

COUNTRY REPORT



UNITED STATES

2024



Civilian Protection
Monitor

Civilian Protection

Monitor

Civilian Protection Monitor is a project by **Airwars & PAX**

Based on a framework developed by
Center for Civilians in Conflict

**Analysis in this report is based on
publicly accessible sources only and covers
developments until 1 February 2025.**

PAX

is a Netherlands-based NGO with additional offices and peacebuilding programmes in over a dozen (post-)conflict countries. Together with people in conflict areas and concerned citizens worldwide, PAX works to build just and peaceful societies across the globe.

Airwars

is a transparency watchdog which tracks, assesses, archives and investigates civilian harm claims in conflict-affected nations. Airwars works to reliably and independently document the human cost of war in order to promote a more peaceful world where human lives are acknowledged and taken in to account by militaries, policy-makers, and global citizens with dignity and empathy.

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PAX

Airwars

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INTRODUCTION TO CPM

The Civilian Protection Monitor (CPM) introduces an evaluation system adapted from a framework created by Center for Civilians in Conflict which allows for the consistent measurement of state practices in protecting civilians and providing redress in cases where military actions result in harm to civilians.¹ CPM aims to provide civil society organisations, policymakers, military actors as well as academics and media with insights into the protection-related policies and practices of individual states and the data they need to press for improvements on civilian protection. A collaborative partnership between Airwars and PAX, CPM aims to bridge the gap between civil society and policymakers in advancing transparency for state military actions.

Why does civilian harm mitigation and response matter?

Civilian harm mitigation and response (CHMR) is essential for minimising the impact of military operations on civilians in conflict zones. Protecting civilians is a core tenet of International Humanitarian Law (IHL), aiming to reduce unnecessary suffering and foster humane conduct during conflicts. Effective CHMR strategies not only save lives but also prevent displacement, psychological trauma, and the disruption of vital services and infrastructure. Civilian harm mitigation and response contributes to the stability and resilience of conflict-affected communities, reducing the long-term social and economic costs of conflict. Moreover, prioritising civilian protection can help to maintain public support for military operations, foster legitimacy and prevent moral injury among service personnel.

Independent monitoring of state practices in relation to CHMR is equally crucial, as it promotes accountability and transparency. External oversight ensures that governments and militaries adhere to established norms and standards, reducing the risk of unchecked power or impunity. Independent monitoring can lead to improved CHMR practices, as it provides unbiased assessments and evidence-based recommendations through which states can learn from each other and drive policy and procedural reforms. Additionally, it builds trust within the international community and affected populations, as they see states addressing and learning from incidents of civilian harm. Overall, CHMR and independent monitoring work together to protect civilians, uphold humanitarian values, and strengthen accountability in conflict situations.

METHODOLOGY

CPM measures five indicators: the national policy frameworks addressing civilian harm mitigation and response, civilian harm tracking, civilian harm investigations, transparency on policies and practices, and response mechanisms to harm to civilians. Each indicator has its own leadership tier, with qualitative scoring categories to describe the steps a state must take to receive a certain score.

The current indicators were chosen because they are key aspects of civilian harm mitigation and response, and allow for a cross-comparison between different states on the basis of open sources. For several reasons, other important sub-aspects of CHMR, such as mitigation itself, have not been included yet. This is primarily because there is not yet enough transparency in the states monitored - or any other states - to be able to analyse and score operational mitigation approaches.

The analysis is based on publicly available sources only, to ensure the analysis is verifiable and reproducible. CPM is also intended as a tool to push for greater transparency and accountability on civilian harm. By relying on open sources, states are encouraged to release further details on their civilian harm mitigation and response practices to increase their score.

This report examines the US's approach to mitigating and responding to civilian harm, assessing the systems and practices in place to prevent, track, investigate, and address harm in conflict environments. Our analysis considers both civilian harm that occurred as a result of military action in compliance with IHL and harm that occurred as a result of unlawful action; both have lasting impacts on the civilians affected and provide insights into the strengths (and weaknesses) of the systems put in place to mitigate and respond to harm – however it occurs. By monitoring the US's mechanisms for harm mitigation and response, we assess whether they align with best practices, ensuring accountability, adaptability, and context-sensitive engagement in operational settings.

Each country report has been reviewed by external independent experts.

EXECUTIVE SUMMARY

Note: the subsequent analysis covers developments that occurred up to 1 February 2025, exclusively making use of open-source materials that were available until that time.

In response to heightened scrutiny over civilian casualties, the United States has taken notable steps to adopt significant reforms aimed at reducing civilian harm during its military operations.² The Department of Defense has introduced expansive policy frameworks in recent years, such as the Civilian Harm Mitigation and Response Action Plan (CHMR-AP) in 2022 and the DoD Instruction on Civilian Harm Mitigation and Response (DoDI 3000.17) in 2023. These initiatives aim to establish clear policies for mitigating, tracking, investigating, and responding to civilian harm caused by US military operations, demonstrating a commitment to improving how civilian harm is prevented and addressed during operations.

Despite these efforts, challenges remain in ensuring the consistent application of these policies. While the DoD has allocated resources for CHMR, implementation is still underway. For example, despite the establishment of a \$3 million annual budget for ex gratia payments, very few payments have been made over the last years.³

The US DoD can take steps to improve its transparency on civilian harm. Reports related to civilian harm often lack key details, for instance on methods of investigation and on responses to reported harm, leaving the public and Congress without a clear understanding of how civilian harm is assessed and addressed. This has led to concerns about how well lessons from past incidents are being integrated into current operations.

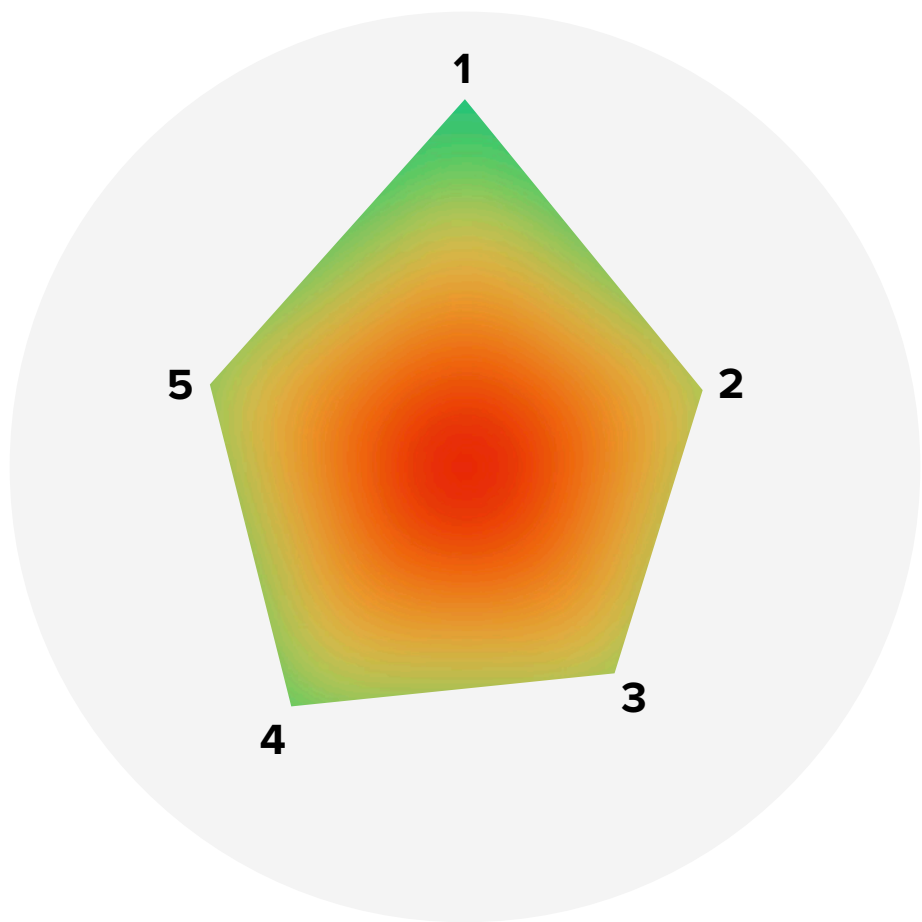
Overall, the US has made substantial progress in creating policies and structures aimed at protecting civilians, but there is still work to be done to ensure these policies are fully implemented and that the necessary resources and transparency are in place to support a consistent and reliable approach. Civil society organisations have further acknowledged the importance of these measures, yet remain cautious, noting that successful implementation will be key in changing a military culture historically challenged by balancing combat objectives with civilian protection, especially as attention shifts to largescale combat operations.

It remains to be seen whether Trump's inauguration as the new US President on 20 January 2025 will lead to significant changes in US civilian protection-related policy and practice in the coming months and years.

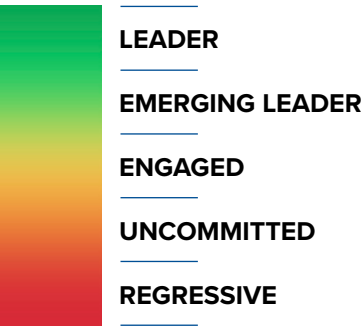
CIVILIAN PROTECTION SCORE OVERVIEW

UNITED STATES

OVERALL SCORE **EMERGING LEADER**



LEGEND



CATEGORIES

1

NATIONAL POLICY **LEADER**

In recent years, the US has established a set of policies and practices that clearly lay out the framework and the resourcing needed to better protect civilians from its actions in situations of armed conflict. Internationally, this approach is unique for its comprehensiveness and for the level of detail the policy framework contains in assigning roles and responsibilities, and in providing implementation guidance. The policy framework could be strengthened further by including accountability mechanisms to ensure implementation. It is worth noting that the US has limited public policy and guidance in place that affords protection to civilians harmed by non-military actors like the CIA or civilians harmed outside of situations of armed conflict.

2

TRACKING **ENGAGED**

The US has implemented some degree of civilian harm tracking in most of its military operations since 2011. The DoD is currently working on further improvements to tracking and analysis mechanisms, for instance through plans to standardise civilian harm-related data collection, assessments, and investigations. This includes creating a centralised database to track harm and identify trends, which would be used to inform both current operations and broader organisational learning. However, development of this database is still in progress, and without interim solutions, there is a risk that ongoing cases may be overlooked. While the DoD aims to implement more uniform standards, the quality of current tracking of and reporting on civilian harm varies significantly across individual Combatant Commands.

3

INVESTIGATIONS **ENGAGED**

The US DoD has made significant efforts in recent years toward improving how it investigates reports of civilian harm, also moving beyond a narrow focus on casualties alone. Recent policies outline the intent to standardise the investigation process, ensuring that both internal and external sources of information are considered in assessments. However, the extent to which these new policies have been fully integrated into current operations remains unclear and gaps in implementation remain. Additionally, public reports on civilian harm often do not specify the investigative means and methods that were used or how certain conclusions were reached, nor are these reports standardised across individual Combatant Commands.

4

PUBLIC REPORTING & TRANSPARENCY **EMERGING LEADER**

The DoD demonstrates efforts to disclose information about civilian harm, but the level of transparency warrants improvement. Combatant Commands regularly publish reports on strikes, but the level of detail and the consistency of reporting varies across individual commands. There are additional transparency gaps related to the processes, criteria, and outcomes of investigations. While some information, such as mitigation tactics and basic assessments, is made available, key details - such as the determination of civilian status, explanations of credibility assessments, or the provision of amends - are often excluded. Overall, this impedes external assessments of the effectiveness of US civilian harm mitigation practices.

