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Department of Defense

**Annual Report on Civilian Casualties In Connection With United
States Military Operations in 2019**

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), as amended, states the following:

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

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

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

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

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

(A) The date.

(B) The location.

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

(D) The type of operation.

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

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

(4) A description of—

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

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

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

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

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

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

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

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

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(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 2019**

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

This report primarily provides information about U.S. military operations in 2019 that were assessed to have resulted in civilian casualties. This report also contains updates to information the Department of Defense (DoD) provided in the reports submitted to Congress in prior years pursuant to Section 1057 of the NDAA for FY 2018, as amended.

Some of the information provided in prior reports about U.S. military operations in 2017 and 2018 has been repeated in this report because the information was relevant to U.S. military operations in 2019.

This report is publicly available at Defense.gov.

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

U.S. forces also protect civilians because it is the moral and ethical thing to do. Although civilian casualties are a tragic and unavoidable part of war, the U.S. military is steadfastly committed to limiting harm to civilians. This commitment is reflected in DoD's consistent efforts to maintain and promote best practices that reduce the likelihood of civilian casualties, take appropriate steps when such casualties occur, and draw lessons from DoD operations to enhance further the protection of civilians. Section 2 of Executive Order 13732 catalogues the best practices DoD has implemented to protect civilians during armed conflict, and directs those measures be sustained in present and future operations. During 2019, all operations listed below were conducted consistent with the best practices identified in Section 2 of Executive Order 13732.

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**I. U.S. MILITARY OPERATIONS DURING 2019 CONFIRMED, OR
REASONABLY SUSPECTED, TO HAVE RESULTED IN CIVILIAN
CASUALTIES**

During 2019, U.S. forces continued to be engaged in a number of military operations, some of which were assessed to have resulted in civilian casualties. This section provides information regarding: a) Operation INHERENT RESOLVE (OIR) and other military actions related to Iraq and Syria; b) Operation FREEDOM'S SENTINEL; c) U.S. military action in Yemen against al-Qa'ida in the Arabian Peninsula (AQAP) and the Islamic State of Iraq and Syria (ISIS); d) U.S. military actions in Somalia against ISIS and al-Shabaab; and e) U.S. military actions in Libya against ISIS.

This section provides information about each operation, as well as a list of each specific mission, strike, engagement, raid, or incident during 2019 that was assessed to have resulted in civilian casualties. Each instance that was assessed to have resulted in civilian casualties identifies the date, location, type of operation, and DoD's assessment of the number of civilians injured and killed in that instance. A previous report used the term "a declared theater of active armed conflict," as that term was understood in the context of 10 U.S.C. § 130f. 10 U.S.C. § 130f has since been amended and no longer includes the term "a declared theater of active armed conflict." The term "a declared theater of active armed conflict" is also not defined in relevant DoD doctrine. For the purposes of this report, the term "a declared theater of active armed conflict" will be considered to mean, for calendar year 2019, Afghanistan, Iraq, Libya, Somalia, Syria, and Yemen. 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, in the context of the ongoing armed conflict against al-Qa'ida, the Taliban, and associated forces, including ISIS.

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

A longstanding DoD policy is to comply with the law of war in all military operations, however characterized. All DoD operations in 2019 were conducted in accordance with law of war requirements, including law of war protections for civilians, such as the fundamental principles of distinction and proportionality, and the requirement to take feasible precautions in planning

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and conducting attacks to reduce the risk of harm to civilians and other persons and objects protected from being made the object of an attack.

DoD assesses that there were approximately 132 civilians killed and approximately 91 civilians injured during 2019 as a result of U.S. military operations in Iraq, Syria, Afghanistan, and Somalia. DoD assessments did not identify any civilian casualties resulting from U.S. military operations in Yemen and Libya in 2019. Subsections A through E below provide additional information.

