

Geographic Combatant Command Procedures for Civilian Casualty Assessments

Appendix

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About This Appendix

Section 1721 of the Fiscal Year 2020 National Defense Authorization Act requires that a federally funded research and development center conduct an independent assessment of U.S. Department of Defense standards, processes, procedures, and policy relating to civilian casualties resulting from U.S. military operations. The Office of the Under Secretary of Defense for Policy requested that the RAND Corporation undertake this assessment, and RAND researchers worked in collaboration with those from CNA. That report should be of interest to members of Congress and congressional staff, as well as Department of Defense and other U.S. government officials, U.S. and partner military personnel, and United Nations and nongovernmental organization officials. This document is the appendix to that report and examines the geographic combatant commands' processes for assessing incidents that resulted in civilian casualties.

National Security Research Division

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Geographic Combatant Command Procedures for Civilian Casualty Assessments

The geographic combatant commands (GCCs) vary in the extent to which they have put in place procedures around accounting for, assessing, reporting, and verifying reports of potential civilian casualties. In this appendix to the main report (available at www.rand.org/t/RRA418-1), we describe five GCCs' various procedures and approaches, which can include having a civilian casualty cell (CIVCAS cell) of personnel dedicated to assessing and responding to such issues.

U.S. Central Command

As the combatant command with the largest and most-active areas of current operations, U.S. Central Command (CENTCOM) maintains specific policies relating to the reporting of, assessment of, and response to civilian casualty reports and confirmed incidents. CENTCOM's 2018 Command Policy Letter No. 97 delineates the procedures for reporting, assessing, tracking, investigating, and publicly releasing information regarding reports of civilian casualties within the theater. The policy states that "effective [civilian casualty] response includes timely and accurate reporting, public release of [civilian casualty] information (in coordination with host nation sensitivities), and dissemination of lessons learned to improve military operations and prevent future incidents."¹ The policy directs the joint task force and component commanders to establish procedures to properly address incidents from all sources of civilian casualty reporting.² These steps are followed by CENTCOM headquarters in the event of a report of potential civilian casualties that is not within the purview of the command's joint task forces for its two operations: Operation Inherent Resolve (OIR) and Operation Freedom's Sentinel, which is part of the Resolute Support (RS) mission in

¹ CENTCOM, *U.S. Central Command (USCENTCOM) Policy for Reporting and Responding to Civilian Casualty Allegations and Incidents*, Command Policy Letter No. 97, Tampa, Fla., January 22, 2018a.

² CENTCOM, 2018a.

Afghanistan.³ Specific procedures for OIR's Combined Joint Task Force (CJTF) and for RS are discussed in the subsequent sections.

CENTCOM's policy describes three steps for addressing potential civilian casualty incidents: a first-impression report, a CIVCAS credibility assessment report (CCAR), and an investigation. Each joint task force or component may have a unique process and can create additional products for its own purposes. A first-impression report is used to make the initial civilian casualty report and provides basic information about an incident. The first-impression report is then sent to the CENTCOM office of primary responsibility, which examines the information and decides whether a CCAR is required.⁴ According to CENTCOM's policy, a CCAR is required if the office of primary responsibility determines that civilians were "more likely than not" injured or killed or if more information is needed to make a determination. An assessment officer (of unspecified rank, selected from the command that served as the target engagement authority for the action in question) is assigned to write the CCAR. CCARs are meant to provide an appraisal of information and fact-finding but are not a full, formal investigation. The CCAR ultimately provides a determination about whether, "based on all reasonably available information, it is more likely than not that a civilian was killed or injured as a result of U.S. or coalition action."⁵

Credible reports of civilian casualties caused by U.S. military operations in the CENTCOM area of operations are also released in the U.S. Department of Defense (DoD)'s annual report to Congress on civilian casualties in connection with U.S. military operations.⁶ For reports of potential civilian casualties related to operations outside of CJTF-OIR and RS (e.g., U.S. military operations in Yemen), CENTCOM has previously publicly acknowledged the reports and states that the assessments are ongoing.⁷ However, we found no public statement regarding the final assessment of a civilian casualty report that was made by a nongovernmental organization (NGO) official in May 2018 following a U.S. operation in Yemen.⁸

³ CENTCOM military official, email correspondence with the authors, June 2020. The RS mission in Afghanistan is led by the North Atlantic Treaty Organization, and U.S. forces for that mission operate under Operation Freedom's Sentinel. In the rest of this appendix, we discuss the civilian casualty policies and structures of RS. However, CENTCOM maintains responsibility for U.S. authorities, order, operations, and forces in Afghanistan.

⁴ CENTCOM, 2018a.

⁵ CENTCOM, 2018a; CENTCOM military official, email correspondence with the authors, June 2020.

⁶ See, for example, DoD, *Department of Defense Report on Civilian Casualties in Connection with United States Military Operations*, Washington, D.C., April 29, 2019.

⁷ CENTCOM, "CENTCOM Updates Counterterrorism Strikes in Yemen," press release, No. 18-052, May 16, 2018b.

