



March 2024

CIVILIAN HARM

DOD Should Take Actions to Enhance Its Plan for Mitigation and Response Efforts

Accessible Version

GAO Highlights

Highlights of [GAO-24-106257](#), a report to congressional committees

Why GAO Did This Study

DOD has reported to Congress that civilian casualties are a tragic and unavoidable part of war. Nevertheless, the U.S. military is steadfastly committed to protecting civilians in military operations. As a part of the commitment to continue improving DOD's approach to civilian harm mitigation and response, in August 2022, the department issued an action plan to help improve the approach.

House Report 117-397 includes a provision for GAO to review DOD's processes to identify and evaluate studies on the protection of civilians in U.S. military operations. GAO examined (1) how the action plan captures the studies on civilian harm and the associated recommendations, (2) the status of the action plan's implementation, and (3) the extent to which DOD has addressed any challenges in implementing its action plan.

GAO analyzed DOD and external studies on civilian harm, reviewed reports and briefings on action plan implementation, and interviewed officials from DOD components with knowledge of the development and implementation of the action plan.

What GAO Recommends

GAO recommends that DOD (1) establish performance goals and measures for evaluating the effect of implementing the action plan and (2) conduct an assessment to clarify how the action plan is relevant to nonkinetic activities. DOD did not concur with the first recommendation and partially concurred with the second. GAO continues to believe its recommendations are valid, as discussed in this report.

View [GAO-24-106257](#). For more information, contact Diana Maurer at (202) 512-9627 or maurerd@gao.gov.

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DOD Should Take Actions to Enhance Its Plan for Mitigation and Response Efforts

What GAO Found

The Department of Defense's (DOD) August 2022 action plan generally captures recommendations from nine studies on civilian harm. Officials from the Office of the Under Secretary of Defense for Policy—the office that led the development of the action plan and is leading its implementation—told GAO that that these studies were fundamental in developing the action plan. While there is no requirement that the action plan incorporate all of the recommendations from these studies, the action plan captures 61 of 68 recommendations from the nine studies. For example, it incorporates recommendations from two studies to develop guidance for addressing civilian harm across the full spectrum of DOD operations. The action plan does not capture seven recommendations, such as five that focused on specific military operations or DOD components.

DOD has begun work on all 11 objectives of the action plan, according to Policy officials, initially focusing on implementing five (see figure). The officials stated that the five objectives are particularly critical in the implementation of the action plan. For example, the Army is leading a DOD-wide workforce study to determine the personnel needs for the implementation of the action plan. That is, the study will assess the need for 166 full-time equivalents across DOD components, as initially set forth in the action plan.

DOD's Initial Focus in Implementing the Civilian Harm Action Plan



Source: GAO analysis of Department of Defense (DOD) information; GAO (icons). | GAO-24-106257

Accessible Text for DOD's Initial Focus in Implementing the Civilian Harm Action Plan

Action plan objectives

DOD-wide workforce

Civilian Harm Mitigation and Response Steering Committee

Civilian Protection Center of Excellence

Guidance

Reporting and data management

Source: GAO analysis of Department of Defense (DOD) information; GAO (icons). | GAO-24-106257

However, DOD has not addressed two key challenges as it has begun to implement the action plan. First, some DOD component officials do not know

what constitutes improvement. For example, officials from one component told GAO that they do not know what the end state is for the action plan. Establishing performance goals and measures could help DOD target resources and make adjustments in the remaining years of implementation, currently planned to go through 2025. Second, some DOD component officials are unclear on how the action plan is relevant to nonkinetic activities, such as space and cyber operations. A Policy official stated that figuring out the specifics of how to mitigate and respond to civilian harm in nonkinetic activities was not a priority for DOD, but this will become increasingly important. Without conducting an assessment to clarify how to mitigate and respond to civilian harm for nonkinetic activities, DOD components will not be positioned to implement the action plan for those activities.

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Abbreviations

DOD	Department of Defense
GPS	Global Positioning System
JCOA	Joint and Coalition Operational Analysis
OUSD (C)	Office of the Under Secretary of Defense (Comptroller)
OUSD (I&S)	Office of the Under Secretary of Defense for Intelligence and Security
OUSD (P)	Office of the Under Secretary of Defense for Policy

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March 14, 2024

Congressional Committees

According to the Department of Defense's (DOD) annual reports to Congress on civilian casualties, the U.S. military routinely conducts operations under policy standards that are more protective of civilians than is required by the law of war.¹ U.S. forces protect civilians because it is the moral and ethical thing to do. Although civilian casualties are a tragic and unavoidable part of war, the U.S. military is steadfastly committed to protecting civilians in military operations. The annual reports state that DOD reflects this commitment by maintaining and promoting best practices that reduce the likelihood of civilian casualties, taking appropriate steps when such casualties occur, and drawing lessons from operations to further the protection of civilians.

As a part of the commitment to continue improving the department's approach to civilian harm mitigation and response, in August 2022 DOD issued the *Civilian Harm Mitigation and Response Action Plan* (action plan). In doing so, DOD noted that protecting civilians is a strategic priority and moral imperative.² In a January 2022 memorandum, the Secretary of Defense directed the development of the action plan. The memorandum stated that recent studies and investigations identified new opportunities to improve the department's ability to mitigate and respond

¹See, for example, DOD, *Annual Report on Civilian Casualties In Connection With United States Military Operations in 2019* (Apr. 22, 2020) (including addendum, June 2, 2021) and DOD, *Annual Report on Civilian Casualties In Connection With United States Military Operations in 2021* (Aug. 12, 2022). DOD submits these annual reports to Congress pursuant to section 1057 of the National Defense Authorization Act for Fiscal Year 2018, as amended. Pub. L. No. 115-91, § 1057 (2017), amended by Pub. L. No. 115-232, § 1062 (2018). Also, in December 2023, we issued a classified report on DOD's law of war program. GAO, *DOD Law of War: Actions Needed to Ensure Proper Reporting and Retention of Alleged Violations*, GAO-24-106049C (Washington, D.C.: Dec. 15, 2023). In February 2024, we issued an unclassified version of this report. GAO, *DOD Law of War Policies: Actions Needed to Ensure Proper Reporting and Retention of Alleged Violations*, GAO-24-107217 (Washington, D.C.: Feb. 13, 2024).

