow of Saddam Hussein's regime. After the Taliban was temporarily expelled from Afghanistan by U.S. forces in late 2001, Ansar al-Islam harbored several al-Qaeda operatives, including Abu Musab al-Zarqawi, a fanatical Jordanian Salafist⁸ who had served under al-Qaeda in Afghanistan, but had declined to swear fealty to al-Qaeda's senior leadership.

Zarqawi established his own terrorist group, Tawhid wal-Jihad ("Monotheism and Holy War"), and started to network among militants throughout the region. Following the American invasion of Iraq in March 2003, he developed a strategy to undermine Coalition Forces in Iraq. The invasion created an opportunity for Zarqawi because it effectively shifted power from the minority Sunni population, privileged by Saddam Hussein, to the majority Shi'a population. Zarqawi was "virulently anti-Shi'a and, like some of the Sunni tribes, viewed Iraq's Shi'a as the chief threat to Sunni power in Iraq and the wider region."⁹

Zarqawi's strategy was to launch mass casualty attacks against Coalition Forces, the nascent Iraqi government, and Iraq's Shi'a population, in order to incite a civil war between the Sunni and Shi'a communities. He created training camps and began absorbing many of the foreign fighters brought into Iraq by Saddam Hussein to fend off the American-led invasion.

Under Zarqawi's command, Tawhid wal-Jihad committed a series of brutal attacks. By 2004, Tawhid wal-Jihad (soon to morph into AQI) was regularly kidnapping and

⁸ Salafism is a reactionary movement within Sunni Islam, the largest branch of Islam.

⁹ Rayburn, Vol. 1 at 175.

brutally murdering international aid workers and reconstruction engineers. In a prominent example, it perpetuated the 2004 kidnapping and videotaped beheading of American civilian Nicholas Berg.¹⁰ Soon thereafter, AQI kidnapped American civilian contractors Jack Armstrong and Jack Hensley, and beheaded them on video as well. *See Gates v. Syrian Arab Republic*, 580 F. Supp. 2d 53, 72–74 (D.D.C. 2008), *aff'd*, 646 F.3d 1 (D.C. Cir. 2011).

For AQI, however, the key was not merely the “unbridled and intentional cruelty,” *id.* at 74, but also filming and posting videos of such murders to Arab satellite television networks, and eventually on social media:

Nowhere is the premeditation and callousness of these acts more evident than in the recording, publication, and distribution of video footage of the torture and murders. The videos of these atrocities transformed innocent men into mere props in a propaganda campaign. The videos glorified cruelty and fanned the flames of hatred, in a fundamental offense to human dignity.

Id. at 75.

The same court came to similar conclusions about the 2006 torture and murder of U.S. Army Private First Class (PFC) Kristian Menchaca by AQI, citing the conclusions of the U.S. Armed Forces Medical Examiner:

¹⁰ The murderer in the video was “very probably” Zarqawi himself. Douglas Jehl, *THE STRUGGLE FOR IRAQ: THE BEHEADER; C.I.A. Says Berg’s Killer Was Very Probably Zarqawi*, N.Y. TIMES (May 14, 2004), <https://www.nytimes.com/2004/05/14/world/struggle-for-iraq-beheader-cia-says-berg-s-killer-was-very-probably-zarqawi.html>.

My opinion is that this is definitely torture, but it wasn't just—it was total disregard for PFC Menchaca for his pain and his suffering, but ***it was also in a time of social media and placed for the whole world to see to terrorize an entire nation***, bring incredible pain and suffering to his family, and go well beyond just total disregard for PFC Menchaca.

Foley v. Syrian Arab Republic, 249 F. Supp. 3d 186, 198–99 (D.D.C. 2017) (record citations omitted) (emphasis added).

In October 2004, Zarqawi swore allegiance to Osama Bin Laden, renaming his terrorist group to “Qa’idat al Jihad fi Bilad ar Rafidain,” or “al-Qaeda in the Land of Two Rivers (Iraq)” —or, as Coalition Forces called it, “al-Qaeda in Iraq.” Following extensive negotiations between al-Qaeda and AQI, Bin Laden named Zarqawi “emir,” or commander, of all al-Qaeda forces in Iraq. The al-Qaeda name brought brand recognition, “an important factor in seeking financial donations and new recruits” and an early step in ISIS’s future propaganda empire played out chiefly on the internet.¹¹

Under the AQI “brand,” Zarqawi continued his slaughter of Shi’a Iraqis. The attacks were frequent and increasingly complex—on February 22, 2005, AQI terrorists executed 5 nearly simultaneous suicide bomber attacks across Baghdad. That was followed shortly by the deadliest bombing to date—a suicide car bombing in a Shi’a city that killed 122 Iraqis. The frequency increased. For example, AQI committed 142 bombings in May 2005—79 of which took place in just 13 days, including 9 in one day, killing 112. In June alone, AQI murdered 1,347 Iraqi civilians.