⁸ For assessments related to reports of civilian casualties in Yemen, CENTCOM follows procedures established in Command Policy Letter Number 97. However, a standing CIVCAS cell dedicated to Yemen operations does not exist at CENTCOM headquarters. CENTCOM civilian casualty representatives (identified in Chapter Five of the main report) acknowledge and assess all reports of civilian casualties from internal and external sources,

Although decades of active campaigns in the CENTCOM area of operations have led the command to develop and implement civilian casualty guidance and processes, as noted, implementation is the purview of the joint task forces and component commands. This also extends to the support provided by current operational planners. These discussions at CENTCOM headquarters frame orders, rules of engagement, and authorities exclusively through a force-on-force mindset and do not explicitly conceive a civilian population as part of the equation. Joint operational planners do enjoy close relationships with CENTCOM operations and intelligence officials, who ensure that guidance related to targeting does include civilian-harm considerations. Plans for specific operations conducted within the CJTF-OIR and RS areas of operation include more-specific estimates of civilian harm and civilian casualties, but those efforts are conducted at the joint task force level, not at CENTCOM headquarters.⁹

CJTF-OIR

The CJTF-OIR CIVCAS cell is responsible for tracking and overseeing the assessment of civilian casualties in the area of operations. CJTF-OIR's process for assessing a civilian casualty event is similar to CENTCOM's policy. Regardless of the source of an alleged civilian casualty event—direct observation by U.S. forces or a third-party report—the process begins with a first-impression report, which must be sent to the cell within 24 hours of awareness of the incident. The report includes the original source document, along with the basic information (who, what, where, when) regarding the potential incident.¹⁰ After receiving a report of civilian casualties, the cell conducts an initial assessment to determine whether the date, time, and place of the reported incident matches strike data. The CIVCAS cell then examines coalition strikes and records and recommends whether additional inquiry should be conducted through a CCAR. According to CJTF-OIR policy, an initial assessment would not lead the cell to recommend a CCAR if there had been no coalition strikes that correlate to the report, the report provides insufficient information to identify a location or date, or the only correlating strikes had been launched by the host nation or partner force.¹¹ If a CCAR is recommended, it is conducted by an assessment officer with input from a legal adviser. A CCAR provides a narrative description of the incident, states whether the report of civilian casualties is credible or not credible, and identifies the

including NGOs. However, mission and security considerations determine whether CENTCOM provides any information beyond acknowledging to NGO representatives that it received the report. As a result, the process often generates confusion and ill will because of perceptions of limited transparency, not unlike what occurs in the context of RS. (CENTCOM military official, email correspondence with the authors, December 2020)

⁹ CENTCOM officials, interview with the authors, October 8, 2020.

¹⁰ CJTF-OIR, *Combined Joint Task Force – Operation Inherent Resolve (CJTF-OIR) Policy for Reporting and Responding to Civilian Casualty Incidents*, Camp Arifjan, Kuwait, May 9, 2018.

¹¹ CJTF-OIR, 2018.

potential cause of any credible casualties. Furthermore, a CCAR does not assess “collateral issues, culpability, or criminal liability of a unit or service member.”¹² CCARs only make determinations about U.S. actions or those conducted by the coalition. However, if the officer conducting the CCAR suspects that a local partner force caused or contributed to the civilian casualty incident, the officer will share information about the incident with the host nation; at that point, further investigation and tracking of outcomes are regarded as a host-nation responsibility.¹³

Since 2016, CJTF-OIR has published a monthly civilian casualty report that highlights the status of reports from all sources, including whether the reported incidents are determined to be credible or non-credible, as well as the status of any open investigations. CJTF-OIR opens previously closed investigations if the command receives new information that potentially corroborates the report.¹⁴ CENTCOM also publishes the CJTF-OIR monthly civilian casualty report on its website. Finally, credible reports of civilian casualties caused by U.S. military operations in CJTF-OIR are also released in DoD’s annual report to Congress on that topic.¹⁵

Resolute Support Mission

RS policies follow and expand upon the guidelines established by the CENTCOM policy memo. When coalition forces in Afghanistan receive a report of civilian casualties, an initial assessment is made within 72 hours to determine the credibility of the report of potential civilian harm. If the report is deemed not credible, it is recorded and closed. According to a U.S. Forces Afghanistan information paper, “typically, claims are found ‘not credible’ when they are clear propaganda or when there were no coalition operations in the area within 72 hours of the claim.”¹⁶ When a report is deemed credible or if more information is required to make a determination, the RS Civilian Casualty Mitigation Team (CCMT) will draft a CCAR, “per our Standard Operating Procedures within seven days of the determination that a report is credible.”¹⁷ The details of this standard operating procedure are not publicly available.

¹² CJTF-OIR, 2018.

