

UNCLASSIFIED

Department of Defense

Annual Report on Civilian Casualties In Connection With United States Military Operations in 2020

Submitted pursuant to Section 1057 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91), as amended

The estimated cost of this report for the Department of Defense is approximately \$19,000 for Fiscal Year 2021.
This includes \$0 in expenses and \$19,000 in DoD labor.
Generated on 2021April29 8-09B2AD8

UNCLASSIFIED

Section 1057 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91), as amended, states the following:

**Annual Report on Civilian Casualties in Connection With
United States Military Operations**

(a) ANNUAL REPORT REQUIRED.—Not later than May 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on civilian casualties caused as a result of United States military operations during the preceding year.

(b) ELEMENTS.—Each report under subsection (a) shall set forth the following:

(1) A list of all the United States military operations, including each specific mission, strike, engagement, raid, or incident, during the year covered by such report that were confirmed, or reasonably suspected, to have resulted in civilian casualties.

(2) For each military operation listed pursuant to paragraph (1), each of the following:

(A) The date.

(B) The location.

(C) An identification of whether the operation occurred inside or outside of a declared theater of active armed conflict.

(D) The type of operation.

(E) An assessment of the number of civilian and enemy combatant casualties, including a differentiation between those killed and those injured.

(3) A description of the process by which the Department of Defense investigates allegations of civilian casualties resulting from United States military operations, including how the Department incorporates information from interviews with witnesses, civilian survivors of United States operations, and public reports or other nongovernmental sources.

(4) A description of—

(A) Steps taken by the Department to mitigate harm to civilians in conducting such operations; and

(B) In the case of harm caused by such an operation to a civilian, any *ex gratia* payment or other assistance provided to the civilian or the family of the civilian.

(5) A description of any allegations of civilian casualties made by public or nongovernmental sources formally investigated by the Department of Defense.

(6) A description of the general reasons for any discrepancies between the assessments of the United States and reporting from nongovernmental organizations regarding non-combatant deaths resulting from strikes and operations undertaken by the United States.

(7) The definitions of ‘combatant’ and ‘noncombatant’ used in the preparation of the report, which shall be consistent with the laws of armed conflict.

(8) Any update or modification to any report under this section during a previous year.

(9) Any other matters the Secretary of Defense determines are relevant.

(c) USE OF SOURCES.—In preparing a report under this section, the Secretary of Defense shall take into account relevant and credible all-source reporting, including information from public reports and nongovernmental sources.

UNCLASSIFIED

(d) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex. The unclassified form of each report shall, at a minimum, be responsive to each element under subsection (b) of a report under subsection (a), and shall be made available to the public at the same time it is submitted to Congress (unless the Secretary certifies in writing that the publication of such information poses a threat to the national security interests of the United States).

(e) SUNSET.—The requirement to submit a report under subsection (a) shall expire on the date that is seven years after the date of the enactment of this Act.

UNCLASSIFIED

Department of Defense Report on Civilian Casualties In Connection With United States Military Operations in 2020

This report is submitted pursuant to Section 1057 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Public Law 115-91), as amended.

This report primarily provides information about U.S. military operations in 2020 that were assessed to have resulted in civilian casualties. This report also contains updates to information the Department of Defense (DoD) provided in the reports submitted to Congress in prior years pursuant to Section 1057 of the NDAA for FY 2018, as amended (“Section 1057 reports”).

Some of the information provided in prior reports about U.S. military operations in 2017-2019 has been repeated in this report because the information was relevant to U.S. military operations in 2020.

This report is publicly available at [Defense.gov](https://www.defense.gov).

As noted in Section 1 of Executive Order 13732 of July 1, 2016, *United States Policy on Pre- and Post-Strike Measures To Address Civilian Casualties in U.S. Operations Involving the Use of Force*, the protection of civilians is fundamentally consistent with the effective, efficient, and decisive use of force in pursuit of U.S. national interests. Minimizing civilian casualties can further mission objectives; help maintain the support of partner governments and vulnerable populations, especially during counterterrorism and counterinsurgency operations; and enhance the legitimacy and sustainability of U.S. operations critical to U.S. national security. As a matter of policy, U.S. forces therefore routinely conduct operations under policy standards that are more protective of civilians than is required by the law of war.

U.S. forces also protect civilians because it is the moral and ethical thing to do. Although civilian casualties are a tragic and unavoidable part of war, the U.S. military is steadfastly committed to limiting harm to civilians. This commitment is reflected in DoD’s consistent efforts to maintain and promote best practices that reduce the likelihood of civilian casualties, take appropriate steps when such casualties occur, and draw lessons from DoD operations to enhance further the protection of civilians. Section 2 of Executive Order 13732 catalogues the best practices DoD has implemented to protect civilians during armed conflict, and directs those measures be continued in present and future operations. During 2020, all operations listed below were conducted consistent with the best practices identified in Section 2 of Executive Order 13732.