As stated above, this report also contains updates to information submitted to Congress in last year's Section 1057 report. Last year's report noted that 70 reports of civilian casualties from 2017 and 28 reports of civilian casualties from 2018 remained to be assessed due to the number of such reports received and the resources required to review each report. Since that time, more reports of civilian casualties from U.S. military operations in 2017 and 2018 have been assessed, and two errors identified in last year's Section 1057 report have been corrected in this report. Additional reports of civilian casualties from previous years were received since the last annual report. DoD continues to assess new reports after they are received and updates previous assessments if additional information on any previous report of civilian casualties is received.

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

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

Operation INHERENT RESOLVE. In 2019, the Defeat-ISIS Coalition – Combined Joint Task Force–Operation INHERENT RESOLVE (CJTF-OIR) – and partner forces liberated all territory from ISIS control, freeing nearly 8 million civilians from ISIS domination in Iraq and Syria. The Defeat-ISIS Coalition supported partner forces in capturing or killing thousands of ISIS fighters, destroying vast quantities of weapons and explosives, disabling propaganda and command networks, and ultimately ending ISIS's control of physical territory in March 2019. In October 2019, Abu Bakr al-Baghdadi, the leader of ISIS, killed himself during a raid by U.S. forces on his hideout in Syria.

As of the end of 2019, the Defeat-ISIS Coalition and its partner forces continue to apply pressure to address the threat that ISIS continues to pose, as ISIS attempts to adapt and reemerge in Iraq and Syria amidst regional instability. The Defeat-ISIS Coalition continues operations related to

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eliminating ISIS smuggling, finance, media, intelligence, and logistics networks throughout the area.

CJTF-OIR received 277 reports of civilian casualties in 2019. Reports are received from Defeat-ISIS Coalition ground units and pilots, as well as from media organizations, social media, and non-governmental organizations (NGOs). Several different NGOs are active in providing reports of civilian casualties. NGOs reported 246 potential incidents, occurring as early as 2014. CJTF-OIR reviewed each of the NGO-reported incidents and assessed that U.S. military operations resulted in civilian casualties in two of these incidents. Of the remaining NGO-reported incidents, 48 potential incidents remain under continued assessment, and 196 incidents either were determined to be duplicates of previously assessed reports or were assessed to be not credible, *i.e.*, the available information did not support an assessment that civilian casualties more likely than not resulted from U.S. military operations. For example, a report of civilian casualties would be assessed as not credible if U.S. military operations were not conducted at the reported time or place or if the reported casualties related to the incident were assessed to be enemy combatants rather than civilians.

As of March 1, 2020, CJTF-OIR assessed that 11 reports of civilian casualties during 2019 were credible, with approximately 22 civilians killed and approximately 13 civilians injured as a result of U.S. military operations. The following table contains additional details about each instance during 2019 that was assessed to have resulted in civilian casualties.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	3-Jan-19	al-Khuskheh, Syria	Air	2	9
2	4-Jan-19	Ash Sha' fa, Syria	Ground	1	0
3	5-Jan-19	Marishidah, Syria	Air	1	2
4	20-Jan-19	Ash Shajlah, Syria	Air	2	0
5	23-Jan-19	Al Baghouz, Syria	Air	0	6
6	25-Jan-19	Baghuz Fawgani, Syria	Air	1	0
7	25-Jan-19	Marshidah, Syria	Air	1	3
8	6-Feb-19	Al Busayrah, Syria	Ground	3	0
9	2-Mar-19	Baghuz Fawgani, Syria	Air	0	1
10	10-Mar-19	Qayyarah West Airfield, Iraq	Ground	1	0
11	20-Mar-19	Anbar Province, Iraq	Ground	1	1
			TOTAL	13	22

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Additionally, CJTF-OIR routinely receives new reports of civilian casualties related to U.S. military operations from earlier years, continues to assess reports that were not completed in previous years, and re-considers previous assessments if new relevant information come to light. The following paragraphs provide updates to information provided in the Section 1057 reports for U.S. military operations in 2017 and 2018.