¹¹ Rayburn, Vol. 1 at 394.

On June 7, 2006, the U.S. Air Force dropped two 500-pound guided bombs on Zarqawi's safehouse, killing him. He was soon replaced by a senior al-Qaeda leader from Egypt named Abu Ayyub al-Masri, who was instructed to establish an emirate in Iraq—the Islamic State of Iraq ("ISI"). In October 2006, ISI declared the Iraqi city Ramadi the capital of its "Caliphate." Killed by Coalition Forces four years later, he was succeeded by Abu Bakr al-Baghdadi, the arch-terrorist who would expand the organization's reach into Syria, thus creating ISIS.

At the end of 2011, Coalition Forces departed Iraq, leaving the Iraqi army responsible for the country's security. It was not up to the task. Abu Bakr Al-Baghdadi promptly initiated a campaign to reignite civil war in Iraq and link it to the burgeoning civil war in Syria. ISI's so-called "Breaking the Walls" campaign emulated Zarqawi's tactics, focusing on waves of relentless Vehicle-Borne Improvised Explosive Devices ("VBIED") attacks from July 2012 to July 2013. In just the first four months of the campaign, ISIS detonated 137 car bombs, with a daily high of up to 30 car bombs on July 23, 2012. It also added new tactics to its repertoire, such as orchestrating multiple prison breaks to free its hardened fighters.

In mid-2013, ISI absorbed elements of the al-Nusra Front, which at the time was the primary FTO fighting the Syrian government. The result was ISIS—the Islamic State of Iraq and Syria. As with its prior iterations, ISIS was more capable than the Iraqi Security Forces. In early June 2014, ISIS took Mosul, Iraq's second largest city, and then pressed its offensive south—by June 11, it entered Tikrit, taking control of the city center without firing a shot. Iraqi army personnel at a nearby base fled in panic, but were soon intercepted by ISIS fighters, who then sorted them by religious sect and executed about 1,700 Shi'a troops, dumping

their bodies into mass graves. As shown above, mass murder was not the ultimate end; ISIS once again circulated images of the atrocity on social media. By the end of June, ISIS had taken Fallujah, and was advancing on the Shi'a shrine city of Samarra.

ISIS, largely unopposed, evolved: "Having won an equally stunning military victory against the [Iraqi Army], ISIS followed up with a stunning political and religious coup. On June 29, the group declared that it had reinstated the worldwide Caliphate and that its leader, Abu Bakr al-Baghdadi, would henceforth rule as Caliph Ibrahim."¹² ISIS also learned to export its terrorist violence around the world. Within two years after establishing the Caliphate, it had "conducted or inspired more than 140 terrorist attacks in 29 countries other than Iraq and Syria, where its carnage has taken a much deadlier toll. Those attacks have killed at least 2,043 people and injured thousands more."¹³

As this short history shows, and as further explained below, ISIS's social media expertise was central to its ability to create a "Caliphate" and recruit terrorists for attacks around the world. Indeed, the Coalition Forces in Iraq had engaged in this new battle space for years. During a six-month period in 2007, for example, American forces captured and destroyed eight AQI media labs and recovered a

¹² *Id.* at 596.

¹³ Tim Lister, et al., ISIS goes global: 143 attacks in 29 countries have killed 2,043, CNN.com (Feb. 12, 2018) (noting that "[t]he most recent update [to the article was] published on July 25, 2016"), <https://www.cnn.com/2015/12/17/world/mapping-isis-attacks-around-the-world/index.html>. See also Karen Yourish et al., *How Many People Have Been Killed in ISIS Attacks Around the World*, N.Y. TIMES (updated July 16, 2016), <https://www.nytimes.com/interactive/2016/03/25/world/map-isis-attacks-around-the-world.html>.

total of 23 terabytes of material that had not yet been uploaded to the web.¹⁴ Thus, from the beginning, “AQI/ISI recognized that while the military side of the war effort was essential, the ability to justify its actions to the people of Iraq was crucial.”¹⁵ Indeed, ISIS’s famed “attention to production quality started with AQI/ISI’s efforts.”¹⁶

By 2014, ISI’s “organizational charts convey[ed] a sense of bureaucracy and organization that rival[ed] that of a multinational corporation or government agency, not a group of backwoods fighters.”¹⁷ Its “Ministry of Media” operated both an Arabic language distribution agency (al-’Tisam) and an agency focused on media in English and other languages (al-Hayat). But ISIS’s strength was amplifying its message through its network of supporters. For example, one study found that, “at one point, pro-Islamic State supporters on Twitter posted an estimated 133,442 messages on social media every day.”¹⁸

According to U.S. government information, as of December 31, 2014, at least 19,000 foreign fighters from more than 90 countries left their home countries to travel to Syria and Iraq to join ISIS.¹⁹

¹⁴ Cori E. Dauber, YouTube War: Fighting in a World of Cameras in Every Cell Phone and Photoshop on Every Computer, U.S. Army War College 19 (Nov. 1, 2009).

