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INSPECTOR GENERAL

U.S. Department of Defense

NOVEMBER 16, 2021



(U) Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies

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(U) Results in Brief

(U) Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies

November 16, 2021

(U) Objective

(U) We determined the extent to which the U.S. Central Command (USCENTCOM) and the U.S. Special Operations Command (USSOCOM) implemented the administrative requirements related to DoD law of war (LoW) policies.

(U) For this report, we reviewed the USCENTCOM and USSOCOM processes for training, exercising, reporting, investigating, and maintaining records of the receipt and disposition of allegations of LoW violations for compliance with DoD policy. We did not review specific incidents or allegations to determine if LoW violations or war crimes occurred or whether specific incidents or allegations should have been determined to be LoW violations or war crimes.

(U) Background

(U) DoD Directive (DoDD) 2311.01 provides overall guidance on the DoD LoW program for all subordinate organizations within the DoD. USCENTCOM and USSOCOM have published their own policies that implement guidance from DoDD 2311.01 and Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01 on LoW programs.

Findings

(U) USCENTCOM and USSOCOM developed LoW policies, procedures, and orders that implemented most DoDD 2311.01 and CJCSI 5810.01 requirements. In addition, the commands included LoW principles in training and exercises. However,

(U) Background (cont'd)

(U) USCENTCOM and USSOCOM policies need to be updated to reflect current DoD policy on LoW. Both commands' subordinate components' or joint commands' training, and USCENTCOM's exercises and reporting processes can be improved. Specifically, we found that:

- (U) The USCENTCOM and USSOCOM policies and procedures for reporting, investigating, and collecting allegations of LoW violations are not consistent with DoD policy. This occurred because USCENTCOM, USSOCOM, and the Joint Staff were still in the process of updating their policies to reflect the requirements of the revised DoDD 2311.01 from July 2, 2020.
- (U) USCENTCOM did not periodically review in-theater LoW training to ensure that it was consistent with the DoD LoW program, as required by Central Command Regulation 27-1. This occurred because, according to USCENTCOM personnel, they relied on subordinate commands to accomplish the training reviews without confirming the reviews were completed. However, the subordinate commands delegated development and administration of LoW training programs to individual units without formally reviewing the training for compliance with the DoD LoW program.
- (U) USSOCOM officials conducted an annual review of component LoW training plans and materials, as directed by USSOCOM Directive 525 27, but did not document completion of the review, including identification and correction of deficiencies. This occurred because DoD and USSOCOM policies do not require documentation of the review. In addition, USSOCOM personnel conducting the review did not identify any deficiencies. However, we found deficiencies in several subordinate component LoW training briefings related to potential LoW violation reporting procedures. Annual reviews should be documented to capture common themes, including best practices and deficiencies, and to confirm that any deficiencies are corrected.



(U) Results in Brief

(U) Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies

(U) Findings (cont'd)

- (U) USCENTCOM did not fully exercise their personnel in responding to potential LoW violations. Specifically, USCENTCOM did not include scenarios in headquarters and subordinate component exercises to improve response to and reporting procedures of potential LoW violations as directed in CJCSI 5810.01, Central Command Regulation 27-1, and USSOCOM DoDD Directive 525-27. This occurred in USCENTCOM because, according to USCENTCOM personnel, they focused on LoW analysis within planning and targeting processes rather than responding to, and reporting on, potential LoW violations within exercises.

(U) USCENTCOM also reported most, but not all, allegations of LoW violations to the Chairman of the Joint Chiefs of Staff and the Secretary of Defense in accordance with DoD LoW policy. This occurred because USCENTCOM did not execute procedures to make initial reports of reportable LoW incidents separate from procedures for civilian casualties.¹ In addition to reporting within the combatant command, DoDD 2311.01 directs combatant commanders to expeditiously report all reportable incidents to the CJCS, the Secretary of Defense, the Commander of USSOCOM (if applicable), and the relevant Secretaries of the Military Departments.

(U) USCENTCOM generally complied with, and USSOCOM complied with, the administrative requirements related to the DoD LoW program. However both commands' LoW policies require updates, and in-theater training can be improved. In addition, USCENTCOM did not incorporate LoW reporting scenarios in its exercises, and update its reporting processes. As a result, the commands accept additional risk that U.S. personnel

(U) may not initiate and report all potential LoW violations against U.S. and foreign personnel as required by current DoD policy. According to the DoD LoW Manual, compliance with the LoW is in the strong self-interest of everyone as it reinforces military effectiveness, encourages reciprocal adherence by the adversary, and maintains public support and political legitimacy. Proper reporting and investigation of reportable LoW incidents is important to upholding the reputation of the U.S. military when conducting operations in a manner consistent with international law. According to the CJCSI 5810.01, the DoD's priority when LoW allegations are made is to promptly report the allegations and ensure they are thoroughly and impartially investigated.

(U) Recommendations

(U) We recommend that the Commander of U.S. Central Command:

- (U) Revise Headquarters United States Central Command Regulation 27-1, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020. In addition, direct Combined Joint Task Force–Operation Inherent Resolve to review and revise Fragmentary Order 2 to Operations Order 17-12-0002 to make its procedures consistent with DoDD 2311.01.
- (U) Develop procedures to execute and document a periodic review of component command and subordinate joint command training programs to ensure they are consistent with the DoD LoW program.
- (U) Develop procedures to incorporate scenarios into command-level Joint and Service Component exercises that require personnel to respond to and report potential LoW incidents.

¹ (U) According to DoDD 2311.01E, a "reportable incident" is a possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict.



(U) Results in Brief

(U) Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies

(U) Recommendations (cont'd)

- (U) Develop procedures to promptly report reportable LoW incidents (regardless of reporting channel) to the combatant commander and appropriate external organizations.

(U) We recommend that the Commander of U.S. Special Operations Command:

- (U) Revise United States Special Operations Command DoDD Directive 525-27, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020.
- (U) Develop procedures to document the annual U.S. Special Operations Command Staff Judge Advocate review of Service Component and Theater Special Operations Command Staff Judge Advocate training briefings, identify any deficiencies to the components, and track correction of the deficiencies.

(U) We recommend that the Director of the Joint Staff review and revise Chairman of the Joint Chiefs of Staff Instruction 5810.01, "Implementation of the DoD Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01.

(U) Management Comments and Our Response

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendations to revise USCENTCOM Regulation 27-1 and to develop procedures to incorporate LoW scenarios into command-level Joint and Service Component exercises. Therefore, these recommendations are resolved but will remain open. We will close these recommendations when we receive the revised

(U) USCENTCOM Regulation 27-1 and verify that the revisions align the Regulation with DoDD 2311.01 and that USCENTCOM has incorporated LoW scenarios into its exercises.

(U) The Executive Director of the USCENTCOM Office of the Inspector General agreed with the recommendation to develop procedures to promptly report LoW incidents separately and distinctly from other reporting procedures. However, the response focused on reporting LoW allegations regardless of their credibility rather than addressing the specifics of the recommendation. The Executive Director did not address how USCENTCOM will develop procedures to promptly report LoW reportable incidents made through other reporting channels, such as the Inspector General, and ensure that this reporting is separate and distinct from other reporting requirements, such as civilian casualty reporting. Therefore, this recommendation is unresolved.

(U) The Executive Director of the USCENTCOM Office of the Inspector General disagreed with the recommendation to develop procedures to execute and document a periodic review of component LoW training programs, stating there is no requirement for this within DoD policy and that such a task would impose a significant and un-resourced burden on the command. However, CJCSI 5810.01 and Central Command Regulation 27-1 both require USCENTCOM, its component commands, and joint subordinate commands to periodically review their LoW training programs. The recommendation is not prescriptive in stating how USCENTCOM conducts the periodic review and allows for the delegation of reviews to subordinate commands as long as USCENTCOM headquarters ensures the reviews are performed. The Executive Director's comments did not address how USCENTCOM will implement a periodic review; therefore, the recommendation is unresolved.



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(U) Results in Brief

(U) Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies

(U) Comments (cont'd)

~~(CUI)~~ The Deputy Commander of USSOCOM, responding on behalf of the Commander of USSOCOM, disagreed with the recommendation to revise USSOCOM DoDD Directive 525-27 to make it consistent with the revised DoDD 2311.01. He stated that USSOCOM DoDD Directive 525-27 is the command's adoption and amplification of DoDD 2311.01 and, therefore, cannot be inconsistent with the DoDD. The Deputy Commander's comments contradict previous statements by USSOCOM officials that they conducted a review of USSOCOM DoDD Directive 525-27 and have already begun a revision to the Directive. Therefore, this recommendation is unresolved.

~~(CUI)~~ The Deputy Commander of USSOCOM disagreed with the recommendation to document USSOCOM reviews of subordinate component and command training briefs. He stated that nothing in DoDD 2311.01 or CJCSI 5810.01 requires USSOCOM to document reviews and identify and track deficiencies of subordinate LoW training briefs. He further stated that DoDD 2311.01 does not prescribe any substantive training elements that must be included

~~(CUI)~~ in written training materials; therefore, it is incorrect to characterize the lack of certain provisions as deficiencies. While DoD policy does not mandate that reviews be documented or which provisions of LoW must be included in training, we determined that some USSOCOM training briefings lacked coverage of reporting procedures. We believe training reviews should be documented to capture best practices and deficiencies to ensure subordinate commands continue to be consistent with the DoD LoW program. The Deputy Commander's comments did not address how USSOCOM will correct deficiencies to training materials; therefore, this recommendation is unresolved.

(U) The Vice Director of the Joint Staff, responding on behalf of the Director of the Joint Staff, agreed with the recommendation and estimated that the Joint Staff will update CJCSI 5810.01 no later than January 4, 2022. Therefore, this recommendation is resolved but will remain open.

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(U) Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Commander, U.S. Central Command	1.b., 1.d.	1.a., 1.c.	None
Commander, U.S. Special Operations Command	2.a., 2.b.	None	None
Director, Joint Staff	None	3.b.	None

Please provide Management Comments by December 17, 2021.

Note: The following categories are used to describe agency management's comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – OIG verified that the agreed upon corrective actions were implemented.



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

November 16, 2021

**MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDER, U.S. CENTRAL COMMAND
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND**

**SUBJECT: (U) Evaluation of U.S. Central Command and U.S. Special Operations Command
Implementation of the Administrative Requirements Related to the Department
of Defense's Law of War Policies (Report No. DODIG-2022-038)**

(U) This final report provides the results of the DoD Office of Inspector General's evaluation. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

(U) This report contains recommendations that are considered unresolved because the U.S. Central Command and U.S. Special Operations Command did not agree with or fully address all of the recommendations presented in the report.

(U) Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, these recommendations remain open. We will track these recommendations until we reach an agreement on the actions that you will take to address them, and you have submitted adequate documentation showing that all agreed-upon actions are completed.

(U) DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, please provide us within 30 days your response concerning specific actions in process or alternative corrective actions proposed on the unresolved recommendations. Send your response to either DoD OIG (b)(6) @dodig.mil or DoD OIG (b)(6) @dodig.mil if unclassified and DoD OIG (b)(6) @dodig.smil.mil or DoD OIG (b)(6) @dodig.smil.mil if classified SECRET.

(U) The Executive Director of the U.S. Central Command Office of the Inspector General, responding for the Commander of U.S. Central Command; the Deputy Director of U.S. Special Operations Command, responding for the Commander of U.S. Special Operations Command; and the Vice Director of the Joint Staff, responding for the Director of the Joint Staff, addressed all the other recommendations presented in the report; therefore, we consider the recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when we receive documentation showing that all agreed-upon

(U) actions to implement the recommendations are completed. Therefore, please provide us within 90 days your response concerning specific actions in process or completed on the recommendations. Send your response to either followup@dodig.mil if [unclassified or rfunet@dodig.smil.mil](#) if classified SECRET.

(U) If you have any questions or would like to meet to discuss the evaluation, please contact me at **DoD OIG (b)(6)**. We appreciate the cooperation and assistance received during the evaluation.

A handwritten signature in black ink that reads "Michael J. Roark". The signature is fluid and cursive, with the first name "Michael" and last name "Roark" being clearly legible.