5

POST-HARM RESPONSE **ENGAGED**

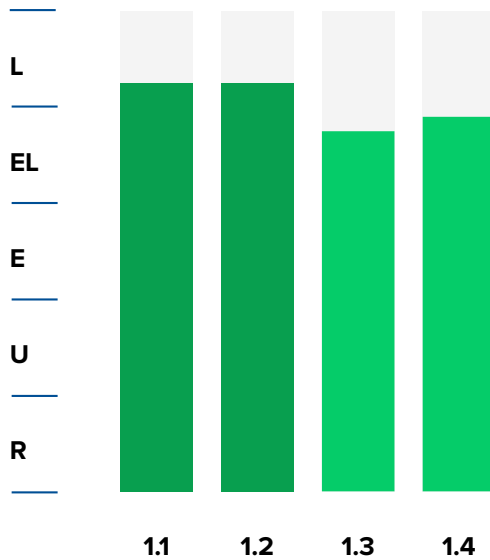
The US government has established a formal process to address civilian harm resulting from military operations, including both monetary and non-monetary forms of amends. Recent policies have introduced new regulations, further systematising post-harm response practices. However, while recent policy frameworks mandate acknowledgment of harm at individual and community levels, there is no formal policy or guidance for issuing apologies. The exclusion of compensation claims by civilians deemed 'unfriendly' to the US is problematic and raises the concern that post-harm response practices may be implemented inconsistently across different conflict theatres. Notably, the process for civilian harm amends has evolved over the last few years and recent policies show a clear commitment to amending civilian harm caused by US operations.

DETAILED RESULTS PER CATEGORY

The next page contains an overview of the country's scores across all categories and indicators. The narrative analysis of each country's performance follows further on in the report.

1

NATIONAL POLICY



DESCRIPTION

The national policy or system of policies, strategies, and guidance adopted by the executive branch of government and its organs (including security institutions) that establishes clear authorities, responsibilities, and guidance for the prevention, mitigation, and response to civilian harm. A national policy framework, when combined with effective implementation of its provisions and formalised engagement with civil society actors can be helpful for communicating a government's commitment to mitigate harm to civilians.

1.1 National policy Framework **L**

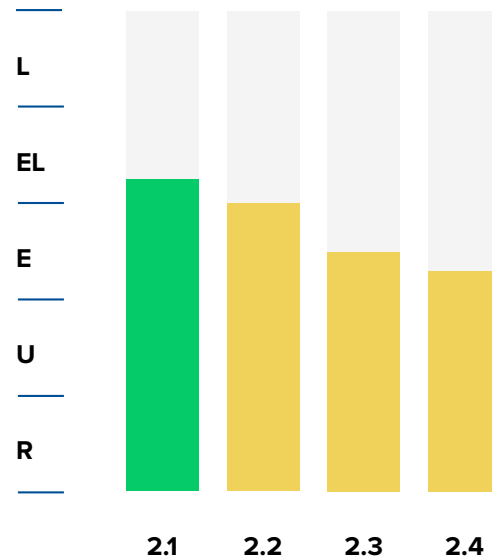
1.2 Clear Policy Language **L**

1.3 Clear implementation guidance **EL**

1.4 Budget and resources **EL**

2

CIVILIAN HARM TRACKING



DESCRIPTION

An internal (military or security force) process by which an armed actor gathers and analyses data about civilian harm incidents in order to better prevent, mitigate, and address harm in the future.

2.1 Tracking mechanism **EL**

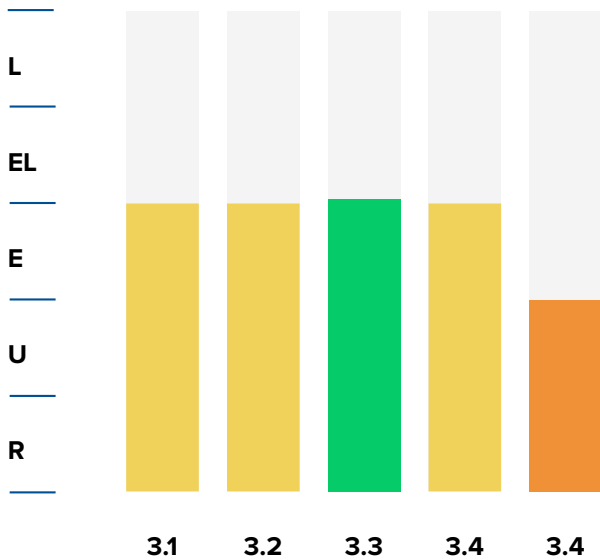
2.2 Tracking to reduce harm through analysis **E**

2.3 Coordination with investigation mechanisms **E**

2.4 Data management **E**

3

INVESTIGATIONS



DESCRIPTION

Formal inquiries (often in the form of administrative or criminal investigations) that can be used to elucidate facts, to understand the cause of harm, to identify relevant state and/or individual responsibilities, to facilitate the appropriate response and/or remedy, and even to exonerate.

3.1 Investigates all credible reports E

3.2 Conducts witness interviews and site visits E

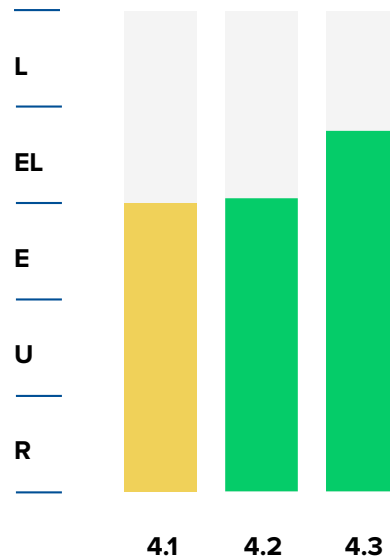
3.3 Reports of investigation EL

3.4 Interaction with response mechanisms E

3.5 Criminal investigations U

4

PUBLIC REPORTING & TRANSPARENCY



DESCRIPTION

Systems and procedures to ensure that the public and institutions of public oversight are made sufficiently aware of civilian harm, and to protect the right of victims to pursue remedy. Information may be limited or redacted due to privacy concerns for affected civilians, to safeguard other ongoing investigations or for national security reasons, but these reasons should not be abused and should be subject to review.

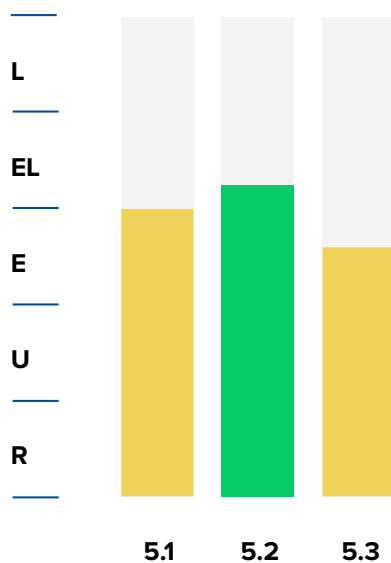
4.1 Discloses time and location of operations E

4.2 Civilian harm reporting EL

4.3 Public disclosure of process and records EL

5

POST-HARM RESPONSE



DESCRIPTION

Efforts to acknowledge and express condolence for harm, to include offers of monetary and non-monetary forms of post-harm assistance.

5.1 Process for amends E

5.2 Acknowledgement EL

5.3 Comprehensive, victim-centred condolence E

1 NATIONAL POLICY

Indicators: National policy framework; Clear policy language; Clear implementation guidance; and Budget and resources

CATEGORY DESCRIPTION

The national policy or system of policies, strategies, and guidance adopted by the executive branch of government and its organs (including security institutions) that establishes clear authorities, and responsibilities, and guidance for the prevention, mitigation, and response to civilian harm. A national policy framework, when combined with effective implementation of its provisions and formalised engagement with civil society actors, can be helpful for communicating a government's commitment to mitigate harm to civilians.

OVERALL SCORE **LEADER**

In recent years, the US has established a set of policies and practices that clearly lay out the framework and the resourcing needed to better protect civilians from its actions in situations of armed conflict. Internationally, this approach is unique for its comprehensiveness and for the level of detail the policy framework contains in assigning roles and responsibilities, and in providing implementation guidance. The policy framework could be strengthened further by including accountability mechanisms to ensure implementation. Further, the US has limited public policy and guidance in place that affords protection to civilians harmed by non-military actors like the CIA or civilians harmed outside of situations of armed conflict.

Kabul strike

In August 2021, a US drone strike in Kabul, Afghanistan, intended to prevent an imminent terrorist attack, tragically killed ten civilians, including seven children. The strike took place amid the chaotic final days of the US withdrawal from Afghanistan. Subsequent investigations by the New York Times revealed that the vehicle targeted was driven by an aid worker, and no evidence of terrorist involvement was found.⁴ This incident highlighted significant flaws in intelligence and targeting processes, drawing intense criticism over the lack of safeguards to prevent civilian harm in conflict zones. The information came to light due to a Freedom of Information request.

The Kabul strike intensified demands for a comprehensive review and overhaul of US policies regarding civilian harm mitigation and response. The Pentagon announced plans to strengthen its procedures for reducing civilian casualties, emphasising the importance of accurate intelligence, improved oversight, and accountability in military operations: the Civilian Harm Mitigation and Response Action Plan (CHMR-AP, 2022).

These policy adjustments marked a critical step in the evolution of the US approach to mitigating civilian harm.

1.1 NATIONAL POLICY FRAMEWORK

INDICATOR DESCRIPTION

The government has adopted a comprehensive national policy framework on mitigating and responding to civilian harm resulting from its own military operations, including clear definitions of key terminology such as ‘civilian harm’.

SCORE **LEADER**

The US has several relevant policy documents that together comprehensively outline its civilian harm mitigation and response (CHMR) policy and approach. Most notable are the 2022 CHMR Action Plan and the 2023 DoD Instruction on CHMR, which contain detailed descriptions on US (plans for) practice on preventing, tracking, investigating, and responding to harm. An area of attention is that several of these commitments are described using conditional language like “to the extent practicable”, making their compliance more flexible.

What evidence exists to support this?

- The 2016 Executive Order “United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in US Operations Involving the Use of Force” establishes a national commitment to protect civilians in US operations, including through training, better battlespace awareness, feasible precautions, risk assessments, and responding with investigations, condolences, and transparency. Section 3: Reporting on Strikes “Outside Areas of Active Hostilities” was rescinded in 2019 but later required by Congress.⁵
- A 2022 Presidential Policy Memorandum (PPM) Governing Direct Action in Counterterrorism Operations Outside Areas of Active Hostilities lays out conditions under which lethal force may be used “outside areas of active hostilities”, including “near certainty” that no civilians will be harmed by the strike.⁶ This PPM applies to most countries where the US military is currently active, with the exception of Iraq and Syria. Similarly, the 2013 Presidential Policy Guidance on direct action against terrorist targets outside areas of active hostilities states that direct action will be taken only if there is near certainty that the action can be taken without injuring or killing non-combatants.⁷
- In 2022, the DoD launched the Civilian Harm Mitigation and Response Action Plan (CHMR-AP), a far-reaching sequence of actions over the course of four years, including the creation of new institutions and processes, that the DoD will implement to strengthen its ability to mitigate and respond to civilian harm during operations.⁸
- This was followed by a Department of Defense Instruction (DoDI 3000.17) in 2023, which establishes and formalises the DoD’s overarching and enduring policies, responsibilities, and procedures for mitigating and responding to civilian harm.⁹ The DoDI also includes definitions of key terminology like ‘civilian harm’.
- While not strictly a policy, the Law of War Manual (2023) provides authoritative legal guidance for DoD personnel in executing military operations in compliance with the law of war and is thus relevant for CHMR efforts.¹⁰
- The DoD frequently engages with relevant civil society organisations (CSOs) to inform policy steps.
- The US, together with the Netherlands, leads an International Contact Group where like-minded states discuss next steps in the field of CHMR.

What gaps/caveats are important to consider?