UNCLASSIFIED

I. U.S. MILITARY OPERATIONS DURING 2020 CONFIRMED, OR REASONABLY SUSPECTED, TO HAVE RESULTED IN CIVILIAN CASUALTIES

During 2020, U.S. forces continued to be engaged in a number of military operations, some of which were assessed to have resulted in civilian casualties. This section provides information regarding: a) Operation INHERENT RESOLVE (OIR) and other U.S. military actions related to Iraq and Syria; b) Operation FREEDOM'S SENTINEL in Afghanistan, including support to the North Atlantic Treaty Organization (NATO)-led Resolute Support (RS) mission; c) U.S. military actions in Yemen; d) U.S. military actions in Somalia; and e) U.S. military actions in Nigeria.

This section provides information about each operation, as well as a list of each specific mission, strike, engagement, raid, or incident during 2020 that was assessed to have resulted in civilian casualties. Each instance that was assessed to have resulted in civilian casualties identifies the date, location, type of operation, and DoD's assessment of the number of civilians injured and killed in that instance. A previous report used the term "a declared theater of active armed conflict," as that term was understood in the context of 10 U.S.C. § 130f. 10 U.S.C. § 130f has since been amended and no longer includes the term "a declared theater of active armed conflict." The term "a declared theater of active armed conflict" is also not defined in relevant DoD doctrine. For the purposes of this report, the term "a declared theater of active armed conflict" will be considered to mean, for calendar year 2020, Afghanistan, Iraq, Somalia, Syria, Yemen, and Nigeria. Thus, all U.S. military operations and particular instances listed below that resulted in civilian casualties occurred in a declared theater of active armed conflict.

DoD's practice for many years has been not to tally systematically the number of enemy combatants killed or wounded during operations. Although the number of enemy combatants killed in action is often assessed after combat, a running "body count" would not necessarily provide a meaningful measure of the military success of an operation and could even be misleading. For example, the use of such metrics in the Vietnam War has been heavily criticized. We have therefore provided other information that is intended to help provide context, such as information regarding the objectives, scale, and effects of these operations.

A longstanding DoD policy is to comply with the law of war in all armed conflicts, however characterized. All DoD operations in 2020 were conducted in accordance with law of war requirements, including law of war protections for civilians, such as the fundamental principles of distinction and proportionality, and the requirement to take feasible precautions in planning and conducting attacks to reduce the risk of harm to civilians and other persons and objects protected from being made the object of an attack.

UNCLASSIFIED

DoD assesses that there were approximately 23 civilians killed and approximately 10 civilians injured during 2020 as a result of U.S. military operations. Subsections A through E below and the accompanying classified annex provide additional information.

As stated above, this report also contains updates to information submitted to Congress in last year's Section 1057 report. Since last year, more reports of civilian casualties from U.S. military operations in 2014-2019 have been received and assessed, and additional updates identified since last year's Section 1057 report have been included in this report. DoD continues to assess new reports after they are received and reconsiders previous assessments if new relevant information comes to light.

The assessments of civilian casualties listed below are based on reports of civilian casualties that DoD has been able to assess as "credible." DoD components conducting assessments deem a report as "credible" if, based on the available information, it is assessed to be more likely than not that civilian casualties occurred. Section II of this report describes in more detail the processes for conducting these assessments.

A. Operation INHERENT RESOLVE and other U.S. military actions related to Iraq and Syria

Operation INHERENT RESOLVE. Working by, with, and through local partner forces, Combined Joint Task Force–Operation INHERENT RESOLVE (CJTF-OIR) maintained pressure on ISIS to prevent its re-emergence in designated areas of Iraq and Syria. The U.S.-led Global Coalition to Defeat ISIS, with CJTF-OIR as its military arm, continues to eliminate ISIS smuggling, finance, media, intelligence, and logistics networks throughout the area. These efforts also help set conditions to increase regional stability.

In addition to efforts to defeat ISIS, the U.S. military in 2020 undertook certain actions in Iraq in the exercise of the United States' inherent right of self-defense in response to an escalating series of armed attacks by Iran and Iran-supported militias on U.S. forces and interests. These actions sought to deter Iran from conducting or supporting further attacks against the United States or U.S. interests, and to degrade Iran and Islamic Revolutionary Guard Corps Qods Force-supported militias' ability to conduct attacks. These actions include an operation on January 2, 2020, against leadership elements of Iran's Islamic Revolutionary Guard Corps Qods Force.

In 2020, CJTF-OIR received 369 new reports of potential civilian casualty incidents occurring from 2014 to 2020. Reports are received from CJTF-OIR ground units and aircrews, as well as from media organizations, social media, private individuals, and non-governmental organizations (NGOs). The U.S. military takes reports of civilian casualties seriously. Between 2014 and 2020, NGOs conveyed a total of 2,531 reports. CJTF-OIR reviewed each of the 2,531 NGO-conveyed reports and assessed that U.S. military operations resulted in civilian casualties in 351

UNCLASSIFIED

of these reports. Of the remaining NGO-conveyed reports, 120 reports remain under assessment, and 2,060 reports were either determined to be duplicates of previously assessed reports or were assessed not to be credible, *i.e.*, the available information did not support an assessment that civilian casualties more likely than not resulted from U.S. military operations. For example, a report of civilian casualties would be assessed as not credible if U.S. military operations were not conducted at the reported time or place or if the reported casualties related to the incident were assessed to be enemy combatants rather than civilians.