Michael J. Roark
Deputy Inspector General for Evaluations

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(U) Introduction

(U) Objective

(U) We determined the extent to which the U.S. Central Command (USCENTCOM) and the U.S. Special Operations Command (USSOCOM) implemented the administrative requirements related to the DoD law of war (LoW) policies.

(U) For this report, we reviewed the USCENTCOM and USSOCOM processes for training, exercising, reporting, investigating, and maintaining records of allegations of LoW violations for compliance with DoD policy. We did not evaluate whether LoW requirements were considered or implemented during operations nor did we review specific incidents or allegations to determine if LoW violations or war crimes occurred.

(U) Background

(U) According to DoD Directive (DoDD) 2311.01, the LoW (also known as the law of armed conflict or international humanitarian law) is an aggregate of treaties and customary international law, binding on the United States, that regulate the conditions for war and the conduct of warring parties.² According to the DoD Law of War Manual, laws of war address issues of sovereignty and nationhood, states and territories, occupation, and other terms of international law.³ Laws of war also address the declarations of war; acceptance of surrender and the treatment of prisoners of war; mitigation of harm to civilians; military necessity, humanity, and honor, along with distinction and proportionality; and the prohibition of certain weapons that may cause unnecessary suffering. U.S. military personnel who intentionally commit or order any breach of the laws of war may be held individually accountable for war crimes through Uniform Code of Military Justice prosecution.⁴

(U) LoW Criteria Documents

(U) The main policies that govern criteria for LoW programs within the DoD, USCENTCOM, and USSOCOM include the following:

- (U) DoD Law of War Manual
- (U) DoDD 2311.01
- (U) Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01, "Implementation of the DoD Law of War Program"⁵

² (U) DoDD 2311.01, "DoD Law of War Program," July 2, 2020.

³ (U) Office of General Counsel, DoD, "DoD Law of War Manual," December 2016.

⁴ (U) Department of the Army, "Law of War Compliance: Administrative Investigations & Criminal Law Supplement," September 10, 2018.

⁵ (U) CJCSI 5810.01D, "Implementation of the DoD Law of War Program," April 20, 2010.

- (U) U.S. Central Command (USCENTCOM) Regulation (CCR) 27-1, "Law of War Program"⁶
- (U) U.S. Special Operations Command (USSOCOM) DoDD Directive 525-27, "Law of War Program"⁷

(U) DoD Law of War Manual and DoDD 2311.01

(U) Under the purview of the DoD General Counsel, the DoD published the DoD Law of War Manual to provide information to DoD personnel responsible for implementing the LoW and executing military operations. The DoD Law of War Manual reflects the lessons learned by the DoD in applying the LoW in actual military operations. In addition, the DoD General Counsel revised DoDD 2311.01E on May 9, 2006, and issued an update, DoDD 2311.01, on July 2, 2020, to establish the basic processes and procedures for training on LoW and the reporting, investigation, and central collection of alleged violations.⁸ According to DoDD 2311.01, all DoD personnel must understand the duties imposed and rights assigned by the LoW. This directive serves as the basis for additional LoW policies issued by the Chairman of the Joint Chiefs of Staff (CJCS), the combatant commands, and the combatant commands' subordinate commands and components.

(U) Among other changes, DoDD 2311.01 revised the definition of a LoW "reportable incident (RI)" and added a definition for "credible information" to resolve previous ambiguity that affected how combatant commands characterize and report allegations of LoW violations within the commands and to external organizations. According to DoDD 2311.01, a LoW RI is:

(U) an incident that a unit commander or other responsible official determines, based on credible information, potentially involves: a war crime; other violations of the LoW; or conduct during military operations that would be a war crime if the military operations occurred in the context of an armed conflict. The unit commander or responsible official need not determine that a potential violation occurred, only that credible information merits further review of the incident.⁹

⁶ (U) USCENTCOM Regulation 27-1, "Law of War Program," March 25, 2014.

⁷ (U) USSOCOM Directive 527-27, "Law of War Program," July 1, 2019.

⁸ (U) DoDD 2311.01E, "DoD Law of War Program," May 9, 2006 (Incorporating Change 1, November 15, 2010).

⁹ (U) DoDD 2311.01.

(U) The Directive further clarifies the definition of credible information, as “information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the alleged violation.” The revised Directive also added a requirement that commanders who determine that an allegation is not supported by credible information must nevertheless forward the allegation, through the chain of command, to the appropriate combatant commander.

(U) Chairman of the Joint Chiefs of Staff Instruction 5810.01

(U) CJCSI 5810.01 closely follows the definitions and responsibilities of the May 9, 2006, version of DoDD 2311.01E, with the noted addition of directing the combatant commands to include specific LoW scenarios in exercises to improve lawful implementation, and in cases of violations, proper reporting procedures.¹⁰ CJCSI 5810.01 emphasizes that combatant commands are responsible for ensuring that their assigned and attached subordinate units conduct LoW training and dissemination programs. Combatant commands must also ensure that the training and programs are consistent with law and DoD policy, and the training and programs are subject to periodic review by the commands’ legal advisors. Finally, CJCSI 5810.01 directs combatant commands to forward all initial reportable LoW incidents to the Joint Staff National Joint Operations Intelligence Center, serving as the Chairman of the Joint Chief of Staff’s primary organization for full-time situational awareness.

(U) U.S. Central Command Regulation (CCR) 27-1

(U) CCR 27-1 closely follows DoDD 2311.01E policies, directing the Command, component commands, and subordinate joint commands to maintain a collection of LoW RIs that can be used for training exercises.¹¹ CCR 27-1 requires that initial reports from any unit that obtains information about an RI be immediately sent through command channels to USCENTCOM. CCR 27-1 requires that initial reports include known facts and circumstances and be supplemented later once further facts are uncovered and with details of any investigation. CCR 27-1 also provides direction to USCENTCOM headquarters on reporting incidents to the Joint Chiefs of Staff, the Secretary of Defense, and other external organizations and outlines responsibilities for collecting and maintaining reports and investigations that occurred in the USCENTCOM area of responsibility (AOR).

¹⁰ (U) CJCSI 5810.01D.

¹¹ (U) USCENTCOM Regulation 27-1.

(U) U.S. Special Operations Command DoDD Directive 525-27

(U) USSOCOM DoDD Directive 525-27 also adopts DoDD 2311.01E policies into guidance for USSOCOM headquarters, Service Components, the Theater Special Operations Commands, the Joint Special Operations Command (JSOC), and National Guard and Reserve Special Operations units and detachments, when activated.¹² The Directive specifies requirements for annual and pre-deployment LoW training and requires an annual review of all training materials by legal advisors. It also directs USSOCOM personnel to follow geographic combatant command policies and procedures for reporting and investigating LoW RIs that occurred while USSOCOM personnel are conducting operations under the authority and operational control of a geographic combatant commander.

(U) Reporting and Investigating LoW Violations

(U) According to DoDD 2311.01, all military and U.S. civilian employees, contractor personnel, and subcontractors assigned to or accompanying a DoD Component must report, through their chain of command, all RIs, including those involving allegations of non-DoD personnel having violated the LoW. Reports of incidents may also be made through other channels, such as the military police, a judge advocate, or an inspector general. However, reports made through other channels must be immediately forwarded to and through the recipient's chain of command and the chain of command of the subject of the allegation, as applicable. In addition to reporting within the combatant command, DoDD 2311.01 directs combatant commanders to expeditiously report all RIs to the CJCS, the Secretary of Defense, the Commander of USSOCOM (if applicable), and the relevant Secretaries of the Military Departments.

¹² (U) USSOCOM Directive 527-27.

(U) Finding

(U) USCENTCOM Generally Complied With, and USSOCOM Complied With, DoD Policy on LoW Program Implementation, but Command Policies, Training, Exercises, and Reporting Can Be Improved

(U) USCENTCOM and USSOCOM developed LoW policies, procedures, and orders that implemented most DoDD 2311.01 and CJCSI 5810.01 requirements. In addition, the Commands included LoW principles in training and exercises. However, USCENTCOM and USSOCOM policies need to be updated to reflect current DoD policy on LoW. Both commands' subordinate components' or joint commands' training, and USCENTCOM exercises and reporting processes can be improved. Specifically, we found that:

- (U) The USCENTCOM and USSOCOM policies and procedures for reporting, investigating, and collecting allegations of LoW violations are not consistent with the DoD LoW policy. In addition, CJCSI 5810.01 is inconsistent with the DoD LoW policy. Specifically, the policies are inconsistent in directing distribution of initial and completed reports; directing formal investigations and referrals to military criminal investigative organizations; and definitions of LoW RIs. This occurred because USCENTCOM, USSOCOM, and Joint Staff personnel were still in the process of updating their policies to reflect the revised DoDD 2311.01 from July 2, 2020. The revised DoDD updated reporting procedures to include reporting of incidents regardless of assessed credibility; eliminated the automatic referral to a military criminal investigative organization, unless "warranted;" and updated the definition of an RI, to include a definition of "credible information."
- (U) USCENTCOM did not periodically review in-theater LoW training to ensure it was consistent with the DoD LoW program, as required by CCR 27-1. This occurred because, according to USCENTCOM personnel, they relied on subordinate commands to accomplish the training reviews without confirming the reviews were completed. However, the subordinate commands delegated development and administration of LoW training programs to individual units without formally reviewing the training for compliance with the DoD LoW program.

- (U) USSOCOM officials conducted an annual review of component LoW training plans and materials, as directed by USSOCOM Directive 525-27, but did not document completion of the review, including identification and correction of deficiencies. This occurred because DoD and USSOCOM policies do not require documentation of the review. In addition, USSOCOM personnel conducting the review did not identify any deficiencies. However, we found deficiencies in several subordinate component LoW training briefings related to potential LoW violation reporting procedures. Annual reviews should be documented to capture common themes, including best practices and deficiencies, and to confirm that any deficiencies are corrected.
- (U) USCENTCOM did not fully exercise their personnel in responding to potential LoW violations. Specifically, USCENTCOM did not include scenarios in headquarters and subordinate component exercises that improved response and reporting procedures of potential LoW violations, as directed in CJCSI 5810.01, CCR 27-1, and USSOCOM DoDD Directive 525-27. This occurred because, according to USCENTCOM personnel, their focus was on LoW analysis within planning and targeting processes rather than responding to, and reporting on, potential LoW violations within exercises.

~~(CUI)~~ USCENTCOM also reported most, but not all, allegations of LoW violations to the Chairman of the Joint Chiefs of Staff and the Secretary of Defense in accordance with DoD LoW policy. USCENTCOM leadership stated that there were 10 allegations of LoW violations against U.S. personnel operating within the USCENTCOM AOR over a 3-year period, from January 2018 through December 2020. According to USCENTCOM and USSOCOM personnel, none of the allegations were “reportable incidents,” as defined by DoDD 2311.01E, because the allegations were not based on credible information. Despite not being reportable LoW incidents, USCENTCOM and USSOCOM reported all 10 of these allegations of LoW violations as commander’s critical information requirements to the Joint Staff, the Office of the Under Secretary of Defense for Policy, and the DoD General Counsel out of an abundance of caution.

~~(CUI)~~ In addition, neither USSOCOM nor USCENTCOM reported two separate allegations of LoW violations made to the DoD OIG through the DoD Hotline. This occurred because, according to USSOCOM officials, the DoD OIG initially referred these allegations to USCENTCOM as action cases, and USSOCOM defers external reporting of all allegations that occur in the USCENTCOM AOR to USCENTCOM headquarters. USCENTCOM officials did not consider these allegations to be LoW RIs because, after conducting formal investigations, they concluded that the allegations were not credible and that the incidents had already been

~~(CUI)~~ reported via the civilian casualty review process. However, at least one of the two complaints submitted to the DoD OIG through the DoD Hotline was credible when it was made, prior to the formal investigation, and all credible allegations of LoW violations must be forwarded via reporting procedures separate from the civilian casualty procedures.