- The Law of War Manual, CHMR-AP, and DoDI 3000.17 apply exclusively to the DoD, meaning that the same standards do not apply to the CIA, the Department of State, or the White House. Therefore, the US can conduct operations – such as covert CIA operations in Yemen or Somalia – that may cause civilian harm, but that fall outside of the scope of existing policies and procedures.
- The 2022 PPM permits the use of lethal force outside of situations of armed conflict, which critics have said sits at odds with democratic oversight functions.¹¹
- Many policies, authorisations, and regulations have been built up over time, and while the DoD has established a central webpage dedicated to CHMR, this does not include all relevant materials, such as completed civilian harm assessments and investigations from the CCMDs, or updates, redacted as necessary, to US doctrine mandated by the CHMR-AP.¹² This creates a lack of accessibility for the public and Congress.
- Policies are guided by the United States' unique interpretation of IHL and often contain conditional language. For example, the updated 2023 Law of War Manual, while incorporating the new presumption of civilian status, still utilises a broad interpretation of direct participation of hostilities that makes civilians working in a munitions factory, for instance, legitimate targets. Further, the DoDI 3000.17 frequently uses the phrase “to the extent practicable” when introducing new actions and requirements, making compliance with these flexible and subject to context and commanders' discretion.
- As most relevant policies were only recently introduced, the full extent of their effectiveness will be revealed once implementation is completed.

1.2 CLEAR POLICY LANGUAGE

INDICATOR DESCRIPTION

The policy contains clear, actionable language and commitment to protecting civilians.

SCORE **LEADER**

Most policy documents contain clearly worded commitments to protecting civilians, as well as definitions and explanations of key terminology. The DoD has also set up an accessible central webpage with an overview of CHMR-related policies. An area of concern is that the policies quite often contain ambiguous language like “to the extent practicable”.

What evidence exists to support this?

- The CHMR-AP (2022) contains unequivocal language, signalling strong policy intent.
- The DoDI 3000.17 (2023) clearly expresses a commitment to protecting civilians and is accessible for a public audience.
- The DoD has set up a central webpage where the public can access CHMR-related policies.¹³

What gaps/caveats are important to consider?

- An example of very technical, and therefore inaccessible, documents is the Law of War Manual. It is 1,000 pages long and sections relevant to different aspects of civilian protection are not clearly signposted throughout or described in a guiding document.
- There is room for interpretation in many of the policies through the frequent use of terms such as “to the extent practicable”. Emphasis throughout the DoDI on “commander discretion” can also lead to different interpretations of policy depending on individual commander interest and engagement on the topic. These discretionary caveats are not accompanied by a corresponding obligation for justification around decisions that deviate from the actions outlined in the policy, which risks non-compliance.
- There is a notable caveat in the definition of civilian harm in the DoDI 3000.17, which contains the phrase “adverse effects do not include mere inconveniences”. Such language complicates exact interpretation of the terminology.

1.3 CLEAR IMPLEMENTATION GUIDANCE

INDICATOR DESCRIPTION

Policy and implementation guidance is clear and includes defined roles and responsibilities.

SCORE **EMERGING LEADER**

The CHMR-AP (2022) and DoDI 3000.17 (2023) expressly identify specific roles and responsibilities for different entities within the DoD, often in great detail. It should be noted though that resourcing is Congress-dependent, potentially making it subject to changing political interests.

What evidence exists to support this?

- Both the CHMR-AP (2022) and DoDI 3000.17 (2023) identify specific CHMR-focused roles and responsibilities for different DoD components.
- The CHMR-AP includes objectives for integrating CHMR into joint doctrine and operational planning, as well as objectives to train personnel in CHMR and embed CHMR Officers across the DoD.
- The CHMR-AP also delineates the timeline of this integration by fiscal year to serve as guideposts for implementation, enhancing transparency and the potential for public oversight and monitoring.
- The DoDI 3000.17 mandates the development of detailed guidance for a variety of activities, including but not limited to:
 - Guidance from DoD components on civilian harm response conducted alongside allies and partners.
 - Updated guidance on ex gratia payments from both the Office of the Under Secretary of Defense for Policy (OUSD-P) and Combatant Commanders.
 - Guidance on the conduct of investigations.
 - The definition of and guidance on tailored conditionality by OUSD-P.
- The creation of the Civilian Protection Center of Excellence (CP COE) ensures there is a place for continuous learning and innovation on CHMR.

What gaps/caveats are important to consider?

- Resourcing the roles established by the CHMR-AP and DoDI 3000.17 is dependent upon Congressional appropriations, which means that the implementation of CHMR policy and practice could be subject to evolving political interests.
- Certain responsibilities in the DoDI 3000.17 are delegated to “DoD Components,” which refers collectively to all DoD entities, and therefore does not provide enough specificity to hold specific entities accountable for implementation.
- Aside from pressure from leadership, such as the Secretary of Defense or from Congress, the CHMR-AP does not include any accountability mechanisms to ensure the plan is carried out or carried out according to schedule, or contingencies for what will happen if deadlines are missed.
- It is unclear at what stage the development of the above-mentioned DoDI 3000.17-mandated additional policy guidance is.¹⁴

1.4 BUDGET AND RESOURCES

INDICATOR DESCRIPTION

Funding, personnel and time are given toward implementation of CHMR policies.

SCORE **EMERGING LEADER**

The DoD has received specific funding from Congress for CHMR activities and personnel. Congress has further set up an annual fund from which ex gratia payments for US-caused civilian harm can be paid. As continued funds are dependent on Congress, these may be subject to changing political interests.

What evidence exists to support this?

- CHMR-AP (2022) Objective 11 focuses on the staffing needed to implement the action plan objectives, including a manpower study to ensure the projected staffing needs are accurate. It also includes annual funding requests to Congress and periodic updating of anticipated resource requirements.¹⁵
- The US DoD has received from Congress annual CHMR-specific funding:
 - Congress appropriated \$41.75 million in fiscal year 2023 and \$41.5 million in fiscal year 2024 to the DoD for CHMR activities and personnel.¹⁶ DoD requested another \$72.8 million for fiscal year 2025 CHMR activities. However, at the time of writing, fiscal year 2025 appropriations legislation has not been enacted.¹⁷
 - Regarding civilian harm response, in 2020 Congress created an annual \$3 million fund for the provision of ex gratia payments in response to civilian harm caused by US military operations.¹⁸ Additionally, in 2023, the DoD submitted to Congress a legislative proposal titled “Payment of Expenses to Help Respond to Civilian Harm.” The proposal creates an additional \$10 million authority for DoD to respond to civilian harm through a variety of in-kind assistance options. This authority would supplement, not replace, the existing \$3 million ex gratia authority.¹⁹ At the time of writing, this proposal has not yet been enacted.

What gaps/caveats are important to consider?

- While Congress has allocated funds for the Civilian Protection Center of Excellence, for CHMR-specific personnel, and ex gratia payments, this is not a guarantee that the money will be used for its intended purpose nor that sufficient annual funding will be provided. For example, there have only been three publicly reported ex gratia payment since the \$3 million annual fund was authorised in 2020.²⁰
- There is currently no public oversight on whether funds provided for CHMR personnel have been allocated only towards positions that are fully CHMR-dedicated.²¹
- These efforts and their necessary resourcing are dependent upon Congressional authorisation and appropriations, which may be subject to evolution in political interests.

RECOMMENDATIONS

Clarify conditional language in policies

Ensure that terms are clear and enforceable within policies to better facilitate accountability and oversight, indicating that even where decisions are discretionary that there are mechanisms to document rationale and deviation from recommended practice.

Enhance accountability mechanisms for implementation

Establish robust accountability frameworks to ensure deadlines are met and responsibilities within the CHMR-AP are fulfilled. Regular independent audits and reviews could ensure adherence to established timelines and objectives.

Expand and optimise civilian harm ex gratia funding

Increase and ensure the timely utilisation of the ex gratia payment fund to adequately compensate victims of civilian harm.

2 CIVILIAN HARM TRACKING

Indicators: Tracking mechanism; Tracking to reduce harm through analysis; Coordination with investigation mechanisms; and Data management

CATEGORY DESCRIPTION

An internal process by which an armed actor gathers and analyses data about civilian harm incidents in order to better prevent, mitigate, and address harm in the future.

OVERALL SCORE **ENGAGED**

The US has implemented some degree of civilian harm tracking in most of its military operations since 2011. The DoD is currently working on further improvements to tracking and analysis mechanisms, for instance through plans to standardise civilian harm-related data collection, assessments and investigations. This includes creating a centralised database to track harm and identify trends, which would be used to inform both current operations and broader organisational learning. However, development of this database is still in progress, and without interim solutions, there is a risk that ongoing cases may be overlooked. While the DoD aims to implement more uniform standards, the quality of current tracking of and reporting on civilian harm varies significantly across individual Combatant Commands.

Recording, tracking, assessment, investigation

The process of tracking and assessing civilian harm begins with comprehensive recording of incidents, where reports from various sources are gathered to document potential civilian harm. Key components of this step include establishing a reliable data-gathering mechanism, ensuring reports are collected in real-time or shortly after incidents, and cross-referencing sources to verify details about casualties and damage. Accurate recording forms the foundation for later assessments and helps in identifying patterns of harm over time.

In the civilian harm tracking phase, collected data is systematically organised and analysed to identify trends and specific incidents that may require deeper investigation. Tracking involves cataloguing each event's location, date, weapons used, and reported civilian impacts, and aggregating data to monitor the broader impact of military actions. This stage's key elements include maintaining a clear database, ensuring the integrity and consistency of data, and analysing incidents.

The final steps, assessments and investigations, focus on evaluating the incidents' credibility and conducting in-depth examinations of selected cases. During assessments, incidents are reviewed to determine to which actor caused them and if they meet criteria for further scrutiny, often involving corroborative evidence from multiple sources. Further investigations, if deemed necessary, delve deeper, with forensic analysis, interviews, and site visits (where possible) to establish accountability and identify operational mistakes or violations of law. The investigations phase centers fact-finding, accountability, and corrective measures, aiming to provide clarity, deliver justice or amends where needed, and inform future policies to reduce civilian harm.²²

2.1 TRACKING MECHANISM

INDICATOR DESCRIPTION

The government has or plans for the capabilities, resources, personnel, and systems needed to track civilian harm, i.e., to systematically collect and analyse information on civilian harm.

SCORE **EMERGING LEADER**

The US has carried out forms of civilian harm tracking in most military operation contexts, which is unique internationally. Furthermore, there are commitments in the CHMR-AP (2022) and the DoDI 3000.17 (2023) to further standardise and improve tracking practices. This is an important aim as current practices can vary across individual Combatant Commands.

What evidence exists to support this?

- The US has done tracking in most of its military operations since 2011 (Syria, Iraq, Afghanistan, Somalia).
- The DoD is developing several systems and capabilities to track civilian harm. These efforts are included in the CHMR-AP (2022) and the DoDI 3000.17 (2023). Further commitments are included in the Political Declaration on the use of Explosive Weapons in Populated Areas (EWIPA, 2022), of which the US is a signatory.
- Relevant provisions in the CHMR-AP include:
 - Objective 6 lays out the plans for the development of a DoD database, led by the Army, to track civilian harm and analyse data. This includes the staffing needs and funding required to do so.
 - Objective 7 lays out actions to standardise assessments and investigations of reports of civilian harm, including a requirement to “Analyze civilian harm incidents, patterns, trends, and factors that have contributed to civilian harm and make these analyses available to command staff in order to inform current operations, and to the Civilian Protection Center of Excellence (CP CoE) to inform broader organizational learning”.
- The DoDI 3000.17 sets forth several relevant requirements for Combatant Commanders, as well as for the Combatant commands more generally:
 - Information on civilian harm assessments and investigations related to CHMR is to be incorporated into DoD tracking of civilian harm resulting from US military operations, including for the purpose of preparing reports to Congress, as required by law.
 - Data, lessons learned, and recommendations related to civilian harm identified in civilian harm assessments

and investigations are to be archived and dispersed, as well as updates on progress to implement lessons learned and recommendations.