¹³ CENTCOM and CJTF-OIR officials, interview with the authors, June 2020. CJTF-OIR’s 2018 civilian casualty policy states that, during the assessment process, if it is suspected that a partner force or host nation’s troops caused or contributed to a civilian casualty incident, CENTCOM will notify that nation, which may designate a representative to participate in the CCAR process or conduct its own review.

¹⁴ CJTF-OIR, “CJTF-OIR Monthly Civilian Casualty Report,” press release, May 1, 2020; Annie Shiel and Dan Mahanty, *The Sum of All Parts: Reducing Civilian Harm in Multinational Coalition Operations*, Washington, D.C.: Center for Civilians in Conflict, January 23, 2019; and CJTF-OIR official, interview with the authors, May 2020.

¹⁵ See, for example, DoD, 2019.

¹⁶ Chief, J3, “RS/USFOR-A 2019 Civilian Casualty Allegation and Mitigation Information Paper,” Kabul: Headquarters Resolute Support, January 30, 2020; and RS officials, interview with the authors, May 2020.

¹⁷ Chief, J3, 2020.

In spring 2019, RS officials made several changes to the structure of their assessment process. Previously, RS used what were called civilian casualty assessment review boards instead of the current CCAR process. Under the old process, all reports were reviewed by a board comprising ten to 15 individuals, mainly from the members of the unit that conducted the strike and a representative from the CCMT.¹⁸ RS officials noted that this was not the most impartial or efficient way to conduct assessments. One official observed that, for example, “if you were part of the decision process that determined we had positive identification, you might be more likely to believe there weren’t” civilian casualties.¹⁹

Moreover, because the membership of the board rotated as the units that conducted the strikes changed, there was constant turnover in reviewers and an overall lack of experience in reviewing civilian casualty reports.²⁰ Officials also noted that, because the civilian casualty assessment review boards were composed of many people, they met relatively infrequently to review cases in batches, which would slow down their ability to respond to external reports in a timely manner.²¹ In the current CCAR process, a representative from the CCMT who is not part of the targeting process, engagement authority, or operation provides a more independent analysis based on information available and with the assistance of a legal adviser. The new process also brings in at least four coalition nations to aid in the assessment of civilian casualty reports.²² Finally, as of 2020, RS had updated its procedures to conduct inquiries into civilian casualty reports appearing on social media and in news outlets and interacts with the United Nations’ Assistance Mission in Afghanistan and the International Committee of the Red Cross on a regular basis regarding civilian casualty issues.²³

Unlike CJTF-OIR, the RS team does not publicly release civilian casualty reports on a monthly basis, opting to instead release information on a case-by-case basis. For example, RS officials noted that, if U.S. or local Afghan media contact them, they will try to respond.²⁴ According to RS officials, the CCMT does not do a proactive push of information because of the vast number of reports of potential civilian harm that it

¹⁸ Chief, J3, 2020.

¹⁹ RS officials, interview with the authors, May 2020.

²⁰ Chief, J3, 2020.

²¹ RS officials, interview with the authors, May 2020.

²² Chief, J3, 2020.

²³ Chief, J3, 2020; RS officials, interview with the authors, May 2020.

²⁴ RS officials, interview with the authors, May 2020.

deals with on a daily basis.²⁵ RS publishes confirmed civilian casualties in two annual reports to Congress.²⁶

U.S. Africa Command

U.S. Africa Command (AFRICOM) Instruction 3200.04 outlines procedures for responding to reports of civilian casualties.²⁷ The instruction, signed on February 1, 2019, did not change the substance of the assessment process but rather codified existing standard operating procedures.²⁸

AFRICOM receives reports of civilian casualties from both internal and external sources. According to AFRICOM officials, most external reports of civilian casualties originate from news media and social media sources.²⁹ Intelligence analysts at the Joint Operations Center search open-source media, including social media and news reporting, and direct reports of civilian casualties to the CIVCAS cell. In particular, the intelligence analysts track the Twitter accounts of journalists who frequently address issues related to civilian casualties in the AFRICOM area of responsibility (AOR). As one official explained, the analysts collect information “anyplace where allegations are being made.”³⁰ In addition, AFRICOM recently updated its website to include a link to an email address that the public can use to submit reports of civilian harm. AFRICOM also receives reports of alleged civilian casualties from NGOs.³¹

When AFRICOM receives a civilian casualty report, the Operations Directorate (J3)’s Fires and Effects Branch compiles a first-impression report. The report, which includes basic facts about the alleged incident, is concurrently sent via email to the members of the CIVCAS cell and the Joint Operations Center, which produces a commander’s critical information requirement.³² The CIVCAS cell gathers additional information and establishes the facts of the alleged incident. If the cell determines that civilians were more likely than not injured or killed as a result of a U.S.

²⁵ RS officials, interview with the authors, May 2020.

²⁶ RS officials, interview with the authors, May 2020. The two reports to Congress in which the RS team provides civilian casualty numbers are the annual report on civilian casualties caused by U.S. operations (e.g., DoD, 2019) and a report on enhancing security and stability in Afghanistan (e.g., DoD, *Enhancing Security and Stability in Afghanistan*, Washington, D.C., June 2020).