(U) Both USCENTCOM and USSOCOM should update their policies to reflect revised DoD policy on LoW and can improve their subordinate component or joint command in-theater training on LoW reporting requirements. In addition, USCENTCOM and its subordinate commands did not conduct periodic reviews of their training programs, incorporate LoW reporting scenarios in their exercises, and update their LoW reporting processes. As a result, the commands accept additional risk that U.S. personnel may not initiate and report all potential law of war violations against U.S. or foreign personnel in a proactive manner that is consistent with current DoD policy. Knowledge of, and adherence to, LoW principles is important to uphold the reputation of the U.S. military when conducting operations consistent with international humanitarian law. The DoD's priority when LoW allegations are made is to promptly report the allegations and ensure they are thoroughly and impartially investigated.

(U) USCENTCOM Generally Complied With, and USSOCOM Complied With, DoD Policy on LoW Program Implementation

~~(CUI)~~ USCENTCOM, USSOCOM, Combined Joint Task Force–Operation Inherent Resolve (CJTF-OIR), and U.S. Forces–Afghanistan (USFOR-A) developed LoW policies, procedures, and orders for the implementation of most requirements in accordance with DoDD 2311.01 and CJCSI 5810.01. For example, DoDD 2311.01 directs DoD Components to implement effective programs that include reporting of incidents to ensure that commanders can exercise their responsibilities to implement and enforce the LoW. Although DoDD 2311.01 only directs reporting of allegations based on credible information, USSOCOM reported all allegations of LoW violations out of an abundance of caution, whether its units determined them to be credible or not. USSOCOM followed the geographic combatant command's policy and guidance for reporting and investigating RIs, but also reported allegations of LoW violations as USSOCOM Commander's critical information requirements, which requires reporting regardless of the assessed credibility of the allegation. Specifically, USSOCOM's Friendly Forces Information Requirement Number 17 directs subordinate commanders to report "any reported or suspected violation of the LoW by Special Operations Forces personnel." Subordinate commanders

~~(U)~~ must submit commander's critical information requirements reports of allegations of LoW violations to the USSOCOM Global Mission Support Center who, in-turn, notifies USSOCOM senior leadership, including the USSOCOM Judge Advocate Office.

~~(U)~~ The USSOCOM Commander's critical information requirements procedures also informed USCENTCOM of allegations of LoW violations, regardless of their assessed credibility. These procedures enabled USCENTCOM to keep the select offices within the Joint Staff and various Offices of the Secretary of Defense informed as well, despite the fact that at least 10 of 12 allegations did not meet the threshold reporting requirement under DoD LoW policy. In addition to implementing most requirements in accordance with DoDD 2311.01 and CJCSI 5810.01, the Commands trained and exercised LoW principles.

(U) USCENTCOM Implemented LoW Training

~~(U)~~ DoDD 2311.01 directs DoD Components to implement effective programs to prevent violations of the LoW, including periodic training. USCENTCOM executed this requirement by requiring personnel permanently assigned to the headquarters to complete annual LoW training. According to USCENTCOM officials, they planned to update CCR 27-1 to include LoW training and tracking requirements for headquarters personnel. USCENTCOM primarily relied upon the Military Services to train deployed personnel on LoW principles prior to deploying into its AOR. USCENTCOM's subordinate joint commands also executed continuous refresher LoW training for personnel while deployed under their command. For example, CJTF-OIR incorporated LoW training through battle rhythm events, planning efforts, battle drills, and rehearsals. CJTF-OIR routinely held discussions on LoW principles and rules of engagement through its deliberate targeting process. USFOR-A followed the "Resolute Support Tactical Directive," which required that commanders ensure all Operation Freedom's Sentinel personnel, both military and civilian, are trained on the rules of engagement (ROE), LoW, and human rights. The Tactical Directive specifically requires target engagement authorities and fire support cells to complete monthly LoW training.¹³

(U) USSOCOM Implemented LoW in Training and Exercises

(U) USSOCOM, its Service Components, and JSOC integrated LoW extensively into training programs and exercises. In addition to requiring all personnel to comply with Service Component frequency requirements for LoW training, all permanent personnel must also comply with the USSOCOM policy, which requires annual training at a minimum. The USSOCOM policy also directs deploying personnel

¹³ (U) HQ Resolute Support, "Tactical Directive and Delegation of Approval Authorities (U)," March 31, 2019 (S//REL to USA, FVEY).

(U) to complete pre-deployment LoW training. For example, while the U.S. Air Force only requires Airmen to take LoW training every 3 years, Air Force Special Operations Forces personnel must complete the training annually.

(U) JSOC provided enhanced LoW training to its assigned members through a variety of means, including routine training courses for all personnel and training tailored to personnel with specific duties and responsibilities. For example, both the JSOC 201 Course for all new personnel and the quarterly JSOC 301 Course included blocks of instruction by the JSOC Judge Advocate on ROE and LoW. JSOC 301 also included three tabletop exercises integrating ROE and LoW as critical components of the decision-making process. JSOC provided tailored LoW instruction to members of the JSOC Intelligence Brigade, required for their certification prior to deployment. JSOC also provided tailored LoW training to the Joint Cyber Operations Group, Regional Task Forces, and to all personnel attending the Kinetic Targeting Course.

(U) USSOCOM personnel provided documentation of LoW scenarios in all of their Joint Exercise Program exercises, which are conducted by the Service Components and JSOC. The USSOCOM Joint Exercise Program includes Exercise EMERALD WARRIOR, under the Air Force Special Operations Command; Exercise SAGE EAGLE, under the Army Special Operations Command; Exercise RAVEN, under the Marine Special Operations Command; Exercise TRIDENT, under the Navy Special Warfare Command; and Exercise JADED THUNDER, under JSOC. Several USSOCOM exercises included scenarios that require personnel to respond to potential LoW violations and exercise their reporting procedures. For example, during Exercise RAVEN, the Marine Special Operations Command incorporated scenario-driven live events requiring reporting of a suspected LoW violation. The most recent Exercise RAVEN included a scenario with a possible extra-judicial killing involving partner forces that evolved over multiple days, requiring the unit commander to report the incident up the chain of command and leading to the Special Operations Task Force commander's order to conduct an investigation. Likewise, during a TRIDENT Exercise involving the Naval Special Warfare Group 2, the scenario included injuries to the crew of a vessel involved in a Maritime Interdiction, which required a reporting requirement for the participants.

(U) USCENTCOM and USSOCOM developed LoW policies, procedures, and orders that implemented most DoDD 2311.01 and CJCSI 5810.01 requirements and included LoW principles in training and exercises. However, the commands' policies need to be updated to reflect revised DoD policy on LoW. In addition, the commands' training, and USCENTCOM exercises and reporting processes can be improved.

(U) USCENTCOM and USSOCOM Policies and Procedures for Reporting, Investigating, and Collecting Allegations of LoW Violations Are Not Consistent With DoD Policy

(U) The USCENTCOM and USSOCOM policies and procedures for reporting, investigating, and collecting allegations of LoW violations are not consistent with the DoD LoW policy. In addition, CJCSI 5810.01 is not consistent with the DoD LoW policy.

(U) USCENTCOM, Its Subordinate Joint Commands, and CJCS Policy Do Not Require Distribution of Reports of LoW RIs to the Correct DoD Components

(U) CCR 27-1, CJCSI 58510.01, and DoDD 2311.01 do not require the same distribution of LoW RI reports. For example, CJCSI 5810.01 requires distribution of initial reports immediately through the applicable combatant command and the Military Department chains of command concurrently, as well as to the Joint Staff/National Joint Operations Intelligence Center. DoDD 2311.01 adds the Secretary of Defense and the Commander of USSOCOM, if applicable, to the list. CCR 27-1, on the other hand, directs initial reports to the CJCS Legal Counsel; the Office of the Secretary of Defense, Office of Rule of Law and Detainee Policy (a former OSD Component that no longer exists); and the Secretary of the Army (in the Secretary's capacity as the DoD Executive Agent for LoW). The current version of DoDD 2311.01 eliminated the requirement to report to the Secretary of the Army, since the Deputy Secretary of Defense cancelled the Secretary of the Army's assignment as the DoD Executive Agent for Law of War in April 2020.

(U) Both CCR 27-1 and CJCSI 5810.01 direct combatant commanders to provide a copy of the completed report of investigation of RIs committed by or against members of the U.S. Armed Forces to the appropriate Military Department Secretaries, including the Secretary of the Army, but do not require the same information to be made accessible to the Secretary of Defense. DoDD 2311.01 directs combatant commanders to make all information on RIs, including the results of any review or investigation, current and accessible to the Secretary of Defense in a central collection. In addition, the current version of DoDD 2311.01 eliminated the requirement to automatically report to the Secretary of the Army.

~~(CUI)~~ USCENTCOM subordinate joint commands' policies or procedures for initial reporting also are not consistent with the new DoDD 2311.01. Specifically, USFOR-A and CJTF-OIR procedures did not forward allegations of LoW violations determined to be non-credible to USCENTCOM headquarters, which does not

~~(CUI)~~ comply with DoD 2311.01's requirement that "if the unit commander or a superior commander determines that an allegation is not supported by credible information, the allegation will nonetheless be forwarded through the chain of command to the appropriate Combatant Commander with this determination." According to USFOR-A Judge Advocate (JA) staff, no allegations of LoW violations were sent from USFOR-A to USCENTCOM headquarters if determined to be non-credible.

~~(CUI)~~ Special Operations Joint Task Force–Operation Inherent Resolve's process for initial reporting on LoW violations does not require forwarding of allegations determined to be non-credible to CJTF-OIR. Therefore, the process does not comply with Fragmentary Order 2 to CJTF-OIR OPORD 17-12-0002, which states that all subordinate units must report violations to CJTF-OIR. In addition, the Fragmentary Order itself does not follow the new policy requirements of DoDD 2311.01. Specifically, the current procedures and orders practiced within CJTF-OIR do not follow the new DoD policy definitions regarding what constitutes credible information, nor does it comply with the DoD policy direction that information deemed non-credible will nonetheless be submitted up the chain of command to the combatant commander. This divergence between USFOR-A, SOJTF-OIR, and CJTF-OIR procedures and orders with DoDD 2311.01 means that, under existing policy, non-credible allegations of LoW violations are not sent up the chain of command to the USCENTCOM Commander, as required.

(U) The USCENTCOM, USSOCOM, and CJCS Policy Definitions of RIs Are Not Consistent With the DoD Policy

(U) CCR 27-1, USSOCOM DoDD Directive 525-27, and CJCSI 5810.01 lack elements of the more recent definitions contained in the new DoDD 2311.01. Specifically, the DoDD clarifies the definition of "credible information" as "information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the alleged violation." The previous definition of a LoW "reportable incident" did not clearly state whether positive determination of credibility was required, or how much time a combatant command could take to determine if an allegation was credible before making an initial report. Because DoDD 2311.01 states that credible LoW allegations must be sent by combatant command staff to a list of organizations external to the combatant command (including the CJCS and the Secretary of Defense), the definition of "credible information" impacts situational awareness at senior DoD levels. In contrast to LoW RIs, Commander's Critical Information Requirements are not required to be reported to organizations external to the combatant command.

~~(U)~~ The USCENTCOM JA staff confirmed that USCENTCOM did not report certain allegations of LoW violations under the procedures directed in DoDD 2311.01E because the USCENTCOM JA staff determined that the allegations did not meet the definition of a “reportable incident.” USCENTCOM officials’ conducted preliminary inquiries or formal investigations to assess the credibility before reporting incidents as LoW RIs. According to the USCENTCOM JA staff, applying the new definition would have resulted in previous allegations of LoW violations (for which further review was warranted to determine their credibility) as being “reportable incidents.”

