



# UNCLASSIFIED UNITED STATES AFRICA COMMAND INSTRUCTION

J33

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1 February 2019

## Reporting and Responding to Civilian Casualty Allegations and Incidents

### References:

- a. Department of Defense Directive (DoDD) 2311.01E
- b. Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01D
- c. Implementation of the DoD Law of War Program (30 April 2010)
- d. DoD Law of War Manual (12 June 2015)
- e. E.O. 13732, United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force (1 July 2016)

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1. Purpose. This instruction establishes a process and outlines procedures for the reporting, assessing, tracking, investigating, and public release of information regarding civilian casualty (CIVCAS) allegations associated with military operations in U.S Africa Command's (USAFRICOM) area of responsibility (AOR).

2. Applicability. This policy applies to all U.S. military units operating in the USAFRICOM AOR. Joint Task Force (JTF) Commanders, Component Commanders, and all subordinate units are responsible for implementing this policy within their commands.

3. Policy. USAFRICOM, Component Commanders, and subordinate units will ensure all CIVCAS allegations, regardless of source, are treated as serious claims and are reported and assessed in accordance with this instruction and in compliance with national and international obligations. Every unit operating in USAFRICOM will report all actual or alleged CIVCAS to the USAFRICOM Director for Operations, Office of Primary Responsibility (OPR), through their chain of command via the USAFRICOM Joint Operations Center.

a. The CIVCAS review process outlined in paragraph 4 will be followed in every case when the subject of the allegation is U.S. forces.

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b. In the case of allegations against partner forces, notice to AFRICOM is required. The OPR will determine whether to activate the CIVCAS review process in consultation with the relevant Commander, country team, and Chief of Mission. Considerations weighing in favor of utilizing the CIVCAS review process include, but are not limited to: the scope of U.S. force involvement in the partner force mission that resulted in an allegation of CIVCAS, the strategic partnership with the partner force against whom allegations are made, the relative capacity of the partner force to conduct an independent assessment, and the overall severity of the allegation itself.

#### 4. Process and Procedures.

a. **First Impression Report.** A FIR should be used to make the initial report of CIVCAS. The FIR is sent to the OPR, normally within 24 hours, who determines follow-on task requirements, including the direction of a CIVCAS Credibility Assessment Report (CCAR). The FIR will include: who, what, when, and where, along with any other immediately available information. While a FIR may include an assessment of the credibility of the allegation or a recommendation for a CCAR, the report should not be delayed for the purpose of generating such assessment or recommendation. If, upon receipt of the FIR, the OPR (or designee) determines that the subject allegation is not credible, the allegation will be logged and recorded, with no additional assessment directed.

b. **CIVCAS Credibility Assessment Report.** A CCAR is required if the OPR determines civilians were more likely than not injured or killed as a result of U.S. or partner force action, or that more information is needed to make a determination. The OPR will appoint an Assessment Officer (AO) to gather the additional information required to determine the credibility of the CIVCAS allegation or to establish the facts of an actual CIVCAS. AOs are expected to submit CCARs to the OPR within two weeks from initial tasking. Normally, the AO will be selected from the command that served as the engagement authority for the operation or kinetic action in question. If the allegation involves partner forces, the OPR will consult with the country team to determine host nation equities and perspectives. The CCAR contains a narrative description of the incident, enclosures supporting its conclusions, and a recommendation to the OPR regarding the credibility of the allegation. A CIVCAS allegation is determined to be credible if the OPR determines, based on all reasonably available information, that it is more likely than not that a civilian was killed or injured as a result of U.S. or partner force action. Prior to submission of the CCAR to the OPR, a Judge Advocate will conduct a legal review ensuring a sufficient review was conducted, sufficient evidence was presented in the CCAR to support the findings, and to assess whether the strike or operation complied with the current Rules of Engagement and the Law of Armed Conflict.

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c. Investigation. Normally, the OPR will direct an investigation when they concur with the AO's assessment that an alleged CIVCAS is credible, or if further information is required to document the underlying facts, or to answer questions not fully addressed by the CCAR. If the incident involves a partner force, the OPR will consult with the applicable country team to determine host nation equities and perspectives in making this determination. Investigations will be conducted in accordance with Army Regulation 15-6 or U.S. Service equivalent. The OPR is responsible for ensuring the investigation officer is properly appointed, empowered and supported to conduct a thorough and timely investigation.

d. Recording of Information. The OPR is responsible for maintaining a central record of all CIVCAS information, including the initial report, any subsequent credibility assessment or investigation, maintaining a record of lessons learned, and tracking the implementation of any accepted recommendations from investigations to mitigate against further CIVCAS. J3 Joint Fires Element will keep and reconcile a theater-wide catalog of all CIVCAS allegations.

e. Public Release. Unless otherwise directed, the results of CIVCAS reviews shall be publicly released to increase transparency and demonstrate the U.S. commitment to minimizing civilian casualties. Only those incidents, or that information, which can be released consistent with operational and information security will be subject to public release. Public release of CIVCAS information involving partner forces will be closely coordinated with the appropriate country team and Chief of Mission. USAFRICOM Public Affairs will be the lead in publically addressing any CIVCAS incidents that impact the mission or have significant media interest.