²DOD, *Civilian Harm Mitigation and Response Action Plan* (Aug. 25, 2022). For the purposes of our report, we define "civilian harm" in the context of military operations and include civilians injured or killed and damage to or destruction of civilian infrastructure, services, systems, and resources on which civilian life depends.

to civilian harm and institutionalize the corresponding improvements.³ Specifically, in 2021 and 2022, DOD-sponsored studies, evaluations by the DOD Inspector General, and investigations directed by the Secretary of Defense identified deficiencies and areas for DOD to improve its efforts for mitigating and responding to civilian harm.⁴ For example, a January 2022 DOD-sponsored RAND study found that combatant commands planning for high-intensity conflict against near-peer adversaries are unprepared to address civilian harm issues.⁵ In addition, investigative reporting from the *New York Times*, among other media sources, raised concerns that DOD mistook ordinary citizens for combatants.⁶

House Report 117-397, accompanying a bill for the National Defense Authorization Act for Fiscal Year 2023, included a provision for us to review DOD's processes to identify and evaluate studies on the protection of civilians and efforts to prevent, mitigate, investigate, and respond to civilian harm in U.S. military operations.⁷ In August 2022, shortly after the House report was issued, DOD issued the action plan. DOD stated that the action plan incorporates and builds on previous studies of DOD policies and practices for mitigating and responding to incidents of civilian harm, as well as on investigations and reviews of specific incidents. Our report examines (1) how the action plan captures the studies on civilian harm and the associated recommendations, (2) the status of the action plan's implementation, and (3) the extent to which DOD has addressed any challenges in implementing the action plan.

³Secretary of Defense Memorandum, *Improving Civilian Harm Mitigation and Response* (Jan. 27, 2022).

⁴See, for example, RAND, *U.S. Department of Defense Civilian Casualty Policies and Procedures* (Santa Monica, CA: RAND Corporation, Jan. 27, 2022) and DOD Inspector General, *Kinetic Targeting and Civilian Casualty Reporting in the United States Central Command Area of Responsibility*, DODIG-2021-084 (Alexandria, VA: May 18, 2021).

⁵RAND, *U.S. Department of Defense Civilian Casualty Policies and Procedures*.

⁶See, for example, Azmat Kahn, "Hidden Pentagon Records Reveal Patterns of Failure in Deadly Airstrikes," *New York Times*, Dec. 18, 2021. In a May 2022 Pentagon press briefing, the Pentagon press secretary, in congratulating the *New York Times* for the Pulitzer Prize it had won for coverage of civilian casualties caused by the U.S. military and military operations, stated that DOD knew the department had made mistakes but that the *New York Times'* reporting had reinforced those concerns and, in some cases, identified additional concerns. DOD, *Pentagon Press Secretary John F. Kirby Holds a Press Briefing* (May 10, 2022).

⁷H.R. Rep. No. 117-397, at 246-247 (2022).

For our first objective, we compared the recommendations made in nine key studies on civilian harm in military operations that the Office of the Under Secretary of Defense for Policy (OUSD (P)) identified with the action plan to assess which study recommendations the action plan captures. OUSD (P) identified these studies as key since they were fundamental in informing the action plan. For objective two, we analyzed ongoing and planned efforts for implementing the action plan, such as by reviewing implementation status reports and summaries of Civilian Harm Mitigation and Response Steering Committee meetings, to describe the initial steps DOD has taken. For objective three, we asked DOD components about challenges in implementing the action plan. We compared the steps DOD has taken to address these challenges with criteria identified in GAO's *Business Process Reengineering Assessment Guide* and with the actions directed in the action plan.⁸

For all three objectives, we interviewed officials with knowledge of the development and implementation of the action plan from the following DOD components and external entities: OUSD (P), the Office of the Under Secretary of Defense (Comptroller) (OUSD (C)), the Office of the Under Secretary of Defense for Intelligence and Security (OUSD (I&S)), the Joint Staff, the military departments, selected combatant commands, intelligence agencies, RAND, and selected nongovernmental organizations.⁹ See appendix I for our full scope and methodology.

We conducted this performance audit from September 2022 to March 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁸GAO, *Business Process Reengineering Assessment Guide, Version 3*, [GAO/AIMD-10.1.15](#) (May 1997). DOD, *Civilian Harm Mitigation and Response Action Plan*.

⁹Selected nongovernmental organizations are Airwars, the Center for Civilians in Conflict, Human Rights Watch, and the International Committee of the Red Cross. These selected nongovernmental organizations and RAND have worked with DOD on issues related to civilian harm mitigation and response.

Background

Action Plan's Development and Oversight and Implementation Roles

Upon the Secretary of Defense's January 2022 memorandum directing the development of the action plan, OUSD (P) convened a team of subject matter experts from DOD components. DOD officials told us that this team included representatives from OUSD (P), OUSD (C), OUSD (I&S), the Joint Staff, the military departments, the combatant commands, and intelligence agencies. The team also consulted with outside entities. According to OUSD (P) officials, outside entities included nongovernmental organizations, such as Airwars, Human Rights Watch, and the International Committee of the Red Cross. It also included federally funded research and development centers, such as RAND and the Center for Naval Analyses. Discussions among the team, consultations among the team and outside entities, and DOD senior-leader reviews informed the development of the action plan.