- CCMDs (Combatant Commands) are to safeguard data regarding the results of initial reviews, civilian harm assessments, and investigations and collect and archive this data in a standardized manner.
- The United States is a signatory of the 2022 EWIPA political declaration on the use of explosive weapons in populated areas, which includes relevant provisions on civilian harm tracking, such as:
 - Recognizing the importance of efforts to record and track civilian casualties, and the use of all practicable measures to ensure appropriate data collection. This includes, where feasible, data disaggregated by sex and age. When possible, this data is to be shared and made publicly available.
 - The declaration further states the intention to collect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate.²³

What gaps/caveats are important to consider?

- Strike reporting is at times inconsistent across different types of conflict zones and engagements. When there is no transparency on where the US conducts operations, individuals face major difficulties in reporting harm.
- Current mechanisms and transparency measures vary by Combatant Command, though the CHMR-AP and DoDI 3000.17 will guide the standardisation of these.
- There is no publicly available indication that reports on civilian harm are analysed to identify trends. This suggests that trend analysis at present does not feed into lessons learned for both current operations and broader organisational learning. This gap was identified in the CHMR-AP and should be addressed by following CHMR-AP Objective 7.d.
- Data from pre-CHMR-AP incidents is analysed in line with new policy only if new information comes to light on past cases. With this approach, the US is missing an important opportunity to reassess and learn from past cases and allegations of civilian harm.
- Current DoD internal record keeping on civilian harm is incomplete and inconsistently maintained.²⁴ Given stated inconsistencies in current data practices outlined in the CHMR-AP, it is unclear how live cases are being dealt with and categorised as they happen in active conflict areas, such as Yemen. The CHMR-AP lays out a multi-year plan for an ambitious data management platform, but there is a risk that cases that occur between now and then fall through the gaps, with no clear interim or immediate solution.
- The CCMD reporting webpages are inaccessible to many civilians seeking to report harm.²⁵ For instance, the webpages use very long email addresses, do not enable the inclusion of photographs, and only provide the webpage in English, among other things. Civilians on the ground are often unaware of the existence of these online portals or they are unusable if civilians do not have access to computers, smart phones, or a stable internet connection. Without pre-set fields for information such as location and event type, the data that goes through the portal is likely to be messy and difficult to filter through. These gaps may hinder tracking allegations. Civilians who do report often do not receive any response from the DoD. The DoDI 3000.17, however, does state intentions to remedy some of these shortcomings, for instance by pushing for more timely responses to external reports.

2.2 TRACKING TO REDUCE HARM THROUGH ANALYSIS

INDICATOR DESCRIPTION

The tracking mechanism produces, or is effectively designed to produce, meaningful analysis and insights that are used by military leaders to change tactics or procedures. The express and stated purpose of the tracking mechanism in policy and practice is to prevent, mitigate, and address harm and promote institutional and operational learning.

SCORE ENGAGED

Various DoD policies explicitly connect tracking of civilian harm with internal learning processes that can inform ongoing and future operations, thereby demonstrating the US' ambition to use tracking as a means to reduce civilian harm in the whole. In doing so, the US could make better use of past assessments and investigations to also use these to draw lessons from.

What evidence exists to support this?

- US DoD policy, in various places, explicitly recognises that thorough analysis of civilian harm incidents can benefit operational learning, thereby preventing the recurrence of harm.
 - CHMR-AP Objective 6 states the intention to develop standardised civilian harm operational reporting and data management processes to improve how DoD collects, shares, and learns from data related to civilian harm, including from data across disparate investigations, and events.
 - CHMR-AP Objective 7.d states that civilian harm incidents, patterns, trends, and factors that have contributed to civilian harm shall be analysed and made available to command staff in order to inform current operations, and to the CP CoE to inform broader organizational learning.
 - DoDI 3000.17 section 3.4 states that efforts to mitigate civilian harm will be informed by previous actions taken in response to civilian harm, including civilian harm assessments, investigations, and associated analyses, and implementation of recommendations and lessons learned.
 - DoDI 3000.17 section 4.2 explicitly identifies that the DoD conducts civilian harm assessments to enable learning that improves DoD operational and institutional capability, capacity, and readiness to mitigate and respond to civilian harm.

What gaps/caveats are important to consider?

- Though implementation of the CHMR-AP is underway, lessons learned from assessments and investigations have not been systematically disseminated or implemented across the DoD, which risks repeating mistakes from past operations.

2.3 COORDINATION WITH INVESTIGATION MECHANISMS

INDICATOR DESCRIPTION

Tracking mechanisms interact effectively with other civilian harm investigations.

SCORE **ENGAGED**

The DoD explicitly recognises the importance of tracking harm to inform learning, raising the expectation that tracking will feed into investigations. Currently, the differences between DoD assessment, investigation and tracking practices remain somewhat indistinguishable from each other. The CHMR-AP mentions a database that is yet to be set up, where all civilian harm reports, assessments and investigations will be collected, potentially furthering linkages and making the differences between these practices clearer.

What evidence exists to support this?

- Because the DoD recognises the importance of actively tracking harm, including by analysing incidents to inform operational learning, the envisioned tracking mechanisms are likely to feed into future investigations in a more effective way.
- The US distinguishes between assessments and (more elaborate) investigations of civilian harm, and is increasingly focused on the former. An assessment where an incident is found to have caused civilian harm, can by itself be sufficient to then also lead to a response.
- In the future, a single database is envisioned to capture all reports and assessment and investigations findings. CHMR-AP Objective 6 states the intention to develop standardised civilian harm operational reporting and data management processes to improve how DoD collects, shares, and learns from data related to civilian harm, including from data across disparate investigations, and events.
- DoDI 3000.17 section 4.7 states that CCMDs are to maintain data regarding the results of initial reviews, civilian harm assessments, and investigations to the extent practicable. CCMDs will aggregate this data on the scale at which it was assessed and will include data required to fulfil congressional reporting requirements as well as additional data to support analyses of civilian harm. Once the data management platform is operational, CCMDs will employ it to collect and archive this data in a standardized manner.

What gaps/caveats are important to consider?

- The DoD's assessments, investigations and tracking processes are at present relatively indistinguishable.
- In the future, a single database is envisioned to capture all reports and assessment and investigations findings, but it is unclear at what stage the development of the database currently is and what the interim solution looks like.

2.4 DATA MANAGEMENT

INDICATOR DESCRIPTION

Tracking mechanisms have reliable access to accurate information and sufficiently detailed records about military operations (troop movements, airstrikes, incident reports).

SCORE **ENGAGED**

US data management practices have had significant limitations in the past. The US seems intent on remedying some of these through standardising reporting and data management processes, and through improving internal record keeping, as per commitments in the CHMR-AP (2022) and the DoDI 3000.17 (2023). Current progress on implementation of these commitments is unclear.

What evidence exists to support this?

- The US appears to be intent on remedying past shortcomings in data management mostly through standardising certain processes.
 - CHMR-AP (2022) Objective 6 sets forth the commitment to develop standardised civilian harm operational reporting and data management processes to improve how DoD collects, shares, and learns from data related to civilian harm, including from data integrated across disparate reviews, investigations, and events.
 - The DoDI 3000.17 (2023) states that each incident that is publicly reported will be associated with a unique CCMD-specific tracking number, which will improve internal record keeping.

What gaps/caveats are important to consider?

- The CHMR-AP has identified significant shortcomings with US data management regarding civilian harm incidents in the past. It notes that the US military has not maintained an enterprise-wide, comprehensive database for civilian harm operational reporting and data management. The CHMR-AP recognises that effective knowledge management on civilian harm is critical to understanding the root causes of harm.²⁶
 - It is unclear at what stage the development of the new database currently is.
-

RECOMMENDATIONS

Publicly define minimum standards for civilian harm assessment and tracking criteria

Clearly define the minimum viable criteria needed to store data in order to absorb current civilian harm claims given that the US is active in a number of conflict zones, and begin to apply this system to unresolved or past allegations. This will improve transparency and thereby increase the legitimacy of military operations, facilitate trend analysis, and ensure the comprehensive inclusion of all relevant data.

Improve civilian harm reporting mechanisms

Ensure the existence of reporting options is widely known in the area of operations and include both offline and online reporting options available in the local language. Allow civilians to indicate a degree of uncertainty when reporting certain information like date and location without dismissing those reports. Communicate clearly what civilians can expect when they report and how their data will be protected.

Use tracking mechanisms for operational learning

Ensure that the primary purpose of tracking mechanisms is to reduce harm and improve tactics, as well as reporting on casualties. This will align tracking efforts with the overarching goal of preventing civilian harm through operational and institutional changes.

3 INVESTIGATIONS

Indicators: Investigates all credible reports;
Conducts witness interviews and site visits;
Reports of investigation; Interaction with response mechanisms; and Criminal investigations

CATEGORY DESCRIPTION

Formal inquiries (often in the form of administrative or criminal investigations) that can be used to elucidate facts, to understand the cause of harm, to identify relevant state and/or individual responsibilities and to facilitate the appropriate response and/or amends.

OVERALL SCORE **ENGAGED**

The US DoD has made significant efforts in recent years toward improving how it investigates reports of civilian harm, also moving beyond a narrow focus on casualties alone. Recent policies outline the intent to standardise the investigation process, ensuring that both internal and external sources of information are considered in assessments. However, the extent to which these new policies have been fully integrated into current operations remains unclear. Additionally, public reports on civilian harm often do not specify the investigative means and methods that were used or how certain conclusions were reached, nor are these reports standardised across individual Combatant Commands.

3.1 INVESTIGATES ALL CREDIBLE REPORTS

INDICATOR DESCRIPTION

Promptly investigates all credible reports of civilian harm, whether or not it is immediately clear that a violation of international law has occurred. Obtains relevant information from all internal, and, to the extent feasible, all external sources.

SCORE **ENGAGED**

The US is strengthening its approach to investigations most notably through the CHMR-AP (2022), the DoDI 3000.17 (2023), and forthcoming guidance as part of a multi-service issuance. Significant steps have been made to improve these processes, for instance by appointing dedicated Civilian Harm Assessment and Investigation Coordinators who will coordinate these processes within individual Combatant Commands. The DoD further enables receipt and review of external reports on civilian harm, though practical barriers to reporting remain. Recent reports on possible US-caused civilian harm in, for instance, Yemen, are further calling into question the extent to which policy commitments are already being implemented.

What evidence exists to support this?