¹⁵ Daniel Milon, Communication Breakdown: Unraveling the Islamic State’s Media Efforts, Combating Terrorism Center at West Point 1 (Oct. 2016), n. 24, at 3.

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 19.

¹⁹ See FATF Report, Financing of the Terrorist Organization Islamic State in Iraq and the Levant (ISIL), February 2015, <https://www.fatf->

Many of those foreign fighters were funneled into individual VBIED cells in Iraq that operated without direct guidance from ISIS but remained answerable to the organization's chain of command. Thus, destroying one ISIS cell or even the command-and-control functions between cells did not destroy the organization's overall lethal capability. Rather, materially damaging ISIS and its capacity to continue its terrorist operations required a full spectrum effort directed at the organization as a whole. Our nation's counterterrorism efforts therefore did not rely solely on identifying then killing or capturing the operatives directly responsible for specific attacks. Our efforts also targeted the **organization** and its infrastructure, a strategy that became increasingly important when it proved impossible to trace specific attacks to particular nodes within the organization's network, as often was the case.

B. ISIS Has Expanded and Raised Funds Through Both Intrinsically Criminal Means and “Ordinary” Business

Terrorism is a deceptively expensive business; running a proto-state, even a rogue one, is even more so. For ISIS, administering territory meant providing basic necessities to the local population as well as paying its fighters an estimated average of \$350-500 per month. With perhaps 30,000 fighters deployed at ISIS's height, simply paying its cadres cost approximately \$15 million a month in payroll alone.

ISIS raised money in a number of ways. From its considerable territory, ISIS tapped revenue streams unavailable to many other terrorist groups. Some of those methods were overtly illegal (and profoundly evil), such as selling women and children—largely kidnapped from Iraq’s Yazidi Christian communities—as sex slaves. It also kidnapped civilians for ransom, sold drugs, robbed banks, and looted antiquities from museums and archaeological sites, stealing and selling off Iraq’s and Syria’s cultural heritage.

But ISIS also engaged in ostensibly routine commercial activities. For example, after the fall of Mosul in 2014, with much of Western and Northern Iraq under its control, ISIS accessed the international financial system through Iraqi bank branches within its territory. For approximately a year, ISIS participated in the Iraqi Central Bank’s currency auctions, providing it access to U.S. dollars in cash.²⁰ ISIS also controlled bank branches in Syria that remained operational while it controlled that territory. Between June and September 2014, ISIS also captured key oil fields and refineries in northeastern Syria and northern Iraq and controlled key roads and other centers of commerce.²¹ Its oil revenues were once estimated to have reached \$250 million per year.²² It also raised funds from conducting ordinary business such as running fish farms and selling used

²⁰ Eventually, the Central Bank of Iraq (CBI) halted the distribution of government salary payments in ISIS territory and blocked bank branches and currency exchange houses in ISIS-controlled territory from accessing its currency auctions. See CONG. RES. SERV., COUNTERTERRORISM ISSUES: ISLAMIC STATE FINANCING (Mar. 2, 2017), <https://apps.dtic.mil/sti/pdfs/AD1171863.pdf>.

²¹ Tom Keatinge, How the Islamic State Sustains Itself: The Importance of the War Economy in Syria and Iraq, RUSI Analysis (Aug. 29, 2014).

²² Yeganeh Torbati, Islamic State Yearly Oil Revenue Halved to \$250 million: U.S. Official, REUTERS (May 11, 2016).

cars.²³ The UN Food and Agriculture Organization estimates that at one time ISIS controlled over 40 percent of Iraq's wheat cultivating land and took control of multiple government-operated wheat silos in the most fertile areas in Iraq.²⁴

ISIS also excelled in fundraising online, principally through social media. In 2014, for example, then-U.S. Under Secretary for Terrorism and Financial Intelligence David Cohen explained:

Constraining this flow of funds is particularly challenging in an era when social media allows anyone with an Internet connection to set himself up as an international terrorist financier.... Innovations in traditional modes of terrorist fundraising, particularly through the use of social media, will continue to pose new challenges. As we have seen in the context of Syria, fundraisers can now use social media handles instead of face-to-face solicitations, and sympathetic donors can bypass a risky rendezvous in favor of a simple remote hashtag search.²⁵

²³ Colin P. Clarke, et al., *Financial Futures of the Islamic State of Iraq and the Levant*, RAND Corp. (2017), <https://apps.dtic.mil/sti/pdfs/AD1084730.pdf>.