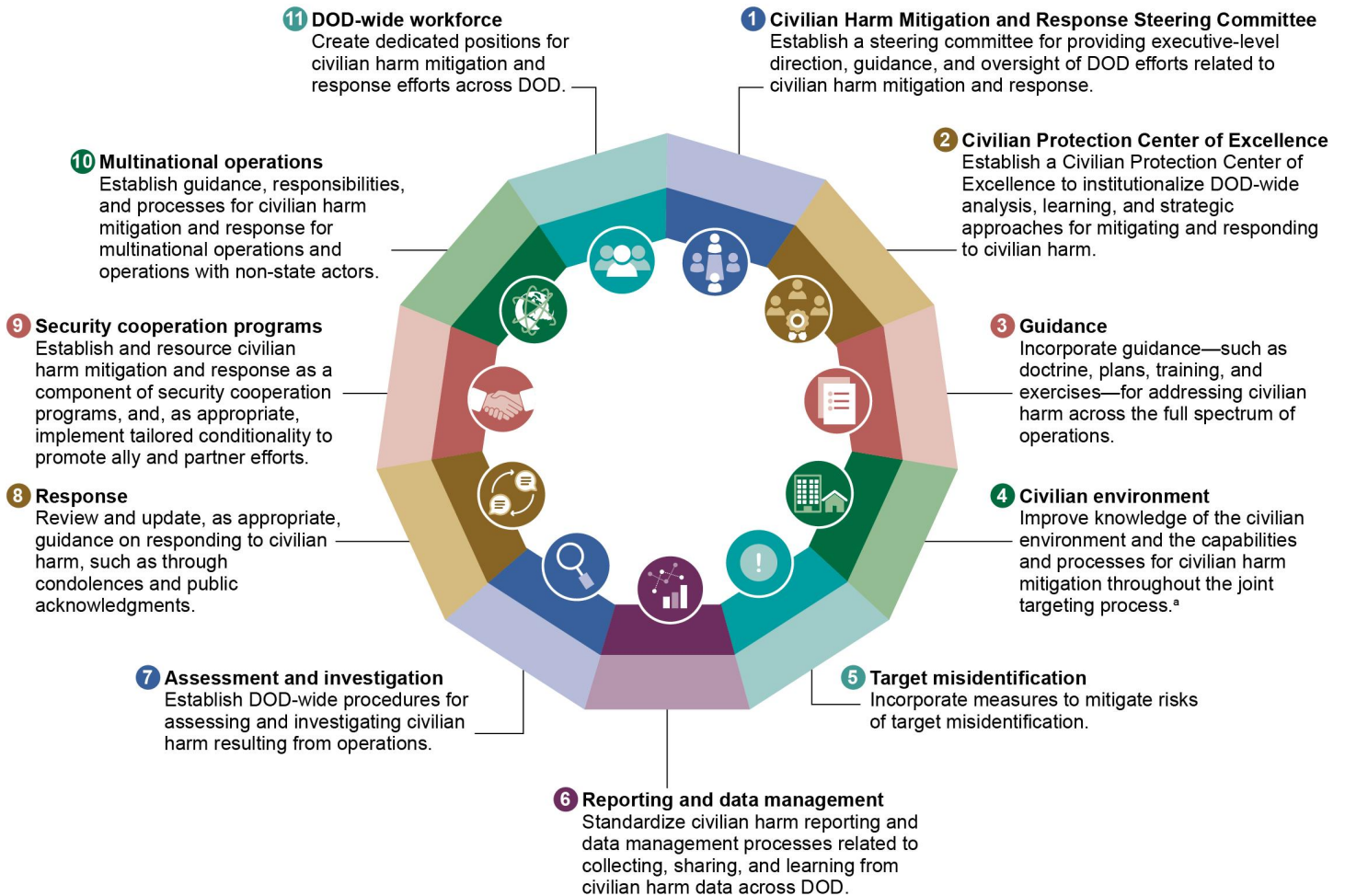
The action plan identifies a number of key oversight and implementation roles among the team. Specifically, OUSD (P) was identified as the executive secretariat for the Civilian Harm Mitigation and Response Steering Committee. The Steering Committee is responsible for executive leadership and oversight of DOD's civilian harm mitigation and response efforts, including for the implementation of the action plan. Further, the Secretary of the Army serves as DOD's joint proponent for civilian harm mitigation and response. As the joint proponent, the Army is, among other things, responsible for establishing the Civilian Protection Center of Excellence. The Army is also responsible for leading and consolidating findings of a DOD-wide workforce study to appropriately organize and staff positions for civilian harm mitigation and response. Additionally, according to the action plan, the Offices of the Under Secretaries of Defense, the Joint Staff, the military departments, the combatant commands, and DOD intelligence agencies (i.e., the Defense Intelligence Agency and the National Geospatial-Intelligence Agency) are tasked with implementing the action plan.

Action Plan's Objectives and Implementation Time Frame

The action plan outlines 11 objectives that various DOD components should meet in implementing the plan (see fig. 1). The action plan outlines

the sequences of corresponding actions within each objective, to be completed in phases from fiscal years 2022 through 2025.

Figure 1: 11 Objectives Outlined in the *Civilian Harm Mitigation and Response Action Plan*



Source: GAO analysis of Department of Defense (DOD) information; GAO (icons). | GAO-24-106257

Accessible Text for Figure 1: 11 Objectives Outlined in the *Civilian Harm Mitigation and Response Action Plan*

Objective	Objective description
Civilian Harm Mitigation and Response Steering Committee	Establish a steering committee for providing executive-level direction, guidance, and oversight of DOD efforts related to civilian harm mitigation and response.
Civilian Protection Center of Excellence	Establish a Civilian Protection Center of Excellence to institutionalize DOD-wide analysis, learning, and strategic approaches for mitigating and responding to civilian harm.

Objective	Objective description
Guidance	Incorporate guidance—such as doctrine, plans, training, and exercises—for addressing civilian harm across the full spectrum of operations.
Civilian environment	Improve knowledge of the civilian environment and the capabilities and processes for civilian harm mitigation throughout the joint targeting process. ^a
Target misidentification	Incorporate measures to mitigate risks of target misidentification.
Reporting and data management	Standardize civilian harm reporting and data management processes related to collecting, sharing, and learning from civilian harm data across DOD.
Assessment and investigation	Establish DOD-wide procedures for assessing and investigating civilian harm resulting from operations.
Response	Review and update, as appropriate, guidance on responding to civilian harm, such as through condolences and public acknowledgments.
Security cooperation programs	Establish and resource civilian harm mitigation and response as a component of security cooperation programs, and, as appropriate, implement tailored conditionality to promote ally and partner efforts.
Multinational operations	Establish guidance, responsibilities and processes for civilian harm mitigation and response for multinational operations and operations with non-state actors.
DOD-wide workforce	Create dedicated positions for civilian harm mitigation and response efforts across DOD.