(U) USCENTCOM, USSOCOM, and the Joint Staff Did Not Modify Their Policies to Reflect the Requirements of the Revised DoDD 2311.01

~~(U)~~ The USCENTCOM, USSOCOM, and Joint Staff policies are not consistent with DoD Policy because neither the Joint Staff nor the combatant commands had modified their policies to reflect the requirements of the new version of DoDD 2311.01, updated on July 2, 2020. CJCSI 5810.01 (published in 2010), CCR 27-1 (published in 2014), and USSOCOM DoDD Directive 525-27 (published in 2019) are no longer consistent with all of the requirements within DoDD 2311.01. USCENTCOM JA staff stated that they are in the process of updating CCR 27-1 to align with changes in the recently revised DoDD 2311.01 and have a draft that is in internal staff review. USCENTCOM JA staff anticipated publishing the revised CCR 27-1 in October 2021. Although USCENTCOM requires an annual review of all regulations, this update was self-initiated due to the issuance of the new DoDD 2311.01 in July 2020. USCENTCOM’s subordinate joint command, CJTF-OIR, also needs to update its guidance to reflect revised reporting requirements with the new DoDD 2311.01. CJTF-OIR’s Fragmentary Order 2 to OPORD 17-12.002, which directs processing and reporting procedures for allegations of LoW violations, is also not aligned with the new DoDD 2311.01. CJTF-OIR officials stated that the JA office is currently reviewing Fragmentary Order 2 to clarify requirements and align its process with the new DoDD 2311.01. The issuance of a new order could take several months because the order’s content is dependent on the release of the updated USCENTCOM regulation. In the interim, CJTF-OIR officials stated that they will now forward all LoW allegations to USCENTCOM regardless of the final credibility determination.

(U) The SOCOM JA staff stated that they are revising USSOCOM DoDD Directive 525-27 based on the USSOCOM Regulation 25-31, "Official Publications," that all directives will be revised every 2 years and anticipated their revision would be published by July 2021.¹⁴ Since the update to DoDD 2311.01 came out in July 2020, USSOCOM is still within the 2-year update window under its policy.

(U) The Deputy Legal Counsel to the Office of the CJCS stated that the Joint Staff intends to rewrite CJCSI 5810.01 to bring it in-line with changes made to DoDD 2311.01, and it is currently in the review process. The Joint Staff developed an initial updated draft of CJCSI 5810.01, as of June 2021, and informally shared it with the combatant command JA offices for review and comment prior to being formally coordinated. The Joint Staff had not yet determined a final publication date for its updated draft of CJCSI 5810.01. Because combatant command and CJCS policies are not consistent with the revised DoD Directive, USCENTCOM should review and revise CCR 27-1; USSOCOM should review and revise USSOCOM DoDD Directive 525-27; and the Joint Staff should review and revise CJCSI 5810.01 to make these policies consistent with the revised definitions and current requirements of DoDD 2311.01.

(U) USCENTCOM Did Not Periodically Review In-Theater LoW Training to Ensure it Was Consistent With the DoD LoW Program

(U) USCENTCOM did not periodically review in-theater LoW training to ensure it was consistent with the DoD LoW program, as required by CCR 27-1. According to CCR 27-1, USCENTCOM, its component commands, and subordinate joint commands will ensure that their commands' training programs are periodically reviewed for compliance with the LoW program, particularly in light of any reported violations. Likewise, CJCSI 5810.01 directs combatant commanders to ensure that the combatant commands' training programs are subject to periodic review for compliance with domestic and international law, including the LoW and DoD policy.

(U) USCENTCOM Relied on Its Subordinate Commands to Accomplish the Training Reviews but Did Not Confirm the Reviews Were Completed

~~(U)~~ USCENTCOM officials relied on their components and subordinate joint commands to review their own in-theater LoW training programs. According to USCENTCOM officials, they review and consider LoW and ROE requirements

¹⁴ (U) USSOCOM Regulation 25-31, "Official Publications," April 9, 2020.

~~(U)~~ routinely during normal coordination and both LoW and ROE are ingrained in that process, including all planning and target development operations. USCENTCOM officials stated that they interpret the “periodic” requirement to be annual. However, USCENTCOM officials did not conduct any formal, periodic reviews of in-theater LoW training. In addition, according to the subordinate command JA officials, USCENTCOM officials delegated training program administration to individual units and did not conduct periodic reviews of in-theater training.

~~(U)~~ The CJTF-OIR JA staff stated that USCENTCOM did not require CJTF-OIR to periodically review in-theater LoW training and that there was not a standard LoW training policy. Within USFOR-A, the “Resolute Support Tactical Directive” required that commanders ensure all Operation Freedom’s Sentinel personnel, both military and civilian, are trained on the ROE and LoW. The Tactical Directive specifically requires target engagement authorities and fire support cells to complete monthly LoW and ROE training. However, the USFOR-A JA staff stated that they relied on the deployed units to execute, certify, and track theater-wide LoW training. The USFOR-A JA staff provided assistance to subordinate and deploying organizations, when requested, by providing a standardized training briefing for units to use. We reviewed the last three versions of this standardized training and determined it has deficiencies. The two most recent briefings provide no guidance on reporting possible LoW violations and none of the briefings provided guidance on optional reporting channels, such as through the judge advocate office, military police, or inspector general. Because USCENTCOM did not formally review subordinate command training programs, it did not identify and correct these deficiencies. In addition, because subordinate commands did not review their subordinate units’ LoW training programs, the programs may also have an increased risk of deficiencies. Therefore, USCENTCOM should require documented, annual reviews of subordinate command and component LoW training to capture common themes, including best practices and deficiencies, and to confirm any deficiencies are corrected.

(U) USSOCOM Reviewed Component LoW Training Materials but Did Not Document Completion of the Reviews

(U) USSOCOM personnel stated that they conducted an annual review of component LoW training plans and materials, as required by USSOCOM DoDD Directive 525-27; however, they did not document completion of the review, including identification or correction of deficiencies. USSOCOM DoDD Directive 525-27 directs the

(U) USSOCOM Judge Advocate office to conduct an annual review of each USSOCOM Service Component and Theater Special Operations Command Staff Judge Advocate LoW training brief to ensure compliance with the LoW.

(U) The USSOCOM SJA tasked all USSOCOM Service Components and Theater Special Operations Command SJAs on August 13, 2020, to provide copies of their LoW training briefings to the SOCOM Office of the Judge Advocate by August 27, 2020, to accomplish this annual review. The USSOCOM SJA also tasked the USSOCOM components to review LoW training briefings from their subordinate units, in accordance with the USSOCOM Directive. However, the USSOCOM SJA did not document the results of the review.

(U) USSOCOM Policy Does Not Require Documentation of the Review and the USSOCOM Judge Advocate Office Determined There Were No Deficiencies During Its Review

(U) USSOCOM JA personnel determined that there were no deficiencies during their review and USSOCOM policy does not require documentation of the review. However, the DoD OIG team reviewed 15 LoW training briefings from U.S. Army Special Operations Command, Naval Surface Warfare Command, and other component headquarters and noted deficiencies in how reporting requirements were addressed within 11 of the briefings. For example, 10 of the 15 briefings provided no guidance on alternative options to reporting through the chain of command, such as a judge advocate, military police, or an inspector general. In addition, 8 of the 15 briefings did not highlight that personnel should report Coalition, partner, host nation, and adversary violations in addition to those of U.S. personnel. Furthermore, 4 of the 15 briefings provided no guidance on reporting LoW violations at all. Based on the deficiencies in the training we identified, and to ensure annual reviews are conducted, USSCOM should require annual reviews of LoW training be documented to capture common themes, including best practices and deficiencies, and to confirm that any deficiencies are corrected.

(U) USCENTCOM Did Not Fully Exercise Their Personnel in Responding to Potential LoW Violations

(U) USCENTCOM did not fully exercise its personnel in responding to potential LoW violations. Specifically, USCENTCOM did not provide documentation of scenarios in headquarters and subordinate component exercises that improved response and reporting procedures for potential LoW violations, as directed in CJCSI 5810.01 and CCR 27-1.

(U) CJCSI 5810.01 directs combatant commanders to “include specific law of war scenarios in exercises to improve lawful implementation, and in cases of violations, proper reporting procedures.” Additionally, CJCSI 5810.01 states that the J7 will “ensure the appropriate exercises in the Chairman’s Exercise Program include law of war scenarios to improve evaluation, response, and reporting procedures, and that combatant commanders are directed to include these scenarios in appropriate Joint Exercise Program events.” CCR 27-1 directs the command, its component commands, and subordinate joint commands to include LoW scenarios in exercises to improve evaluation, responses, and reporting procedures. USSOCOM DoDD Directive 525-27 states that “Commanders shall ensure law of war scenarios are appropriately incorporated into exercises and training to improve familiarity, applicability, and compliance with the law of war.” The Directive lists out possible training scenarios, which include reporting possible, suspected, or alleged LoW violations, among other situations.

(U) According to Joint Staff J7 officials, combatant command exercises they observed do not necessarily include specific LoW injects required by CJCSI 5810.01, but the exercises do have academic sessions or training before the exercises begin to walk the staff through LoW and ROE principles, including during coalition partner training. The LoW scenarios they observed are focused on implementing LoW and ROE principles up front to avoid committing a LoW violation rather than responding to a possible or suspected LoW violation. None of the four Joint CENTCOM or SOCOM exercises observed by Joint Staff J7 officials from January 1, 2019, to December 31, 2020, had LoW scenarios that required the staff to respond to an incident that already occurred. A Joint Staff lead analyst trainer and observer stated that he could not recall any exercise that incorporated scenarios which forced the combatant command players to recognize and respond to a potential LoW incident or execute their LoW reporting and handling procedures in accordance with the requirements of the DoDD 2311.01.

(U) USCENTCOM staff did not provide any documentation to show that they included scenario injects into their headquarters or subordinate component exercises which require the players to respond to or report on potential LoW violations. Therefore, USCENTCOM staff may not be adequately exercising personnel in the proper procedures (U) for responding to and reporting LoW violations in accordance with CCR 27-1 and CJCSI 5810.01.

(U) USCENTCOM Did Not Focus on Responding to and Reporting on Potential LoW Violations in Its Exercises

(U) According to USCENTCOM JA personnel, their focus was on LoW analysis within planning and targeting processes rather than responding to, and reporting on, potential LoW violations within exercises. USCENTCOM JA personnel stated that compliance with LoW is built into all exercise scenarios focused on detention operations, dealing with protection of civilians through collateral damage estimates, and other planning and targeting considerations. A USCENTCOM JA official stated that USCENTCOM includes scenarios that require reporting for the Joint Operations Center in various exercises, such as Exercise Internal Look and Exercise Invincible Sentry, as well as component exercises, but did not offer any specifics on how those participating in the exercise practiced their reporting responsibilities. Instead, the official's description of exercise scenarios focused on actions to prevent LoW violations, including analysis within planning and targeting processes, rather than responding to and reporting on potential LoW violations. Because USCENTCOM did not ensure exercises improve LoW response and reporting procedures, USCENTCOM should incorporate scenario injects into command-level Joint and Service Component exercises that require personnel to respond to and report potential LoW incidents.

(U) USCENTCOM Reported Most, but Not All, Allegations of LoW Violations in Accordance With DoD LoW Policy

~~(CUI)~~ USCENTCOM reported most, but not all, allegations of LoW violations as required by the DoD LoW Policy. USSOCOM units deployed to the USCENTCOM AOR reported a total of 10 allegations of LoW violations (all against U.S. special operations forces personnel) over a 3-year period, from January 2018 through December 2020. All 10 allegations were labeled as commander's critical information requirements rather than "reportable incidents." According to USCENTCOM and USSOCOM Staff Judge Advocate personnel, none of the allegations were considered by either command to be LoW "reportable incidents," per DoDD 2311.01E definitions in place at the time, because the allegations were not based on credible information.

~~(CUI)~~ DoDD 2311.01E defined an RI as "a possible, suspected, or alleged violation of the LoW, for which there is credible information." The DoDD 2311.01E definition did not define "credible information" or the timeline the unit commander has to determine credibility, although the Directive did require that initial reports be

~~(EUH)~~ made by the most expeditious means available. USCENTCOM officials interpreted this definition to mean that credibility must be positively confirmed, regardless of the time required to conduct reviews, inquiries, or investigations.