First, two errors were identified in the Section 1057 report for U.S. military operations in 2018 with regard to OIR. For the reported incident on May 14, 2018, in Mishraq Village, Iraq, the number of injuries that resulted was mistakenly placed in the wrong column. That incident was assessed to have caused injuries to 13 civilians, rather than to have killed 13 civilians.

Additionally, the incident on October 31, 2018, in Hajin, Syria, that was assessed to have resulted in injuries to four civilians was not attributable to U.S. military operations. These updates are reflected below in the cumulative numbers of civilian casualties that were assessed to have resulted from U.S. military operations in 2018.

Second, since last year's Section 1057 report, CJTF-OIR assessed that an additional seven reports of civilian casualties during 2018 were credible, with approximately eight civilians killed and approximately one civilian injured as result of U.S. military operations. With these additional assessments, CJTF-OIR assessed that a total number of 19 reports of civilian casualties during 2018 were credible, with approximately 37 civilians killed and approximately 17 civilians injured. The following table contains additional details about each instance during 2018 that was assessed since last year's Section 1057 report to have resulted in civilian casualties.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	1-Mar-18	Al Sha'fa, Syria	Air	0	1
2	10-May-18	Khatuniya, Syria	Ground	0	1
3	16-Jul-18	As Susah, Syria	Air	0	2
4	1-Aug-18	Ash Shajlah, Syria	Air	0	2
5	9-Nov-18	Hajin, Syria	Air	0	1
6	12-Dec-18	Hajin, Syria	Air	1	0
7	12-Dec-18	Abu Kamal, Syria	Air	0	1
TOTAL				1	8

Since last year's Section 1057 report, CJTF-OIR assessed that an additional 21 reports of civilian casualties during 2017 were credible, with approximately 71 civilians killed and approximately 13 civilians injured as result of U.S. military operations. With these additional assessments, CJTF-OIR assessed that a total number of 191 reports of civilian casualties during 2017 were credible, with approximately 864 civilians killed and approximately 219 civilians injured. The

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following table contains additional details about each instance during 2017 that was assessed since last year's Section 1057 report to have resulted in civilian casualties.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	3-Jan-17	Sarmada, Syria	Air	0	1
2	6-Jan-17	Taftanaz, Syria	Air	0	2
3	8-Mar-17	Al Karama, Syria	Air	1	0
4	5-Apr-17	Shafa, Iraq	Air/Ground	0	16
5	19-Apr-17	Al Thawra, Iraq	Air	0	1
6	6-May-17	Al Mayadin, Syria	Air	0	1
7	28-May-17	Mansoura, Syria	Air	1	0
8	28-May-17	Al Hamam, Syria	Air	0	3
9	2-Jun-17	Raqqah, Syria	Air	0	1
10	4-Jun-17	Abu al Naital, Syria	Air	0	1
11	10-Jun-17	Ar Raqqah, Syria	Air	10	2
12	13-Jun-17	Mosul, Iraq	Air	0	11
13	23-Jun-17	Al Saaha, Iraq	Ground	0	5
14	1-Jul-17	Dier ez Zor, Syria	Air	0	5
15	11-Aug-17	Al Na'üm, Syria	Air	1	1
16	23-Aug-17	Al Qaim, Iraq	Air	0	5
17	4-Sep-17	Ar Raqqah, Syria	Air	0	4
18	18-Sep-17	Al Mrashda, Syria	Air	0	6
19	17-Oct-17	Abu Kamal, Syria	Air	0	2
20	1-Dec-17	Daranj, Syria	Air	0	1
21	25-Dec-17	Kharayij, Syria	Air	0	3
TOTAL				13	71

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

Therefore, the information in this report may not completely match publicly available information released by U.S. Central Command (USCENTCOM). CJTF-OIR, as a matter of strategy and policy, considers all civilian casualties to be the combined result of "Coalition" action, not of a single nation, since Coalition personnel from multiple countries take part in every

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strike in some manner. In DoD's view, this collective effort is the most appropriate way to view civilian casualty incidents related to Defeat-ISIS Coalition action in Iraq and Syria.