Source: GAO analysis of Department of Defense (DOD) information; GAO (icons). | GAO-24-106257

^a“Targeting” is the process of selecting and prioritizing targets and matching the appropriate response to them. The joint targeting cycle provides an iterative, logical methodology for the development, planning, execution, and assessment of targeting, weapons, and capabilities effectiveness. Joint Publication 3-60, *Joint Targeting* (Sept. 28, 2018).

For example, the action plan includes an objective on incorporating guidance for addressing civilian harm across the full spectrum of operations—from counterterrorism operations to large-scale conflict against peer adversaries—into, among other things, strategy, doctrine, plans, training, and exercises. Within this objective, the action plan identifies 17 actions to occur from fiscal years 2022 through 2024, such as the Joint Staff updating a number of joint publications to include aspects of civilian harm mitigation.

Action Plan Generally Captures the Recommendations Identified in Nine Studies on Civilian Harm

The action plan generally captures the recommendations to address deficiencies identified in nine DOD or DOD-sponsored studies on civilian harm. Table 1 lists the studies.¹⁰ OUSD (P) officials identified these studies as fundamental for informing the development of the action plan.

¹⁰In a January 2022 memorandum, the Secretary of Defense stated that the action plan will outline the steps DOD will take and the resources that will be required to implement appropriate recommendations from recently-completed studies of civilian harm sponsored by DOD, recent DOD Office of Inspector General evaluations, and independent reviews that the Secretary directed into strikes that resulted in civilian casualties. However, there is no requirement that the action plan incorporate the recommendations from these nine studies. Secretary of Defense Memorandum, *Improving Civilian Harm Mitigation and Response* (Jan. 27, 2022).

Table 1: Nine Key Studies on Civilian Harm Captured in DOD’s *Civilian Harm Mitigation and Response Action Plan*

Date	Organization	Title^a
March 2022	RAND (sponsored by OSD)	<i>Understanding Civilian Harm in Raqqa and Its Implications for Future Conflict</i>
February 2022	U.S. Army Forces Command (directed by Secretary of Defense)	<i>Syria Strike Review Final Report</i>
January 2022	RAND (sponsored by OSD)	<i>U.S. Department of Defense Civilian Casualty Policies and Procedures</i>
November 2021	DOD IG	<i>Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense’s Law of War Policies</i>
October 2021	U.S. Air Force IG (directed by Secretary of Defense) ^b	Review of August 29, 2021, airstrike in Kabul ^c
May 2021	DOD IG	<i>Kinetic Targeting and Civilian Casualty Reporting in the United States Central Command Area of Responsibility</i>
April 2019	DOD IG	<i>Evaluation of Air and Ground Targeting Operations and Reporting of Civilian Casualties in Operation Inherent Resolve</i>
April 2018	Chairman of the Joint Chiefs of Staff	<i>Civilian Casualty (CIVCAS) Review</i>
April 2013	Joint and Coalition Operational Analysis, Joint Staff J7	<i>Reducing and Mitigating Civilian Casualties: Enduring Lessons</i>

Legend:

DOD = Department of Defense

OSD = Office of the Secretary of Defense

IG = Inspector General

Source: GAO analysis of DOD information. | GAO-24-106257

Note: If the action plan included at least one recommendation from a study, we assessed the study as being captured in the action plan.

^aSome of the studies were available in unclassified, CUI, and/or SECRET//NOFORN versions. We reviewed all available versions of these studies. The information in this table is unclassified.

^bAccording to DOD officials, this review was directed by the Secretary of Defense and carried out by the Air Force IG.

^cThis is an unclassified description of a classified study.

Action Plan Captures 61 of 68 Recommendations to Address Deficiencies

While there is no requirement that the action plan incorporate all of the recommendations from the nine studies, we found that it captures 61 of 68 recommendations to address the deficiencies the nine studies

identified. According to OUSD (P) officials, these recommendations helped inform the actions corresponding with each of the 11 objectives.¹¹

For example, the action plan's third objective to develop guidance was informed by recommendations, such as from the following two studies:

- The January 2022 RAND study recommended that DOD expand guidance on civilian harm assessments across the full spectrum of armed conflict.¹² The study found that combatant commands planning for high-intensity conflict against near-peer adversaries are unprepared to address civilian harm issues. In turn, this study's recommendation is directly reflected in the action plan's objective three to incorporate guidance for addressing civilian harm across the full spectrum of operations into strategy, doctrine, plans, professional military education, training, and exercises, so that the department is more effectively prepared to mitigate and respond to civilian harm and to achieve strategic success in any operating environment.
- The April 2013 Joint Staff study recommended that the Joint Staff J7 joint publication lead agents and the Joint Staff doctrine sponsors should include relevant civilian casualty information where appropriate.¹³ The study found that training and education enabled U.S. forces to adapt their approaches to better reduce and mitigate civilian casualties. DOD incorporated this study's recommendation into the action plan's objective three, which states that the Joint Staff will develop and issue a Chairman of the Joint Chiefs of Staff instruction on civilian harm mitigation and response and update existing joint publications to provide guidance on efforts across the joint force.

¹¹According to OUSD (P) officials, the recommendations from the nine studies were one input that informed the action plan. Other inputs were identified in the Secretary of Defense's January 2022 memorandum, which directed that the action plan provide for DOD to: (1) establish a Civilian Protection Center of Excellence, (2) develop more standardized civilian harm operational reporting and data management processes, (3) review guidance on responding to civilian harm, and (4) incorporate guidance for addressing civilian harm across the full spectrum of armed conflict into doctrine and operational plans. Secretary of Defense Memorandum, *Improving Civilian Harm Mitigation and Response* (Jan. 27, 2022).

¹²RAND, *U.S. Department of Defense Civilian Casualty Policies and Procedures*.