~~(EUH)~~ Although non-credible LoW allegations are not required to be reported under DoD LoW policy, CCR 27-1 emphasizes that “if in doubt as to whether an event constitutes a RI, U.S. personnel shall report the event.” Based on this abundance of caution, USSOCOM units reported all 10 allegations up the in-theater chain of command to USCENTCOM as commander’s critical information requirements. USCENTCOM headquarters, in turn, reported all 10 of these commander’s critical information requirements allegations externally to the DoD General Counsel and the Under Secretary of Defense for Personnel. In addition, although not required, USCENTCOM officials stated that they have made it their own internal practice to ensure that the Office of the Under Secretary of Defense for Policy, the Joint Staff, and other combatant commands (as appropriate) receive notification of all reported detainee abuse allegations, whether credible or not.

~~(EUH)~~ USCENTCOM Did Not Report Allegations of LoW Violations Made Through the DoD Hotline to Required External Organizations

~~(EUH)~~ Neither USSOCOM nor USCENTCOM reported two separate allegations of LoW violations made to the DoD OIG through the DoD Hotline as formal complaints. The first DoD Hotline complaint (number 20190806-059571) was submitted on August 5, 2019, and forwarded by the DoD OIG to the USCENTCOM IG on August 6, 2019. The second DoD Hotline complaint (number 20200908-066894) was submitted on September 3, 2020, and forwarded by the DoD OIG to the USCENTCOM IG on October 1, 2020. Neither allegation was submitted by USCENTCOM as a LoW RI to the combatant commander or forwarded to external organizations, including the Secretary of the Army (as the DoD Executive Agent for LoW, at that time), the CJCS, or the Secretary of Defense. Thus, the commands did not follow the DoD’s LoW policy or their own requirements for reporting.

(U) According to USSOCOM JA officials, the responsibility for reporting these two hotline complaint-generated LoW RIs belonged to USCENTCOM. USSOCOM JA officials stated that USSOCOM became aware of the cases when the DoD OIG referred the allegations to the USSOCOM IG for review, but that the DoD Hotline had initially assigned the case to USCENTCOM, and the USCENTCOM Commander had already investigated and adjudicated the matters. In addition, USSOCOM JA officials stated that USSOCOM defers to USCENTCOM for review, external reporting, and maintenance of relevant records for incidents that occur in that geographic combatant command’s AOR.

~~(CUI)~~ According to USCENTCOM officials, the command initially reported a possible civilian casualty event, but did not generate and forward a separate LoW RI because in both events, the command determined the allegations to be non-credible. USCENTCOM officials also stated that formal Army Regulation (AR) 15-6 investigations were conducted in response to the incidents, and both investigations determined that the allegations were not credible. According to USCENTCOM JA officials, LoW violations and civilian casualty mitigation and response are governed by separate legal and policy frameworks and subject to distinct DoD reporting standards. However, USCENTCOM did not separately report these LoW RIs.

~~(CUI)~~ With regard to the first complaint, the complainant first submitted a LoW RI within his chain of command. The complainant re-submitted the allegation as a formal DoD Hotline complaint on August 5, 2019, after no action was taken by the complainant's supervisor to forward the LoW RI through the chain of command. The allegation was made prior to any formal AR 15-6 investigation and was based on detailed information that the complainant had access to as part of his duty position and responsibilities.

~~(CUI)~~ DoDD 2311.01E, CJCSI 5810.01, and CCR 27-1 required that the combatant command expeditiously make initial reports based on credible information. Because of the short timeframe for making an initial report, the credibility of the allegation of a potential LoW violation within the first hotline complaint should have been based on the credibility of the initial data and the credibility of the source of the allegation, rather than a subsequent AR 15-6 investigation, which concluded 7 months after the incident. The initial data should have been deemed credible because an initial civilian casualty assessment review was unable to determine compliance with the LoW due to insufficient information, and recommended further review within a formal AR 15-6 investigation. The source was credible because he was professionally trained in LoW and had access to extensive data by virtue of his assigned position in-theater at the time of the incident. Because the first complaint was credible when the complainant made it, USCENTCOM was required to make an initial LoW report to the CJCS and the Secretary of Defense.

~~(CUI)~~ USCENTCOM's obligation to report the second DoD Hotline complaint, submitted on September 3, 2020, is less clear because the complaint of a potential LoW violation was made after a formal AR 15-6 investigation was already concluded. Nevertheless, the complainant cited inconsistencies in the facts

~~(U)~~ presented in the AR 15-6 investigation, which warranted further review. The fact that a credible source made the complaint and that the issues raised required further review should have justified LoW reporting by the command, out of an abundance of caution.

(U) USCENTCOM Did Not Execute Procedures to Initially Report Credible LoW Allegations Separately From Other Reporting Procedures

~~(U)~~ USCENTCOM did not execute procedures to ensure that credible LoW allegations were reported promptly via an initial report, and separately from other reporting procedures, such as those associated with civilian casualty allegations. USCENTCOM officials waited for the results of the formal AR 15-6 investigation to conclude that the initial allegation was non-credible, and therefore non-reportable, instead of making an initial report based on credible information as directed in CCR 27-1. USCENTCOM stated that it made the two incidents known as potential civilian casualty events to senior DoD leadership. The USCENTCOM Inspector General also notified the combatant commander of the alleged LoW RIs received from the DoD Hotline. Regardless, such reporting does not alleviate the command's responsibility to separately report LoW RIs by the most expeditious manner possible to the Chairman of the Joint Chiefs and the Secretary of Defense. Because a LoW allegation made through the chain of command was not forwarded, and two allegations made through the DoD Hotline were not initially reported, USCENTCOM should develop procedures to ensure that all reportable LoW incidents are reported separately and distinctly from civilian casualty or other reporting procedures. USCENTCOM should also ensure allegations reported through other channels, such as a judge advocate, military police, or an inspector general, are immediately forwarded through the recipient's chain of command and the chain of command of the subject of the allegation, where appropriate.

(U) USCENTCOM and USSOCOM Can Improve Their DoD LoW Programs to Reduce the Risk of Potential LoW Violations Not Being Reported

(U) Both USCENTCOM and USSOCOM should update their policies to reflect revised DoD policy on LoW, and can improve their subordinate component or joint command in-theater training on LoW reporting requirements. In addition, USCENTCOM and its subordinate commands did not conduct periodic reviews of their training programs, incorporate LoW reporting scenarios in their exercises, and update their LoW reporting processes. As a result, the commands accepted additional risk that U.S. personnel may not initiate and report all potential LoW

(U) violations against U.S. or foreign personnel in a proactive manner that is consistent with current DoD policy. Knowledge of, and adherence to, LoW principles is important to uphold the reputation of the U.S. military when conducting operations consistent with international humanitarian law. The DoD's priority when LoW allegations are made is to promptly report the allegations and ensure they are thoroughly and impartially investigated.

(U) Management Comments on the Finding and Our Response

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, provided comments disagreeing with two substantive items in the finding. First, the Executive Director stated the command disagrees with the assertion that a LoW allegation is credible based solely on the complainant's status and his or her source of knowledge, referring to a specific allegation that was not reported as a LoW reportable incident. He stated that these factors may be relevant to a commander's decision, but do not automatically render an allegation credible. He further stated that, per DoDD 2311.01's definition of "credible information," it is the military commander who determines credibility, not the complainant.

(U) Second, he disagreed with our conclusion that the command cannot confirm that all allegations will be reported in a proactive manner that is consistent with the current DoD policy because the command has neither updated its LoW regulation nor reviewed its subordinate's LoW training. He stated that USCENTCOM's subordinate commands are serviced by highly experienced legal staffs and are capable of understanding and applying applicable DoD directives, regardless of the presence or absence of any USCENTCOM guidance.

(U) Our Response

(U) The Executive Director correctly stated that the specific unreported LoW incident cited in this report occurred during the timeframe in which the old DoDD 2311.01E requirements applied. However, he references the new DoDD 2311.01 to support his statement that an allegation's credibility is determined by the commander. DoDD 2311.01E did not explicitly state that determination of credibility is a commander's decision. It states that all military and U.S. civilians must report reportable incidents, which implies that the individual can determine if the information they have access to is credible and reportable. DoDD 2311.01E also stated that the commander of a unit that obtains

(U) information about a reportable incident must immediately report the incident in an initial report. This implies that he or she is authorized to determine if an allegation is not credible, but it must be done “immediately” or otherwise reported initially as it was received—as a reportable incident. We acknowledge that the language in the old DoDD 2311.01E was ambiguous and open to interpretation, which explains the rationale for clarifying this point in the new DoDD 2311.01. The new policy states that the commander must assess whether the allegation is based on credible information and constitutes a reportable incident. But the new DoDD 2311.01 also clarifies that credible information is information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the allegation and, like the old DoDD 2311.01E, requires an immediate and expeditious report. This latter requirement from both versions of the DoDD implies the commander does not have weeks or months to reject the credibility of an initial allegation, and that if the commander orders an inquiry, review, or formal investigation, this fulfills the clarified definition of credible information since he or she determined it warrants further review. In addition to the prescriptions from the old and new versions of the DoD directives, CCR 27-1 provides further guidance to commanders that, if in doubt as to whether or not an event constitutes a reportable incident, U.S. personnel must report the event through their chain of command.

(U) The intent of our conclusion was not to imply that USCENTCOM’s subordinate commands cannot review, understand, and apply the new DoDD 2311.01 requirements, regardless of the presence or absence of any USCENTCOM guidance. Rather, our conclusion is intended to highlight that in the absence of newly published command regulations or interim guidance, and inclusion of new reporting procedures in LoW training, USCENTCOM accepts additional risk that potential LoW violations are not initiated and reported up the chain of command.

(U) In addition, we cited that USCENTCOM and its subordinate commands did not execute a periodic review of their LoW training and that USCENTCOM provided no documentation of LoW response or reporting scenarios in its exercises. We reviewed the most current training briefing provided by a USCENTCOM subordinate joint command and determined that it contained no guidance on reporting. Specifically, the training did not include information on alternate LoW reporting channels that are external to the chain of command such as the military police, a judge advocate, or an inspector general. Additionally the training did not inform U.S. personnel they are required to report LoW violations committed by Coalition personnel, foreign partners, and enemy combatants. Although we acknowledge that the Military Services have the primary responsibility for training personnel who deploy into the USCENTCOM

(U) area of responsibility, USCENTCOM's in-theater training should nevertheless include the major elements of LoW, including reporting requirements. Any deficiencies in training programs regarding reporting requirements and optional channels for reporting increase the risk that personnel assigned or attached to USCENTCOM will not initiate allegations on all suspected violations of the LoW by U.S. or foreign personnel. We modified the wording of the finding to clarify our intent.

(U) Commander, U.S. Special Operations Command Comments

~~(CUI)~~ The Deputy Commander of USSOCOM, responding on behalf of the Commander of USSOCOM, stated that the DoD OIG team's report is fatally flawed because the team was comprised of non-lawyers, and that without national security law expertise, the DoD OIG team lacked the necessary professional competency to assess a legal program. He stated that the team produced a checklist-driven assessment that ignored substantive issues related to LoW program compliance, such as the legality of weapons; detention and interrogation policies; legal review of all plans, policies, directives, and rules of engagement; and national security law certification requirements for personnel. He further stated that the DoD OIG team did not meet these personnel certification requirements themselves when assembling the DoD OIG team.

(U) Our Response

~~(CUI)~~ The DoD OIG assigns a legal expert from the DoD OIG Office of General Counsel to every evaluation. For this evaluation DoD OIG (b)(5)

. The lawyer directly assigned to this evaluation DoD OIG (b)(5)

is very knowledgeable about LoW principles and guidance. In addition, the DoD OIG team DoD OIG (b)(5)

. While we could have evaluated numerous other aspects of the combatant commands' implementation of the DoD LoW program, we briefed USSOCOM during the entrance briefing that our scope was intentionally focused on evaluating their LoW policy, training programs, exercises, reporting, and central collection of LoW reportable incident and investigation records. We also stated at the entrance briefing, and again in

~~(CUI)~~ this report, that our scope would not include a review of specific incidents or allegations to determine if LoW violations or war crimes occurred because, unlike a review of the administrative requirements, a review of specific incidents for LoW violations requires the significant legal expertise that the Deputy Commander discussed in his comments.