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

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

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

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

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

Additional Military Action in Iraq and Syria in 2019. In response to repeated Kata'ib Hezbollah (KH) attacks on Iraqi bases that host Defeat-ISIS Coalition forces, U.S. forces on December 29, 2019, conducted precision defensive strike against five KH facilities in Iraq and Syria, including weapon storage facilities and command and control locations that KH used to plan and execute attacks on Defeat-ISIS Coalition forces. The strikes were intended to degrade KH's ability to conduct future attacks against Defeat-ISIS Coalition forces. DoD did not identify any civilian casualties resulting from this military action.

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B. Operation FREEDOM'S SENTINEL

In 2019, U.S. military efforts in Afghanistan continued as part of the U.S. South Asia Strategy. The U.S. objective remains ensuring Afghanistan is never again used as a safe haven from which terrorists can attack the United States, or our Allies or interests abroad. The military component of the U.S. South Asia Strategy is conditions-based and focuses on two well-defined and complementary missions executed as Operation FREEDOM'S SENTINEL. First, U.S. forces conduct partnered and non-partnered counter-terrorism missions against al-Qa'ida, ISIS-Khorasan Province (ISIS-K), and associated groups to prevent their resurgence and ability to plan and execute external attacks. Second, in partnership with NATO allies and operational partner nations in the RS mission, U.S. forces train, advise, and assist the Afghan National Defense and Security Forces (ANDSF) in their fight against insurgents and terrorist groups. The military campaign supports diplomatic efforts to achieve a durable political settlement to the war by attacking Taliban networks as part of the counterterrorism mission and by providing combat enabler support to the ANDSF in support of the RS mission of advising and assisting their efforts to fight the Taliban..

U.S. efforts in 2019 focused initially on aggressively targeting the Taliban to drive the group to participate in negotiations to end the Afghan war. The level of violence increased as the year proceeded, as the Taliban conducted attacks in an attempt to increase its negotiating leverage during peace talks. Insurgent and terrorist groups continued to escalate violence at the end of the year in an attempt to disrupt the Afghanistan elections. U.S. forces continued to apply pressure on Taliban leadership and fighters, enable the ANDSF to maintain the tactical advantage, and give U.S. diplomats leverage in their negotiations with the Taliban. This culminated in an agreement to reduce violence between February 21-28, 2020, and the signing of the conditions-based U.S.-Taliban Agreement and the parallel U.S.-Afghanistan Joint Declaration on February 29, 2020.

RS has received 541 reports of civilian casualties for operations involving U.S. forces in Afghanistan in 2019. Reports are received from ground units and pilots, as well as from Afghan Ministries, international organizations (IOs), media organizations, social media, and NGOs. IOs and NGOs reported 236 potential incidents in 2019 involving civilian casualties. RS reviewed each of the IO- and NGO-reported incidents and assessed that U.S. military operations resulted in civilian casualties in two of these incidents. The remaining IO- and NGO-reported incidents were determined to be duplicates of previously assessed reports or were assessed as not credible, *i.e.*, the available information did not support an assessment that civilian casualties more likely than not resulted from U.S. military operations. For example, a report of civilian casualties would be assessed as not credible if U.S. military operations were not conducted at the reported time or place or the reported casualties related to the incident were assessed to be enemy combatants rather than civilians.

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As of March 1, 2020, RS assessed that 57 reports of civilian casualties during 2019 were credible, with approximately 108 civilians killed and approximately 75 civilians injured as a result of U.S. military operations. The following table contains additional details about each instance during 2019 that was assessed to have resulted in civilian casualties.