²⁴ See FAFTF REPORT, *FINANCING OF THE TERRORIST ORGANIZATION ISLAMIC STATE IN IRAQ AND THE LEVANT (ISIL)* 15 (Feb. 2015), <https://www.fatf-gafi.org/media/fatf/documents/reports/Financing-of-the-terrorist-organisation-ISIL.pdf> (citing UN Food and Agriculture Organization (2014)).

²⁵ Press Release, U.S. Treasury Dep't, *Remarks of Under Secretary for Terrorism and Financial Intelligence David Cohen before the Center for a New American Security on 'Confronting New Threats in Terrorist Financing* (Mar. 4, 2014).

Plaintiffs have plausibly alleged how ISIS used Defendants' platforms for this purpose. *See* J.A. 79-81. Even now, with ISIS's "Caliphate" destroyed, it remains active around the world and continues to raise funds and recruit adherents through social media platforms.

ARGUMENT

I. 18 U.S.C. Section 2333(d)(2) Reaches Substantial Assistance in the Form of Material Support to Either the Act of International Terrorism *or* the FTO that Committed It.

The counterterrorism statutes at issue render Defendants liable for the material support they knowingly provided (and are providing) to ISIS through their social media platforms. While 18 U.S.C. Section 2333(a) is defined by civil tort principles, the subsequent enactments of 18 U.S.C. §§ 2339A and 2339B reinforce the conclusion that Section 2333(d) cannot properly be limited to those who personally commit acts of international terrorism or knowingly assist a specific attack. Indeed, such a construction would sharply curtail U.S. counterterrorism efforts.

The anti-terrorism policies embodied in Section 2339B in particular reflect a holistic legislative scheme involving claims arising out of material support, "directly or indirectly, to foreign organizations or persons that engage in terrorist activities against the United States." JASTA § 2(b). Thus, in order to carry out the important Congressional purpose of deterring terrorism—reflected in both the civil provisions of Sections 2333(a) and (d) and the criminal provisions set forth in Sections 2339A and 2339B—tort liability under Section 2333(d)(2) reaches actors such as Defendants who knowingly provide substantial assistance to terrorist organizations or their agents. As discussed above,

targeting ISIS at the organizational level is key to hampering its efforts. ISIS is uniquely agile and has weaponized Defendants' services to post and popularize its brutal attacks. If, as Defendants contend, liability were only to extend to the immediate actions surrounding an isolated event, the statute would become purely ornamental. After all, specific attacks are generally only known to a small cell of undefinable people. Accordingly, to achieve its stated counterterrorism purpose, JASTA must be construed broadly and attach liability to anyone knowingly providing material support to terrorist **organizations**.

Indeed, in enacting the ATA's multiple statutory provisions, Congress banned a broad array of material support because, as *Amici* well know, the risk is too great that any such support will ultimately further the terrorist groups' violent activities, regardless of an aider-and abettor's intent.

The key language within Section 2333(d)(2) states:

[L]iability may be asserted as to any person who aids and abets, by knowingly providing substantial assistance, or who conspires with the person who committed such an act of international terrorism.

The text is relatively straightforward, but Defendants creatively argue that it should be read to, at a minimum, add the word "to," as well as a comma, to give the statute its proper meaning:

[L]iability may be asserted as to any person who aids and abets, by knowingly providing substantial assistance [to], or who conspires with the person who committed[,] such an act of international terrorism.

According to Defendants, the extra word and punctuation are necessarily implied because the phrase “the person” is the object of “conspires with,” not “aids and abets.” *See* Facebook/Google Br. 24-25. But such a modification would result in applying very different liability theories to aiding and abetting, on the one hand, and conspiracy, on the other. Reading the text as Defendants urge would mean that acts of terrorism must be the object (not just the foreseeable consequence) of an aider-and-abettor’s knowing assistance, but acts of terrorism need not be the object of a co-conspirator’s participation in unlawful agreement. This suggests that Congress deliberately set a different standard for JASTA aiding-and-abetting liability than for conspiracy. In fact, *neither* form of secondary liability requires the wrongful act causing plaintiff’s injury to be the object of the secondary tortfeasor’s tortious or illegal conduct. In *Amici’s* experience, this interpretation is required to effectuate the statute’s purpose. If the intent is to meaningfully deter assistance to FTOs and their agents, it is not enough to outlaw direct assistance to a singular act of terrorism. Given ISIS’s brutal record of terrorism, which includes kidnappings, pillaging, mass rape, beheadings, bombings, enslaving and genocide, the provision of **any** material support which facilitates their continued existence must be thwarted.