As of February 2021, CJTF-OIR assessed that one report of civilian casualties during 2020 was credible, with approximately one civilian killed as a result of U.S. military operations in Iraq. The following table contains additional details about the instance during 2020 assessed to have resulted in a civilian casualty.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	13-Mar-20	Karabala, Iraq	Air	0	1
			TOTAL	0	1

CJTF-OIR routinely receives new reports of civilian casualties related to U.S. military operations from earlier years, continues to assess reports that were not completed in previous years, and re-considers previous assessments if new relevant information comes to light. Since last year's Section 1057 report for U.S. military operations in 2019, CJTF-OIR assessed that no additional reports of civilian casualties during 2019 were credible. However, CJTF-OIR identified updates to information reported in previous Section 1057 reports. These updates are regarding twelve civilian casualty incidents in 2017 and 2018, with approximately 50 civilians killed and approximately 22 civilians injured, that were inadvertently not reported in the past.¹ The following table contains details about the additional assessments.

¹ The first update is to the Section 1057 report submitted in 2020 and is regarding portions of that report addressing U.S. military operations in 2018. Two additional civilian casualty incidents in 2018 were assessed to be credible but were inadvertently not included in the report DoD submitted in 2020. The table published in the Section 1057 report submitted in 2020 should have included these two incidents in addition to the seven incidents that were identified, for a total of nine incidents, with approximately 10 civilians killed and approximately 1 civilian injured. These incidents are reflected on the relevant table in this report as incident numbers 10 and 11. With these additional assessments, CJTF-OIR had assessed by the time the data for the report submitted in 2020 was compiled that a total of 21 reports of civilian casualties during 2018 were credible, with approximately 39 civilians killed and approximately 17 civilians injured as a result of U.S. military operations in Iraq and Syria.

The second update is to the Section 1057 report submitted in 2019 and is regarding portions of that report addressing U.S. military operations conducted in 2017. Six additional civilian casualty incidents in 2017 were assessed to be credible but were inadvertently not included in the report DoD submitted in 2019. These incidents are reflected on the relevant table in this report as incident numbers 2, 4, 5, 6, 7, and 8. With these additional assessments, CJTF-OIR had assessed by the time the data for the report submitted in 2019 was compiled that a total of 176 reports of

UNCLASSIFIED

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	6-Jan-17	Al-Zira, Iraq	Air	3	16
2	9-Jan-17	Mosul, Iraq	Air	0	2
3	12-Jan-17	Mosul, Iraq	Air	10	12
4	27-Feb-17	Al-Qaim, Iraq	Air	1	1
5	21-Mar-17	Al Islah az Zira'I, Iraq	Air	0	1
6	3-May-17	Al Islah az Zira'I, Iraq	Air	2	2
7	8-Jun-17	Mosul, Iraq	Air	0	1
8	13-Aug-17	Fardous, Syria	Air	0	1
9	13-Aug-17	Ar Raqqa, Syria	Air	6	12
10	20-Jan-18	Al Bahrah, Syria	Air	0	1
11	9-Feb-18	Al Bahrah, Syria	Air	0	1
			TOTAL	22	50

Although military operations to defeat ISIS are a Coalition effort, coordinated between many nations, this report only lists civilian casualties attributed to the use of U.S.-operated weapons. For example, if a munition fired from a U.S. aircraft resulted in civilian casualties, the civilian casualties would be included in this report even if the particular airstrike was planned by a staff composed of personnel from multiple nations and was guided to the target by a foreign Joint Terminal Attack Controller (JTAC).

Therefore, the information in this report may not completely match publicly available information released by U.S. Central Command (USCENTCOM). CJTF-OIR, as a matter of strategy and policy, considers all civilian casualties to be the combined result of “Coalition” action, and not of a single nation, since Coalition personnel from multiple countries take part in every strike in some manner. In DoD’s view, this collective effort is the most appropriate way to view civilian casualty incidents related to CJTF-OIR action in Iraq and Syria.

civilian casualties during 2017 were credible, with approximately 801 civilians killed and approximately 209 civilians injured as a result of U.S. military operations in Iraq and Syria.

The third update is to the Section 1057 report submitted in 2020 and is regarding portions of that report addressing U.S. military operations conducted in 2017. Three additional civilian casualty incidents in 2017 were assessed to be credible but were inadvertently not included in the report DoD submitted in 2020. These incidents are reflected on the relevant table in this report as incident numbers 1, 3, and 9. With these additional assessments, CJTF-OIR had assessed by the time the data for the report submitted in 2020 was compiled that a total of 200 reports of civilian casualties during 2017 were credible, with approximately 912 civilians killed and approximately 241 civilians injured as a result of U.S. military operations in Iraq and Syria.

UNCLASSIFIED

On a monthly basis, CJTF-OIR publicly releases a civilian casualty report. For each assessed report of civilian casualties, this monthly report includes the following information:

- The date and location in which the civilian casualties reportedly occurred and the source of the report (*e.g.*, a military unit’s own after-action reporting, media report, NGO report, or a posting on social media).
- Whether the report of civilian casualties was assessed to be “credible” or not, and if not, the general reasons why the report was assessed to be “not credible” (*e.g.*, no Coalition strikes were conducted in the geographic area that corresponds to the report of civilian casualties, or the report contained insufficient information regarding the time, location, or details needed to determine whether civilian casualties more likely than not resulted from U.S. military operations).

