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# Department of Defense

## Annual Report on Civilian Casualties in Connection With United States Military Operations in 2021

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

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Section 1057 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 10 U.S.C. § 113 note), as amended, provides:

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

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

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

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

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

(A) The date.

(B) The location.

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

(D) The type of operation.

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

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

(4) A description of—

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

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

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

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

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

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

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

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

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

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

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**Department of Defense Report on Civilian Casualties in  
Connection With United States Military Operations in 2021**

This report is submitted pursuant to Section 1057 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Public Law 115-91; 10 U.S.C. § 113 note), as amended (“Section 1057”).

This report primarily provides information about U.S. military operations in 2021 that were assessed to have resulted in civilian casualties. This report also contains updates to information the Department of Defense (DoD) provided in the reports submitted to the congressional defense committees in prior years pursuant to Section 1057.

Some of the information provided in prior reports about U.S. military operations in 2017-2020 has been repeated in this report because the information was relevant to U.S. military operations in 2021.

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

As noted in Section 1 of Executive Order 13732 of July 1, 2016, *United States Policy on Pre- and Post-Strike Measures To Address Civilian Casualties in U.S. Operations Involving the Use of Force*, and as Secretary Austin stated in his January 27, 2022, memorandum, “Improving Civilian Harm Mitigation and Response,” the protection of civilians is fundamentally consistent with the effective, efficient, and decisive use of force in pursuit of U.S. national interests. DoD’s efforts to mitigate and respond to civilian harm are a direct reflection of U.S. values; doing so is a strategic and moral imperative. Minimizing civilian casualties can further mission objectives; help maintain the support of partner governments and vulnerable populations, especially during counterterrorism and counterinsurgency operations; and enhance the legitimacy and sustainability of U.S. operations critical to U.S. national security.

The U.S. military is steadfastly committed to limiting harm to civilians and DoD has built a strong foundation of compliance with the law of war. As a matter of policy, U.S. forces routinely conduct operations under policy standards that are more protective of civilians than is required by the law of war, and we are committed to continuing to improve our approach to civilian harm mitigation and response. This commitment is reflected in DoD’s consistent efforts to maintain and promote best practices that reduce the likelihood of civilian harm, take appropriate steps when harm occurs, and draw lessons from DoD operations to enhance further the protection of civilians. Section 2 of Executive Order 13732 catalogues certain best practices DoD has implemented to protect civilians during armed conflict, and directs those measures be continued in present and future operations. During 2021, all operations listed below were conducted consistent with the best practices identified in Section 2 of Executive Order 13732.

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Moreover, on August 25, 2022, DoD released the Civilian Harm Mitigation and Response Action Plan (CHMR-AP) through which the Secretary of Defense has directed a series of major actions that DoD will implement to ensure that the U.S. military is prepared to mitigate and respond to civilian harm in future conflicts.

### **I. U.S. MILITARY OPERATIONS DURING 2021 CONFIRMED, OR REASONABLY SUSPECTED, TO HAVE RESULTED IN CIVILIAN CASUALTIES**

During 2021, U.S. forces remained engaged in a number of military operations, some of which were assessed to have resulted in civilian casualties. This section provides information regarding: a) Operation INHERENT RESOLVE (OIR) and other U.S. military actions related to Iraq and Syria; b) Operation FREEDOM'S SENTINEL in Afghanistan; and c) U.S. military actions in Somalia. DoD does not assess other U.S. military operations in 2021 resulted in civilian casualties.

This section provides information about each operation, as well as a list of each specific mission, strike, engagement, raid, or incident during 2021 that was assessed to have resulted in civilian casualties. Each instance assessed to have resulted in civilian casualties includes the date, location, type of operation, and DoD's assessment of the number of civilians injured and killed in that instance.

A previous report used the term "a declared theater of active armed conflict," as that term was understood in the context of 10 U.S.C. § 130f. Title 10 U.S.C. § 130f has since been amended and no longer includes the term "a declared theater of active armed conflict." The term "a declared theater of active armed conflict" is also not defined in relevant DoD doctrine. For the purposes of this report, the term "a declared theater of active armed conflict" will be considered to mean, for calendar year 2021, Afghanistan, Iraq, Somalia, and Syria. Thus, all U.S. military operations and particular instances listed below that resulted in civilian casualties occurred in a declared theater of active armed conflict.