	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
1	3-Jan-19	Helmand	Air	0	1
2	24-Jan-19	Helmand	Air	5	15
3	24-Jan-19	Paktiya	Air	3	0
4	6-Feb-19	Helmand	Air	1	0
5	8-Feb-19	Ghazni	Air	0	1
6	23-Feb-19	Wardak	Air	4	0
7	25-Feb-19	Balkh	Air	0	1
8	26-Feb-19	Helmand	Air	0	1
9	13-Mar-19	Kandahar	Ground	3	2
10	22-Mar-19	Kunduz	Air	6	13
11	25-Mar-19	Nangarhar	Air	0	1
12	25-Mar-19	Kabul	Air	1	5
13	26-Mar-19	Helmand	Air	0	7
14	8-Apr-19	Parwan	Air	4	1
15	18-Apr-19	Wardak	Air	3	3
16	30-Apr-19	Logar	Air	0	1
17	20-May-19	Helmand	Air	9	6
18	5-Jun-19	Zabul	Air	0	2
19	27-Jun-19	Kapisa	Air	1	0
20	3-Jul-19	Khost	Air	2	1
21	3-Jul-19	Kunduz	Air	1	0
22	7-Jul-19	Ghazni	Air	0	2
23	9-Jul-19	Kapisa	Air	0	1
24	10-Jul-19	Ghazni	Air	0	1
25	15-Jul-19	Logar	Ground	1	0
26	18-Jul-19	Herat	Air	2	0
27	31-Jul-19	Kunduz	Air	2	2
28	7-Aug-19	Parwan	Ground	0	1
29	11-Aug-19	Logar	Air	1	1
30	25-Aug-19	Parwan	Ground	1	0
31	28-Aug-19	Kandahar	Ground	0	1
32	29-Aug-19	Kandahar	Ground	1	1

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	Date of Incident	Location	Operation Type	Civilians Injured	Civilians Killed
33	2-Sep-19	Logar	Ground	2	0
34	6-Sep-19	Parwan	Ground	0	1
35	6-Sep-19	Badakhshan	Air	1	0
36	8-Sep-19	Wardak	Air	0	5
37	19-Sep-19	Nangarhar	Air	8	8
38	22-Sep-19	Uruzgan	Air	1	0
39	22-Sep-19	Helmand	Air	0	2
40	24-Sep-19	Ghazni	Ground	2	0
41	27-Sep-19	Wardak	Air	0	1
42	6-Oct-19	Ghazni	Air	0	1
43	10-Oct-19	Parwan	Ground	2	1
44	2-Nov-19	Herat	Ground	0	1
45	4-Nov-19	Ghazni	Air	1	0
46	7-Nov-19	Badghis	Air	0	5
47	8-Nov-19	Laghman	Ground	1	0
48	23-Nov-19	Farah	Air	0	1
49	24-Nov-19	Herat	Air	3	0
50	28-Nov-19	Khost	Air	0	4
51	1-Dec-19	Nangarhar	Ground	1	0
52	5-Dec-19	Wardak	Air	0	2
53	6-Dec-19	Kandahar	Ground	0	2
54	6-Dec-19	Logar	Air	1	0
55	15-Dec-19	Paktiya	Air	1	0
56	23-Dec-19	Kapisa	Air	0	2
57	25-Dec-19	Paktika	Air	0	1
				TOTAL	75
					108

C. U.S. military action in Yemen against AQAP and ISIS

During 2019, U.S. forces conducted counter-terrorism airstrikes in Yemen. The strikes targeted AQAP and ISIS operatives in a continuing effort to disrupt and degrade terrorist threat threats in Yemen.

As of March 1, 2020, DoD has no credible reports of civilian casualties resulting from U.S. military actions in Yemen during 2019. USCENTCOM has not receive any reports from IOs or NGOs regarding potential civilian casualties caused by U.S. military action in Yemen in 2019.

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D. U.S. military actions in Somalia against ISIS and al-Shabaab

Persistent pressure on terrorist networks by U.S. Africa Command (USAFRICOM) is necessary to prevent the destabilization of our African partner nations. The principal means for applying pressure on terrorist networks is to work “by, with, and through” our African and international partners, increasing their security capabilities, and, only when necessary, using U.S. military force. Ultimately, our use of military force in African nations, for example, in Somalia, supports efforts by these governments to establish a more stable environment and to provide the security and economic growth required for long-term stability and prosperity.