Indeed, any alleged ambiguity in the text is resolved by the express purpose of the statute: to provide the broadest possible basis for relief “against persons, [and] entities ... that have provided material support, directly or indirectly, *to foreign organizations or persons that engage in terrorist activities against the United States,*” not just support to the acts or activities themselves, as Defendants would have it. JASTA §2(b) (emphasis added). *See also* JASTA, §2(a)(6)

(“Persons, entities, or countries that knowingly or recklessly contribute material support or resources, directly or indirectly, *to persons or organizations that pose a significant risk of committing acts of terrorism* ... should reasonably anticipate being brought to court in the United States to answer for such activities.”) (emphasis added). As *Amici* well know, this organization-based approach is the only way to meaningfully combat these complex and ever-changing terrorist groups.

Apart from the improper and unnecessary textual gymnastics, Defendants’ preferred statutory construction also runs contrary to the framework established in *Halberstam*, which, as Petitioner acknowledges, is controlling. Twitter Br. 3. Defendants’ material assistance to ISIS *as an organization* renders them liable, and nothing in JASTA or in *Halberstam* curtails liability in the way Defendants suggest. The statutory text uses the words “knowingly providing substantial assistance” – the same language used in *Halberstam*: “the defendant must knowingly and substantially assist the principal violation.” 705 F.2d at 477. However, the Government now argues that “Section 2333(d)’s ‘knowing’ requirement modifies the defendant’s own substantial assistance to the commission of a terrorist *act* that injured the plaintiff.” U.S. Amicus Br. 18 (emphasis in original). But this is erroneous — as the Department of Justice itself explained in *Boim*:

[T]he “principal violation” language in *Halberstam* does not refer to the direct, specific cause of injury ... because in *Halberstam* itself the defendant was found liable to the family of a murder victim when her assistance to the *murderer* consisted of helping him to launder

the proceeds of his ongoing series of burglaries; the defendant was not present when the murder occurred, and knew nothing about it.

U.S. Amicus Br., *Boim*, No. 05-1815, et al., 2008 WL 3993242, at *18 n.3 (7th Cir. Aug. 21, 2008) (citing 705 F.2d at 488) (emphasis added).

Indeed, in *Halberstam* the “*act assisted* [was] here a long-running burglary enterprise”—not a murder. 705 F.2d at 488. Similarly, there was no suggestion in that case that the defendant provided her post-burglary services to the particular crime that resulted in the murder. Indeed, it was sufficient that she provided **substantial assistance to a series of crimes** committed by her boyfriend – knowing that “he was involved in some type of personal property crime at night—whether as a fence, burglar, or armed robber made no difference.” *Id.*; *see also id.* at 484-85. Nor was her assistance even “overwhelming as to any given burglary in the five-year life of this criminal operation,” much less the burglary that ended in murder. *Id.* at 488. The court even noted that “the aiding-abetting action may also be more distant in time and location and still be substantial enough to create liability.” *Id.* at 482. In this case, over the course of several years, Defendants opened their platforms to ISIS and its agents to freely advertise, recruit, fundraise, and publicize violent crimes against humanity. Accordingly, as in *Halberstam*, here, Defendants’ aiding and abetting liability attaches due to their substantial assistance to the criminal enterprise.

Based on the plain language of the statute, the express statutory purpose, and the controlling findings in *Halberstam*, the most plausible and consistent reading of the relevant statutory text is that a defendant may be sec-

ondarily liable under the ATA where he (1) knowingly provides substantial assistance to the “person” (as defined by §2333(d)(1)) who committed the act of international terrorism that injured the plaintiff or (2) conspires with the “person” who commits the act of international terrorism that injured the plaintiff. This is also the construction of the text that corresponds to the real-life terrorism challenge *Amici* faced on the ground: not only from the operatives who actually conducted the attacks (often impossible to locate or killed in the attacks), but from the organization that recruited, trained, financed, and/or equipped them, and therefore also from the infrastructure that supported them. However, this does not create the “slippery slope” of unintended (and unwarranted) liability that Defendants caution. *See, e.g.*, Twitter Br. at 2 (suggesting that Defendants’ liability would expose “humanitarian organizations to staggering terrorism liability”). On the contrary, liability for adding-and-abetting is limited to injuries from attacks that were a reasonably foreseeable risk of the tortious or illegal acts a defendant assisted, and conspiracy liability is limited to injuries caused by acts performed pursuant to or in furtherance of the conspiracy. *See Halberstam*, 705 F.2d at 481.