If it is assessed that it is more likely than not that civilian casualties occurred, this monthly report often provides additional information such as:

- The target of the operation (*e.g.*, an ISIS sniper position, armed ISIS fighters in a vehicle, an ISIS weapons cache, or an ISIS command and control facility).
- A description of how civilian casualties occurred (*e.g.*, vehicle with civilians entered target area after weapons were released to hit multiple ISIS vehicle shooting at friendly ground forces; civilians were in the proximity of ISIS fighters, ISIS weapons systems, or launch sites for ISIS attacks during the strike).

Finally, this monthly report also includes a cumulative assessment of the estimated number of civilian casualties that have resulted from CJTF-OIR operations and identifies the number of reports of civilian casualties that remain to be assessed.

B. Operation FREEDOM’S SENTINEL in Afghanistan

In 2020, U.S. military efforts in Afghanistan continued as part of the U.S. South Asia Strategy to support the Government of the Islamic Republic of Afghanistan’s (GIRoA) efforts to obtain a durable political settlement to end the ongoing civil conflict, mitigate the threats posed by violent extremist organizations (VEO), and promote stability in Afghanistan. U.S. forces conducted a U.S. counterterrorism mission against terrorist groups such as the Islamic State of Iraq and Syria-Khorasan Province (ISIS-K), and participated in the NATO-led Resolute Support (RS) mission to train, advise, and assist the Afghan Ministries of Defense (MoD) and Interior (MoI) and their forces. The overarching U.S. objective in 2020 remained ensuring that Afghanistan would never again used as a “safe haven” from which terrorists could launch attacks against the United States, our allies, or our interests abroad.

U.S. targeting in early 2020 focused on keeping the Taliban at the negotiating table to seek an end to the Afghan war. Following the signing of the U.S.-Taliban agreement on February 28,

UNCLASSIFIED

2020, the United States worked with parties to the conflict in an effort to reduce violence in Afghanistan. In September 2020, representatives from the GIROA and the Taliban began Afghanistan Peace Negotiations (APN) in Doha, Qatar, in accordance with the February U.S.-Taliban agreement. Nonetheless, the level of violence remained above seasonal norms for most of the year, as the Taliban conducted attacks to try to increase its leverage during APN.

Last year, RS received 165 reports of civilian casualties related to operations involving U.S. forces in Afghanistan in 2020. Reports are received from ground units and aircrews, as well as from Afghan Ministries, international organizations (IOs), media organizations, social media, private individuals, and NGOs. The U.S. military takes reports of civilian casualties seriously. RS personnel reviewed each reported incident and assessed that U.S. military operations resulted in civilian casualties in seven of those incidents. The remaining IO- and NGO-reported incidents were determined to be duplicates of previously assessed reports or were assessed as not credible, *i.e.*, the available information did not support an assessment that civilian casualties more likely than not resulted from U.S. military operations. For example, a report of civilian casualties would be assessed as not credible if U.S. military operations were not conducted at the reported time or place or the reported casualties related to the incident were assessed to be enemy combatants rather than civilians.

As of February 2021, RS assessed that seven reports of civilian casualties during 2020 were credible, with approximately 20 civilians killed and approximately 5 civilians injured as a result of U.S. military operations in Afghanistan. The following table contains additional details about each instance during 2020 that was assessed to have resulted in civilian casualties.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	9-Jan-20	Kapisa, Afghanistan	Air	0	2
2	15-Jan-20	Parwan, Afghanistan	Ground	2	0
3	25-Jan-20	Balkh, Afghanistan	Air	0	6
4	28-Jan-20	Balkh, Afghanistan	Air	0	1
5	6-Feb-20	Logar, Afghanistan	Ground	1	0
6	8-Feb-20	Paktiya, Afghanistan	Air	2	2
7	17-Feb-20	Herat, Afghanistan	Air	0	9
			TOTAL	5	20

C. U.S. military actions in Yemen

USCENTCOM received 11 new reports of civilian casualties related to U.S. military operations in Yemen from years prior to 2020. As of April 2021, one report about one incident in 2019 and one report about one incident in 2017 were found to be credible.

UNCLASSIFIED

The following table contains additional details about the one instance during 2019 assessed to have resulted in one civilian casualty.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	22-Jan-19	Al Bayda, Yemen	Air	0	1
			TOTAL	0	1

The following table contains additional details about the one instance during 2017 assessed to have resulted in civilian casualties. USCENTCOM assessed that between 4 and 12 civilians were killed during this incident, however the assessment was not able to determine a more precise number. Twelve civilians killed is reported here.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	29-Jan-17	Al Bayda, Yemen	Ground	0	12
			TOTAL	0	12

D. U.S. military actions in Somalia

U.S. military operations in Somalia support regional partners and deny terrorist groups such as al-Shabaab control of ungoverned spaces that the group could use to plot and conduct attacks against the Somali people and the U.S. homeland. Working “by, with, and through” our Somali partners, U.S. military efforts in Somalia during 2020 degraded al-Shabaab’s ability to conduct large-scale attacks and disrupted the group’s planning and conduct of external operations within the region. Persistent pressure on terrorist groups such as al-Shabaab is necessary to support the Government of Somalia’s efforts to establish a more stable environment and to provide the security, governance, and economic growth required for long-term stability and prosperity.