¹³JCOA, *Reducing and Mitigating Civilian Casualties: Enduring Lessons*. Some studies use civilian harm whereas other studies use civilian casualty. According to OUSD (P) officials, the name of the portfolio on civilian protection efforts has changed over time from civilian casualty to civilian harm.

As another example, the action plan's fourth objective on the civilian environment was informed by recommendations, such as from the following three studies:

- The February 2022 U.S. Army Forces Command study recommended increased situational awareness and reduction of civilian casualties through the adoption of refined processes and improvement to mission command systems.¹⁴ Also, the March 2022 RAND study recommended that the military and intelligence community should investigate opportunities to develop tools and practices that improve the understanding of the civilian environment.¹⁵ The study found that the U.S. and its coalition partners prioritized airpower to reduce risk to their own forces on the battlefield. This curtailed knowledge of the civilian environment inside Raqqa, Syria, and made it more difficult to discern noncombatants from combatants. The action plan's objective four reflected these recommendations, which states the Joint Staff—in coordination with the Under Secretary of Defense for Intelligence and Security, the Under Secretary of Defense for Acquisition and Sustainment, and the military departments—will ensure that information about the civilian environment from relevant databases is integrated into mission command systems to achieve unified situational awareness.
- The April 2018 Joint Staff study recommended investment in tools to assist ground force commanders with situational awareness.¹⁶ DOD incorporated this recommendation in objective four of the action plan by stating that civilian environment teams—to be established at operational commands—will assist commanders in understanding the effects of friendly and adversary actions on the civilian environment.

Additionally, the action plan's fifth objective on target misidentification was informed by recommendations, such as from the following study:

¹⁴The findings of this study are classified but this information is from the unclassified executive summary. See the unclassified executive summary: U.S. Army Forces Command, *Executive Summary: Review of the Civilian Casualty Incident that Occurred on 18 March 2019 in Baghuz, Syria* (Fort Bragg, NC: May 11, 2022).

¹⁵RAND, *Understanding Civilian Harm in Raqqa and Its Implications for Future Conflict* (Santa Monica, CA: RAND Corporation, March 31, 2022).

¹⁶The findings supporting this recommendation are classified. See the unclassified executive summary: Joint Staff, *Executive Summary: Civilian Casualty (CIVCAS) Review* (Apr. 17, 2018).

- The April 2013 Joint Staff study recommended additional training capabilities to improve the positive identification of enemy personnel. The study also recommended focusing on training and education to help commanders, down to the lowest levels, clearly define and articulate hostile intent, to facilitate the positive identification.¹⁷ The study found that civilian casualties primarily occur in two ways. One is through collateral damage from an engagement with known enemy forces, where the effects of the engagement also impact nearby civilians.¹⁸ The other is through misidentification where civilians are mistakenly believed to be the enemy and are engaged because of that belief. According to the study, the U.S. has put considerable effort into the reduction of collateral damage. However, the challenge of misidentification has received less attention, even though it was the primary cause of civilian casualties in Afghanistan. DOD incorporated these recommendations in objective five of the action plan. The action plan states that combatant commands will ensure a positive identification policy is published and this policy is to incorporate approaches for mitigating cognitive bias.

Action Plan Does Not Capture Seven of 68 Recommendations

Our analysis found that the action plan does not capture seven of the 68 recommendations identified in the nine studies. OUSD (P) officials told us that the team that developed the action plan reviewed all nine studies to inform the action plan. However, the officials acknowledged that the action plan does not incorporate every recommendation from the nine studies that the team reviewed and noted that this was not required. Rather, the officials said the action plan's objectives and associated actions are those that the team and DOD leadership viewed as being the most central to achieving the Secretary of Defense's goal to improve the department's approach to civilian harm mitigation and response.

Specifically, the action plan does not capture the following recommendations:

¹⁷JCOA, *Reducing and Mitigating Civilian Casualties: Enduring Lessons*.

¹⁸"Collateral damage" is a form of collateral effect that causes unintentional or incidental injury or damage to persons or objects that would not be lawful military targets in the circumstances ruling at the time. Joint Publication 3-60, *Joint Targeting* (Sept. 28, 2018).

- **DOD using a range of estimates of civilian casualties to improve the accuracy of assessments.** This recommendation was identified in both the January 2022 RAND and April 2018 Joint Staff studies.¹⁹ The RAND study states that third-party organizations and the military have different sources and methods for identifying and assessing civilian harm resulting from U.S. military operations. These differing methodologies at times lead to dramatically different assessments of civilian harm. The U.S. military tends to identify a single estimate and relies primarily on operational data (e.g., records of whether it conducted an operation in a given location on a given day); intelligence reporting, overhead imagery, and information from ground forces (where available); and some information provided by third parties. Third-party groups tend to identify a range of estimates and leverage local news, social media sites, and footage of incidents posted to YouTube or other outlets. OUSD (P) officials said that they are not opposed to using a range of civilian casualty estimates. However, a Joint Staff official said that reporting an unconfirmed range of estimated civilian casualties is less accurate than reporting a single estimate that can be confirmed using military information, and DOD does not want to be held accountable to a range that is not an accurate estimate.
- **DOD increasing emphasis on information operations to reduce civilian harm.** This recommendation was identified in the March 2022 RAND study.²⁰ The study states that U.S. military planners should prioritize information operations, including broadly disseminating messaging that emphasizes the enemy's use of tactics that violate the law of war. It further states that there is a role for ground planners and operators, as well as for public affairs officers, who can broadly disseminate messaging about enemy tactics across a variety of communication platforms. An OUSD (P) official stated that this information is covered broadly in objective five of the action plan on measures to mitigate the risks of target misidentification. However, we did not find information in the action plan on information operations or the dissemination of messaging emphasizing the enemy's use of tactics.
- **Actions focused on specific military operations or DOD components.** The action plan does not include five recommendations from several studies that were focused on specific military operations

¹⁹RAND, *U.S. Department of Defense Civilian Casualty Policies and Procedures*. Joint Staff, *Executive Summary: Civilian Casualty (CIVCAS) Review*.