²⁷ U.S. Africa Command Instruction 3200.04, *Reporting and Responding to Civilian Casualty Allegations and Incidents*, Stuttgart, Germany: U.S. Africa Command, February 1, 2019.

²⁸ AFRICOM military official, interview with the authors, April 2020.

²⁹ AFRICOM legal counsel, interview with the authors, April 2020.

³⁰ AFRICOM civilian official, interview with the authors, April 2020.

³¹ AFRICOM civilian official, interview with the authors, April 2020.

³² AFRICOM civilian official, interview with the authors, April 2020.

or partner force action, or that more information is needed to make a determination, the AFRICOM J3 director tasks the unit that carried out the correlated strike with producing a CCAR. The AFRICOM J3 director, or the designated office of primary responsibility, uses this information to determine whether the alleged incident is substantiated or unsubstantiated.³³ Previously, reports were assessed to be credible or non-credible, but because of concerns about the negative connotation associated with these terms, the combatant commander changed the terminology to *substantiated* or *unsubstantiated*. The underlying analysis for this determination has not changed. Once this determination is made, the AFRICOM J3 director approves a memorandum for the record that sets forth the report of civilian harm and the assessment of findings. The memorandum is then archived, although the assessment can be reopened if additional evidence comes to light. If a case is reopened, the CIVCAS cell reconsiders whether it is more likely than not that a U.S. or partner force action resulted in civilian casualties.

Among AFRICOM officials and civilian employees, the “prevailing sentiment” is that the challenges facing the command are unique.³⁴ The AFRICOM AOR is “totally different” from the Middle East, where many members of AFRICOM’s CIVCAS cell have prior experience. As a result, as one official explained, AFRICOM is essentially “building the plane in flight” when it comes to investigating reports of potential civilian casualties.³⁵ The uniqueness of AFRICOM primarily stems from what one official called the “tyranny of distance,” which prevents CIVCAS cell members from conducting interviews on the ground as they investigate reports of potential civilian harm.³⁶ The “security situation does not allow” AFRICOM to “put people on the ground to conduct investigations in Somalia or Libya.”³⁷ Even so, one AFRICOM official told us that he “did not see this as a hindrance” because he is confident in the intelligence and targeting processes and can review strikes using high-resolution video footage.³⁸ NGO representatives have noted, however, that on-the-ground investigations are even more important in such countries as Somalia, where Al Shabaab has “banned internet-enabled mobile phones, so photos and videos of most attacks simply don’t exist.”³⁹ NGO representatives also point out that, because the United States uses lighter munitions in Somalia, these strikes “typically don’t produce [the kind of] craters [that observers] can

³³ This change has reportedly been received positively by the NGO community (AFRICOM military official, interview with the authors, April 2020).

³⁴ AFRICOM legal counsel, interview with the authors, April 2020.

³⁵ AFRICOM legal counsel, interview with the authors, April 2020.

³⁶ AFRICOM legal counsel, interview with the authors, April 2020.

³⁷ AFRICOM military official, interview with the authors, April 2020.

³⁸ AFRICOM military official, interview with the authors, April 2020.

³⁹ Brian Castner, “Gaslighting an Entire Nation,” *New York Times*, April 27, 2019.

see from space.”⁴⁰ For this reason, NGOs have suggested that AFRICOM should prioritize interviewing witnesses on the ground. One NGO representative explained that, if NGO employees can conduct interviews on the ground in Somalia, even though it is “hard to get to these places,” AFRICOM should be able to manage as well.⁴¹

Civilian casualty investigations in the AFRICOM AOR also are unique because they typically do not involve reports of collateral damage; rather, they involve reports that the person killed in the strike was a civilian, not a member of Al Shabaab or another militant group. In many cases, the CIVCAS cell is able to determine with relative ease that these reports are unsubstantiated because the analysts can usually point to intelligence reporting that says the target was a member of Al Shabaab, not a civilian.⁴²

On March 31, 2020, AFRICOM announced that it would release a quarterly report on civilian casualty reports and investigations.⁴³ This announcement was received positively by advocacy organizations.⁴⁴ The first such quarterly report, which detailed civilian casualty reports during the first quarter of 2020, came out on April 27, 2020.⁴⁵ Credible reports of civilian casualties caused by U.S. military operations in AFRICOM are also released in DoD’s annual report to Congress on that topic.⁴⁶ Officials familiar with AFRICOM’s processes for investigating alleged civilian casualties noted that AFRICOM has become “better at recordkeeping [and] more formulaic” and has developed “templates for everything” to standardize assessments.⁴⁷ The goal, one official explained, was to “take the creativity out of it and make it consistent.”⁴⁸

⁴⁰ Castner, 2019.

⁴¹ NGO representative, interview with the authors, May 2020.

⁴² AFRICOM civilian official, interview with the authors, April 2020. As one AFRICOM official noted, investigations frequently hinge on the identity of the casualty. While it is frequently alleged that the target was “a local businessman,” not a member of Al Shabaab, the official pointed out that those “are not mutually exclusive. He can be a famous businessman and in Al Shabaab” (AFRICOM military official, interview with the authors, May 2020).

