



SECRETARY OF DEFENSE
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MAY 17 2022

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, COST ASSESSMENT AND PROGRAM
EVALUATION
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC
AFFAIRS

SUBJECT: Timely and Thorough Assessments of Reported Civilian Harm Incidents

I am confident each of you share my commitment to protecting innocent civilians in the conduct of our operations. But even when the Department conducts an operation in accordance with all applicable laws, takes steps to mitigate civilian harm, and reviews reports of such harm following a military operation, delays in our processes can fuel perceptions to the contrary.

At my direction, the Department recently completed an independent review of a civilian casualty incident on March 18, 2019, in Baghuz, Syria. The review concluded the strike was conducted consistent with the Law of War but made several recommendations for improving processes and training, which I endorse. Nevertheless, I was disappointed to learn that several aspects of the original incident review missed deadlines, accepted informational deficiencies that prevented making complete assessments, and was left open for many months. As the independent review found, the process contributed to a perception that the Department was not committed to transparency and was not taking the incident seriously — a perception that could have been prevented by a timely review and a clear explication of the circumstances surrounding the strike.

To address these concerns, I am directing the following:

First, the applicable deadlines to report and review civilian casualty incidents will be met and each review will be appropriately documented. That begins with the initial assessment of an incident and continues through each step of review that is appropriate given the circumstances. Delays at any stage of the process can have significant costs, including the loss of relevant information, the degradation of memories, and the perception that the Department does not take the incident seriously.

Second, leaders across the Department will ensure that all steps in response to a civilian casualty incident are completed. If an incident review remains open after completion deadlines have elapsed, the direct higher headquarters of the unit reviewing the incident has an affirmative responsibility to verify that steps are being taken to complete the appropriate level of review.

Department Components that receive formal notice of the incident should also routinely check whether reviews have been closed and, if not, take appropriate steps to follow up.

Third, reviews will be thorough. Among other things, reviews of reported civilian harm incidents include assessing whether it is more likely than not that civilian casualties resulted from an operation and whether a Law of War violation may have occurred. If at any time it appears that information available to reviewers was insufficient to make those assessments, Department Components should strongly consider taking additional investigative steps, to include initiating a command investigation at the appropriate level. It is better to resolve concerns about the adequacy of information in favor of further investigation.

Fourth, to ensure the Department meets its obligation to mitigate and review civilian harm incidents, as well as to further our commitment to transparency and accountability, I am also directing the Commanders of Combatant Commands to reinforce within their commands the importance of existing civilian casualty incident review deadlines and procedures, and to underscore that they should be met and fulfilled consistent with this memorandum.

Finally, I am further directing the Under Secretary of Defense for Policy, in coordination with: the Under Secretary of Defense for Comptroller; the Director, Cost Assessment and Program Evaluation; the Joint Staff; the Military Departments; and other relevant Department Components, to incorporate this memorandum, as well as the independent review into the March 18, 2019 civilian casualty incident, and associated materials and recommendations, into the development of the Civilian Harm Mitigation and Response Action Plan I directed on January 27, 2022.

Our efforts to mitigate and respond to civilian harm resulting from U.S. military operations are a direct reflection of U.S. values. Leaders at every level of the Department must take steps to ensure we are meeting our strategic and moral responsibilities to minimize civilian harm by ensuring civilian harm incidents are reviewed in a timely and thorough manner and that all reporting steps are executed to completion. Failure to do so may deprive the Department of vital information necessary to meet our obligations to report incidents of civilian harm and to improve our mitigation efforts going forward. It can also foster the false perception that the Department is not upholding our commitment to these responsibilities.

Protecting innocent civilians is fundamental to our operational success and is a strategic and moral imperative. Our shared commitment to these principles must include embracing opportunities to improve. I thank you for your ongoing support of the Department's efforts.

A handwritten signature in black ink, appearing to read "Robert J. D. ...". The signature is written in a cursive, flowing style.