²⁰RAND, *Understanding Civilian Harm in Raqqa and Its Implications for Future Conflict*.

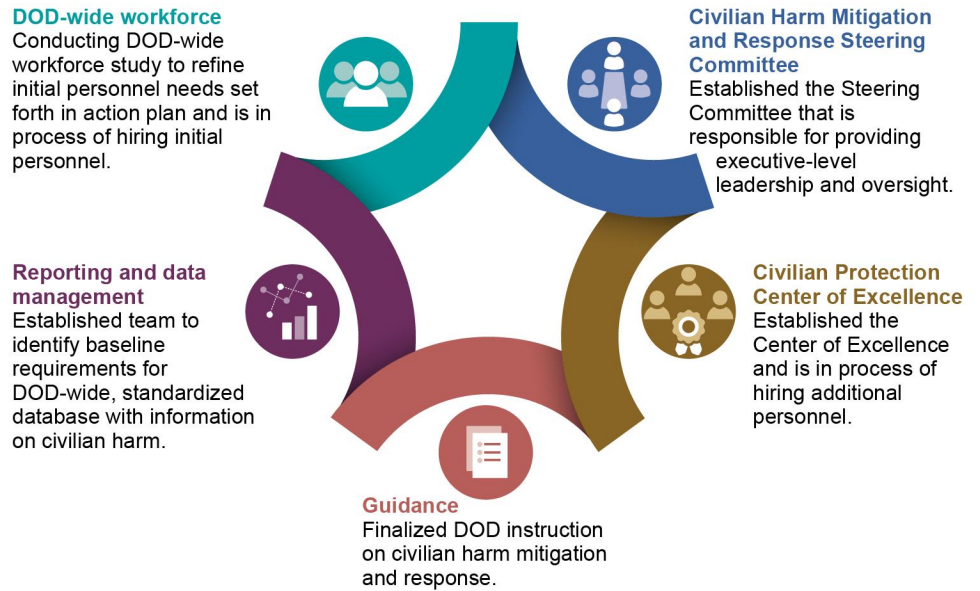
or DOD components. For example, we determined that the action plan did not include a recommendation from the November 2021 DOD Inspector General study. This recommendation was that U.S. Special Operations Command revise its law of war guidance and develop procedures to document its review of service component and theater special operations command training briefs, including deficiencies and corrections.²¹ OUSD (P) officials told us that this and other recommendations on specific military operations or DOD components are not reflected in the action plan because they are directed to a specific DOD component, while the action plan is focused on broad actions for mitigating and responding to civilian harm across the department.

DOD Initially Focused on Five Objectives in Implementing the Action Plan

DOD initially focused on taking actions to implement five of the action plan's 11 objectives (see fig. 2). Officials from OUSD (P) told us that these five objectives were particularly critical in the implementation of the action plan as they were considered catalysts for the action plan's other objectives and corresponding actions. The officials also said that DOD has made the most progress on these five objectives. However, as of October 2023, DOD had begun work on all objectives, according to the officials.

²¹DOD Inspector General, *Evaluation of U.S. Central Command and U.S. Special Operations Command Implementation of the Administrative Requirements Related to the Department of Defense's Law of War Policies*, DODIG-2022-038 (Alexandria, VA: Nov. 16, 2021). U.S. Special Operations Command implemented this recommendation.

Figure 2: Selected Actions Associated with DOD’s Focus on Implementing Five Objectives of the *Civilian Harm Mitigation and Response Action Plan*



Source: GAO analysis of Department of Defense (DOD) information; GAO (icons). | GAO-24-106257

Accessible Text for Figure 2: Selected Actions Associated with DOD’s Focus on Implementing Five Objectives of the *Civilian Harm Mitigation and Response Action Plan*

Objective	Objective description
DOD-wide workforce	Conducting DOD-wide workforce study to refine initial personnel needs set forth in action plan and is in process of hiring initial personnel.
Civilian Harm Mitigation and Response Steering Committee	Established the Steering Committee that is responsible for providing executive-level leadership and oversight.
Civilian Protection Center of Excellence	Established the Center of Excellence and is in process of hiring additional personnel.
Guidance	Finalized DOD instruction on civilian harm mitigation and response.
Reporting and data management	Established team to identify baseline requirements for DOD-wide, standardized database with information on civilian harm.

Source: GAO analysis of Department of Defense (DOD) information; GAO (icons). | GAO-24-106257

Civilian Harm Mitigation and Response Steering Committee. As part of the action plan, DOD established a Steering Committee that is responsible for providing executive-level leadership and oversight during the implementation of the action plan. For example, the Steering Committee facilitated the Secretary of Defense's oversight of the DOD instruction on civilian harm mitigation and response issued in December 2023.²² The Steering Committee is also facilitating funding the implementation of the action plan. The co-chairs of the Steering Committee are the Under Secretary of Defense for Policy, the Under Secretary of Defense (Comptroller), and the Vice Chairman of the Joint Chiefs of Staff. The Steering Committee consists of senior leaders from various DOD components, including the Office of Secretary of Defense, the combatant commands, and the military departments.

Civilian Harm Mitigation and Response Steering Committee



Established the Steering Committee that is responsible for providing executive-level leadership and oversight.

Source: GAO analysis of Department of Defense information; GAO (icon). | GAO-24-106257

The Steering Committee co-chairs met in October 2022, according to an OUSD (P) official, and the full committee met in December 2022 and April 2023 with plans to continue meeting quarterly. An OUSD (P) official told us that the Steering Committee is focused on hiring for new positions that will support the implementation of the action plan and collecting reports from DOD components on their implementation of the action plan.²³ Additionally, OUSD (P) is in the process of developing a charter for the Steering Committee.

²²Department of Defense Instruction 3000.17, *Civilian Harm Mitigation and Response* (Dec. 21, 2023).

²³The Secretary of Defense directed DOD components to report on the progress and challenges with implementing the action plan to the Secretary of Defense and Deputy Secretary of Defense on a quarterly basis. Secretary of Defense Memorandum, *Reporting Implementation of the Civilian Harm Mitigation and Response Action Plan* (Feb. 10, 2023).