- Since at least 2016, the US has had a mechanism by which to review external reports of civilian harm. More expansive policy since then, notably the CHMR-AP (2022) and DoDI 3000.17 (2023), include further commitments regarding investigating civilian harm.
 - A 2016 Executive Order directs the US armed forces to “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 nongovernmental organizations, and take measures to mitigate the likelihood of future incidents of civilian casualties.”²⁷
 - The CHMR-AP Objective 7 states the intent to establish Department-wide procedures for assessing and investigating civilian harm resulting from operations, and expand the sources of information used in assessments and investigations and notes that “although DoD components conduct assessments and command-directed investigations into civilian harm, these practices have been applied inconsistently across DoD, and more resources should be devoted to collecting and analysing information consistently in these reviews.” Standardised guidance is to be developed on assessments and investigations, tailorable to the operation in question.
 - The issuance will include qualification requirements for investigating officers; procedures for developing investigative plans; procedures for conducting investigations - including methods and capabilities for conducting remote investigations, including in non-permissive environments; templated, minimum-required investigation questions; categories of information sources to be considered, including non-US sources, open sources, information obtained from interviews, and information obtained from site visits; records management processes; and reporting processes in support of CHMR. This guidance is not publicly available yet, nor has been communicated where this process currently stands at the time of this publication.
 - The DoD has begun appointing Civilian Harm Assessment and Investigation Coordinators to oversee assessment and investigation processes within CCMDs, in line with stated intentions in the CHMR-AP.
 - The DoD is in the process of creating Civilian Harm Assessment Cells (CHACs), in line with the CHMR-AP.
 - The DoDI 3000.17 states that investigations will have a deadline and details the path from assessments to investigations. A completed civilian harm assessment or investigation is not required before responding to civilian harm. The instruction also explicitly mentions the option of re-opening an assessment if additional information comes to light.
 - Section 4 details the creation of a DoD-wide data management platform, which includes civilian harm assessments and investigations and completed reports from civilian harm assessments and investigations.
 - The DoD aims to ensure processes are in place to receive information that indicates civilian harm may have resulted from military operations, including from external sources and consider that information as part of civilian harm assessments and investigations related to CHMR.
 - The various purposes of investigations are also detailed in the DoDI: “Command investigations of civilian harm may be appropriate in various circumstances, such as: (1) To answer questions not sufficiently addressed by, or outside the scope of, a civilian harm assessment. (2) To inquire into potential misconduct not within the purview of a Military Criminal Investigative Organization, or related matters that may have contributed to civilian harm. (3) To facilitate a more detailed inquiry into matters that a relevant authority deems to be sufficiently complex or significant as to warrant the use of command investigative mechanisms.”

- The Army Regulation 15-6 provides a framework for investigating officers (IOs) to conduct thorough and impartial inquiries into various matters, including misconduct, accidents, and other incidents requiring official examination, such as possible cases of civilian harm.²⁸ The IO collects relevant evidence, including documents, physical evidence, and witness statements, to ascertain facts and provide a basis for findings. Upon concluding the investigation, the IO submits a detailed report to the appointing authority, outlining findings and recommendations based on the evidence gathered.
 - Since an investigation is not a criminal proceeding, there is no requirement that facts and findings be proven beyond a reasonable doubt. Instead, unless another specific directive states otherwise, AR 15-6 provides that findings must be supported by "a greater weight of evidence than supports a contrary conclusion."²⁹
- The US DoD also has a framework for so-called Civilian Casualty Credibility Assessment Reports (CCARs). These assessments review whether reported civilian harm, for instance in the media, can be considered to have credibly resulted from US and/or coalition operations.³⁰

What gaps/caveats are important to consider?

- Investigations traditionally carry a stigma of wrongdoing but rely heavily on internal cooperation.³¹ Commanders tend to have a high degree of discretion over the investigative process, and a commander's dual role in both directing operations and in ordering investigations of harm resulting from those operations creates a potential conflict of interest.³² This is not explicitly addressed in recent policies.
- In the past, civilian harm investigations did not have clear timelines, and were conducted long after the incidents occurred. While there is a mention of deadlines in the DoDI 3000.17, it remains unclear how long assessments and investigations will last and how deadlines are enforced.
- Where assessments have been more routinely conducted and reported on, cases were assigned a 'credible' versus 'non-credible' binary, with unclear thresholds for what constituted 'credible', seemingly differing applications across CCMDs and a lack of clarity on whether these labels could be adjusted over time as more information surfaces. While recent policy changes have instigated a shift toward a 'more likely than not' threshold instead, the path towards reaching this conclusion does not appear to follow a transparent set of criteria. Furthermore, this category still creates a binary choice rather than a sliding scale with clear thresholds for each label. Potentially, this approach precludes the start of an investigation in cases that lack details but that could have been awarded a higher degree of confirmation had a full investigation been started.
- Gaps remain between policy and practice, particularly as many of the policy commitments outlined above have not yet been fully formalised or rolled out within the DoD. Recent illustrative examples:
 - In 2023, within days of a US airstrike on what was intended to be an Al Qaeda operative in Syria, local sources reported that the casualty was a civilian. The Pentagon claimed an hour after the strike that this individual was a terrorist, but conceded two weeks later that the target may have been misidentified.³³ The Pentagon conducted an investigation and ultimately admitted responsibility, which took a little under a year. The investigation included interviews with more than forty witnesses and information from NGOs.³⁴ It is unclear, however, if any of the interviewed witnesses were civilians. A commander who spoke to The Washington Post conceded that mistakes had been made and said that red-teaming had been insufficient and that the incident was a possible case of confirmation bias or misidentification.³⁵ This case shows that certain improvements have been made, such as the Pentagon swiftly and openly admitting responsibility, starting an investigation based, in part, on external reporting, and an expressed commitment to learn from its mistakes. However, the case also shows that gaps remain that should have been addressed with the newly introduced policy: crucial parts of the investigative process remain unclear. While there has been an admission of harm, the AR 15-6 report on the internal investigation of the incident has not been publicly released as of this date.
 - Since the introduction of the CHMR-AP and DoDI 3000.17, new civilian harm incidents related to US action have occurred in Yemen, within the context of Operation Poseidon Archer (OPA). There are currently several allegations under assessment by the DoD which will elucidate to what extent the new policies are being put into practice.³⁶ However, the US and the UK – military partners in OPA – are already showing dissimilar approaches to tracking, assessment, investigation and response, even though the DoDI 3000.17 mentions a commitment to address the ability, willingness, norms, and practices of allies and partners to mitigate and respond to civilian harm, and incorporating a consideration of the ally or partner's record with regard to CHMR.³⁷ For example, Airwars has submitted allegations of civilian harm to CENTCOM per their standard process, and received confirmation that these allegations would be reviewed by CENTCOM's CHAC. By contrast, it is unclear to civil society groups who have worked on this for years what — if any — formal system the United Kingdom has to assess civilian harm from its strikes.³⁸
- There are several CHMR-AP objectives of which the status of implementation is unknown, such as Objective 7.j, pertaining to investigations in non-permissive environments.³⁹ This states the DoD will create procedures tailored for specific operational environments to address methods and capabilities for conducting remote assessments, including in non-permissive environments.

- The practice of investigations requires solid processes for both internal (i.e., military) and external (i.e., by CSOs, the media, or affected civilians themselves) reporting of possible civilian harm. In that regard, the DoD's current civilian harm reporting webpages do not sufficiently facilitate external reporting.⁴⁰ Some issues undermining their utility for civilians are, for instance, that the reporting forms do not enable the inclusion of photographs, and are only available in English. Additionally, civilians on the ground are often unaware of these portals' existence or cannot use them because of lack of access to computers, smart phones, or a stable internet connection. Such gaps may hinder the path from report to assessment or investigation. Further, civilians who do report often do not receive any response from the DoD. The DoDI 3000.17 states general intentions to remedy some of these shortcomings.

3.2 CONDUCTS WITNESS INTERVIEWS AND SITE VISITS

INDICATOR DESCRIPTION

Investigating officers conduct site visits and/or conduct witness interviews or provide reasons why doing so is infeasible.

SCORE **ENGAGED**

The DoDI 3000.17 (2023) and AR 15-6 regulation mention site visits and witness interviews as possible investigative means. However, in practice and particularly in air campaigns, site visits have been extremely rare. Policy further does not specify that witness interviews should include civilians.

What evidence exists to support this?

- Site visits and interviews are listed as a way to collect information during investigations in the DoD Instruction on Civilian Harm Mitigation and Response (2023) and in the Army Regulation 15-6.⁴¹
- Annual civilian casualty reports can include an explanation of the considerations around conducting witness interviews and site visits for individual cases.

What gaps/caveats are important to consider?

- Potential security considerations as well as risks around ethical interview guidance and trauma-informed practices are notably absent from recent CHMR policies.
- In air campaigns especially, the US has not always utilised investigative methods like site visits and witness interviews, even though in some cases there were Special Operations Forces (SOF) personnel present on the ground, e.g., in Somalia. The NGO Center for Civilians in Conflict and Columbia Law School Human Rights Institute found that between 2016 and 2019 not a single civilian witness was interviewed or a single site visit conducted in any investigation of civilian casualty allegations in Somalia.⁴² While the CHMR-AP contains an objective to clarify these procedures, there has not been an update on its progress.
- The example of the 2023 civilian harm incident in Syria shows that witness interviews can be a part of the US' investigative process.⁴³ However, it is unclear if these witnesses included civilians.
- There is no specification in recent policy documents that the interviewed witnesses should include civilians.

3.3 REPORTS OF INVESTIGATION

INDICATOR DESCRIPTION

Reports of investigations include a description of the process followed, the evidence consulted and included (including witness statements), information about its factual and legal findings, and recommendations for preventing a recurrence of civilian harm.

SCORE **EMERGING LEADER**

The US has multiple policies and procedures in place that aim for consistent reporting on civilian harm and civilian harm investigations, for instance by specifying the type of information that needs to be reported, and the language used to communicate investigate outcomes. Current reporting templates could benefit from further standardisation across Combatant Commands and would ideally contain more information on how the US has reached its conclusion that harm did or did not occur.

What evidence exists to support this?

- The US has several policies and procedures in place to ensure consistent reporting on civilian harm and civilian harm investigations. These include:
 - The 2018 National Defense Authorization Act (NDAA), which includes a section (1057) on annually reporting on civilian casualties caused by US operations.⁴⁴ This report must include a list of all the US military operations during the year that were confirmed, or reasonably suspected, to have resulted in civilian casualties; the date and location and an identification of whether the operation occurred inside or outside of a declared theatre of active armed conflict; the type of operation; an assessment of the number of civilian and enemy combatant casualties and a description of the process by which the DoD investigates allegations of civilian casualties resulting from US military operations; as well as a description of steps taken by the Department to mitigate harm to civilians in conducting such operations. In preparing a report under this section, the Secretary of Defense is to take into account relevant and all-source reporting, including information from public reports and nongovernmental sources. The 2019 NDAA further expanded on this by including each specific mission, strike, engagement, raid, or incident, and a differentiation between those killed and those injured, among other elements.⁴⁵
 - The DoDI 3000.17 (2023) states the intent that the release of findings, recommendations, and any other outcomes of civilian harm assessments and investigations will be coordinated through public affairs channels.
 - CCMDs are to publish reports at least quarterly on the command's unclassified, publicly accessible website that provide information on the status and results of reviews, assessments, and investigations relating to civilian harm. AFRICOM has consistently implemented this requirement since 2020. As became evident in its June 2024 report on Operation Inherent Resolve, CENTCOM adapted their language to move away from the credible/non-credible binary and switched from speaking only of civilian casualties to civilian harm more broadly in its reports. The indicated period of when strikes occurred is now also specified within a 24-hour timeframe.⁴⁶
 - The DoD intends to publish releasable information about operation(s), including the date, location, and type of operation and its general purpose, whenever civilian harm occurs.
 - The DoDI 3000.17 provides guidance on the language to be used in reports on civilian harm and characterises the results of civilian harm assessments as an assessment of whether it was “more likely than not” that civilian harm resulted from US military operations rather than characterising reports about possible civilian harm as “credible,” “non-credible,” “substantiated,” and “unsubstantiated.” The DoD is to refer to “information” or “reports” about possible civilian harm instead of “allegations” of possible civilian harm and to refer to “information” about possible civilian harm instead of “evidence” about possible civilian harm and “results” of reviews and assessments instead of “findings” of reviews and assessments.”

What gaps/caveats are important to consider?