(U) Recommendations, Management Comments, and Our Response

(U) Recommendation 1

(U) We recommend that the Commander of U.S. Central Command:

- a. **(U) Revise Headquarters United States Central Command Regulation 27-1, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020. In addition, direct Combined Joint Task Force–Operation Inherent Resolve to review and revise Fragmentary Order 2 to Operations Order 17-12-0002 to make its procedures consistent with DoDD 2311.01.**

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendation and stated that USCENTCOM initiated a revision of CCR 27-1 after its receipt of the updated DoDD 2311.01. USCENTCOM's completion of a revision of CCR 27-1 was paused to consider updates from the corresponding revision of CJCSI 5810.01. CJTF-OIR's Fragmentary Order 2 will be updated to be consistent with the updated CCR 27-1 and DoDD 2311.01.

(U) Our Response

(U) USCENTCOM self-initiated a review of CCR 27-1 and is in the process of updating its policy. Therefore, the Executive Director's comments were responsive to the recommendation; this recommendation is resolved but will remain open. We will close this recommendation when we receive and verify that new versions of CCR 27-1 and CJTF-OIR Fragmentary Order 2, which implement the changes to DoDD 2311.01, have been completed.

- b. (U) Develop procedures to execute and document a periodic review of component command staff and subordinate joint command training programs to ensure they are consistent with the DoD law of war program.

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, disagreed with the recommendation. He stated that there is no requirement within DoD policy for a combatant command headquarters to periodically review LoW training programs conducted by every component and subordinate joint command with the USCENTCOM area of responsibility. He further stated that interpreting DoDD 2311.01 in this way would impose a significant and un-resourced requirement on any combatant command that has relatively few assigned forces and which is supported largely by rotational forces that are manned, trained, and equipped by the Military Services. He stated that the correct interpretation of DoDD 2311.01 is that the commands have responsibility to ensure that the LoW training they conduct is consistent with current DoD or Joint directives, instructions, and regulations, which can be accomplished through USCENTCOM regulations and orders.

(U) Our Response

(U) We acknowledge that a periodic review of every component and subordinate joint command unit assigned or temporarily deployed in the USCENTCOM area of responsibility would represent a significant additional burden on USCENTCOM headquarters. This recommendation is not intended to be prescriptive in how USCENTCOM conducts the review, or to impose the burden of performing the reviews on the Command headquarters itself. USCENTCOM headquarters may direct its subordinate commands to conduct the periodic reviews and report the results to the headquarters. Regardless of how USCENTCOM implements this activity, the Command must fulfill its responsibility to ensure its assigned or attached subordinate units' LoW training programs are periodically reviewed for compliance with the LoW and DoD policy, as directed within CJCSI 5810.01 and CCR 27-1. The Executive Director's comment did not address how USCENTCOM will implement a periodic review process of LoW training programs by its subordinate commands; therefore, this recommendation is unresolved. We request that USCENTCOM provide details for how it plans to ensure that periodic review processes are conducted.

- c. **(U) Develop procedures to incorporate scenarios into command-level Joint and Service Component exercises that require personnel to respond to and report potential law of war incidents.**

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendation. USCENTCOM will ensure LoW injects are appropriately incorporated in exercises, but given the multitude of objectives established in the exercise program, will retain discretion as to which exercises and what aspects of LoW will be incorporated.

(U) Our Response

(U) We concur that not every exercise is required by DoD policy to have a LoW scenario inject, but exercises should include LoW items or scenarios that improve evaluation, responses, and reporting procedures, in accordance with CCR 27-1. However, the Executive Director's comments were responsive to the intent of the recommendation; therefore, this recommendation is resolved but will remain open. We will close this recommendation when USCENTCOM provides documentation demonstrating that specific LoW scenarios that require personnel to respond to and report potential LoW incidents are incorporated into USCENTCOM Joint and Service Component exercises.

- d. **(U) Develop procedures to promptly report reportable law of war incidents (regardless of the reporting channel) to the combatant commander and appropriate external organizations that are distinct from other reporting procedures such as civilian casualty reporting.**

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendation. He stated that the updated CCR 27-1 includes provisions from the revised DoDD 2311.01 that the unit commander or superior commander will forward LoW allegations through the chain of command to the Commander, if even they determine the allegation is not supported by credible information.

(U) Our Response

(U) The Executive Director stated that USCENTCOM's revision to CCR 27-1 will incorporate revised reporting requirements for all allegations, including those determined to be not supported by credible information. However the response did not address the specifics of the recommendation. The Executive Director did not address how USCENTCOM will develop procedures to promptly report LoW reportable incidents made through other reporting channels, such as the Inspector General, and ensure that this reporting is separate and distinct from other reporting requirements, such as civilian casualty reporting. Therefore, this recommendation is unresolved. We request that USCENTCOM provide details for how it plans to develop these procedures.

(U) Recommendation 2

(U) We recommend that the Commander of U.S. Special Operations Command:

- a. (U) **Revise United States Special Operations Command DoDD Directive 525-27, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020.**

(U) Commander, U.S. Special Operations Command Comments

~~(CUI)~~ The Deputy Commander of USSOCOM, responding on behalf of the Commander of USSOCOM, disagreed with the recommendation. The Deputy Commander stated that USSOCOM DoDD Directive 525-27 is USSOCOM's adoption and amplification of DoDD 2311.01 and, therefore, cannot be inconsistent with the DoDD. USSOCOM reviews its policies and directives on a biannual schedule and determines whether an update to its implementing Directive is warranted based on substantial changes to the law and policy that impact the Directive. The fact that the USSOCOM Directive existed before the updated DoDD 2311.01 does not mean that the USSOCOM Directive supersedes or in any way reduces the validity of the DoDD. In addition, DoDD 2311.01 does not require USSOCOM to issue its own implementing directive.

(U) Our Response

~~(CUI)~~ The Deputy Commander's statement that the USSOCOM DoDD Directive 525-27 is not required by DoDD 2311.01, and that USSOCOM DoDD Directive 525-27 is the Command's amplification of DoDD 2311.01 is correct. However, because USSOCOM issued an implementing directive, it must be consistent with DoDD 2311.01 as the authoritative source for guidance on the LoW program. USSOCOM DoDD Directive 525-27 is inconsistent with DoDD 2311.01 because of a significant change to the definition of a LoW reportable incident in the new

~~(U)~~ version of DoDD 2311.01. The update requires USSOCOM (and all other combatant commands) to treat all allegations of potential LoW violations as credible if a reasonable military commander would believe the information to be sufficiently accurate to warrant further review of the alleged violation. The determination of credibility changes the reporting requirements for allegations as reportable incidents. The Deputy Commander's comment contradicts previous statements from USSOCOM officials that they have conducted their review and already began a revision of USSOCOM Directive 527-27. Therefore, this recommendation is unresolved. We request that USSOCOM confirm its plans to update USSOCOM DoDD Directive 525-27 to implement the change to DoDD 2311.01.

- b. **(U) Develop procedures to document annual U.S. Special Operations Command Judge Advocate review of Service Component and Theater Special Operations Command training briefs, identify any deficiencies to the components, and track correction of the deficiencies.**

(U) Commander, U.S. Special Operations Command Comments

~~(U)~~ The Deputy Commander of USSOCOM, responding on behalf of the Commander of USSOCOM, disagreed with the recommendation. The Deputy Commander stated that USSOCOM demonstrated its review of subordinate training materials with documented communications, and the training materials were critiqued as part of the USSOCOM Inspector General's inspection program. He further stated that nothing in DoDD 2311.01 or CJCSI 5810.01 requires USSOCOM to document reviews, identify deficiencies, and track correction of deficiencies of subordinate LoW program training briefs. The Deputy Commander stated that DoDD 2311.01 does not prescribe any substantive training elements that must be included in written training materials; therefore, it is incorrect for the DoD OIG team to characterize the lack of certain provisions in written training materials as deficiencies under the DoD LoW program. The Deputy Commander stated that USSOCOM appreciates the DoD OIG team's observations and recommendations for improvement and will carefully consider them.

(U) Our Response

~~(U)~~ We acknowledge that USSOCOM conducted its required periodic review of subordinate LoW programs, as required by DoD policy, and is in compliance with the DoD LoW program. USSOCOM officials previously told us that they did not identify any deficiencies or provide critiques to its subordinate elements' LoW training materials. While the DoDD does not mandate which provisions of LoW must be included in training, we determined that USSOCOM subordinate elements' LoW training materials thoroughly covered all of the substantive training elements,

~~(CUI)~~ with the exception of reporting requirements. Some of the training materials lacked any discussion of what to report on, who individuals can report to, or any discussion of reporting at all. Because a major portion of DoDD 2311.01 covers the requirements and processes for all military personnel, U.S. civilian employees, and commanders to report all LoW reportable incidents, we believe it is reasonable for training programs to include reporting procedures. Although the DoDD does not mandate documentation of the periodic training reviews, we believe it will assist USSOCOM in capturing best practices and deficiencies to ensure subordinate commands continue to be consistent with the DoD LoW program. The Deputy Commander's comments did not address the recommendation; therefore, this recommendation is unresolved. We request that USSOCOM provide details about how it plans to modify its periodic review processes to correct deficiencies to LoW training programs.

(U) Recommendation 3

(U) We recommend that the Director of the Joint Staff review and revise Chairman of the Joint Chiefs of Staff Instruction 5810.01, "Implementation of the DoD Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020

(U) Director of the Joint Staff Comments

(U) The Vice Director of the Joint Staff, responding on behalf of the Director of the Joint Staff, agreed with the recommendation and estimated that the Joint Staff will update CJCSI 5810.01 no later than January 4, 2022.

(U) Our Response

(U) The Vice Director's comments were responsive to our recommendation; therefore this recommendation is resolved but will remain open. We will close this recommendation when we receive and verify that the revised CJCSI 5810.01 is completed.

(U) Appendix

(U) Scope and Methodology

(U) We conducted this evaluation from January 2021 through September 2021 in accordance with the “Quality Standards for Inspection and Evaluation,” published in January 2012 by the Council of Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

(U) This evaluation focused on USCENTCOM and USSOCOM implementation of the DoD’s LoW policy requirements, including policies, training, exercises, reporting and investigating, and collection of allegations of LoW violations and reportable LoW incidents. We reviewed combatant command, Service Component, and subordinate joint command policies, standard operating procedures, and orders that include direction regarding LoW training, exercising, reporting and investigating, collecting and implementing LoW programs. These policies and procedures include the following.

- (U) DoDD 2311.01E
- (U) DoDD 2311.01
- (U) CJCSI 5810.01D
- (U) Central Command Regulation 27-1
- (U) CJTF-OIR Fragmentation Order 2 to OPORD 17-12-0002, “Process for Initial Reporting of Law of Armed Conflict (LOAC) Violations,” November 13, 2008
- (U) HQ Resolute Support, “Tactical Directive and Delegation of Approval Authorities (U),” March 31, 2019
- (U) U.S. Special Operations Command DoDD Directive 525-27

(U) We submitted requests for information to USCENTCOM, USSOCOM, the Joint Staff, and the DoD General Counsel to collect all DoD, CJCS, USCENTCOM, USSOCOM, and subordinate command and component LoW-related policies, SOPs, operational and fragmentary orders, or other documents related to implementing LoW programs. The requests for information also solicited data or descriptions on how the combatant commands track and verify that headquarters and subordinate commands and components are satisfying the training and exercising requirements

(U) of DoD LoW policy. We reviewed and analyzed 3 years of allegations of LoW violations and RIs against U.S. personnel operating in the USCENTCOM AOR (from January 2018 to December 2020), with respect to the disposition of each incident, results of any investigations, and any corrective actions taken. USCENTCOM and USSOCOM both responded with 10 total allegations. We solicited the same data from Joint Staff and the DoD General Counsel to confirm they received the same RIs. We also submitted a request for information to the DoD Hotline to request any hotline complaints related to allegations of LoW violations over the last 3 years not provided by USCENTCOM or USSOCOM and to provide the current status of all cases. The DoD Hotline provided two additional allegations of LoW violations that were not provided by USCENTCOM or USSOCOM.