An OUSD (P) official stated that the Steering Committee further established a sub-steering committee that meets on a bimonthly basis. The sub-steering committee, subordinate to the Steering Committee, includes two- to three-star officers or Senior Executive Service officials. An OUSD (P) official stated that the sub-steering committee met in November 2022, January 2023, March 2023, and June 2023. In these meetings, the sub-steering committee has discussed resources and funding for implementing the action plan, DOD and Chairman of the Joint Chiefs of Staff instructions on civilian harm mitigation and response, progress in hiring personnel, and the establishment of the Civilian Protection Center of Excellence.

Civilian Protection Center of Excellence. In March 2023, the Army established the Center of Excellence as directed by the Secretary of Defense in the January 2022 memorandum directing the development of the action plan and in compliance with provisions of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023.²⁴ In April 2023, DOD announced the director of the Center of Excellence.²⁵ The announcement stated that the Center of Excellence will help advance DOD’s approach to civilian harm mitigation and response.

Civilian Protection Center of Excellence



Established the Center of Excellence and is in the process of hiring additional personnel.

Source: GAO analysis of Department of Defense information; GAO (icon). | GAO-24-106257

As of August 2023, the Center of Excellence had hired 7 full-time equivalents and was in the process of hiring another 20 full-time

²⁴Secretary of Defense Memorandum, *Improving Civilian Harm Mitigation and Response* (Jan. 27, 2022). The National Defense Authorization Act for Fiscal Year 2023 required DOD to establish the center of excellence by no later than 90 days after the enactment of the Act, which would be March 23, 2023. Pub. L. No. 117-263, § 1082(b) (2022).

²⁵DOD, “The Department of Defense Announces Mr. Michael Mc Nerney as Director of the Civilian Protection Center of Excellence,” Apr. 17, 2023.

equivalents. It planned to hire 30 full-time equivalents by the end of fiscal year 2023. Additionally, the Center of Excellence has drafted a mission and vision statement. Also, an Army official stated that the Center of Excellence has contacted external organizations working on civilian harm mitigation and response to gain insights on the information and resources available for civilian harm mitigation and response training.

The Army plans to hire an additional 40 personnel, for a total of 70, by fiscal year 2025. In its April 2023 implementation report, the Army identified hiring of the right personnel as a key challenge. For example, the Army is looking for substantive experts with civilian harm mitigation and response experience. The Army reported that, in the interim, it is drawing personnel from across the Army and that additional personnel support from the other military departments would in part address this challenge. For fiscal year 2023, DOD provided the Army with \$7.8 million to establish the Center of Excellence and for personnel, facilities and real estate, operating costs, and initial procurement needs.²⁶

Guidance. OUSD (P) and the Joint Staff are leading DOD's development of guidance for improving DOD's efforts in mitigating and responding to civilian harm. OUSD (P) officials told us that prior to developing the action plan, DOD had been working on an instruction on civilian harm and mitigation to comply with provisions of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.²⁷ The department paused its efforts as it developed the action plan so that the instruction would align with what is in the action plan. With the issuance of the action plan in August 2022, the department resumed its efforts on the instruction. In December 2023, DOD issued the instruction.²⁸

²⁶According to OUSD (C) officials, DOD received \$41.75 million for fiscal year 2023 to implement the action plan. DOD's January 2023 spend plan for fiscal year 2023 shows that of the \$41.75 million, (1) \$7.8 million is for the Civilian Protection Center of Excellence, (2) \$27.2 million is for staffing adjustments at existing DOD components, (3) \$1.5 million is for the data management platform, (4) \$5 million is for red team training organization/school, and (5) \$0.25 million is for the workforce study. DOD, *Department of Defense (DOD) Fiscal Year 2023 Requirements to Implement the Civilian Harm Mitigation and Response and Action Plan (CHMR-AP)* (Jan. 23, 2023).

²⁷For example, the act states that the Under Secretary of Defense for Policy shall designate a senior civilian official within the Office of the Secretary of Defense at or above the level of the Assistant Secretary of Defense to develop, coordinate, and oversee compliance with the policy of the department relating to civilian casualties resulting from United States military operations. Pub. L. No. 115-232, § 936 (2018).

²⁸DOD Instruction 3000.17.

Guidance



Finalized the DOD instruction on civilian harm mitigation and response.

Source: GAO analysis of Department of Defense (DOD) information; GAO (icon). | GAO-24-106257

The DOD instruction defines civilian harm and assigns responsibilities for civilian harm and mitigation. Specifically, the instruction defined civilian harm as “civilian casualties and damage to or destruction of civilian objects (which do not constitute military objectives under the law of war) resulting from military operations. As a matter of DOD policy, other adverse effects on the civilian population and the personnel, organizations, resources, infrastructure, essential services, and systems on which civilian life depends resulting from military operations are also considered in civilian harm mitigation response efforts to the extent practicable. These other adverse effects do not include mere inconveniences.” Joint Staff officials said the challenge of developing the definition was confining it to the primary effects of military operations rather than the second and third order effects, such as psychological effects.

A Joint Staff official stated that the DOD instruction is also informing the development of a Chairman of the Joint Chiefs of Staff instruction on civilian harm mitigation and response that will define “civilian environment.” The official told us that the Joint Staff has begun developing the Chairman of the Joint Chiefs of Staff instruction. However, there is no time frame for completion as, according to this official, the Joint Staff could not begin finalizing the instruction until the DOD instruction was issued.

Reporting and data management. In October 2022, the Army established a team, consisting of contractor personnel, to identify baseline requirements for a DOD-wide, standardized database for identifying and tracking lessons learned as well as analyzing civilian harm incidents, according to Army officials. Up to this point, DOD had not maintained a department-wide database for civilian harm reporting and

data management, and an Army official stated that the database is intended to interface and align with other DOD database systems.

Reporting and data management



Established a team to identify baseline requirements for a DOD-wide, standardized database with information on civilian harm.