- There is a note in the DoDI 3000.17 and CHMR-AP on providing updates on the progress of assessments and investigations, but an explicit requirement or guidance on updating victims and survivors directly is not included.
- While reports include the status of assessments and the findings of completed assessments, the assessments or investigations themselves are not published, nor is information provided about how or why DoD arrived at its conclusions, why individuals involved were targeted, whether any wrongdoing was found in cases of civilian harm, or what steps will be taken to prevent similar recurrences in the future. The reason for rejection of an allegation is given but is not always consistent.⁴⁷

- The reporting template is not defined and, as a result, varies across CCMDs; AFRICOM's submission form is different to CENTCOM's, for instance.
- While intelligence agencies are known to be involved in drone strikes in different conflict zones, their activities and the resulting civilian harm remain unreported.⁴⁸

3.4 INTERACTION WITH RESPONSE MECHANISMS

INDICATOR DESCRIPTION

Investigations connect meaningfully to response mechanisms. Civilians who report incidents are informed of the possible response they can expect from the military responsible. Acknowledgements of harm following the conclusion of an investigation address the next steps in terms of amends.

SCORE **ENGAGED**

At least in policy, the US explicitly links civilian harm investigations to acknowledgements of harm and other forms of response. In practice, however, commanders so far lack guidance on civilian harm response options. The US routinely acknowledges civilian harm, which is a good practice, but existing reports often do not contain plans to respond to the harm beyond acknowledgements alone.

What evidence exists to support this?

- Recent policy documents recognise the importance of using information from investigations to inform responses and operational learning.
- The DoDI 3000.17 (2023) states that: "As appropriate, CCMDs or appropriate subordinate operational commands will leverage information from civilian harm assessments and investigations to inform acknowledgements and other responses to civilian harm."
- Additionally, the DoDI establishes processes to implement lessons learned, recommendations, and practices related to mitigating and responding to civilian harm, including those derived from civilian harm assessments and investigations and analysis related to CHMR.

What gaps/caveats are important to consider?

- Reports on civilian harm often exclude how the US plans to respond to that harm beyond acknowledging its existence.⁴⁹
- The DoD has not specified how it will disseminate lessons learned from civilian harm investigations across CCMDs to prevent recurrences.
- CHMR-AP Objective 7.c states that CCMDs are to provide guidance for commanders and their staffs that address the range of potential accountability measures and corrective actions that can be taken to address matters related to civilian harm incidents, but has not been publicly followed up on yet.

3.5 CRIMINAL INVESTIGATIONS

INDICATOR DESCRIPTION

Incidents of a suspected criminal nature are referred to an independent, impartial investigative authority for investigating criminal violations.

SCORE **UNCOMMITTED**

On paper, there is a clear requirement to involve the Military Criminal Investigative Organization when a potential violation of criminal law is suspected. In practice, the US rarely reports on internal investigations into possible violations of international law and/or war crimes and, while independent human rights organisations have in the past raised incidents of concern, actual criminal convictions are rare. The US also is not a party to the Rome Statute, limiting legislative avenues for accountability.

What evidence exists to support this?

- The CHMR-AP (2022) states there is to be a “a requirement to suspend civilian harm assessments, preserve evidence, and immediately notify the responsible Military Criminal Investigative Organization or other appropriate authority if evidence emerges that the civilian harm resulted from criminal activity.”
 - As NGO Center for Civilians in Conflict and the Columbia Law School Human Rights Institute note in their 2020 report on US investigations: “Criminal investigations are already highly regulated by law, regulation, and policy, and are often conducted by agencies with the specific mandate of investigating criminal offenses, whereas the standards applied to administrative investigations and assessments are more ambiguous. [...] An incident involving a potential violation of criminal law or other ‘reportable incidents’ will often trigger a mandatory criminal investigation by the cognizant Military Criminal Investigative Organization”.⁵⁰

What gaps/caveats are important to consider?

- Criminal investigations of civilian harm are exceedingly rare. When they do occur, they are not brought under the Law of Armed Conflict, but rather under more conventional criminal offenses. There does not seem to be a separate process for IHL violations, rather cases are investigated as, for instance, a murder case under US law.⁵¹
- In past operations in Afghanistan and Iraq, many independent human rights organisations have pointed out likely violations of IHL and IHRL by US troops, for instance during interrogations (most notably Abu Ghraib) and regarding mass civilian casualty incidents (e.g., the Haditha massacre in Iraq in 2005).⁵² Many of these incidents have led to only a very low number of criminal convictions. In some cases, service members who were convicted later got reduced sentences or clemency.⁵³
- The United States is not a party to the Rome Statute. While the ICC can still prosecute cases where a citizen of a non-member country commits war crimes, crimes against humanity, and genocide on the territory of an ICC member country, the US has created legislation to hinder such prosecutions. An example is the American Service-Members' Protection Act (ASPA) from 2003, which gives the president power to use “all means necessary and appropriate to bring about the release of any US or allied personnel being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.”⁵⁴
- The US rarely reports on internal investigations into possible war crimes.⁵⁵

RECOMMENDATIONS

Update civilian harm reporting mechanisms to reflect the information environment

Ensure the existence of reporting options is widely known in the area of operations and include both offline and online reporting options available in the local language. Allow civilians to indicate a degree of uncertainty when reporting certain information like date and location without dismissing those reports. Communicate clearly what civilians can expect when they report and how their data will be protected.

Standardise and institutionalise the investigation methodology

The DoD should formalise and institutionalise its investigative methodology, including implementing minimum standards around site visits, witness interviews, the use of open source information, and engagement with third party actors. It is also recommended that the DoD uses a sliding scale to determine the credibility of reports rather than binary categorisation. These procedures should be outlined in public policies, ensuring consistency and reducing delays in investigations.

Increase transparency in public reporting

The DoD should improve transparency by regularly publishing detailed reports of investigations. Congress should be informed of the start and result of each investigation. These public reports should include descriptions of the investigation process, evidence consulted, legal and factual findings and recommendations for preventing future harm as well as a detailed consideration of the possible provision of amends. Transparency on military operations increases the legitimacy of the US military toward the public and other armed actors, by showing incidents of harm are taken seriously, and combats potential disinformation on civilian harm by adversaries.

More closely align investigative procedures and outcomes with response mechanisms

The DoD should develop a standardised and transparent process to ensure that investigation findings feed directly into response mechanisms, including the provision of ex gratia payments or in-kind assistance as well as operational and institutional learning cycles.

4 PUBLIC REPORTING AND TRANSPARENCY

Indicators: Discloses time and location of operations; Civilian harm reporting; and Public disclosure of process and records

CATEGORY DESCRIPTION

Systems and procedures to ensure that the public and institutions of public oversight are made sufficiently aware of civilian harm, and to protect the right of victims to pursue remedy. Information may be limited or redacted due to privacy concerns for affected civilians, to safeguard other ongoing investigations or for national security reasons, but these reasons should be subject to review.

OVERALL SCORE **EMERGING LEADER**

The DoD demonstrates efforts to disclose information about civilian harm, but the level of transparency warrants improvement. Combatant Commands regularly publish reports on strikes, but the level of detail and the consistency of reporting varies across individual commands. There are additional transparency gaps related to the processes, criteria, and outcomes of investigations. While some information, such as mitigation tactics and basic assessments, is made available, key details—such as the determination of civilian status, explanations of credibility assessments, or the provision of amends—are often excluded. Overall, this impedes external assessments of the effectiveness of US civilian harm mitigation practices.

4.1 DISCLOSES TIME AND LOCATION OF OPERATIONS

INDICATOR DESCRIPTION

Makes public information, to include time and location, of operations including airstrikes, except in circumstances when doing so would place civilians or security personnel at risk.

SCORE **ENGAGED**

The US regularly publishes information on its military operations, but the means and content of reporting vary significantly across individual Combatant Commands. AFRICOM, for instance, publishes individual strike reports, whereas CENTCOM often releases information about several strikes at once in summarised form.

What evidence exists to support this?

- Some CCMDs publish strike reports as well as specific civilian casualty assessment reports.
- Sometimes, reports include demographic information of the victims such as age and gender, but there is no public standardised requirement to do so.⁵⁶

What gaps/caveats are important to consider?

- The reports are not yet an established routine across all CCMDs.
- The level of detail and the structure of the reports vary per CCMD. For instance, CENTCOM often collates several strikes into a one-page PDF summary, whereas AFRICOM reports on individual strikes in press releases on their website.

4.2 CIVILIAN HARM REPORTING

INDICATOR DESCRIPTION

Regularly issues and disseminates reports on civilian harm resulting from military operations that includes an estimate of casualties, the source of harm, the type of harm experienced, and the location of the incident(s) and any reasons for discrepancies with estimates or accounts from other sources such as NGOs or the media.

SCORE **EMERGING LEADER**

The US has clear policies and procedures in place to ensure consistent reporting on civilian casualties. Individual Combatant Commands routinely publish reports on civilian casualties, and, as an example of internationally rare practice, CENTCOM recently adopted the broader language of civilian *harm* in its reports. Some reporting of civilian casualties is hampered due to the US using ambiguous criteria on what operations are included and excluded from public reporting.

What evidence exists to support this?

- The 2018 National Defense Authorization Act (NDAA) section 1057 introduced annual reports on civilian casualties caused by US operations.⁵⁷ The annual report must include a list of all the US military operations during the year that were confirmed, or reasonably suspected, to have resulted in civilian casualties; the date and location and an identification of whether the operation occurred inside or outside of a declared theatre of active armed conflict; the type of operation; an assessment of the number of civilian and enemy combatant casualties; and a description of the process by which the DoD investigates allegations of civilian casualties resulting from US military operations; as well as a description of steps taken by the DoD to mitigate harm to civilians in conducting such operations. In preparing a report under this section, the Secretary of Defense is to consider relevant and credible all-source reporting, including information from public reports and nongovernmental sources. The 2019 NDAA further expanded on this by including each specific mission, strike, engagement, raid, or incident and a differentiation between those killed and those injured, among other things.⁵⁸

- The DoDI 3000.17 (2023) mandates interim reports on civilian harm to include:
 - Publicly releasable information about the operation(s) in question, including the date, location, and type of operation, and its general purpose.
 - An acknowledgement of whether civilian casualties were assessed to have 'more likely than not' resulted from the operation(s).
 - The assessed number of civilian casualties that 'more likely than not' resulted from the operation(s). If it is assessed that civilian casualties more likely than not resulted, but there is insufficient information available to assess a specific number of civilian casualties, an estimate with an upper and a lower bound is to be reported, or the upper bound estimate may be reported.
 - Any assessed damage to or destruction of civilian objects resulting from the operation(s).
 - A brief explanation of reviews, assessments, or investigations that concluded that incidents 'more likely than not' did *not* result from US military operations, which can information on whether it was assessed that the US military did not conduct the operation in question, that casualties did not result from the operation in question, or that the casualties from the operation in question were not civilians.
 - CENTCOM reports often include Military Grid Reference System (MGRS), though the accuracy varies.
- Annual civilian casualty reports include information on responses to confirmed cases, ex gratia payments made in that year and lessons learned as well as how those lessons will be implemented.⁵⁹
- Reporting on civilian casualties is corrected in subsequent reports if new information surfaces.
- CCDMs are required to publish quarterly civilian harm assessment reports. They also report on the status and results of investigations.⁶⁰
- In their reports, CENTCOM has started using the term 'civilian harm' rather than the more narrow 'civilian casualties'.⁶¹
- The CHMR-AP (2022) mandates the issuance of public affairs guidance regarding the proactive release of information, respect for civilians and communities harmed by US operations, and transparency regarding DoD policies and processes. While some public affairs guidance was included in the DoDI 3000.17, the status of this specific guidance is unknown.
- The DoDI guidance includes instructions on the language CCMDs are to use in their reports, including among other things to characterise the results of civilian harm assessments as an assessment of whether it was 'more likely than not' that civilian harm resulted from US military operations while avoiding characterising reports about possible civilian harm as 'credible,' 'non-credible,' 'substantiated,' and 'unsubstantiated'.⁶²
- Each incident that is publicly reported is associated with a unique CCMD-specific tracking number, and where available a tracking number associated with the referring NGO.
- The Pentagon is required to submit quarterly ex gratia reports to congressional defence committees by Section 1213 of the FY20 NDAA. The F20 NDAA does not specify whether these quarterly reports have to be published.
- Reports on civilian harm can include demographic information on gender and age of civilians injured or killed, though this information is not consistently included for all cases.