For each mission, strike, engagement, raid, or incident during 2021 that was assessed to result in civilian casualties, DoD has provided in a classified annex to the report the assessed numbers of enemy combatant casualties. The number of enemy combatant casualties does not necessarily indicate the effectiveness of the strike itself.

DoD's longstanding policy is to comply with the law of war in all armed conflicts, however characterized. DoD conducts its operations in accordance with law of war requirements, including law of war protections for civilians, such as the fundamental principles of distinction and proportionality, and the requirement to take feasible precautions in planning and conducting

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attacks to reduce the risk of harm to civilians and other persons and objects that may not be made the object of an attack.

DoD assesses that there were approximately 12 civilians killed and approximately 5 civilians injured during 2021 as a result of U.S. military operations. Subsections A through C below, and the accompanying classified annex, provide additional information.

This report lists only civilian casualties attributed to the use of U.S.-operated weapons. For example, if a munition fired from a U.S. aircraft resulted in civilian casualties, the civilian casualties would be included in this report even if the particular airstrike was planned by a staff composed of personnel from multiple nations participating in coalition efforts and was guided to the target by a foreign Joint Terminal Attack Controller.

This report also contains updates to information submitted to Congress in previous year's annual Section 1057 reports, based on reports of civilian casualties from U.S. military operations in 2018-2020 that have since been received and assessed.

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

It is also important to note that DoD's efforts to prevent, and respond to, civilian harm resulting from U.S. military operations. On January 27, 2022, the Secretary of Defense directed several elements of the Department to develop the CHMR-AP. The CHMR-AP, which was released on August 25, 2022, outlines the steps the Department will take, and the resources that will be required, to implement appropriate recommendations from recently-completed studies of civilian harm sponsored by DoD, recent DoD Office of the Inspector General evaluations, and independent reviews directed into strikes that resulted in civilian casualties. The CHMR-AP makes critical contributions to the Department's efforts to protect innocent civilians. Notably, through the CHMR-AP, DoD will ensure that the U.S. military is prepared to mitigate and respond to civilian harm in future conflicts, including by integrating civilian protection into mission objectives from the start; prioritizing the protection and restoration of the civilian environment as much as the situation allows; ensuring that operational commanders are fully supported with institutional resources, tools, and capabilities; aligning information collection priorities to best achieve mission success; assessing and learning from our operations; and appropriately responding to civilians harmed as a result of our operations.

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

Working by, with, and through local partner forces, Combined Joint Task Force–Operation INHERENT RESOLVE (CJTF-OIR) maintained pressure on the Islamic State of Iraq and Syria (ISIS) to ensure the group’s enduring defeat in Iraq and Syria. In early December 2021, CJTF-OIR completed the transition to an advise, assist, and enable role in Iraq in fulfillment of mutual commitments made during the U.S.-Iraq Joint Strategic Dialogue. U.S. forces remain in Iraq at the invitation of the Iraqi government to support Iraqi security forces as they lead in the fight against ISIS. CJTF-OIR works closely with local, regional and international actors in Iraq and designated areas of Syria to support State Department-led whole-of-government effort to help bring stability to conflict affected areas and work towards enduring security partnerships.

In addition to efforts to defeat ISIS, U.S. forces in 2021 undertook certain actions in Iraq and Syria in the exercise of the United States’ inherent right of self-defense in response to a series of armed attacks by Iran-aligned militia groups on U.S. forces and interests. These actions sought to defend and protect U.S. forces by deterring these groups from conducting or supporting further attacks against the United States or U.S. interests, and by degrading their ability to conduct attacks.

CJTF-OIR receives reports of civilian casualties from CJTF-OIR ground units and aircrews, as well as from a variety of sources, such as traditional media organizations, social media, private individuals, and non-governmental organizations (NGOs). CJTF-OIR reviews carefully all reports of civilian casualties, regardless of their source.

In 2021, CJTF-OIR received 6 reports of potential civilian casualty incidents occurring in 2021. Of those 6 reports, 3 continue to be under assessment. The 3 other reports have been assessed not to be credible, *i.e.*, the available information did not support concluding that civilian casualties more likely than not resulted from U.S. military operations. For example, a report of civilian casualties would be assessed as not credible if U.S. military operations were not conducted at the reported time or place or if the reported casualties related to the incident were assessed to be enemy combatants rather than civilians.

The information in this report may not completely match publicly-available information released by U.S. Central Command (USCENTCOM) and CJTF-OIR because CJTF-OIR, as a matter of strategy and policy, considers all civilian casualties to be the combined result of “Coalition” action, and not of a single nation. However, this report only lists civilian casualties attributed to U.S. forces.