U.S. military operations in Somalia support regional partners and deny al-Shabaab and ISIS control of ungoverned spaces that could be used by terrorist organizations to plot and conduct attacks against the Somali people, U.S. partners and allies, and the U.S. homeland.

During 2019, USAFRICOM conducted 63 airstrikes in Somalia.

USAFRICOM received 27 reports about 16 potential incidents of civilian casualties for operations in Somalia in 2019. These reports came from external sources such as news media, social media, and NGOs. As of April 16, 2020, USAFRICOM has assessed 26 reports relating to 15 incidents of civilian casualties. One report about one incident remains under review. Six incidents were assessed as not credible because no U.S. military operation took place at the reported time or location. Eight incidents were assessed as not credible based on review of operational data, video surveillance, data from Intelligence, Surveillance, and Reconnaissance (ISR) assets, and other forms of intelligence. One incident was assessed as credible for civilian casualties during 2019, with approximately two civilians killed and approximately three civilians injured. The following table contains additional details about this incident.

	Date	Location	Operation Type	Civilians Injured	Civilians Killed
1	23-Feb-19	Kunyo Barrow	Air	3	2
			TOTAL	3	2

Additionally, as an update to the Section 1057 reports for U.S. military operations in 2017 and 2018, the Naval Criminal Investigative Service (NCIS) concluded its investigation related to a report of civilian casualties in Somalia. The report of civilian casualties related to this investigation was assessed as not credible.

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E. U.S. military actions in Libya against ISIS

During 2019, USAFRICOM conducted four airstrikes in Libya as part of the ongoing armed conflict against ISIS. USAFRICOM received one report about one potential incident of civilian casualties for operations in Libya in 2019. This report came from a foreign media source. The report of civilian casualties was assessed as not credible. USAFRICOM's assessment of this report involved review of operational data, video surveillance and other data from ISR assets, and other forms of intelligence.

Additionally, as an update to last year's Section 1057 report, the assessment into the report of civilian casualties in Libya that remained to be completed as of that report has since been assessed as not credible.

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

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

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

Over the past several years, DoD has continued to refine its practices and procedures for reviewing reports of civilian casualties. Under current practices and procedures, the command or another entity identified by the command (such as a special board or team) seeks to assess the credibility of reports of civilian casualties resulting from the command's operations after reports become known. The command or entity considers reports available from any source, including after-action reporting of military units, and information provided by external sources, such as NGOs, the news media, social media, and individuals who were present during the operation, including military personnel and local civilians. In assessing the report, the command or entity

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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, video surveillance and other data from ISR assets, witness observations (including those of partnered forces) where available, news reports, and information provided by NGOs and other sources, such as local officials or social media. In assessing the report, the command or entity seeks to determine whether civilian casualties more likely than not occurred.

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

Under current practices and procedures, after reviewing the available information, a competent official determines whether the report of civilian casualties is “credible,” meaning it is more likely than not that civilians were injured or killed. In those cases that a report is found to be credible, 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; or (2) a review of all available information, including information derived through intelligence sources, video from the weapon platform and/or ISR assets, and any information provided in the report, leads to the determination that it was more likely than not that civilians were not injured or killed.

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

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

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

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

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

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

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

DoD recently provided a report to Congress detailing 611 *ex gratia* payments that were made during 2019 in the event of property damage, personal injury, or death that was assessed to have been incident to U.S. military operations in foreign countries.

IV. STEPS DOD TAKES TO MITIGATE HARM TO CIVILIANS

U.S. forces take extraordinary efforts to reduce the harmful impact of military operations on civilians. In carrying out their respective missions, all commands and forces assigned to Combatant Commands (CCMDs) adhere to the law of war, Secretary of Defense-approved rules of engagement, instructions promulgated by the Chairman of the Joint Chiefs of Staff, and joint doctrine that establish policies, processes, and procedures that help to protect civilians and minimize civilian casualties. Below are examples of steps, among other efforts, DoD has taken in 2019 to help protect civilians during military operations.