In 2020, U.S. Africa Command (USAFRICOM) received or identified 71 reports concerning 26 potential incidents of civilian casualties resulting from U.S. operations in Somalia. These reports came from external sources such as news media, social media accounts, NGOs, and reports submitted using an electronic form on USAFRICOM’s website. Nine reports about nine incidents that purportedly occurred in 2019 were duplicate reports already received or identified and assessed as not credible. One report about one incident that occurred in 2019 was a duplicate report already assessed and reported as credible in last year’s Section 1057 report, with approximately three civilians killed and approximately two civilians injured. Three reports about

UNCLASSIFIED

three potential incidents in 2019 were received in 2020 and were assessed as not credible because no U.S. military operations took place at the reported times or locations.

The remaining 58 reports concerned 13 potential incidents of civilian casualties in 2020. As of January 27, 2021, USAFRICOM has assessed 55 reports concerning 12 potential incidents. Three reports related to one incident from 2020 remain under review. One report related to one incident was assessed as not credible because no U.S. military operation took place at the reported time or location. Forty-three reports concerning nine incidents were assessed as not credible based on review of operational data and reporting, video surveillance, other data from Intelligence, Surveillance, and Reconnaissance (ISR) assets, and information derived through multiple sources of intelligence. Eleven reports related to two incidents in 2020 were assessed as credible, with approximately one civilian killed and approximately five civilians injured as a result of U.S. military operations in Somalia. The following table contains additional details about each instance during 2020 assessed to have resulted in civilian casualties.

	Date	Location	Operation Type	Civilians Injured	Civilians Killed
1	2-Feb-20	Jilib, Somalia	Air	3	1
2	17-Feb-20	Jilib, Somalia	Air	2	0
			TOTAL	5	1

Additionally, as an update to the Section 1057 report for U.S. military operations in 2019, the assessment into a report of civilian casualties in Somalia that remained under review at the time of that report has since been completed, and assessed as not credible.

All of the reports of potential civilian casualties that USAFRICOM assessed in 2020 were from public sources such as news media and social media accounts, with a few reports received from NGOs or through the electronic form on USAFRICOM's website. In one specific report, an NGO provided additional information to an already ongoing assessment into the February 2, 2020, incident in Jilib, Somalia. This information assisted USAFRICOM in determining the number of civilians harmed.

Beginning in April 2020, USAFRICOM began issuing a quarterly report on its website detailing the status and results of ongoing or completed assessments into reports of civilian casualties. USAFRICOM also created an electronic form on its website through which individuals can submit reports of civilian casualties to the command. Multiple languages may be used to fill out the electronic form.

UNCLASSIFIED

E. U.S. military actions in Nigeria

During 2020, USAFRICOM conducted a successful hostage rescue mission in Nigeria. USAFRICOM has not received or identified any reports of civilian casualties associated with this mission.

II. DOD PROCESSES FOR ASSESSING REPORTS OF CIVILIAN CASUALTIES FROM U.S. MILITARY OPERATIONS

As reflected in Section 2 of Executive Order 13732, *United States Policy on Pre- and Post-Strike Measures To Address Civilian Casualties in U.S. Operations Involving the Use of Force*, of July 1, 2016, the U.S. military, as appropriate and consistent with mission objectives and applicable law, including the law of war, has a practice of reviewing or investigating incidents involving civilian casualties, including by considering relevant information from all available sources, such as other agencies, partner governments, and NGOs, and taking measures to mitigate the likelihood of future incidents of civilian casualties.

When assessing reports of civilian casualties, DoD considers whether any members of the civilian population were wounded or killed as a direct result of U.S. military operations. For the purposes of such assessments, DoD does not include members of the civilian population who have forfeited the protections of civilian status by engaging in hostilities. Information about different classes of persons under the law of war, including “civilians” and “combatants,” can be found in Chapter IV of the DoD Law of War Manual (June 2015, Updated December 2016), which is available at https://ogc.osd.mil/images/law_war_manual_december_16.pdf.

Over the past several years, DoD has continued to refine its practices and procedures for reviewing reports of civilian casualties. Under current practices and procedures, the command or another entity identified by the command (such as a special board or team) seeks to assess all reports of civilian casualties that may have resulted from the command’s operations once reports become known. The command or entity considers reports available from any source, including after-action reporting of military units, and information provided by external sources, such as NGOs, the news media, social media, and individuals who were present during the operation, including military personnel and local civilians. In assessing the report, the command or entity seeks to review all readily available information from a variety of sources, and may seek additional information that is not readily available, for example by searching social media and conducting interviews. Sources of information may include, but are not limited to, operational planning data and reporting, video surveillance and other data from ISR assets, witness observations (including those of partnered forces) where available, news reports, and information provided by NGOs and other sources, such as local officials or social media. In reviewing the

UNCLASSIFIED

report, the command or entity seeks to assess whether civilian casualties more likely than not occurred.

Specific processes for reviewing or investigating incidents have varied over the years and may continue to vary by geographic combatant command and by operation. DoD uses different processes due to host nation requests, different mission objectives, different operational designs, different available resources, and different organizational designs and command relationships within various areas of responsibility. As just one example, some commands do not have access to areas on the ground where civilian casualties may have occurred. Commands also work to improve their processes over time and adapt to the ever-changing fog and friction of war.