⁴³ U.S. Africa Command Public Affairs, “AFRICOM Civilian Casualty Status Report Initiative,” press release, March 31, 2020a.

⁴⁴ An Amnesty International representative described the new reporting schedule as a “good start” (“U.S. Military Must Recognize Civilian Deaths in Somali Drone Strikes, Says Amnesty International,” *The World*, April 1, 2020).

⁴⁵ U.S. Africa Command Public Affairs, “Initial AFRICOM Civilian Casualty Assessment Quarterly Report,” press release, April 27, 2020b.

⁴⁶ For example, DoD, 2019.

⁴⁷ AFRICOM legal counsel, interview with the authors, April 2020.

⁴⁸ AFRICOM legal counsel, interview with the authors, April 2020.

U.S. European Command

As noted in the main report, U.S. European Command (EUCOM) is waiting for the finalization of DoD's forthcoming policy guidance around civilian casualties before developing its own policy. Our research suggests that the combatant command draws largely on existing DoD guidance to shape its approach to civilian casualties.⁴⁹ Through its strong focus on security cooperation with U.S. allies, EUCOM integrates law of armed conflict training into international military-to-military engagements and ensures that improvements in weaponeering solutions are designed to limit the possibility of harm to civilians.⁵⁰

EUCOM considers itself unique among other combatant commands that have drawn the attention of various stakeholders when it comes to the civilian casualty issue, largely because of the types of combat and kinetic operations in which it is likely to become engaged should armed conflict break out in its AOR. Specifically, differences in the character of high-intensity armed conflict, relative to counterinsurgency and counterterrorism operations, have significant implications for civilian-harm issues. Our research highlights four dynamics in particular. First, U.S. forces are unlikely to benefit from complete control of both land and airspace during a conflict with Russia or another near-peer adversary. U.S. forces have had a critical advantage in this regard throughout OIR, RS, and other recent operations and campaigns in the CENTCOM and AFRICOM areas of operations. A lack of control over land and airspace would significantly curtail the extent to which U.S. forces could build and maintain situational awareness of activities on the ground, complicating efforts to both mitigate and respond to incidents of civilian harm. As one EUCOM official put it, "The op tempo of a near-peer conflict will not allow for timely investigations into each and every allegation. When one does not control the land and airspace, it will be challenging to conduct investigations."⁵¹

Second, it is likely that, in a fight against Russia, U.S. forces assigned and deployed to EUCOM would deploy an entirely different set of weapons and munitions than would be employed against other adversaries. Recent publications by former judge advocates assigned to the combatant command, for instance, point to recent U.S. Army efforts to return to the use of such weapons as the Air Volcano mine system, which facilitates the rapid deployment of a large number of land mines from the air.⁵² The idea would be to use these munitions either to "develop engagement areas" by

⁴⁹ EUCOM official, interview with the authors, April 2020.

⁵⁰ EUCOM official, interview with the authors, April 2020.

⁵¹ EUCOM official, interview with the authors, April 2020.

⁵² Gail A. Curley and Paul E. Golden, Jr., "Back to Basics: The Law of Armed Conflict and the Corrupting Influence of the Counterterrorism Experience," *Army Lawyer*, September/October 2018.

guiding enemy forces into certain terrain and away from other areas, such as major population centers, or to establish perimeter defenses.⁵³

Third, unlike in operations against non-state adversaries, such as the Islamic State of Iraq and Syria (ISIS) and the Taliban, the luxury of time is unlikely to prevail in contexts of near-peer conflict. Although it has been feasible in many counterinsurgency and counterterrorism scenarios thus far to delay target engagement in order to verify positive identification, take additional measures to ensure that civilians are not in the area, and centralize engagement decisions to improve judgment and minimize risk of civilian harm, EUCOM officials contend that high-intensity conflicts against near-peer adversaries will require decisive action in significantly shorter time frames in order to avoid catastrophic consequences for U.S. formations.⁵⁴ With regard to civilian harm specifically, this means that a lack of opportunity for tactical patience could lead to greater tolerance for risk and more room for potential mistakes.