## 5. Responsibilities.

a. Operations Directorate (J3). As the Office of Primary Responsibility (OPR) for all CIVCAS allegations in the AOR:

(1) Coordinate the processes and standards for accurately recording kinetic strikes by United States Africa Command forces.

(2) Coordinate the processes and standards for reviewing and investigating allegations of civilian casualties resulting from United States Africa Command military operations, including the consideration of relevant information from all available sources.

(3) Coordinate on all public affairs guidance with respect to matters relating to civilian casualties alleged, or confirmed to have resulted from, United States Africa Command military operations.

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b. Intelligence Directorate (J2).

(1) Provide all-source intelligence to inform the First Impression Reports (FIR).

(2) Provide recommendations in the conduct of reviewing and investigating allegations of civilian casualties resulting from United States Africa Command military operations.

c. USAFRICOM Office of Legal Counsel (OLC) will provide legal review and recommendations regarding allegations of civilian casualties resulting from United States Africa Command military operations.

d. USAFRICOM Chief of Staff will have approval and oversight of all publically released CIVCAS information.

e. USAFRICOM Public Affairs Division.

(1) Address international and national media concerns through press conferences, social media dialogue and hosting in-depth interviews with journalists.

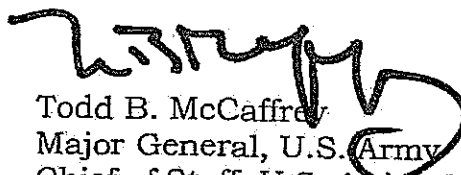
(2) Lead for preparing public affairs guidance and any news release that pertains to CIVCAS allegations resulting from United States Africa Command military operations.

f. Joint Task Force Commanders and Component Commanders will establish reporting procedures to ensure all CIVCAS (whether alleged or confirmed) are recorded and assessed appropriately and in accordance with this instruction.

6. Summary of Changes. N/A

7. Releasability. Unclassified Unlimited. This directive is approved for public release; distribution is unlimited. Users may obtain copies on the USAFRICOM network portal. USAFRICOM activities only through controlled access via the USAFRICOM network portal.

8. Effective Date. This instruction is effective upon signature.

  
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Chief of Staff, U.S. Africa Command

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Enclosures:

A. Acronyms, Abbreviations, and Terms

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## Enclosure A

### Acronyms, Abbreviations, and Terms

#### 1. Acronyms/Abbreviations

**AO** - Assessing Official  
**CCAR** - Civilian Casualty Assessment Report  
**CIVCAS** - Civilian Casualty  
**FIR** - First Impression Report  
**JTF** - Joint Task Force  
**OPR** - Office of Primary Responsibility  
**USAFRICOM** - U.S. Africa Command

#### 2. Terms

**Allegation.** Any allegation, observation or report of a CIVCAS, regardless of origin. An allegation may arise from any source including, but not limited to, a unit's self-report, a non-governmental organization, media or social media.

**CIVCAS.** The death or injury of a civilian, who has not lost protected status, resulting from the kinetic actions of U.S. or partner force units. This may include Close Air Support, Close Combat Aviation, Direct Fire, Indirect Fire, and other actions directly linked to security operations.

**Credible.** Information or allegations that a reasonable commander would believe to be more likely than not under the circumstances. The totality of the circumstances must be considered, including the reliability of the source (*e.g.* the past reliability of the source, how the source obtained the information), whether there is contradictory or corroborating information, or other information relevant under the circumstances.

**First Impression Report.** A FIR provides awareness and basic information about a CIVCAS to the designated OPR. The FIR will include: who, what, when, and where, along with any other immediately available information. While a FIR may include an assessment of the credibility of the allegation or a recommendation for a CIVCAS Credibility Assessment Report (CCAR), the report should not be delayed for the purpose of generating such assessment or recommendation.

**Office of Primary Responsibility (OPR).** The OPR is responsible for the collection and maintenance of CIVCAS information, appropriate assessment of CIVCAS allegations, and dissemination of any CIVCAS reports. The OPR is also responsible for tracking, monitoring, and advising on the issuance of ex

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gratia payments. Additionally, the OPR will provide oversight of lessons learned from CIVCAS incidents, and ensure that those lessons learned are used to improve current practices and to deliver key messages to the command and components. The OPR may further delegate these duties based on criteria such as in cases where an allegation exists when there has been no strike within proximity of the claimed location.