Under current practices and procedures, after reviewing the available information, a competent official determines whether the report of civilian casualties is “credible,” meaning it is more likely than not that civilians were injured or killed as a result of U.S. military operations. Certain commands may use alternate terms such as “substantiated” and “unsubstantiated” rather than “credible” and “not credible,” but all assessments apply the “more likely than not” standard. When civilian casualties are assessed to have more likely than not occurred, the assessment further estimates the number of civilian casualties that occurred, and differentiates whether they were injured or killed. As noted above, a report may be found to be “not credible,” if, for example, (1) there was no U.S. military action within a reasonable distance and/or within a reasonable timeframe as that identified in the report; (2) the report provides insufficient information to identify a location or date of the incident; or (3) a review of all reasonably available information, including operational data and reporting, video surveillance, other data from ISR assets, information derived through multiple sources of intelligence, and any information provided in the report, leads to the determination that it is more likely than not that civilian casualties did not occur as a result of U.S. military operations.

If warranted, a commander or other competent official may direct a more extensive investigation to find additional facts about the incident and to make relevant recommendations, such as identifying process improvements to reduce the likelihood of future civilian casualty incidents. Command-directed investigations are conducted in accordance with applicable Military Department procedures, such as Army Regulation 15-6 or procedures for an Air Force Commander-Directed Investigation. A new DoD-level policy issuance, currently under development, will establish additional Department-wide guidance for reviewing and assessing reports of civilian casualties.

In some cases, DoD has not been able to assess a report due to insufficient information provided or because reports are still pending review. However, DoD continues its assessments, and existing assessments are reconsidered if new relevant information becomes available.

UNCLASSIFIED

DoD acknowledges that there are differences between DoD assessments of civilian casualties and reports from other organizations, including NGOs. DoD personnel engage with representatives from NGOs and IOs regularly to discuss reports and assessments of civilian casualties, including at both action officer and leadership levels. These differences result from a variety of factors. For example, NGOs and media outlets often use different types of information and methodologies than DoD to assess whether civilian casualties have occurred. Some organizations conduct on-the-ground assessments and interviews, while others rely heavily on media reporting. Although such information can be valuable, this information alone can be incomplete, and it is important to ensure its validity. DoD assessments seek to incorporate all available information, including information provided by NGOs and IOs, as well as additional information and tools that are not available to other organizations – such as operational planning data and intelligence sources. As noted above, DoD reconsiders existing assessments if new relevant information becomes available, such as new information received from NGOs or other outside organizations.

III. DOD PROCESSES FOR CONSIDERING *EX GRATIA* PAYMENTS OR OTHER FORMS OF RESPONSE TO CIVILIAN HARM

An “*ex gratia* payment” may be one of several possible response options that might be appropriate for DoD to take when U.S. military operations injure or kill a civilian or damage or destroy civilian property. Other possible response options could include an acknowledgement of responsibility, medical care, or other appropriate measures that may be consistent with mission objectives and applicable law. Such actions help to express condolences, sympathy, or goodwill, and are used to support mission objectives. Such actions are not required by law, not an admission of wrongdoing, and not for the purpose of compensating the victim or the victim’s family for their loss.

When commanders identify a situation in which it is appropriate to extend an *ex gratia* payment, DoD has authority and funds to do so. Section 1213 of the NDAA for FY 2020 authorized the use of not more than \$3,000,000 for each calendar year from the Office of the Secretary of Defense (OSD), Operation and Maintenance, Defense-wide account, for *ex gratia* payments for damage, personal injury, or death that is incident to the use of force by the U.S. Armed Forces, a coalition that includes the United States, or a military organization supporting the United States or such coalition. Section 1213 additionally specifies that it shall be construed as the sole authority to make *ex gratia* payments for property damage, personal injury, or death that is incident to the use of force by the U.S. Armed Forces. In June 2020, DoD published new Department-wide interim regulations to implement the authority provided under Section 1213. Commanders rely on these regulations to evaluate incidents and to determine whether offering an *ex gratia* payment in a particular case would be appropriate and consistent with mission objectives and applicable law.

UNCLASSIFIED

Additionally, another DoD-level policy issuance is under development that will provide further guidance on the range of responses that might be appropriate for DoD to take when U.S. military operations injure or kill a civilian or damage or destroy civilian property.

DoD did not offer or make any such *ex gratia* payments during 2020.

IV. STEPS DOD TAKES TO MITIGATE HARM TO CIVILIANS

U.S. forces take extraordinary efforts to reduce the harmful impact of military operations on civilians. In conducting military operations, all commands and forces assigned to Combatant Commands (CCMDs) adhere to the law of war, Secretary of Defense-approved rules of engagement, instructions promulgated by the Chairman of the Joint Chiefs of Staff, and joint doctrine that establish policies, processes, and procedures that help to protect civilians and minimize civilian casualties. Below are examples of steps, among other efforts, DoD has taken in 2020 to help protect civilians during military operations.