Finally, current trends in global urbanization and population growth increase the likelihood that cities will become the locus of future conflicts, a complexity that Russia and other adversaries are likely to exploit to evade or deter long-range strikes and sophisticated intelligence, surveillance, and reconnaissance capabilities, as well as to draw attention to unintended civilian-harm incidents caused by U.S. forces.⁵⁵ The prospect of such targeted disinformation campaigns around civilian harm highlights the need for additional innovative measures that can help EUCOM respond to civilian-harm allegations from near-peer adversaries. Together, these four dynamics emphasize the need for scalable guidance and policy around civilian harm that can apply to the full spectrum of conflict, including the gray-zone and high-intensity conflicts that currently or are likely to characterize conflict with a near-peer adversary.⁵⁶

Our research and interviews highlight one additional important point of contrast that is likely to shape EUCOM's approach to civilian harm. Specifically, although the need to protect civilians has played a mission-critical role in the counterinsurgency and counterterrorism environments that define CENTCOM and AFRICOM operations, EUCOM officials suggest that the relationship between protecting civilians and accomplishing a strategic objective may drop out or carry significantly less weight during high-intensity conflict against a near-peer adversary. As hinted to earlier, an emphasis on the speed and decisiveness required to defeat such adversaries could displace any need or desire to win over the hearts and minds of a foreign population. This suggests that the value that commanders and lower-level operators attach to mitigat-

⁵³ Jen Judson, "US Army Dusting Off Volcano Mine Dispensers," *Defense News*, December 21, 2016.

⁵⁴ Curley and Golden, 2018.

⁵⁵ Raphael S. Cohen, Nathan Chandler, Shira Efron, Bryan Frederick, Eugeniu Han, Kurt Klein, Forrest E. Morgan, Ashley L. Rhoades, Howard J. Shatz, and Yuliya Shokh, *The Future of Warfare in 2030: Project Overview and Conclusions*, Santa Monica, Calif.: RAND Corporation, RR-2849/1-AF, 2020.

⁵⁶ EUCOM official, interview with the authors, April 2020.

ing civilian harm might be different in future conflicts that the EUCOM AOR might experience. We have already witnessed a shift in this direction in the context of DoD's counter-ISIS strategy in Iraq and Syria, which replaced an "instrumentalist-strategic" logic of protecting civilians with a "humanitarian-utilitarian" logic of moving faster to save more lives.⁵⁷

At this point, it is difficult to tell whether shifts in certain OIR campaigns—namely, efforts to retake Mosul and Raqqa from ISIS—foreshadow DoD's approach to preventing and responding to civilian harm in environments that may resemble future great-power conflicts. According to recent analyses, planning documents contain little, if any, mention of addressing civilian harm, and the 2017 version of Field Manual 3-0 contains significantly fewer references to noncombatants than earlier versions do.⁵⁸ The revised manual has also done away with a section dedicated to the law of armed conflict and rules of engagement. That said, then-U.S. Army Chief of Staff GEN Mark A. Milley emphasized in 2017 that future military leaders will need to be skilled in discriminatory fires and ethical judgment.⁵⁹ This is encouraging, but it is not in itself a guarantee that U.S. forces preparing for conflict with near-peer adversaries will continue to receive training on civilian casualties, particularly considering that the common perception is that existing best practices and lessons are applicable only to low- and medium-intensity conflict.⁶⁰

U.S. Indo-Pacific Command

U.S. Indo-Pacific Command (INDOPACOM) has the foundations of complementary policies and procedures around assessing and investigating civilian casualties, but, like EUCOM, it is waiting for the finalization of DoD's forthcoming policy guidance to ensure that the policies do not conflict.⁶¹ In addition to the evolving arrangement that includes the Center for Excellence in Disaster Management and Humanitarian Assistance detailed in Chapter Five of the main report, it is worth noting that INDOPACOM already maintains a robust infrastructure for joint training on humanitarian assistance and disaster relief through the center. The center of excellence is uniquely focused on training forces assigned or deployed to INDOPACOM in crisis response capabilities, in which the protection of civilians is a key focus area. This center and

⁵⁷ Daniel R. Mahanty and Annie Shiel, "Protecting Civilians Still Matters in Great-Power Conflict," *Defense One*, May 3, 2019.

⁵⁸ Field Manual 3-0, *Operations*, Washington, D.C.: Headquarters, Department of the Army, October 2017.

⁵⁹ New America Foundation, "Tomorrow's Army: A Conversation with General Mark A. Milley," YouTube video, 2017 Future of War Conference, March 23, 2017.

⁶⁰ Joint Staff, *Civilian Casualty (CIVCAS) Review*, Washington, D.C., April 17, 2018, pp. 1–2.

⁶¹ INDOPACOM official, interview with the authors, April 2020.

associated capacity provides the command with some preexisting level of understanding around human rights issues that would presumably carry over to the civilian casualty realm during active armed conflict.⁶² INDOPACOM's sole active operations as of October 2020 were in the Philippines, and the United States was not providing any combat troops. Thus, at the time of this writing, criminal activities were the only types of civilian-harm incidents that U.S. forces might encounter in INDOPACOM's AOR, and these are covered by status of force agreements.

The complexities discussed with respect to the EUCOM theater as they relate to the potential for high-intensity conflict with a near-peer adversary and ongoing gray-zone activities to counter near-peer influence in the region also apply to the INDOPACOM AOR. Our interviewees maintained that, although it currently may be realistic to investigate nearly all reports of potential civilian harm in contemporary counterterrorism contexts, invasion and defensive operations that go hand in hand with high-intensity conflicts could create tens to hundreds of civilian casualties on a daily basis: "Seoul, for example, will have a mind-boggling amount of [civilian casualties] in a matter of hours [in the event that North Korea invades South Korea]. Thresholds will increase because of what we're trying to prevent during an invasion."⁶³ Yet current planning discussions across INDOPACOM frame future scenarios exclusively through a force-on-force mindset and do not explicitly conceive a civilian population as part of the equation. It remains largely unclear how future operations will address this dimension of armed conflict in the region.