(U) We conducted interviews with DoD General Counsel staff members, including the primary staff individual responsible for the DoD LoW program. We sought to clarify the DoD General Counsel's intent behind all of the requirements in DoDD 2311.01 and clarify the reasons why the changes made in the most recent version were made. We conducted an interview with the Joint Staff/J-7 Joint Exercise Division to determine the extent to which the combatant command Joint Exercises incorporated LoW scenarios, as prescribed in DoD and CJCSI policy. We requested, and obtained, from the Deployable Training Teams excerpts from their Consolidated Functional Reports on LoW observations they made while serving as deployed analyst trainers during USCENTCOM and USSOCOM joint exercises. We also conducted an interview with a DoD Hotline representative to clarify the data the office provided to us and clarify the responses taken by the responsible combatant commands.

(U) We conducted interviews with USCENTCOM HQ, USFOR-A, CJTF-OIR, and USSOCOM HQ and JSOC staff to determine if they have any additional policy or procedures not provided in response to the request for information and, if there are any deviations, what they are doing to correct the discrepancies in new revisions to policy. We also solicited input on how the staff from these offices execute their processes for tracking completion of pre-deployment and in-theater training requirements; ensure that scenario injects that require players to respond to and report on potential LoW violations are incorporated into CCMD and Service Component exercises; report allegations; and interpret the reporting prescriptions in the original and the revised versions of DoDD 2311.01. In addition, we asked the staff how they maintain a central collection for all LoW RIs.

(U) We analyzed each LoW policy document to:

- (U) determine whether USCENTCOM and USSOCOM, or their subordinate commands and components, developed policies and processes for LoW and whether they are consistent with DoD policies on LoW;
- (U) identify deviations from the prescribed criteria and the outcome of those deviations; and,
- (U) determine whether the CCMDs incorporated LoW requirements into plans and operational orders.

(U) We analyzed LoW training briefings provided by USCENTCOM and USSOCOM for compliance with DoD LoW policy. We also reviewed command input regarding specific exercises and how each command incorporated LoW principles into the scenarios. We analyzed each allegation of LoW violations or RI to determine if it was promptly reported up the chain of command to the combatant commander and forwarded to the CJCS, the DoD General Counsel, and the Secretary of Defense, as required. We also analyzed what process each CCMD and its subordinate commands and components employed for initial reporting and follow-on reporting, and whether they followed the processes. We assessed how and when the commands determined credibility while ensuring reporting is promptly reported up the chain of command.

(U) Use of Computer-Processed Data

(U) We did not use computer-processed data to perform this evaluation.

(U) Prior Coverage

(U) No prior coverage has been conducted on LoW during the last 5 years.

(U) Management Comments

(U) Commander, U.S. Central Command



UNCLASSIFIED

UNITED STATES CENTRAL COMMAND
OFFICE OF INSPECTOR GENERAL
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

25 October 2021

MEMORANDUM FOR OFFICE OF INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Response to the DODIG Draft Report – Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies.

Ref: (a) DODIG Draft Report - Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies, 28 September 2021.

1. Reference (a) requested U.S. Central Command (USCENTCOM) provide a response and proposed corrective action to four recommendations contained in the subject draft report.

2. The response to the subject recommendations is included as Tab A.

3. My point of contact for this subject is [REDACTED]


MARIO V. GARCIA, Jr.
GS-15
Executive Director

TAB A: USCENTCOM Information Paper – USCENTCOM Response to Recommendations in DoD IG's draft Evaluation of USCENTCOM and SOCOM Implementation of the Administrative Requirements related to the DoD's LoW Policies, 22 October 2021.

UNCLASSIFIED

(U) Commander, U.S. Central Command (cont'd)

CUI

USCENTCOM INFORMATION PAPER

22 October 2021

(U) Subject: USCENTCOM Responses to Recommendations in DoD IG's draft Evaluation of USCENTCOM and SOCOM Implementation of the Administrative Requirements related to the DoD's LoW Policies

(U) USCENTCOM provides the response below to DoD IG's recommendations to USCENTCOM in the subject draft Evaluation. Additionally, USCENTCOM renews its previous non-concurrence to certain sections of the draft Evaluation. Recognizing the composition of the DoD IG evaluation team did not include subject matter experts with the training or expertise in supervision and execution of this critical program, the resultant evaluation potentially misinterprets the program's intent and supporting processes. Substantive confusion related to command responsibility and integration or reference to other DoD rules and regulations is likely to create confusion for those reading this evaluation. Given the significant emphasis the DoD places on this program, the evaluation may have benefited from including subject matter experts with a comprehensive background in the Law of War/Law of Armed Conflict and the corresponding intent and purpose of the DoD's LoW program, and not required the commands to provide extensive foundational background to educate the evaluators.

1. (U) Response to Recommendation 1a:

a. (U) USCENTCOM has revised 27-1 "Law of War Program," to be consistent with the revised definitions and requirements of DoDD 2311.01, "DoD LoW Program." As noted during the evaluation process, USCENTCOM initiated revision of CCR-27-1 after receipt of the updated DoDD 2311.01. Completion of this revision was paused to consider updates from the corresponding Joint Staff document. CJTF-OIR's Fragmentary Order 2 to Operations Order 17-12-0002 will be updated to be consistent with updated CCR27-1 and DoDD 2311.01.

2. (U) Response to Recommendation 1b.

a. (U) USCENTCOM objects to the recommendation to develop procedures to execute and document a periodic review of component command staff and subordinate joint command training programs to ensure they are consistent with the DoD LoW program.

b. (U) There is no requirement for a combatant command to periodically review component and subordinate commands' LoW training programs, including those done in theater.

(1) DoDD 2311.01, para. 2.9a, states it is a combatant commander's responsibility to:

"(U) ... have effective programs within their respective commands to prevent violations of LoW and ensure that their commands' plans, policies, directives, and rules of engagement are subject to periodic review and evaluation, particularly in light of any violations."

(2) (U) The directive does not require Headquarters, USCENTCOM, to specifically review LoW training programs conducted by every component and subordinate joint command

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Controlled by: USCENTCOM
 Controlled by: CCJA
 CUI Category: (CUI//SP-
 PRIVILEGED/AC/DELIB)
 POC: [REDACTED]

CUI

(U) Commander, U.S. Central Command (cont'd)

CUI

within the USCENTCOM Area of Responsibility (AOR). Interpreting DoDD 2311.01 in this manner – such that it applies not only to the Headquarters itself, but also to any command or unit temporarily present in the AOR – would impose a significant and unresourced requirement on any combatant command, particularly one like USCENTCOM, which has relatively few assigned forces, and is supported largely by the episodic presence of rotational forces that are manned, trained and equipped by the services. The component and subordinate commands are tasked, trained and better suited to review and document their own training in accordance with DoD, service and USCENTCOM rules and regulations. We believe the correct interpretation of DoD 2311.01 is to understand the combatant command's responsibility to ensure that the LoW training they conduct is consistent with current DoD or Joint directives, instructions, and regulations, which can be accomplished through appropriate USCENTCOM regulations and orders, but not to require USCENTCOM to review and assess their individual programs. As noted in the language, review and evaluation are focused on situations where violations indicate a process or training deficiency.

3. (U) Response to Recommendation 1c.

a. (U) USCENTCOM does not object, although provides comment, to the recommendation to develop procedures to incorporate scenarios into command-level Joint and Service component exercises that require personnel to respond to and report potential LoW incidents.

b. (U) USCENTCOM will ensure LoW injects are appropriately incorporated in such exercises, but given the multitude of objectives established in the exercise program, retains discretion as to which exercises and what aspects of LoW will be incorporated. It bears repeating that whenever a military exercise incorporates simulated combat operations, the LoW is, by definition, incorporated in it, because that is the standard to which DoD personnel are trained.

4. (U) Response to Recommendation 1d.

a. (U) USCENTCOM does not object to the recommendation to develop updated procedures to reflect the new guidance on reporting processes to promptly report reportable LoW incidents (regardless of the reporting channel) to the combatant commander and appropriate external organizations that are distinct from other reporting procedures such as civilian casualty reporting.

b. ~~(CUI)~~ USCENTCOM's updated CCR 27-1 includes the following provisions:

~~“(CUI) If the unit commander or a superior commander determines that an allegation is not supported by credible information, the allegation will nonetheless be forwarded through the chain of command to the Commander, USCENTCOM.~~

~~“(CUI) Such reports will clearly indicate that the command forwarding the report determined the allegation is not supported by credible information. Such reports will also indicate why the command determined the allegation is not supported by credible information.”~~

CUI

(U) Commander, U.S. Central Command (cont'd)

CUI

5. (U) USCENTCOM non-concurs with the following substantive items in the draft Evaluation (note, administrative recommendations and recommendations to improve readability and clarity are provided in the attached Word document):

a. (U) Credibility Determination. While corrected in other parts, pages 12 and 26 still assert that a LoW allegation is credible based solely on the complainant's status and his/her source of knowledge. Although these factors may be relevant to a commander's decision, they do not automatically render an allegation credible. Per DoDD 2311.01's definition of "credible information," it is the military commander who determines credibility, not the complainant; it is entirely conceivable that a credible complainant may present information that a commander determines, based on the totality of information then available, to be non-credible.

b. (U) Capability of Subordinate to Review DoD Directives and Instructions. Pages ii, 13, and 27 state there is no assurance USCENTCOM's subordinate commands will report "all" LoW allegations because USCENTCOM has either not updated its regulation or reviewed subordinates' LoW training. USCENTCOM objects to this characterization and recommends deleting this statement as it is misleading, insulting, and inappropriately and incorrectly implies that subordinate commands – including multiple 3-star and 2-star headquarters, which are serviced by highly experienced legal staffs of their own s– are incapable of reviewing, understanding, and applying applicable DoD directives and instructions that would exist, and apply them irrespective of the presence or absence of any USCENTCOM guidance.

(U) Approved by: [REDACTED]

CUI

(U) Commander, U.S. Special Operations Command



~~CUI~~
UNITED STATES SPECIAL OPERATIONS COMMAND
 OFFICE OF THE DEPUTY COMMANDER
 7701 TAMPA POINT BOULEVARD
 MACDILL AIR FORCE BASE, FLORIDA 33621-5323

18 October 2021

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL, 4600
 MARK CENTER DRIVE, ALEXNDRIA, VA 22350-1500

SUBJECT: (U) Management Response to Draft Report—Evaluation of U.S. Central
 Command and U.S. Special Operations Command Implementation of the Administrative
 Requirements Related to the Department of Defense's Law of War Policies

1. Reference: Draft Report, Department of Defense Inspector General Project Number
 D2021-DEV0PD-0045.000, Evaluation of U.S. Central Command and U.S. Special
 Operations Command Implementation of the Administrative Requirements Related to
 the Department of Defense's Law of War Policies

2. General Remarks. U.S. Special Operations Command (USSOCOM) non-concurs
 with the DoD IG team's findings and recommendations in the draft report.

a. In summary, the DoD IG team's report is fatally flawed because the DoD IG team
 was comprised of non-lawyers who attempted to assess a legal program--the DoD Law
 of War (LoW) Program. The DoD LoW Program is a program created by attorneys,
 administered by attorneys, and exists for the sole purpose of compliance with domestic
 and international law. Without national security law expertise, the DoD IG team lacked
 the necessary professional competency.

(1) The professional, legal expertise required to implement and evaluate
 compliance with the DoD LoW Program is inherent in the program itself. The Deputy
 Secretary of Defense designated the DoD General Counsel with primary staff
 responsibility for the DoD LoW Program, and the DoD Law of War Working Group
 consists of the DoD General Counsel, the General Counsels of the Services, Counsel
 for the Commandant of the Marine Corps, the Judge Advocates General of each of the
 Military Departments, the Staff Judge Advocate for the Commandant of the Marine
 Corps, and the Legal Counsel to the Chairman of the Joint Chiefs of Staff. These DoD
 attorneys are subject matter experts and licensed attorneys with multiple graduate
 degrees from law schools and they implement the LoW Program for the department
 based on their knowledge, training, and experience in national security law matters,
 including the LoW. In significant contrast, the DoD IG team that sought to evaluate the
 USSOCOM LoW Program did not include any remotely similar professional legal
 expertise on its team.