Policies, processes, and procedures: All CCMDs conducting military operations adhere to Chairman of the Joint Chief of Staff Instructions (CJCSIs) that contain guidance to help protect civilians and minimize civilian casualties, including CJCSI 3160.01C, *No-Strike and the Collateral Damage Estimation Methodology*. Like other DoD issuances, CJCSI 3160.01C is routinely updated, including through lessons learned from U.S. military operations, and a new update of this document is anticipated in 2021. As an example of how seriously the Joint Force takes the process of improving targeting procedures, the Chairman of the Joint Chiefs of Staff has also established a committee of senior targeting representatives from the Joint Staff, the Military Services, the CCMDs, and DoD Combat Support Agencies, and representatives of participating partner nations, to propose, review, debate, analyze, and prioritize targeting issues of mutual concern and, when appropriate, to decide on and implement common advancements.

CCMDs also usually have several boards, bureaus, centers, cells, and/or working groups that contribute to efforts to reduce the likelihood of civilian casualties. Much effort to reduce the likelihood of civilian casualties occurs during the targeting process. CCMDs employ groups focused on the targeting process, such as a Target Development Working Group, a Joint Targeting Working Group, and a Joint Targeting Coordination Board. Although the primary purpose of these groups and board is to achieve an intended outcome against an enemy target, these entities also review and evaluate the targets to minimize the potential for civilian casualties. Additionally, proposed targets are reviewed for compliance with the law of war. For example, a judge advocate will review a proposed target to advise the command and the Target Engagement Authority whether the proposed target is a valid military objective under the law of war.

UNCLASSIFIED

Other working groups that are not as directly involved in the targeting process can also contribute to efforts to minimize civilian casualties or to respond to reports that U.S. forces caused civilian casualties. For example, an Information Operations Working Group can help generate warnings for civilians to avoid military objectives or areas of active combat.

Furthermore, as mentioned earlier in the report, DoD components conduct U.S. military operations consistent with Section 2 of Executive Order 13732, *United States Policy on Pre- and Post-Strike Measures To Address Civilian Casualties in U.S. Operations Involving the Use of Force*, of July 1, 2016, which catalogues the best practices DoD implements to protect civilians during armed conflict. For ease of reference, Section 2 of Executive Order 13732 is reproduced as follows.

“**Sec. 2. Policy.** In furtherance of U.S. Government efforts to protect civilians in U.S. operations involving the use of force in armed conflict or in the exercise of the Nation’s inherent right of self-defense, and with a view toward enhancing such efforts, relevant departments and agencies shall continue to take certain measures in present and future operations.

(a) In particular, relevant agencies shall, consistent with mission objectives and applicable law, including the law of armed conflict:

(i) train personnel, commensurate with their responsibilities, on compliance with legal obligations and policy guidance that address the protection of civilians and on implementation of best practices that reduce the likelihood of civilian casualties, including through exercises, pre-deployment training, and simulations of complex operational environments that include civilians;

(ii) develop, acquire, and field intelligence, surveillance, and reconnaissance systems that, by enabling more accurate battlespace awareness, contribute to the protection of civilians;

(iii) develop, acquire, and field weapon systems and other technological capabilities that further enable the discriminate use of force in different operational contexts;

(iv) take feasible precautions in conducting attacks to reduce the likelihood of civilian casualties, such as providing warnings to the civilian population (unless the circumstances do not permit), adjusting the timing of attacks, taking steps to ensure military objectives and civilians are clearly distinguished, and taking other measures appropriate to the circumstances; and

UNCLASSIFIED

(v) conduct assessments that assist in the reduction of civilian casualties by identifying risks to civilians and evaluating efforts to reduce risks to civilians.

(b) In addition to the responsibilities above, relevant agencies shall also, as appropriate and consistent with mission objectives and applicable law, including the law of armed conflict:

(i) review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources, such as other agencies, partner governments, and NGOs, and take measures to mitigate the likelihood of future incidents of civilian casualties;

(ii) acknowledge U.S. Government responsibility for civilian casualties and offer condolences, including *ex gratia* payments, to civilians who are injured or to the families of civilians who are killed;

(iii) engage with foreign partners to share and learn best practices for reducing the likelihood of and responding to civilian casualties, including through appropriate training and assistance; and

(iv) maintain channels for engagement with the International Committee of the Red Cross and other NGOs that operate in conflict zones and encourage such organizations to assist in efforts to distinguish between military objectives and civilians, including by appropriately marking protected facilities, vehicles, and personnel, and by providing updated information on the locations of such facilities and personnel.”

During 2020, the operations listed above were conducted consistent with Section 2 of Executive Order 13732. For example, pre-deployment training for U.S. military units during 2020 included instruction on the law of war, rules of engagement, and other policies related to protecting civilian populations. CCMDs conducting military operations also took feasible precautions to reduce the likelihood of civilian casualties, conducted assessments that assist in the reduction of civilian casualties, and acknowledged U.S. responsibility for civilian casualties.

Operational Pauses: U.S. forces, working in coordination with Coalition members and partner forces, implement, in appropriate circumstances, operational pauses to allow for the safe passage of civilians and other non-combatants from areas of hostilities.

Civilian Casualty Cells: CCMDs or appropriate subordinate commands also employ “civilian casualty cells” to address civilian casualty issues, such as responding to reports that U.S. or Coalition military operations caused civilian casualties. CCMDs and other operational commands continue to review civilian casualty assessment processes and refine policies and procedures.