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CJTF-OIR routinely receives new reports of civilian casualties related to U.S. combat operations from prior years, continues to assess reports that were not completed in previous years, and re-considers previous assessments if new relevant information comes to light. The following table provides updates to information reported in previous Section 1057 reports, based upon additional assessments that were completed since last year’s report:

	<b>Date of Incident</b>	<b>Location</b>	<b>Operation Type</b>	<b>Civilians Injured</b>	<b>Civilians Killed</b>
1	Dec 10, 2018	Al Kashmah, Dayr az Zawr Province, Syria	Air	0	2
2	Feb 12, 2019	Baghuz, Dayr az Zawr Province, Syria	Air	1	0
3	Mar 13, 2019	Baghuz, Dayr az Zawr Province, Syria	Air	0	4
4	Mar 18, 2019	Baghuz, Dayr az Zawr Province, Syria	Air	15*	4*
5	Aug 18, 2020	Hajin, Dayr az Zawr Province, Syria	Air	1	0
6	Oct 15, 2020	Said/Sa’eed, Idlib Province, Syria	Air	1	0
<b>TOTAL</b>				<b>18</b>	<b>10</b>

\* Based on an independent review mandated by the Secretary of Defense

**B. Operation FREEDOM’S SENTINEL**

In 2021, U.S. military efforts in Afghanistan primarily focused on executing the President’s decision to fully withdraw U.S. forces by September 2021, while U.S. forces also re-postured to conduct counterterrorism operations from outside of Afghanistan. As the Taliban gained battlefield momentum, the State Department initiated Operation ALLIES REFUGE to relocate several thousand late-stage Special Immigrant Visa applicants and their families to the United States. The eventual fall of the Ghani government necessitated the temporary deployment of additional U.S. forces into Afghanistan to provide support to the State Department-led non-combatant evacuation operation that began on August 15, 2021. U.S. priorities shifted primarily to force protection, facilitating the safe evacuation of civilians under Operation ALLIES REFUGE, and enabling the final stages of the withdrawal. On October 1, 2021, Operation FREEDOM’S SENTINEL ended, and DoD transitioned to Operational ENDURING SENTINEL, which focuses mainly on conducting operations from outside Afghanistan to address the potential threat of terrorist operations against the United States and its interests.

U.S. Forces-Afghanistan (USFOR-A) received 10 reports of civilian casualties resulting from its combat operations in Afghanistan in 2021. Reports were received from ground units and pilots,

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Afghan Ministries, international organizations (IOs), media organizations, social media, private citizens, and NGOs. The U.S. military reviews carefully all reports of civilian casualties, regardless of their source.

As of February 15, 2022, it was assessed that 4 of these reports of civilian casualties as a result of U.S. military operations in Afghanistan in 2021 were credible, with approximately 12 civilians killed and approximately 2 civilians injured. The remaining 6 reports of civilian casualties were determined to be duplicates of previously assessed reports or were assessed as not credible. The following table contains additional details on these incidents.

	<b>Date of Incident</b>	<b>Location</b>	<b>Operation Type</b>	<b>Civilians Injured</b>	<b>Civilians Killed</b>
1	Jan 8, 2021	Herat, Afghanistan	Air	0	1
2	Jan 18, 2021	Kandahar, Afghanistan	Air	2	0
3	Aug 11, 2021	Kandahar, Afghanistan	Air	0	1
4	Aug 29, 2021	Kabul, Afghanistan	Air	0	10
			<b>TOTAL</b>	<b>2</b>	<b>12</b>

**C. U.S. military actions in Somalia**

U.S. Africa Command (USAFRICOM) contributes to multi-national efforts to disrupt violent extremist organizations (VEOs) while also conducting direct actions to degrade VEOs that threaten U.S. persons, the U.S. homeland, or U.S. interests. In East Africa, USAFRICOM capabilities support and enable the African Union’s mission in Somalia and the multi-national effort to combat VEOs such as al-Shabaab, an associated force of al Qa’ida, and build sustainable security in Somalia as outlined in the 2017 London Security Pact.

USAFRICOM maintains pressure on malign networks through a balance of operations and engagement with partners on the continent. USAFRICOM conducts its counter-terrorism and crisis response missions in a complex and evolving security environment. The command, along with its regional and international allies, focuses on diplomacy, development, and defense to improve partner effectiveness, and advance security, governance, and rule of law across the continent. VEOs like al-Shabaab present long-term threats to U.S. and partner interests.