What gaps/caveats are important to consider?

- Civilian harm reports are lacking in details such as:
 - A description of whether the strike was deliberate or dynamic.
 - An assessment of whether civilian harm exceeded pre-strike assessments of anticipated harm and, if so, the reasons for this discrepancy.
 - The total number of reports received by all CCMDs combined.
- The 2023 report on civilian casualties does not include an assessment of possible harm resulting from ongoing operations in Yemen, even though there have been reports of civilian harm resulting from the US military coalition operations. This is likely because some strikes are conducted as part of covert/CIA operations, while others are conducted under the flag of Operation Poseidon Archer, a joint US-UK operation in the Red Sea. The criteria determining which operations are included in civilian harm reporting remain ambiguous, which thus causes some operations to be disregarded.
- The DoDI 3000.17 notes that in certain exceptional cases, it may not be 'appropriate' to report an incident or the fact of a civilian harm review, assessment, or investigation publicly: "e.g., when it would publicly disclose information that had been provided with an understanding that it would be held in confidence; where public disclosure of an incident might significantly impede a review, assessment, or investigation; or to mitigate risks associated with adversarial or otherwise malicious use of disinformation." In such cases, the incident or the fact of a civilian harm review, assessment, or investigation may be omitted from the public report. While the reasons listed can be valid arguments for withholding information, the DoD currently has no independent system in place to assess whether it could be more transparent, such as a periodic transparency test executed by an independent body with security clearance which determines if transparency is at the highest possible levels.
- The DoD can furthermore face constraints in its ability to reveal too many details about ex gratia payment recipients or amounts, as this may jeopardise civilians' security.

4.3 PUBLIC DISCLOSURE OF PROCESS AND RECORDS

INDICATOR DESCRIPTION

Releases information about mitigation tactics, investigative processes and records to the public whenever possible. Shares criteria applied when a person that is harmed is considered a civilian and criteria used for the ‘credibility’ assessment and investigation of harm allegations.

SCORE **EMERGING LEADER**

The US is relatively forward leaning in publishing materials related to civilian harm policies, procedures, and possible mitigation tactics. Notably, the DoD has created a CHMR-webpage which serves as a repository for many such materials. However, the level and type of detail included is not always sufficient: assessment *processes* remain unclear, nor is the DoD required to report how it determined whether targets were civilians or combatants, hampering external monitoring and accountability.

What evidence exists to support this?

The DoD has been open on what type of mitigation efforts it considers and regularly reports on civilian harm assessment and investigation outcomes.

- The DoD published a CHMR-webpage that lists DoD policies on civilian harm, reports to Congress, press releases, memoranda, DoD-commissioned studies, and guidance for reporting civilian casualties.⁶³
- Annual civilian casualty reports include a section on the processes for conducting assessments.
- AFRICOM has published a short, highly summarised overview of how it conducts civilian harm assessments.⁶⁴
- Recent policy documents like the DoDI 3000.17 (2023) include details on possible mitigation tactics, such as reducing confirmation bias by red-teaming.
- The process of going from assessments to investigations is generally explained in recent policy documents.

What gaps/caveats are important to consider?

- There is some key information missing from the DoD’s webpage on CHMR, such as completed civilian harm assessments and investigations and updates to US doctrine mandated by the CHMR-AP (2022).
- The DoD does not have a mechanism to systematically review and declassify elements of investigations or assessments that would support the legitimacy of the armed forces as an actor that adheres to high standards and takes incidents of harm seriously. Publicly reporting on incidents of harm and assessments and investigations further combats the dissemination of disinformation on harm by adversaries.
- Processes for how assessments are conducted on a practical level are unclear, particularly in terms of transparency, making it difficult for those representing victims or for victims themselves to navigate submitting reports and following the assessment/investigation process.
- Civilian harm reports furthermore are *not* currently required to include:
 - An explanation of how the DoD determined whether targets were civilians or not, nor what level of epistemic certainty the DoD requires of its commanders to make such determination.
 - The specific threshold criteria used for determining the ‘credibility’ of harm being caused by US operations in assessments and investigations.
 - A description either of the amends provided or an overview in the aggregate of response options initiated, in line with considerations around the safety and security of the recipient.
 - In the case of an investigation into an incident of civilian harm— whether witness interviews and site visits occurred, and if not, an explanation for why not.
 - A description of actions taken (including administrative, disciplinary, or punitive), any changes in guidance, implementation and dissemination of lessons learned, or if no action was taken, an explanation of why not.

RECOMMENDATIONS

Further standardise reporting

Require all CCMDs to provide consistent and detailed strike reports, including precise time, location, and demographic data of civilian harm, to improve transparency and enable external verification.

Comprehensive civilian harm reporting

Reports typically include descriptions of incidents and the general location but tend to focus on direct casualties, leaving out the broader effects on civilians. To enhance transparency, the DoD should implement a policy for routinely reporting all civilian casualties, including those caused by coalition partners – without necessarily identifying the nation responsible – and should report more information on reverberating and non-physical forms of harm.

Increase transparency on civilian harm assessments and investigations

Publish full civilian harm assessments and investigations, including details on the criteria used for the determination of credibility of reports, investigative methods, and explanations for discrepancies with other reports or estimates. This supports the legitimacy of the armed forces as an actor that adheres to high standards and takes incidents of harm seriously.

Invest in independent oversight mechanisms

Establish an independent body to evaluate the DoD's transparency practices, ensuring that withheld information is justified and that the highest levels of disclosure are achieved without compromising security.

Prepare transparency policies for high-intensity conflict

The DoD should ensure that transparency policies and practices are effectively applied now and in future operations, particularly as the military prepares for more complex and large-scale conflicts, so that practices can be effectively scaled up in high-intensity contexts. This would demonstrate a commitment to institutional learning and help mitigate harm in future engagements.

5 POST-HARM RESPONSE

Indicators: Process for amends; Acknowledgement; and Comprehensive, victim-centred condolence

CATEGORY DESCRIPTION

Efforts to acknowledge and express condolence for harm, to include offers of monetary and non-monetary forms of post-harm assistance.

OVERALL SCORE **ENGAGED**

The US government has established a formal process to address civilian harm resulting from military operations, including both monetary and non-monetary forms of amends. Recent policies have introduced new regulations, further systematising post-harm response practices. However, while recent policy frameworks mandate acknowledgment of harm at individual and community levels, there is no formal policy or guidance for issuing apologies. The exclusion of compensation claims by civilians deemed 'unfriendly' to the US is problematic and raises the concern that post-harm response practices may be implemented inconsistently across different conflict theatres.⁶⁵ Notably, the process for civilian harm amends has evolved over the last few years and recent policies show a clear commitment to amending civilian harm caused by US operations.

5.1 PROCESS FOR AMENDS

INDICATOR DESCRIPTION

The government implements a functional, timely, and adequately resourced process to receive and process requests and proactively provides monetary and non-monetary amends for harm caused by operations.

SCORE **ENGAGED**

The US has created several frameworks to enable responding to US operations-caused harm. This includes an annual fund for ex gratia payments and an overview of various response options as outlined in the DoD 3000.17 (2023). However, several frameworks exclude civilians deemed 'unfriendly' to the US from such payments. Individual commanders further have a lot of discretion in determining whether and how to respond to civilian harm.

What evidence exists to support this?

- The US has been making various kinds of payments for civilian harm since the Korean War (1950-53).⁶⁶ Over the years, the US has committed to creating various frameworks for addressing the harm its operations can cause.
 - Most notably during the International Security Assistance Force (ISAF) in Afghanistan (2001-14), amending the harm caused by US-operations was seen as a strategic necessity by General Stanley McChrystal. After he issued a tactical directive in 2009, the military developed standardised processes including the investigation of civilian casualty reports, disbursement of condolence payments and operational reforms such as limits to night raids.⁶⁷
 - In recent policies, amends have been further formalised. The 2020 National Defense Authorization Act (NDAA) created an annual \$3 million fund for the provision of ex gratia payments, including a requirement for a quarterly report on ex gratia payments to congressional defence committees.⁶⁸ The authorised funds do not contain a geographical limitation as was the case with previous authorisations.
 - The DoD's interim regulations for providing ex gratia payments set out the conditions for the use of the 2020 NDAA authority. They attempt to standardise the process and payment amounts while leaving room for assessing local circumstances. These regulations also apply to coalition and partnered environments. USD(P) is in the process of updating the Interim Regulations, in accordance with the 2023 DoDI 3000.17, which further mandates the creation of additional options for providing amends.⁶⁹
 - The CHMR-AP (2022) and DoDI 3000.17 (2023) outline current policy on post-harm amends:⁷⁰
 - Procedures are currently being developed for "consulting with and/or expressing condolences to those who have been harmed or their next of kin, or representatives who can speak to their interests, unless otherwise not feasible or appropriate."
 - The DoDI explicitly outlines response options, while noting that the options are not limited to that list. Among others, the list includes community-based response, medical care, ordnance removal, infrastructure repair and the expression of sympathy and condolence.
 - While the DoDI notes that commanders should respond to civilian harm as swiftly as possible, "responses may be made after time has passed." This opens opportunities for, among other things, providing amends in cases where victims' identities were unknown at the time of the engagement and only revealed later, or in cases where time was needed to identify which actor was responsible for the harm.⁷¹ Additionally, the instruction states that a completed civilian harm assessment or investigation is not required before responding to civilian harm.
 - Another monetary redress program is the Foreign Claims Act (FCA). This Act allows foreign civilians to make claims for harm committed by US military personnel overseas but excludes claims relating to 'combat settings'.⁷²
 - The DoD submitted a legislative proposal to Congress in 2023 titled "Payment of Expenses to Help Respond to Civilian Harm."⁷³ The proposal creates an additional \$10 million authority for DoD to respond to civilian harm. This authority would supplement the existing \$3 million ex gratia authority. However, the provision has not been adopted by Congress at the time of the publication of this report.

What gaps/caveats are important to consider?

- Current regulations give field commanders broad discretion over handling civilian harm reports, and exclusion of civilians in certain conflict zones (see below), delays in reporting, and the lack of legal recourse make it difficult for affected individuals to seek amends or accountability for harm caused by US operations.
- Response options are complicated by coalition engagements, where there is a misalignment between collective responsibility for strikes but individual responsibility for response. This impedes access to post-harm amends processes.
- The regulations created by the 2020 NDAA provide significant discretion to field commanders, who “may decide whether to follow up on claims, whether to provide payment, and how much to request, up to certain limits”.⁷⁴
- Both the NDAA and FCA exclude reports and claims from civilians who are ‘unfriendly’ to the United States, a distinction that is often difficult to make in settings like counterinsurgency and counterterrorism operations. Claims through the FCA must be presented within two years, and the claimant must be a national of a country that is not at war with the United States and not an ally of any country at war with the United States.⁷⁵ The FCA is therefore a largely futile mechanism in practice for receiving amends for harm caused by US operations.
- The interim regulations, similar to the FCA, also include a passage that states “payments may not be offered to residents of a foreign locality or country where the population of the area as a whole is in a state of armed conflict or war against the United States.”⁷⁶ This reflects the idea that an entire (civilian) population can be considered to be at war with the United States, instead of only armed groups or militaries, which undermines IHL principles of distinction and proportionality.⁷⁷
- In 2019, the US DoD provided 611 ex gratia payments, but this number dropped to only three publicly acknowledged payments made since 2020, even though there have been 36 cases of civilian deaths confirmed by the DoD during that time.⁷⁸
- The CHMR-AP states that combatant commands are to integrate into their operational and contingency plans how subordinate commands will respond when civilian harm results from those operations, but the current status of this integration is unknown.⁷⁹
- It can be complicated for the DoD - in cases where civilian harm has been acknowledged - to connect that harm to actual survivors and so facilitate the provision of amends.
- It is unclear to what extent new amends policies extend to covert operations.
- The US currently has no legal avenue for civilians to pursue any form of litigation against the state directly for harm suffered.⁸⁰

5.2 ACKNOWLEDGEMENT

INDICATOR DESCRIPTION

The government publicly acknowledges responsibility for harm.