~~CUI~~

(U) Commander, U.S. Special Operations Command (cont'd)

~~CUI~~

(2) The DoD LoW program requires legal subject matter expertise to implement the DoD LoW program in accordance with international law. Article 82 of Additional Protocol I to the Geneva Convention of 12 August 1949 states

The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject.¹

The LoW is a complex subject within the larger field of national security law. As a result, the Services expend tremendous resources to develop that expertise in their uniformed judge advocates and civilian attorneys. The Services establish personnel policies that require judge advocates be detailed to year-long, in-residence Master of Laws programs (in addition to their graduate education for a juris doctor degree) so that these judge advocates are prepared to fill designated billets in order to advise commanders on military operations.

b. Put another way, the composition of the DoD IG team with non-legal, or lay, members was fundamentally inconsistent with the requirements of Article 82 of Protocol I and DoD-wide implementation of the DoD LoW Program. Not surprisingly, the DoD IG team produced a checklist-driven assessment that ignored substantive issues related to LoW Program compliance. As a result, the DoD IG team's findings were arbitrary, capricious, and not focused on actual substantive requirements of the DoD LoW Program. For example:

(1) DoD Directive 2311.01 states that reviews of the legality of weapons is a core requirement of DoD compliance with the law of war. But the DoD IG team failed to review a single weapons review, never discussed the procedures for conducting weapons reviews, and neglected to talk with judge advocates to assess their ability to conduct adequate weapons reviews.

(2) DoD Directive 2311.01 states that detention and interrogation policies are key components of DoD compliance with the laws of war. Like weapons reviews, the DoD IG team ignored this subject.

(3) DoD Directive 2311.01 requires that combatant commanders "[e]nsure all plans, policies, directives, and rules of engagement issued by the command and its subordinate commands and components are reviewed by legal advisers to ensure their consistency with this issuance and the law of war." Though legal reviews are explicitly required by the DoD LoW Program, the DoD IG team did not read, consider, or assess any legal reviews.

(4) The Services have personnel policies that use specialty codes to certify and qualify national security law expertise for judge advocates who will advise on national

¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977 (emphasis added).

(U) Commander, U.S. Special Operations Command (cont'd)

~~CUI~~

security law (and LoW) issues at commands. Such assignment policies are also followed within the USSOCOM enterprise as part of the implementation of the DoD LoW Program. Yet, the DoD IG team did not evaluate whether these personnel requirements were met at USSOCOM, and worse, did not meet them when assembling the DoD IG team.

3. Responses to the draft report's recommendations. The subject report should be rejected because the DoD IG assessment team was not licensed and qualified to conduct a competent assessment of LoW program compliance (even from a professional, limited "administrative compliance" perspective). USSOCOM responds to the specific recommendations below.

4. DOD IG Recommendation 2.a: "Revise United States Special Operations Command Directive 525-27, 'Law of War Program,' to make it consistent with the revised definitions and current requirements of DoD Directive 2311.01, 'DoD Law of War Program,' July, 2, 2020."

a. USSOCOM response: non-concur. The USSOCOM Directive 525-27 is the USSOCOM implementation of the DoD LoW Program, as indicated in paragraph 1 of the Directive. It adopts and amplifies the DoD Directive (DoDD) and therefore cannot be inconsistent with the DoDD. USSOCOM routinely reviews its policies and directives in accordance with a biannual schedule. Whether an update is warranted is based on a variety of factors, including substantial changes to the law and policy that impact the Directive. An update to the DoDD does not *ipso facto* result in the USSOCOM Directive being out of compliance or even substantively inconsistent with the latest update to the DoDD. Therefore, as USSOCOM reviews its implementing Directive, it may choose to provide an updated version if warranted based on the changes contained in the new document. However, the fact that the USSOCOM Directive existed before the updated DoDD does not somehow mean that the USSOCOM Directive supersedes or in any way reduces the validity of the DoDD. The updated DoDD certainly is the authoritative source for guidance on the LoW Program, and USSOCOM D 525-27 is a conduit through which that policy is implemented. Finally, it is significant to note that the DoDD does not even require USSOCOM to issue D 525-27.

5. DOD IG Recommendation 2.b: "Develop procedures to document annual U.S. Special Operations Command Judge Advocate review of Service Component and Theater Special Operations Command staff-judge-advocate training briefs, identify any deficiencies to the components, and track correction of the deficiencies."

a. USSOCOM response: non-concur. This recommendation appears to be based on the DoD IG team's unsupported opinions that 1) USSOCOM did not document review of the Service Component and Theater Special Operations Command training briefs;² and 2) USSOCOM did not note deficiencies in subordinate training materials.³ First, USSOCOM demonstrated its review of the training briefs with documented communications that USSOCOM SOJA received from subordinate SJA offices on an

² DoD IG Draft Report on p.21.

³ *Id.*

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(U) Commander, U.S. Special Operations Command (cont'd)

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annual basis. Second, USSOCOM SOJA demonstrated and explained that subordinate unit LoW training briefs were inspected by USSOCOM SOJA and critiqued as part of the USSOCOM IG inspection program. Further, the DoDD does not require USSOCOM to maintain records of recommended edits and critiques of subordinate LoW Program training briefs. As a Combatant Command, USSOCOM must, "[e]nsure that LoW dissemination and periodic training programs of subordinate commands and components are consistent with this issuance and the LoW program."⁴ CDR, USSOCOM notes nothing in the DoDD—or the Chairman of the Joint Chiefs of Staff (CJCS) Instruction that implements it—requires USSOCOM to document review, identify deficiencies and track correction of the deficiencies. Furthermore, USSOCOM D 525-27 contains no requirement to capture common themes, best practices and deficiencies, nor to confirm deficiencies are corrected.

b. The DoD IG team also erroneously opined that LoW training briefs must reproduce some DoDD provisions arbitrarily selected by the team. Significantly, the DoDD does not mandate which provisions of the DoDD must be trained on – in fact there is no specific direction in the DoDD concerning substantive training elements. The following are examples of the DoD IG team's flawed findings.

(1) The DoD IG team found that 10 out of the 15 PowerPoint slides provided no guidance on alternative options for reporting LoW incidents in addition to the chain of command.⁵ The DoD IG team also found that 8 out of 15 PowerPoint slides did not highlight that personnel should report Coalition, partner, host nation, and adversary violations in addition to those of U.S. personnel.⁶ Finally, DoD IG found that 4 of 15 PowerPoint slides provided no guidance on reporting of LoW violations at all. There are two significant problems with the DoD IG team's findings.⁷ First, the DoDD does not prescribe any substantive training elements that must be included in written training materials. Second, the DoD IG team did not interview presenters from the subordinate offices, so the team was unable to evaluate whether reporting processes had been described verbally or through other means. The team's flawed assessment was based solely on information contained in PowerPoint slides.

(2) It is therefore incorrect to characterize the lack of certain provisions in training PowerPoint slides as deficiencies under the DoD LoW Program. The DoD IG team's erroneous assessment is essentially that because the training briefs do not produce a verbatim recitation of all the provisions contained in the DoDD, the training briefs are deficient. The DoDD 2311.01, CJCS Instruction, and USSOCOM D 525-27 all implement effective policies for reporting LoW allegations, but there is no requirement that every method of reporting (even reports under other DoD Directives that could be simultaneously a reported LoW violation) be presented in a particular LoW training.

c. Ultimately, DoD IG team's perception of a best practice is not a requirement of the DoD LoW Program. The DoD LoW Program requires that USSOCOM, "[i]mplement effective programs to prevent violations of the LoW by members of their component,

⁴ DoD Directive 2311.01 at 2.9.e.

⁵ DoD IG Draft Report on p.21.

⁶ *Id.*

⁷ *Id.*

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(U) Commander, U.S. Special Operations Command (cont'd)

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including programs for dissemination and periodic training commensurate with each individual's duties and responsibilities."⁷ Nevertheless, USSOCOM understands and appreciates the DoD IG team's observations and recommendations for improvement. As USSOCOM reviews USSOCOM D 525-27—ensuring the continuation of its effective LoW program—USSOCOM will carefully consider the DoD IG team's recommendations. USSOCOM intends to complete its review of USSOCOM D 525-27 in the near future.

6. Formal Comments on any Public Release Concerns. The DoD IG team requested USSOCOM comment on possible public release of the draft report. USSOCOM responds that this report is fatally flawed and therefore should not be publically released because it is pre-decisional.

7. USSOCOM point of contacts are [REDACTED]



TIM SZYMANSKI
Vice Admiral, U.S. Navy
Deputy Commander

Controlled by: SOCOM Inspector General
CUI Category: Operations Security (OPSEC)
Distribution/Dissemination Control: FEDCON
POC: [REDACTED]

⁷ DoD Directive 2311.01 at 2.6.b.

(U) Director of the Joint Staff**UNCLASSIFIED**THE JOINT STAFF
WASHINGTON, DCDJSJ 0188-21
12 October 2021Reply Zip Code:
20318-0300**MEMORANDUM FOR INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE****SUBJECT:** Evaluation of U.S. Central Command and U.S. Special Operations Command
Implementation of the Administrative Requirements Related to the Department of
Defense's Law of War Policies

1. The Joint Staff concurs with the recommendation that the Director, Joint Staff review and revise Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01, "Implementation of the DoD Law of War Program," to make it consistent with the revised definitions and current requirements of Department of Defense Directive 2311.01, "DoD Law of War Program," July 2, 2020.
2. The Joint Staff will update CJCSI 5810.01 with an estimated completion date no later than January 4, 2022.
3. The Joint Staff point of contact is [REDACTED]

GEORGE M. WIKOFF, RADM, USN
Vice Director, Joint Staff**UNCLASSIFIED**

(U) Acronyms and Abbreviations

AOR	Area of Responsibility
AR	Army Regulation
CCR	Central Command Regulation
CJCS	Chairman of the Joint Chiefs of Staff
CJCSI	Chairman of the Joint Chiefs of Staff Instruction
CJTF-OIR	Combined Joint Task Force – Operation Inherent Resolve
DoDD	Department of Defense Directive
JA	Judge Advocate
JSOC	Joint Special Operations Command
LoW	Law of War
ROE	Rules of Engagement
SJA	Staff Judge Advocate
USFOR-A	U.S. Forces - Afghanistan
USCENTCOM	U.S. Central Command
USSOCOM	U.S. Special Operations Command

(U) Glossary

(U) Credible information. Information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the alleged violation. The totality of the circumstances is to be considered, including the reliability of the source (for example, the source's record in providing accurate information in the past and how the source obtained the information), and whether there is contradictory or corroborating information. **(DoDD 2311.01, July 2, 2020)**

(U) Law of war. The treaties and customary international law binding on the United States that regulate: the resort to armed force; the conduct of hostilities and the protection of war victims in international and non-international armed conflict; belligerent occupation; and the relationships between belligerent, neutral, and non-belligerent States. Sometimes also called the "law of armed conflict" or "international humanitarian law," the law of war is specifically intended to address the circumstances of armed conflict. **(DoDD 2311.01, July 2, 2020)**

(U) Reportable incident. A possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict. (DoDD 2311.01E, May 9, 2006, incorporating change 1, November 15, 2010) An incident that a unit commander or other responsible official determines, based on credible information, potentially involves: a war crime; other violations of the law of war; or conduct during military operations that would be a war crime if the military operations occurred in the context of an armed conflict. The unit commander or responsible official need not determine that a potential violation occurred, only that credible information merits further review of the incident. **(DoDD 2311.01, July 2, 2020)**

(U) War crime. Serious violation of the law of war that generally has been committed intentionally, such as murder, torture, rape, pillage, extensive and wanton destruction of property without justification, and intentionally directing attacks against the civilian population or civilians protected as such. "War crimes" may be defined differently in other contexts for other legal purposes. **(DoDD 2311.01, July 2, 2020)**

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