USAFRICOM assesses or investigates all reports of civilian casualties, regardless of their source, in accordance with the procedures outlined in the Africa Command Instruction (ACI) for civilian casualty assessments. As described in its 3rd Quarter, 2021 Casualty Assessment report, USAFRICOM assessed that 3 civilians were injured as a result of a U.S. airstrike in the vicinity of Qunyo Barrow, Somalia, on January 1, 2021. USAFRICOM also re-opened a previously

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closed assessment of a report of civilian casualties, involving a May 9, 2018, joint Somali-U.S. military operation. The assessment was reopened based on information received in 2021 through the USAFRICOM on-line reporting portal. The new assessment, which included review of the additional information, did not change the original conclusion that the report of civilian casualties was not credible.

	<b>Date</b>	<b>Location</b>	<b>Operation Type</b>	<b>Civilians Injured</b>	<b>Civilians Killed</b>
1	Jan 1, 2021	Qunyo Barrow, Somalia	Air	3	0

USAFRICOM released quarterly reports on its website detailing the status and results of ongoing or completed assessments into reports of civilian casualties. USAFRICOM’S website provides the ability for individuals to submit reports of civilian casualties to the command. The electronic form provides multiple language options for individuals to submit information.

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

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

When assessing reports of civilian casualties, DoD considers whether any members of the civilian population were injured or killed as a direct result of U.S. military operations. For the purposes of such assessments, DoD does not include members of the civilian population who have forfeited the protections of civilian status by engaging in hostilities. Information about different classes of persons under the law of war, including “civilians” and “combatants,” can be found in Chapter IV of the DoD Law of War Manual (June 2015, Updated December 2016), which is available at [https://ogc.osd.mil/images/law\\_war\\_manual\\_december\\_16.pdf](https://ogc.osd.mil/images/law_war_manual_december_16.pdf).

Over the past several years, DoD has continued to refine its practices and procedures for reviewing reports of civilian casualties. Under current practices and procedures, the relevant command or another entity identified by the command (such as a special board or team) seeks to assess all reports of civilian casualties that may have resulted from the command’s operations once reports become known. The command or entity considers reports available from any source, including after-action reporting of military units, and information provided by external

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sources, such as NGOs, the news media, social media, and individuals who were present during the operation, including military personnel and local civilians. In assessing the report, the command or entity seeks to review all readily available information from a variety of sources, and may seek additional information that is not readily available, for example by searching social media and conducting interviews. Sources of information may include, but are not limited to, operational planning data and reporting, video surveillance and other data from Intelligence Surveillance and Reconnaissance (ISR) assets, witness observations (including those of partnered forces) where available, news reports, and information provided by NGOs and other sources, such as local officials or social media. In reviewing the report, the command or entity seeks to assess whether civilian casualties more likely than not occurred.

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

While assessment and investigation processes may remain tailorable by Combatant Command and by operation, in accordance with the CHMR-AP, DoD will establish standardized Department-wide procedures for assessing and investigating civilian harm resulting from operations, and will expand the sources of information used in assessments and investigations. The CHMR-AP further directs establishment of Civilian Harm Assessment and Investigation Coordinators at CCMDs and other appropriate operational commands, the creation of Civilian Harm Assessment Cells, and the incorporation of standardized procedures into applicable doctrine, training, and exercises.

Under current practices and procedures, after reviewing the available information, a responsible official assesses whether the report of civilian casualties is “credible,” meaning it is more likely than not that civilians were injured or killed as a result of U.S. military operations. Certain commands may use alternate terms such as “substantiated” and “unsubstantiated” rather than “credible” and “not credible,” but all assessments apply the “more likely than not” standard.

When civilian casualties are assessed to have more likely than not occurred, the assessment further estimates the number of civilian casualties that occurred, and differentiates whether they were injured or killed. As noted above, a report may be found to be “not credible,” if, for example, (1) there was no U.S. military action within a reasonable distance and/or within a reasonable timeframe as that identified in the report; (2) the report provides insufficient information to identify a location or date of the incident; or (3) a review of all reasonably

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available information, including operational data and reporting, video surveillance, other data from ISR assets, information derived through multiple sources of intelligence, publicly available information, and any information provided in the report, leads to the assessment that it is more likely than not that civilian casualties did not occur as a result of U.S. military operations. As directed by the CHMR-AP, the forthcoming DoD Instruction on civilian harm mitigation and response will include a standardized process for civilian harm assessments, adaptable and scalable to different types of operations, and will define the responsibilities of civilian harm assessment cells.

