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OFFICE OF THE UNDER SECRETARY OF DEFENSE
WASHINGTON, DC 20301-2000

JAN 31 2020

POLICY

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Development of a DoD Instruction on Minimizing and Responding to Civilian Harm in Military Operations

Protecting civilians is fundamental to our forces' professional military ethos and our National Defense Strategy. Our efforts to protect civilians are critical to defeating our adversaries and accomplishing missions, strengthening our relationships with allies and partners, and demonstrating our moral leadership.

The risk of harm to civilians is an unfortunate reality in armed conflict, and our commanders shoulder the important responsibility of deciding how best to accomplish the mission while minimizing the risks to civilians who find themselves in the crossfire. It is therefore imperative that, as we continue to conduct operations and prepare for potential future wars, we ensure we have the institutional capabilities and processes in place to reduce the potential for civilian harm where possible and, when necessary, respond to civilian harm that does occur.

Preventing civilian casualties has long been a U.S. priority and, in that sense, our efforts are a proud continuation of longstanding practice. In recent conflicts, our forces not only complied with the law of war, but also demonstrated true expertise in the conduct of hostilities by accomplishing their missions while minimizing civilian casualties. At the same time, we must also continue to recognize that we are not perfect and must continuously strive to do better—always providing our forces the best preparation, capabilities, and processes possible to reduce further the risk of causing civilian harm.

In that spirit, under Secretary Esper's leadership and my direction as the official responsible for coordinating DoD policy related to civilian casualties, the Office of the Secretary of Defense is working with your staffs and others across the Department to develop a new DoD instruction on civilian casualties. Consistent with Executive Order 13732, as amended by Executive Order 13862, this instruction will reflect the many existing DoD activities and processes that serve to minimize civilian harm and will strengthen the overall policy framework that supports our commanders' efforts to minimize civilian harm in military operations.

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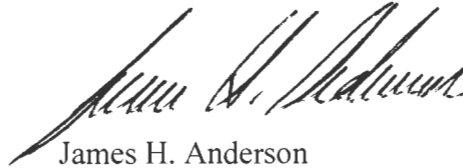


The new DoD instruction will also reflect lessons learned from recent U.S. military operations, including as reflected in the findings and recommendations of the 2018 Chairman of the Joint Chiefs of Staff-directed Civilian Casualties Review. Although the instruction remains a work-in-progress, we are working to address the following key areas in the instruction, consistent with Section 936 of the National Defense Authorization Act for Fiscal Year 2019:

- DoD processes and standards for reviewing, assessing, and investigating reports of civilian casualties provided by any source, including reports from U.S. forces, reports from those affected by conflict, and information from non-governmental organizations (NGOs).
- Processes for affected populations and NGOs to make reports and provide information to U.S. forces regarding reports of civilian casualties.
- DoD practice in transparently acknowledging civilian casualties assessed to have resulted from U.S. military operations.
- DoD practice in offering condolences, including *ex gratia* payments, where appropriate, to civilians who are injured or to the families of civilians who are killed by U.S. military operations.
- DoD practices for reducing the likelihood of civilian casualties from U.S. military operations, including: i) developing, acquiring, and fielding intelligence, surveillance, and reconnaissance systems that, by enabling more accurate battlespace awareness, contribute to the protection of civilians; ii) developing, acquiring, and fielding weapon systems and other technological capabilities that further enable the discriminate use of force in different operational contexts; and iii) doctrine, tactics, and operational processes relevant to civilian casualty mitigation.
- DoD processes to identify lessons learned from studies, reviews, or investigations of incidents of civilian casualties and to implement those lessons learned so that we continuously take sound operational and institutional steps to enhance our ability to reduce the likelihood of future civilian harm.
- DoD support to our allies and partners' efforts to respond to civilian casualties and mitigate civilian harm.
- DoD engagement with NGOs on civilian casualty issues, including impartial humanitarian organizations and other organizations that help provide humanitarian relief during armed conflict.

It is unrealistic to expect that civilian harm can be entirely eliminated in armed conflict. Nonetheless, we must anticipate its likelihood in advance of conflict and appropriately support efforts to reduce such harm, acknowledge responsibility for U.S. actions, and continuously learn

from our experience so that further improvements can be identified and implemented. No force in history has been more focused on limiting civilian casualties than the U.S. military. I am thankful for your support for our efforts to develop a new DoD instruction on civilian casualties, and I ask for your continued leadership and support for this effort.

A handwritten signature in black ink, appearing to read "James H. Anderson". The signature is written in a cursive style with a prominent flourish at the end.

James H. Anderson
Performing the Duties of the Deputy
Under Secretary of Defense (Policy)