Policies, processes, and procedures: All CCMDs conducting military operations adhere to Chairman of the Joint Chief of Staff Instructions (CJCSIs) that contain guidance to help protect civilians and minimize civilian casualties, including CJCSI 3160.01C, *No-Strike and the Collateral Damage Estimation Methodology*. Like other DoD issuances, CJCSI 3160.01C is routinely updated, including through lessons learned from U.S. military operations. 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. Because much of the relevant work occurs during the targeting process, these efforts are focused in groups that implement 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 a Target Development Working Group, Joint Targeting Working Group, and Joint Targeting Coordination Board is to achieve an intended outcome against an enemy target, when components of the CCMDs identify potential targets for military operations, those working groups, boards, and other entities also review and evaluate targets to minimize the potential for civilian casualties. In addition, proposed targets are reviewed for compliance with the law of war. For example, a

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judge advocate would review a proposed target to advise 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.

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

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

During 2019, 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 2019 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, acknowledged U.S. responsibility for civilian casualties, and offered condolences to civilians who were injured or to the families of civilians who were killed, as appropriate.

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

Civilian casualty cells: CCMDs or appropriate subordinate commands also employ “civilian casualty cells” to address civilian casualty issues, such as responding to reports that U.S. or Coalition military operations caused civilian casualties. CCMDs and other operational

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commands continue to review civilian casualty assessment processes and refine policies and procedures.

Technological advancements: The prevention of civilian casualties during current operations is challenging. To meet this challenge, DoD pursues the latest advances in precision-guided weapons and ISR technology. The majority of strikes in 2019 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 monthly 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: DoD's methodology for conducting combat assessments was updated during 2019, as reflected in CJCSI 3162.02, *Methodology for Combat Assessment*. This update 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.

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

Studies and analysis: In December 2017, the Chairman of the Joint Chiefs of Staff directed an assessment of civilian casualties that resulted from U.S. air or artillery strikes in USCENTCOM's and USAFRICOM's respective areas of responsibility from 2015 to 2017. The study made findings and provided recommendations related to policy, doctrine, operational planning, and technological investments. This effort is covered in more detail in the report submitted to Congress pursuant to Section 936 of the NDAA for FY 2019.

More recently, OSD has entered into an agreement for two additional studies conducted by a Federally Funded Research and Development Center (FFRDC). The first study began in late 2019 and is titled "Understanding Civilian Harm in Raqqa." This study will focus on the 2017 Battle of Raqqa, with the objective of identifying recommendations to inform DoD on ways

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civilian harm could be reduced in future military operations. The second study is being conducted pursuant to Section 1721 of the NDAA for FY 2020, and began in early 2020. This study will provide the Secretary of Defense and Congress with an independent assessment of the standards, processes, procedures, and policy relating to civilian casualties that are currently in place across DoD, and of changes that are currently under development, and will provide recommendations to inform the further development of and improvements to policies related to civilian casualties.

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

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

V. CONCLUSION

Moving forward, the measures DoD takes to reduce the risk to civilians and to assess and respond to reports of civilian casualties will be enhanced by DoD's ongoing efforts to draft a DoD-wide policy issuance that will address the priority areas identified in Section 936 of the NDAA for FY 2019, as well as other issues identified by DoD. This effort was described in DoD's Section 936 report to Congress in 2019, and is still ongoing. A January 31, 2020 memorandum from the Department's official responsible for coordinating DoD policy relating to civilian casualties to other senior DoD officials, provides additional information regarding issues that this policy issuance will address. This memo is publicly available at <https://media.defense.gov/2020/Feb/20/2002252367/-1/-1/1/DEVELOPMENT-OF-A-DOD-INSTRUCTION-ON-MINIMIZING-AND-RESPONDING-TO-CIVILIAN-HARM-IN-MILITARY-OPERATIONS.PDF>