If warranted, a commander or other responsible official may direct a more extensive review or investigation to find additional facts about the incident and to make relevant recommendations, such as identifying process improvements to reduce the likelihood of future civilian casualty incidents. Command-directed investigations are conducted in accordance with applicable Military Department procedures, such as Army Regulation 15-6 or procedures for an Air Force Commander-Directed Investigation. As directed by the CHMR-AP, a multi-service issuance will be developed in the near term that will include: (1) qualification requirements for investigating officers; (2) procedures for developing investigative plans; (3) procedures for conducting investigations - including methods and capabilities for conducting remote investigations, including in non-permissive environments; (4) templated, minimum-required investigation questions; (5) categories of information sources to be considered, including non-U.S. sources, open sources, information obtained from interviews, and information obtained from site visits; (6) records management processes; and (7) reporting processes in support of CHMR. Guidance may additionally include templates and example appointment orders.

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

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

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becomes available, such as new information received from NGOs or other external sources. In the near term, in accordance with the CHMR-AP, DoD will further expand the sources of information used in assessments and investigations so that DoD has access to more information and is more capable of assessing and investigating the results of military operations.

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

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

When commanders identify a situation in which it is appropriate to extend an *ex gratia* payment, DoD has authority and funds to do so. Section 1213 of the NDAA for FY 2020 (Public Law 116-22) specifies that it shall be construed as the sole authority to make *ex gratia* payments for property damage, personal injury, or death that is incident to the use of force by the U.S. Armed Forces. In June 2020, DoD published Department-wide interim regulations to implement the authority provided under Section 1213. Commanders rely on these regulations to evaluate incidents and to determine whether offering an *ex gratia* payment in a particular case would be appropriate and consistent with mission objectives and applicable law.

Over the coming years, pursuant to the CHMR-AP, DoD will establish a holistic response framework through which DoD will ensure the availability of a diverse menu of response options to respond to individuals and communities affected by U.S. military operations — including public and private acknowledgements of harm, condolence payments, medical care, repairs to damaged structures and infrastructure, ordnance removal, and locally-held commemorative events or symbols. These options will allow commanders to craft tailored responses, based on consultations with affected individuals and communities, which are contextually and culturally appropriate, can be offered whenever circumstances permit, and are aligned with U.S. strategy and values, and applicable law.

DoD made one such *ex gratia* payment in 2021 for the incident in Afghanistan on January 8, 2021.

#### IV. STEPS DOD TAKES TO MITIGATE HARM TO CIVILIANS

In conducting military operations, all commands and forces assigned to CCMDs adhere to the law of war, Secretary of Defense-approved rules of engagement, instructions promulgated by the Chairman of the Joint Chiefs of Staff, and joint doctrine that establish policies, processes, and procedures that help to protect civilians and minimize civilian casualties. Below are examples of steps, among other efforts, DoD has taken in 2021 to help protect civilians during military operations.

*Policies, processes, and procedures:* All CCMDs conducting military operations adhere to the guidance in Chairman of the Joint Chief of Staff Instructions (CJCSIs) to help protect civilians and minimize civilian casualties, including CJCSI 3160.01D, *No-Strike and the Collateral Damage Estimation Methodology*. Like other DoD issuances, CJCSI 3160.01D is routinely updated, including through lessons learned from U.S. military operations. The current version was updated and re-released on May 21, 2021. As an example of how seriously the Joint Force takes the process of improving targeting procedures, the Chairman of the Joint Chiefs of Staff has also established a committee of senior targeting representatives from the Joint Staff, the Military Services, the CCMDs, and DoD Combat Support Agencies, and representatives of participating partner nations, to propose, review, debate, analyze, and prioritize targeting issues of mutual concern and, when appropriate, to decide on and implement common advancements.

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

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

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

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

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

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

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

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

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

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

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

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- (i) review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources, such as other agencies, partner governments, and NGOs, and take measures to mitigate the likelihood of future incidents of civilian casualties;
- (ii) acknowledge U.S. Government responsibility for civilian casualties and offer condolences, including *ex gratia* payments, to civilians who are injured or to the families of civilians who are killed;
- (iii) engage with foreign partners to share and learn best practices for reducing the likelihood of and responding to civilian casualties, including through appropriate training and assistance; and
- (iv) maintain channels for engagement with the International Committee of the Red Cross and other NGOs that operate in conflict zones and encourage such organizations to assist in efforts to distinguish between military objectives and civilians, including by appropriately marking protected facilities, vehicles, and personnel, and by providing updated information on the locations of such facilities and personnel.”