UNCLASSIFIED

Technological Advancements: DoD pursues the latest advances in precision-guided weapons and ISR technology. The majority of strikes in 2020 used state-of-the-art weaponry and technology to characterize the target area as precisely as possible and to employ the weapons' capabilities against the enemy while reducing effects on nearby collateral concerns. DoD Components with target engagement authority have also made process improvements to identify and eliminate contributing factors that have the potential to lead to civilian casualties, including through regular reviews of weapons employment across various commands to identify additional areas of improvement and to disseminate best practices and lessons learned. Additionally, commanders are leveraging emerging technologies that enhance battlefield situational awareness, reduce the probability of potential civilian casualties, and enable better integration of fires. Lastly, mission planners seek to minimize risk to civilians by employing the most appropriate munition available, including, at times, non-lethal capabilities, to accomplish the mission.

Doctrinal Updates: The Joint Staff is conducting a periodic review of DoD's methodology for conducting combat assessments, as reflected in CJCSI 3162.02A, *Methodology for Combat Assessment*, and plans to publish an updated version of the instruction in 2021. This instruction established DoD's collateral damage assessment methodology to help commanders better understand the effects of U.S. military operations and identify improvements. The collateral damage assessment methodology outlines steps to assess collateral damage and establishes data-basing and graphic production standards. Additionally, and as mentioned above, the Joint Staff anticipates releasing an updated version of CJCSI 3160.01C, *No-Strike and the Collateral Damage Estimation Methodology*, in 2021.

Receipt of Information Regarding Civilian Casualties: In October 2020, DoD posted a webpage to provide information on how individuals can submit information to DoD about civilian casualties that may have resulted from U.S. military operations. This webpage lists the email and postal mailing addresses of the combatant commands and can be accessed at <https://policy.defense.gov/OUSSDP-Offices/Reporting-Civilian-Casualties/>.

Public Reporting of Civilian Casualties: In addition to this report, through which DoD annually releases information regarding civilian casualties that result from U.S. military operations, certain commands also release related information through other mechanisms and on a more frequent basis.

Civilian Casualties Working Group: DoD established a Civilian Casualties Working Group to promote coordination within DoD on civilian casualty issues. This effort is covered in more detail in the report submitted to Congress pursuant to Section 936 of the NDAA for FY 2019.

Studies and Analysis: In December 2017, the Chairman of the Joint Chiefs of Staff directed an assessment of civilian casualties that resulted from U.S. air or artillery strikes in

UNCLASSIFIED

USCENTCOM's and USAFRICOM's respective areas of responsibility from 2015 to 2017. The study made findings and provided recommendations related to policy, doctrine, operational planning, and technological investments. This effort is covered in more detail in the report submitted to Congress pursuant to Section 936 of the NDAA for FY 2019.

More recently, OSD has entered into an agreement for two additional studies conducted by a Federally Funded Research and Development Center (FFRDC). The first study began in late 2019 and is titled "Understanding Civilian Harm in Raqqa." This study focused on the 2017 Battle of Raqqa, with the objective of identifying recommendations to inform DoD on ways civilian harm could be reduced in future military operations. The second study was conducted pursuant to Section 1721 of the NDAA for FY 2020, and began in early 2020. This study is intended to provide the Secretary of Defense and Congress with an independent assessment of the standards, processes, procedures, and policy relating to civilian casualties that are currently in place across DoD, and of changes that are currently under development, and will provide recommendations to inform the further development of and improvements to policies related to civilian casualties. Both of these studies are near completion.

Engagement with NGOs: DoD engages with representatives of NGOs that operate in conflict zones as well as with delegates of the International Committee of the Red Cross to hear their respective perspectives regarding how civilians are affected by armed conflict, and to inform DoD's approaches to mitigating and responding to civilian harm. Consistent lines of communication are maintained between NGOs and DoD, including across multiple levels of command.

In recent years, officials in OSD have periodically hosted roundtable engagements with representatives of NGOs to discuss a broad variety of matters relating to civilian casualties. For example, these roundtables have discussed topics such as civilian casualty assessments and investigations; post-harm acknowledgment and *ex gratia* condolence payments; DoD engagement with NGOs; protections of civilians and civilian objects; partnered operations and civilian casualties; and civilian harm in the context of specific regional conflicts as well as potential large scale combat operations. These engagements have helped to advance a mutual understanding between DoD and NGOs regarding efforts that the U.S. military takes to mitigate and respond to civilian harm during operations.

V. CONCLUSION

DoD continues to move forward the development of a Department-wide policy issuance that will address the priority areas identified in Section 936 of the NDAA for FY 2019, as well as other issues identified by DoD. This effort was described in DoD's Section 936 report to Congress in 2019, and is ongoing. A January 31, 2020, memorandum from the Department's then-official

UNCLASSIFIED

responsible for coordinating DoD policy relating to civilian casualties to other senior DoD officials, provides additional information regarding issues that this policy issuance will address. This memo is publicly available at <https://media.defense.gov/2020/Feb/20/2002252367/-1/-1/1/DEVELOPMENT-OF-A-DOD-INSTRUCTION-ON-MINIMIZING-AND-RESPONDING-TO-CIVILIAN-HARM-IN-MILITARY-OPERATIONS.PDF>.