II. Conduct that Appears “Neutral Standing Alone” Can Aid and Abet Acts of International Terrorism.

Defendants also argue that because they offer mere “ordinary services,” they cannot be liable for a terrorist organization’s use thereof. Defendants are mistaken. In *Halberstam*, the defendant was found liable for “a natural and foreseeable consequence of the activity” she helped the principal tortfeasor undertake, even though she had no knowledge of those consequences (indeed, neither did her burglar boyfriend—the resulting murder was unplanned). *See* 705 F.2d at 488. In that case, Hamilton, who assisted

what she claimed was her boyfriend's antiques business, did not know about the murder—or even the burglary:

It was not necessary that Hamilton knew specifically that Welch was committing burglaries. Rather, when she assisted him, it was enough that she knew he was involved in some type of personal property crime at night—whether as a fence, burglar, or armed robber made no difference—because violence and killing is a foreseeable risk in any of these enterprises.

Id.

Hamilton provided bookkeeping and banking services for her boyfriend, which “acts were neutral standing alone.” *Id.* However, the court reasoned that Hamilton's knowledge of her boyfriend's “criminal doings” could be inferred from the fact that she knew “something illegal was afoot.” *Id.* at 486. Thus, even though Hamilton could not have had foreknowledge of an unplanned murder (let alone an intent to commit murder), she “had a general awareness of her role in a continuing criminal enterprise.” *Id.* at 488.

Petitioner claims that this case involves Defendants “accused of merely failing to prevent misuse of ... widely available, ordinary services” and that in contrast, the defendant in *Halberstam* “was a classic aider-abettor whose knowledge was evident from having closely participated in the principal wrong”—she provided “services in an unusual way under unusual circumstances.” Twitter Br. 39 (quoting *Halberstam*, 705 F.2d at 487). But this ignores the court's reasoning. Notably, the *Halberstam* court described the defendant as “passive but compliant” and, accordingly, “a willing partner in [the] criminal activities.” 705 F.2d at 474. The same can be said of Defendants here.

All other things being equal, services rendered “in an unusual way under unusual circumstances” provide a stronger inference of “general awareness” than those that appear routine. But if a defendant *is* aware of its role in illegal activities, the fact that the assistance is “neutral standing alone” becomes irrelevant.

Amici have witnessed this firsthand. For example, secondary tortfeasors who knowingly facilitated ISIS’s participation in Iraqi Central Bank currency auctions, its funds transfers through ISIS-controlled bank branches in Syria or those who knowingly helped it sell the wheat it confiscated from Iraqi storage silos are no less civilly liable than those who smuggled oil or engaged in other more “unusual” activities. If they acted with awareness that they were assisting ISIS, their conduct is definitionally illegal under Section 2339B and therefore satisfies Section 2333(d)(2)’s scienter requirement. And this makes sense—otherwise aiders-and-abettors who knowingly facilitate the funding, growth, and proliferation of a gruesome terrorist organization face no meaningful disincentives to doing so.

As applied here, the complaint plausibly alleges that Defendants were aware of their platforms’ use as breeding grounds for terrorist activities, as evidenced by countless warnings from the United States government, *The New York Times*, *The Wall Street Journal*, the *BBC*, and others. *See* J.A. at 88-90 [FAC]. Regardless of Defendants’ subjective intent, no matter the “ordinary” nature of the service, following the reasoning in *Halberstam*, Defendants are liable for the reasonably foreseeable results of their substantial assistance to ISIS. *See Halberstam*, 705 F.2d at 482 (finding, in the context of vicarious liability, “the contributing activity itself need not be so obviously nefarious as cheering a beating or prodding someone to drive recklessly.”) Were the Court to hold otherwise, *Amici* fear that countless aider-

and-abettors of terrorism will escape liability because the services they rendered to FTOs were “ordinary,” even if it played a substantial role in promoting terrorism.

III. Defendants’ Knowing Allowance of ISIS’s Use of Their Services Constituted Substantial Assistance Given Their Amount and Kind, and the Horrific Nature of the Acts They Assisted.

Finally, Defendants cannot meaningfully refute that their platforms provided “substantial assistance” to ISIS and its predecessor, AQI. *Halberstam* delineated six factors that govern the substantiality analysis: (i) the nature of the act assisted, (ii) the amount and kind of assistance, (iii) the defendant’s presence at the time of the tort, (iv) the defendant’s relationship to the tortious actor, (v) the defendant’s state of mind, and (vi) the duration of assistance. 705 F.2d at 483-84. Of these, the first and second are the most important, and the factors with which *Amici* have firsthand experience.