During 2021, the operations listed above were conducted consistent with Section 2 of Executive Order 13732. For example, pre-deployment training for U.S. military units during 2021 included instruction on the law of war, rules of engagement, and other policies related to protecting civilian populations. CCMDs conducting military operations also took feasible precautions to reduce the likelihood of civilian casualties, conducted assessments that assist in the reduction of civilian casualties, and acknowledged U.S. responsibility for civilian casualties.

Other examples of steps, among other efforts, DoD has taken in 2021 to help protect civilians during military operations include:

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

*Technological Advancements:* DoD pursues the latest advances in precision-guided weapons and ISR technology. The majority of strikes in 2021 used state-of-the-art weaponry and technology to characterize the target area as precisely as possible and to employ the weapons’ capabilities against the enemy while reducing effects on nearby collateral concerns. DoD Components with target engagement authority have also made process improvements to identify and eliminate contributing factors that have the potential to lead to civilian casualties, including through

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regular reviews of weapons employment across various commands to identify additional areas of improvement and to disseminate best practices and lessons learned. Additionally, commanders are leveraging emerging technologies that enhance battlefield situational awareness, reduce the probability of potential civilian casualties, and enable better integration of fires. Lastly, mission planners seek to minimize risk to civilians by employing the most appropriate munition available, including, at times, non-lethal capabilities, to accomplish the mission.

*Doctrinal Updates:* The Joint Staff conducts periodic reviews of DoD's methodology for conducting combat assessments. The current version of CJCSI 3162.01A, *Methodology for Combat Assessment*, was published on July 16, 2021. This instruction established DoD's collateral damage assessment methodology to help commanders better understand the effects of U.S. military operations and identify improvements. The collateral damage assessment methodology outlines steps to assess collateral damage and establishes data-basing and graphic production standards. Additionally, and as mentioned above, the Joint Staff released an updated version of CJCSI 3160.01D, *No-Strike and the Collateral Damage Estimation Methodology*, on the May 21, 2021.

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

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

*Studies and Analysis:* In December 2017, the Chairman of the Joint Chiefs of Staff directed an assessment of civilian casualties that resulted from U.S. air or artillery strikes in USCENTCOM's and USAFRICOM's respective areas of responsibility from 2015 to 2017. The study made findings and provided recommendations related to policy, doctrine, operational planning, and technological investments. This effort is covered in more detail in the report submitted to Congress pursuant to Section 936 of the NDAA for FY 2019 (Public Law 115-232), and an unclassified version of the report from this study is available publicly at the following link.

<https://www.jcs.mil/Portals/36/Documents/Civilian%20Casualty%20Review%20Report%20Redacted.pdf>.

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More recently, OSD sponsored two studies conducted by the RAND Corporation. The first study, began in late 2019 and is titled “Understanding Civilian Harm in Raqqa.” This study focused on the 2017 Battle of Raqqa, with the objective of identifying recommendations to inform DoD on ways civilian harm could be reduced in future military operations. An unclassified report from this study is available at the following link:

[https://www.rand.org/pubs/research\\_reports/RRA753-1.html](https://www.rand.org/pubs/research_reports/RRA753-1.html).

The second study was conducted pursuant to Section 1721 of the NDAA for FY 2020 (Public Law 116-92), and began in early 2020. This study provides the Secretary of Defense and Congress with: (1) an independent assessment of the standards, processes, procedures, and policy relating to civilian casualties that are currently in place across DoD, and of changes that are currently under development, and (2) recommendations to inform the further development of and improvements to policies related to civilian casualties. An unclassified report from this study is available publicly at the following link:

[https://www.rand.org/pubs/research\\_reports/RRA418-1.html](https://www.rand.org/pubs/research_reports/RRA418-1.html).

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

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

## VI. CONCLUSION

The Department recognizes that our efforts to mitigate and respond to civilian harm is both a strategic and moral imperative. The implementation of the CHMR-AP will ensure that Department will continue to improve its approach to civilian harm mitigation and response along

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with the forthcoming DoD Instruction, which is to be submitted to the Secretary in November 2022.