Finally, INDOPACOM's response to civilian casualties will likely need to account for significant challenges in the information space. As in EUCOM, civilian-harm incidents in the context of great-power conflict will likely be heavily politicized and used as a way to portray the adversary in the most-negative light possible. INDOPACOM officials describe the lack of presence of independent civil society organizations in the region as a further challenge in this area.⁶⁴ In short, the ability to respond to credible and politicized reports of potential civilian harm are important issues to consider as the command and DoD further develop civilian casualty policies and procedures around civilian harm.

U.S. Southern Command

Although U.S. Southern Command (SOUTHCOM) does not have a standing CIVCAS cell, respect for human rights has been a component of the combatant command's mission since the 1990s, when it established a dedicated Human Rights Office.

⁶² INDOPACOM official, interview with the authors, April 2020, October 2020.

⁶³ INDOPACOM official, interview with the authors, April 2020.

⁶⁴ INDOPACOM official, interview with the authors, October 2020.

The office maintains five primary responsibilities, including advising and reporting on human rights issues; establishing and supporting human rights training programs; ensuring that human rights are integrated into SOUTHCOM exercises and operations; advancing respect for human rights by supporting regional initiatives; and serving as a liaison with other entities working on human rights issues, such as the interagency community, international organizations, and human rights NGOs. SOUTHCOM is currently the only combatant command with a separate office charged to monitor and coordinate human rights issues.⁶⁵ There is no active or planned military conflict in SOUTHCOM's AOR, so the command does not currently deal with issues related to civilian harm; however, command personnel interviewed for this study stated that SOUTHCOM "treats civilian harm more like an international humanitarian law issue;" such issues typically fall under the purview of the command staff judge advocate.⁶⁶

SOUTHCOM Regulation 1-20 requires that all personnel assigned to SOUTHCOM or deployed to its area of operations complete human rights awareness education, understand their obligation to respect and protect human rights, and report all suspected violations thereof.⁶⁷ Personnel receive a pocket card (known as a standing orders card) delineating SOUTHCOM's zero-tolerance policy for human rights violations and providing instruction on how to report suspected violations.⁶⁸ The command offers human rights training through the Joint Knowledge Online platform, and its offerings have been made available and found to be of value to personnel assigned to other GCCs.⁶⁹ The Human Rights Office also works to expose the combatant command's personnel to realistic situations during military exercises to test their knowledge of human rights issues, largely by preparing and evaluating human rights scenarios incorporated into training.⁷⁰ The Human Rights Office also regularly briefs the combatant commander on country-specific issues as they relate to human rights, a process that has increased the command's overall awareness of issues in this area and that has been useful when it comes to planning human rights engagements with partner countries.⁷¹

Given the combatant command's significant security cooperation mission, SOUTHCOM's engagement on human rights issues focuses heavily on engagement

⁶⁵ Jim Stavridis, Alexander T. Roney, and Leana Bresnahan, "Partnership for the Americas: The Human Rights Initiative," *Military Review*, Vol. 87, No. 3, May–June 2007.

⁶⁶ SOUTHCOM official, interview with the authors, October 2020.

⁶⁷ SOUTHCOM, "Human Rights Awareness Education for General Officers and Flag Officers," training slides, undated-b; and SOUTHCOM, *Human Rights Policy and Procedures*, U.S. Southern Command Regulation 1-20, Doral, Fla.: U.S. Department of Defense, April 25, 2011.

⁶⁸ SOUTHCOM, "Human Rights," webpage, undated-a.

⁶⁹ SOUTHCOM official, interview with the authors, October 2020.

⁷⁰ Stavridis, Roney, and Bresnahan, 2007.

⁷¹ SOUTHCOM official, interview with the authors, October 2020.

with partner military forces. The command initiated the Human Rights Initiative in 1997, bringing together representatives from national militaries, security forces, civilian government, and civil society to develop a model human rights program for use by military forces that focuses on doctrine, education and training, internal control systems, and cooperation with civilian authorities. The Human Rights Office currently supports the efforts of 11 countries and one regional organization, the Conference of Central American Armed Forces, which have all made commitments to implementing the Human Rights Initiative within their national militaries.⁷²

SOUTHCOM has also established strong partnerships with regional human rights NGOs to implement the tenets of its Human Rights Initiative.⁷³ Of note, the command maintains a strong tradition of outreach with international and local NGOs active in protecting human rights; SOUTHCOM sponsors a twice-yearly, off-the-record dialogue between its combatant commander and representatives from the NGO community, a forum that provides the opportunity for frank discussion and has fostered trust between the two entities. According to SOUTHCOM representatives, the exchange has become a valued and institutionalized tradition within the command.⁷⁴