In assessing whether assistance was “substantial,” the first factor courts look to is the nature of the act assisted. *Id.* Here, the “acts assisted” include the global dissemination of ISIS’s propaganda, facilitating recruitment, allowing fundraising campaigns, and showcasing content depicting torture and murder. As difficult as it may be to consider even one, an example suffices. Soon after kidnapping and then videorecording the beheading of Nicholas Berg, AQI kidnapped American civilian contractors Jack Armstrong and Jack Hensley, and videotaped their beheadings as well. The murders were brutal—the District Court for the District of Columbia described evidence that “each man was alive when his captors began to saw upon his neck with a

sharp-bladed, but relatively short tool,” and the men likely remained conscious for “several minutes,” because “[t]he cutting began on the right side of each man’s neck and continued, around the back of the neck without severing the spinal cord, until it reached the left carotid artery” and the victims lost consciousness. *Gates*, 580 F. Supp. 2d at 73–74. These early forays into mass media barbarism would further evolve over time and become a feature of AQI and later ISIS’s propaganda and recruiting. *See, e.g.*, J.A. 50-52. The nature of the acts assisted, (in just one example,) widely disseminating contents and imagery of kidnappings and beheadings in furtherance of a recognized foreign terrorist organization, could not be more severe.

As to the second factor in the substantiality analysis, the amount and kind of assistance, the Court of Appeal was undoubtedly correct in crediting Plaintiffs’ plausible allegations that “defendants provided services that were central to ISIS’s growth and expansion, and that this assistance was provided over many years,” Pet. App. 65a. As described above, ISIS’s reign of terror would not have been possible, not in kind nor in scope, absent Defendants’ social media platforms. Moreover, “a defendant’s responsibility for the same amount of assistance increases with ... the seriousness of the foreseeable consequences.” *Halberstam*, 705 F.2d at 484. As AQI and then ISIS grew to understand the almost unlimited potential for growth associated with use of the internet, their use of social media, including and especially Defendants’ platforms, steadily increased.

By 2011, AQI/ISIS transitioned away from satellite television networks like Al Jazeera to an emphasis on social media which, among other things, freed them to spread their content independently.

What made ISIS's social media strategy so effective was the same thing that makes the Defendants' willingness to permit ISIS's use of their services so dangerous: the capacity to spread the message in the open without needing intermediaries.

As the Department of Defense explained:

ISIS's handle on the dissemination of information and propaganda is perhaps its greatest strength, and strongest contribution to its growth in power. The group has embraced social media as a weapon of war, using it to spread official messages, recruit, fundraise, and network. Its campaigns have the benefit of being widespread and multidimensional, bearing a massive effect.²⁶

Here, ISIS's "widespread" "dissemination" of propaganda, indeed, utilized as a "weapon of war," came thanks to Defendants' social media platforms. Defendants' facilitation of a multi-year online terrorist campaign is certainly substantial enough to warrant liability under the *Halberstam* factors.

²⁶ Vitale and Keagle, *supra* at 6.

CONCLUSION

This Court should not depart from the purpose, intent, and plain language of JASTA to suit Defendants' interests. Based on the military experience of *Amici*, which includes direct and prolonged exposure to the horrors of ISIS and other FTOs, JASTA should apply broadly to anyone who knowingly aids and abets a terrorist organization, not solely to those who aid and abet a specific act of terrorism. Otherwise, the statute cannot achieve its intended purpose in combatting those who support FTOs. Accordingly, this Court should affirm the decision of the Court of Appeals.

Respectfully submitted,

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January 18, 2023

APPENDIX

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APPENDIX TABLE OF CONTENTS

BIOGRAPHIES OF *AMICI*2a

APPENDIX: BIOGRAPHIES OF AMICI

General James D. Thurman, Retired. General Thurman retired from the United States Army in 2013 after more than 38 years of service. He was Commander of US Forces Korea from 2011 to 2013 and Commander, US Army Forces Command 2010 to 2011. He served as the Army G3/5/7 from 2007 to 2010. He commanded 4th Infantry Division at Fort Hood, Texas and Baghdad, Iraq from 2004 until January 2007. During that period, he deployed the Division to Iraq and in 2006 assumed Command of Multi Division Baghdad with responsibility for all coalition operations in Baghdad. He was also the Director of Operations for the Coalition Land Component Command for Operation Iraqi Freedom in 2003.

Lieutenant General James O. Barclay III, Retired. General Barclay retired from the United States Army in 2016 after 36 years of service. He served as an Assistant Division Commander (Maneuver), 42nd Infantry Division and as Executive Officer to the Commander, Multi-National Force - Iraq during Operation Iraqi Freedom. He later served as Vice Chief of Staff G-8, U.S. Army.