SCORE **EMERGING LEADER**

The US regularly acknowledges civilian harm through reporting by the Combatant Commands, and the CHMR-AP (2022) is meant to provide further options of response and guidance. However, civilians seeking to directly report information on civilian harm to the US through established reporting mechanisms often do not receive a response, making engagement with such mechanisms less meaningful from their perspective.

What evidence exists to support this?

- The CHMR-AP (2022) “establishes an overarching institutional framework for how the Department, as a matter of policy, will respond to civilians harmed by operations, including through public and private acknowledgements and responses to civilian harm, at individual or community levels, and at different time horizons following instances of civilian harm.”⁸¹
- It also states that the DoD will create procedures for consulting with and/or expressing condolences to those who have been harmed or their next of kin.⁸²
- Mechanisms expected to be developed for effectively and predictably engaging with civilians affected, by using online platforms, through local embassies, and/or in coordination with host-nation authorities.⁸³
- In CCMD civilian harm reports, the DoD regularly acknowledges responsibility for harm its operations have caused to civilians.⁸⁴

What gaps/caveats are important to consider?

- Formal or private apologies are not included as a response option in any DoD policy or guidance.
- Civilians who use the currently existing reporting channels often do not get any sort of response from the DoD.
- The CHMR-AP outlines the aim to publish public affairs guidance emphasizing the proactive release of information and tailorable public affairs approaches regarding civilian harm, which demonstrates respect for civilians and communities harmed by US operations and transparency regarding DoD policies and processes for mitigating and responding to civilian harm.⁸⁵ The status of this policy development is currently unknown.⁸⁶

5.3 COMPREHENSIVE, VICTIM-CENTRED CONDOLENCE

INDICATOR DESCRIPTION

Policies governing the offer and provision of condolences payments (monetary and non-monetary) should be broadly defined, culturally appropriate and sensitive to local needs as defined by those affected.

SCORE **ENGAGED**

On paper, the CHMR-AP (2022) provides a range of response options, including diverse actions such as acknowledgement, medical care, and condolence payments, which would allow commanders to respond to harm in a contextually and culturally appropriate manner. This approach largely remains to be tested in practice. There are concerns that the US' emphasis on response as a 'strategic' tool will translate into uneven practice across different conflict theatres.

What evidence exists to support this?

- The CHMR-AP (2022) lists the following response options: "public and private acknowledgements of harm, condolence payments, medical care, repairs to damaged structures and infrastructure, ordnance removal, and locally-held commemorative events or symbols."⁸⁷ And continues by stating that, "These options will allow commanders to craft tailored responses, based on consultations with affected individuals and communities, which are contextually and culturally appropriate, can be offered whenever circumstances permit, and are aligned with US strategy and values, and applicable law."⁸⁸

What gaps/caveats are important to consider?

- The DoDI 3000.17 (2023) states that community-level responses may be more appropriate when individual-level responses are not practicable.⁸⁹ However, civil society organisations have warned that while the expansion of DoD's tools to respond to civilian harm is welcome, community-level responses should not displace individual responses such as ex gratia payments, particularly because such responses are often perceived by civilians as not fulfilling or addressing their needs.⁹⁰
- Pre-CHMR-AP guidance framed the purpose of ex gratia payments purely as a way to help authorized commanders obtain friendly relations with local populations where US forces were operating. While the standardising of amends through the CHMR-AP and DoDI is notable, the DoDI still contains strategic caveats, by stating that amends will be made "in accordance with US strategy and values." This has potential implications for consistent application, as this allows for the absence of response to harm in places where local support is not deemed a strategic asset.

RECOMMENDATIONS

Emphasise moral responsibility and a victims-centred approach in amends policy

While strategic arguments for response can help create buy-in for a progressive amends policy within CCMDs, policies on amends should include an emphasis on the inherent moral responsibility of recognising and addressing civilian harm across different types of operations, incorporating a full spectrum of responses, including public acknowledgments and formal apologies. The amends policy should further be more civilian-centric in prioritising civilian needs and designing and implementing response options according to the wishes of victims and survivors. The military should follow up with recipients of responses to track their appropriateness and effectiveness.

Strengthen reporting and transparency mechanisms

Ensure timely and transparent public reporting on civilian harm incidents, including detailed information about investigations, amends provided, and lessons learned, to enhance accountability and build trust with affected communities.

Increase funding for civilian harm responses

The proposed additional \$10 million authority and other funds are necessary to ensure sufficient resources are available for timely and comprehensive responses to civilian harm.

Remove legal and strategic restrictions on amends

Remove unnecessary prohibitions on ex gratia payments to civilians based on their nationality or location, including by removing the assertion that an entire population could constitute an enemy of the United States.

Clarify the amends policies for covert operations

Develop and/or clarify policies for providing amends (privately, if necessary) for harm resulting from covert operations.

APPENDIX

Glossary & Acronyms

GLOSSARY

A

After Action Report (AAR)

A retrospective analysis of a unit's action and its effectiveness, often written upon return to base.

Assessment

A process in which reported civilian harm is analysed to determine responsibility and the necessity of further investigation.

B

Battle Damage Assessment (BDA)

An assessment of damage inflicted on a target from a stand-off weapon, most typically a bomb or air launched missile, directly following the engagement. Some militaries include an assessment of potential civilian casualties in their BDA process.

C

Civilian harm

A range of adverse effects to civilians caused by military operations. This can include direct, indirect and reverberating effects such as physical injury, death, destruction of infrastructure, destruction of cultural heritage, psychological trauma, loss of livelihood, environmental pollution.

Civilian harm mitigation and response (CHMR)

The attempt to decrease risks to civilians in conflicts to prevent civilian harm from own operations, and how governments or military forces respond when harm does occur.

Civilian harm tracking

A process to record, assess and analyse a range of negative effects on civilians caused directly or indirectly by armed actors who are parties to conflict. The primary purpose of civilian harm tracking is to identify the military tactics, strategies and operations which have negative consequences for civilians. The information gathered enables armed actors to respond appropriately to specific instances of civilian harm (for example, by offering compensation), and inform operational guidance and decision making in order to minimize future harm.

Collateral Damage Estimate (CDE)

A formalised mathematical process used by target support cells to gauge the potential number of civilian casualties *before* conducting a strike. Accordingly, targeteers may alter the munitions, timing and other factors to decrease the CDE. Militaries often maintain a maximum CDE. Any strike where the CDE is higher then needs additional authorisation or cannot proceed at all. The details of the CDE process are usually classified.

Combatant Commands (CCMDs)

The Department of Defense has eleven combatant commands, each with a geographic or functional mission that provides command and control of military forces (four functional, seven geographic). These include, for instance, the Central Command (CENTCOM) which oversees US military operations in the Middle East, Central Asia, and parts of South Asia, and the Africa Command (AFRICOM), which oversees US military operations on the African continent.

E

Ex gratia payment

A voluntary compensation payment made by a government or military to victims or survivors to amend civilian harm, either in-theatre or after time has passed. This payment is not an acceptance of legal liability.

H

Human Security (HS)

An approach that focuses on protecting individuals' safety and well-being by addressing a wide range of threats to their survival, livelihood, and dignity, including armed conflict, gender-based and sexual violence, human trafficking, cultural property destruction and other human rights abuses. The Protection of Civilians also falls under HS efforts.

I

International Security Assistance Force (ISAF)

A multinational military mission in Afghanistan from 2001 to 2014, established by United Nations Security Council Resolution 1386. ISAF's primary goal was to train the Afghan National Security Forces (ANSF) and help rebuild key government institutions, but it gradually also took part in combating the Taliban insurgency. The US, UK and the Netherlands contributed troops. A notable period is the command of General Stanley McChrystal from 2009-2010, in which greater emphasis was placed on protecting civilians through tactical directives.

Investigation

A thorough administrative or criminal inquiry into civilian harm incidents following an initial assessment, in order to identify the cause of harm, potential mistakes during targeting processes and to determine responsibility and liability. In some cases, a review of response measures taken can be part of the investigation.

N

National Defense Authorization Act (NDAA)

Specifies the annual budget and expenditures of the US Department of Defense.

O

Operation Inherent Resolve (OIR)

A US-led coalition campaign in Iraq and Syria to combat Islamic State that started in 2014 and is still ongoing. Also sometimes referred to as Combined Joint Task Force Operation Inherent Resolve (CJTF-OIR). The UK and the Netherlands are both part of the coalition.

Operation Poseidon Archer (OPA)

An ongoing military operation by the United States and United Kingdom against the Houthi movement since January 2024. The UK and US have executed airstrikes in Yemen as part of this operation.

Operation Prosperity Guardian (OPG)

A United States-led defensive coalition operation formed in December 2023 in response to Houthi-led attacks on shipping in the Red Sea. The British and Dutch Navy have contributed to protecting the passage of commercial ships in the Red Sea.

P

Protection of Civilians (PoC)

Actions taken by states, international organisations and armed forces to shield non-combatants from a broad range of harm caused by own operations or other actors during conflicts or crises. It includes the safeguarding of civilians from physical harm, displacement, exploitation, violations of human rights, and facilitating the delivery of aid and support to vulnerable populations in conflict zones, especially in areas of armed conflict or instability.

R

Response/amends

The remedial actions taken by militaries and governments after civilian harm has been caused. This can include actions such as the provision of (in-theatre) ex gratia payments, formal or informal apologies, expressions of sympathy/condolence, providing medical care, reconstruction, etc. Response can take place both at the individual and community level.

LIST OF ACRONYMS

AAR	After Action Report
AR 15-6	Army Regulation 15-6
ASPA	American Service-Members' Protection Act
BDA	Battle Damage Assessment
CCAR	Civilian Casualty Credibility Assessment Report
CCMD	Combatant Command
CHAC	Civilian Harm Assessment Cell
CHMR	Civilian Harm Mitigation and Response
CHMR-AP	Civilian Harm Mitigation and Response Action Plan
CIA	Central Intelligence Agency
CP COE	Civilian Protection Center of Excellence
CSOs	Civil society organisations
DoD	Department of Defense
DoDI	Department of Defense Instruction (3000.17)
EWIPA	Explosive Weapons in Populated Areas
FCA	Foreign Claims Act
FOI	Freedom of Information
FY	Fiscal year
IHL	International Humanitarian Law
ICC	International Criminal Court
ISAF	International Security Assistance Force
LSCOs	Large-scale combat operations
MGRS	Military Grid Reference System
NATO	North Atlantic Trade Organisation
NDAA	National Defense Authorization Act
NGO	Non-governmental organisation
OIR	Operation Inherent Resolve
OPA	Operation Poseidon Archer
OPG	Operation Prosperity Guardian
OUSD-P	Office of the Under Secretary of Defense for Policy
PoC	Protection of Civilians
PPM	Presidential Policy Memorandum
SOP	Standard Operating Procedures
SOF	Special Operation Forces
UN	United Nations
US AFRICOM	United States Africa Command
US CENTCOM	United States Central Command

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