In addition, SOUTHCOM cooperates closely with the Western Hemisphere Institute for Security Cooperation in Fort Benning, Georgia, to integrate human rights training into all courses that the institute provides to mid-level officers and noncommissioned officers from Latin American countries. Similar material also features into the institute's strategic-level curricula for senior-level officers and civilians.⁷⁵ In short, given its security cooperation mission and the low likelihood of armed U.S. military operations in the AOR, SOUTHCOM does not anticipate the need for a CIVCAS cell. Nevertheless, if provided additional resources, the command could further expand its human rights focus to include the promotion of civilian protection across Latin America, including working with partner military forces in the region to mitigate the risks of civilian harm and track civilian-harm incidents during conflicts.

Table A.1 summarizes these GCCs' policies, procedures, and challenges for responding to civilian casualties, as outlined in this appendix. The table omits SOUTHCOM because it does not currently deal with issues related to civilian harm.

⁷² SOUTHCOM official, interview with the authors, October 2020.

⁷³ For example, SOUTHCOM contracted Costa Rica-based human rights NGO the Center for Human Rights Training in 2003 to serve as the Human Rights Initiative secretariat. The organization works with SOUTHCOM to coordinate major regional conferences on human rights. See Stavridis, Roney, and Bresnahan, 2007; and Geraldine Cook, "Central American Armed Forces Join Together to Protect Human Rights," *Diálogo*, September 16, 2016.

⁷⁴ SOUTHCOM official, interview with the authors, October 2020.

⁷⁵ Donna Miles, "SOUTHCOM's Engagement Program Promotes Human Rights," U.S. Department of Defense, June 1, 2012.

Table A.1
Summary of Geographic Combatant Commands’ Policies, Procedures, and Challenges for Responding to Civilian Casualties

	CENTCOM	AFRICOM	EUCOM	INDOPACOM
Formal civilian casualty response policy	<ul style="list-style-type: none"> Command Policy Letter No. 97 specifies three steps: <ul style="list-style-type: none"> First-impression report CCAR (credible or non-credible) Investigation 	<ul style="list-style-type: none"> AFRICOM Instruction 3200.04 specifies three steps: <ul style="list-style-type: none"> First-impression report CCAR (substantiated or unsubstantiated) Memorandum for the record 	<ul style="list-style-type: none"> No standing policy Response would follow procedures as outlined in Army Regulation 15-6 and Europe Regulation 27-8 	<ul style="list-style-type: none"> Policy currently under development
Processes for civilian casualty policy implementation	<ul style="list-style-type: none"> Implementation is the purview of joint task forces and component commands CJTF-OIR: Publishes monthly civilian casualty report RS: CCAR process includes independent analysis and engages coalition nations 	<ul style="list-style-type: none"> Joint Operations Center tracks open-source media for reports of civilian casualties J3’s Fires and Effects Branch initiates the process GCC releases quarterly report on civilian casualty reports and investigations 	<ul style="list-style-type: none"> Not applicable (no standing policy) Ongoing activities related to civilian casualties include incorporating law of armed conflict training into military-to-military engagements 	<ul style="list-style-type: none"> Not applicable Ongoing activities related to civilian casualties include <ul style="list-style-type: none"> crisis response training led by the Center for Excellence in Disaster Management and Humanitarian Assistance significant focus on humanitarian assistance and disaster response
Engagement with external sources	<ul style="list-style-type: none"> CIVCAS cell receives external civilian casualty reports RS regularly engages the United Nations and the International Committee of the Red Cross in civilian casualty issues 	<ul style="list-style-type: none"> Most reports originate in news media social media sources 	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> Lack of independent civil society organizations could hamper future engagement around civilian casualties
Key challenges	<ul style="list-style-type: none"> Unclear how operations in Yemen fall under the scope of existing policy 	<ul style="list-style-type: none"> Difficulties conducting on-the-ground investigations of civilian casualty reports 	<ul style="list-style-type: none"> Potential for high-intensity conflict in the AOR could require procedures amenable to a higher operational tempo 	<ul style="list-style-type: none"> Potential for high-intensity conflict in the AOR could require procedures amenable to a higher operational tempo

Abbreviations

AFRICOM	U.S. Africa Command
AOR	area of responsibility
CCAR	CIVCAS credibility assessment report
CCMT	Civilian Casualty Mitigation Team
CENTCOM	U.S. Central Command
CIVCAS cell	civilian casualty cell
CJTF	Combined Joint Task Force
DoD	U.S. Department of Defense
EUCOM	U.S. European Command
GCC	geographic combatant command
INDOPACOM	U.S. Indo-Pacific Command
ISIS	Islamic State of Iraq and Syria
NGO	nongovernmental organization
OIR	Operation Inherent Resolve
RS	Resolute Support
SOUTHCOM	U.S. Southern Command

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CJTF-OIR—*See* Combined Joint Task Force – Operation Inherent Resolve.

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