Lieutenant General Jeff Buchanan, Retired. General Buchanan retired from the United States Army in 2019 after 37 years of service. In 2003-2004 He served as the Director of Operations (C3), Coalition Military Assistance Training Team in Iraq from 2003-2004. Between 2004 and 2006, he commanded the 2nd Brigade,

75th Division (TSB) and deployed a second time to Iraq to serve as an advisor to the Iraqi Special Police Commando Division. From 2007 through 2009, he served as Deputy Commanding General for the 10th Mountain Division including a deployment to Iraq as the Multi-National Division-South. Following an assignment as the G-3/5/7 for the United States Army Reserve Command, he returned to Iraq for his fourth tour there as the Director of Strategic Effects (J9), U.S. Forces Iraq, from July 2010 to December 2011. He later served as the Resolute Support DCOS-Operations/Deputy Commander (Operations) for US Forces-Afghanistan in 2015-2016.

Lieutenant General Michael L. Oates, Retired. General Oates retired from the United States Army in 2011 after 32 years of service. From November 2003 through March 2004, he served as Chief of Staff to the Deputy Administrator and Chief Operating Officer, Coalition Provisional Authority ("CPA") in Baghdad. From June 2004 to February 2007, he served as Deputy Commanding General (Operations), 101st Airborne Division at Fort Campbell, Kentucky and Operation Iraqi Freedom, Iraq. He assumed command of the 10th Mountain Division in April 2007, and in June 2008 he assumed command of Multi-National Division Center/South, Operation Iraqi Freedom, Iraq. From December 2009 through April 2011, he served as the Director of the Joint Improvised Explosive Device Defeat Organization (JIEDDO).

Lieutenant General James Terry, Retired. General Terry retired from the United States Army in 2015

after more than 37 years of service. From 2013 to 2015, he served as the Commander of United States Army Central. From 2014 to 2015, he concurrently served as the First Commander of Combined Joint Task Force – Operation Inherent Resolve in Iraq and Syria. From 2012 to 2013, he Commanded V Corps, U.S. Army and was the last V Corps Commander. He deployed V Corps to Afghanistan where the ISAF Joint Command (IJC) was formed around it. From 2009 to 2011, he commanded the 10th Mountain Division and Fort Drum, New York. He deployed the 10th Mountain Division Headquarters to Kandahar, Afghanistan where he served as the CTF-10, Regional Command South, Commander. From 2004 to 2007, he served as the Deputy Division Commander for Operations, 10th Mountain Division, Fort Drum, N.Y. In 2006, he deployed with the 10th Mountain Division to Regional Command East, Afghanistan, where he served as the Deputy Commander for Operations, Combined Joint Task Force-76. From 2003 to 2004, he served as the Coalition Forces Land Forces Component, Operations Officer - Operation Iraqi Freedom.

Major General Brian Winski, Retired. General Winski retired in 2021 from the United States Army after 37 years of service. He was an infantry battalion executive officer in the 101st Airborne Division during the invasion of Iraq in 2003, and later served as an infantry battalion commander in the 101st Airborne Division in Iraq and Fort Campbell KY from 2004 to 2007, the 101st Airborne Division operations officer/CJTF J3 in Afghanistan from August 2008 to

July 2009, and brigade commander in the 1st Cavalry Division in Mosul, Iraq from July 2009 to December 2011. He later served as the Commanding General, 101st Airborne Division (Air Assault) from 2020 to 2021.

Brigadier General Scott E. Brower, Retired. General Brower retired in 2018 from the United States Army after 29 years of service. He served in U.S. Army Special Forces in a variety of command roles throughout his career including three leadership roles in the Green Berets. From 2004 to 2006, General Brower was assigned to United States Special Operations Command, Tampa, Florida, where he served as the Executive Officer to Director, Center for Special Operations and as the CENTCOM Unconventional Warfare/Preparation of the Environment Desk Officer. Subsequently, he again served as the Group Executive Officer, followed by assignment as the J3 (Operations) for Combined Joint Special Operations Task Force – Arabian Peninsula. He also served as the Chief of Staff for the United States Army Special Operations Command, at Fort Bragg, from August 2013 to July 2014, followed by a deployment to Islamabad Pakistan, where he served as the Deputy for Operations, Office of Defense Representative – Pakistan.

Brigadier General William H. Forrester, Retired. General Forrester retired in 2009 from the United States Army after 32 years of service. He commanded the 159th Combat Aviation Brigade of the 101st Airborne Division in 2001 and was Commander during the invasion of Iraq in March 2003. He was the Deputy Commander of the 2nd Infantry

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Division in South Korea (2005-2006) and Commanding General of the Army Combat Readiness/Safety Center 2006 - 2008.