Source: GAO analysis of Department of Defense (DOD) information; GAO (icon). | GAO-24-106257

An Army official stated that the Army is not planning to purchase a commercial-off-the-shelf system, but rather plans to modify an existing database. This official told us that after identifying baseline requirements, the Army will develop a prototype to be tested at selected combatant commands. The official further stated that the Army plans to have a prototype of the database completed by the fall 2023. For fiscal year 2023, DOD provided the Army with \$1.5 million to develop the database.

DOD-wide workforce. The U.S. Army Manpower Analysis Agency is leading a DOD-wide workforce study, in coordination with other DOD components, to determine personnel needs for the department's implementation of the action plan. The workforce study will assess whether 166 full-time equivalents across DOD components, as initially set forth in the action plan, are needed for implementation.²⁹ For example, of the 166 full-time equivalents, the action plan identified an immediate need for 30 full-time equivalents at the Army-established Civilian Protection Center of Excellence. The Army's desire for an additional 40 full-time equivalents will be validated by the workforce study.

²⁹Personnel identified from the workforce study will support policy, planning, training, capabilities, doctrine, and operations efforts and the combatant commands.

DOD-wide workforce



Conducting a DOD-wide workforce study to refine initial personnel needs set forth in the action plan and is in the process of hiring initial personnel.

Source: GAO analysis of Department of Defense (DOD) information; GAO (icon). | GAO-24-106257

According to a July 2023 briefing by the U.S. Army Manpower Analysis Agency, a joint manpower assessment team was established in December 2022 and is composed of members from OUSD (P), OUSD (I&S), U.S. Special Operations Command, the Air Force, the Navy, and the Marine Corps.³⁰ The team identified capability gaps and functions, collected data, and determined full-time equivalent requirements to inform its initial assessment. An Army official stated that in July 2023 the team presented findings from its initial assessment to OUSD (P), Department of the Army Headquarters, the Steering Committee, and the various DOD components implementing the action plan. For fiscal year 2023, DOD provided the Army with \$250,000 to conduct the workforce study.

The July 2023 briefing states that the team's assessment is to continue through fiscal year 2025. According to OUSD (P) officials, the team that developed the action plan recognized the need for a workforce study to identify the number of personnel required to implement the action plan. However, DOD did not have time to conduct a study before beginning implementation of the action plan. This is because the Secretary of Defense wanted the department to start implementation as soon as it issued the action plan in August 2022. Thus, the action plan development team decided to identify initial staff needed in the action plan (166 full-time equivalents) and use the workforce study to increase the number of personnel DOD requires, if needed. DOD is in the process of hiring 166 full-time equivalents that are set forth in the action plan.

Additional action plan objectives. Although DOD initially focused on implementing the action plan's five objectives, as of October 2023,

³⁰U.S. Army Manpower Analysis Agency, *Civilian Harm Mitigation and Response Manpower Assessment* (July 7, 2023).

officials from OUSD (P) stated that work had begun on the remaining six objectives. For example, according to OUSD (P) officials, the Army held its first red teaming training class in August 2023 to help avoid mistaken target identifications. According to the action plan, a “red team” is composed of trained and educated personnel that provide an independent capability to fully explore alternatives in plans and operations and from the perspective of adversaries, the civilian environment, and other actors. A red team can complement problem solving and analytical efforts by serving as a devil’s advocate and generalized contrarian.³¹ As another example, as of October 2023, OUSD (P) officials told us that there was a lot of work being done on security cooperation programs. Overall, according to OUSD (P) officials, while the time frames for implementing the remaining six objectives are aggressive and might not be completed by the end of fiscal year 2025 as noted in the action plan, DOD is making progress implementing them.

DOD Has Not Addressed Uncertainty about What Constitutes Improvement and How the Action Plan Applies to Certain Operations

Although implementation efforts are underway, DOD has not addressed two challenges that may make it difficult to implement its action plan. First, officials from DOD components do not know what constitutes improvement to civilian harm mitigation and response. Second, officials from DOD components do not know how the action plan is relevant in instances in which DOD operations result in civilian harm during large-scale conflicts (i.e., peer or near-peer fights rather than counterterrorism operations) and during nonkinetic activities (e.g., information, cyber, and space operations and defense support of civil authorities). “Nonkinetic” refers to actions designed to produce effects without the direct use of the force or energy of moving objects and directed energy sources.³²

³¹DOD, *Civilian Harm Mitigation and Response Action Plan*.

³²For the purpose of this report we are using the Air Force definition for nonkinetic. U.S. Air Force, *Air Force Glossary* (May 14, 2021).

DOD Component Officials Do Not Know What Constitutes Improvement

The officials from the DOD components we met with told us that they understood the importance of continually improving efforts to mitigate and respond to civilian harm, the goal of the action plan.³³ However, in our discussions with DOD component officials about challenges with implementing the action plan, the officials did not know what constitutes improvement, even as implementation efforts are underway. For example:

- OUSD (I&S) officials told us there are no performance measures and determining what constitutes improvement is a complex challenge. The officials told us that measures of improvement would be helpful.
- Officials from U.S. Central Command stated that they do not know the end state for the action plan, as there are no performance measures associated with the action plan that measures improvement in civilian harm. According to these officials, the combatant command has already been mitigating civilian harm. From their perspective, the action plan may be more helpful to other combatant commands that have not had recent experiences with combat and civilian harm mitigation.
- U.S. Special Operations Command officials stated there is a lack of clarity on how DOD measures successful implementation of its action plan. Officials told us that there is currently no deficiency in DOD's civilian harm mitigation and response efforts and the action plan codifies what the command is already doing.
- An official from U.S. Africa Command told us that DOD does not know what improvements from implementing the action plan look like, as OUSD (P) and the Joint Staff have not communicated that to the combatant command. U.S. Africa Command officials said that guidance in the form of measures of effectiveness is needed to help ensure that the implementation of the action plan is achieving desired outcomes.
- A U.S. Indo-Pacific Command official stated that there had initially been some resistance within the combatant command to implement

³³DOD, *Civilian Harm Mitigation and Response Action Plan*. The Secretary of Defense directed the creation of the action plan to improve how DOD mitigates and responds to civilian harm resulting from military operations. The action plan states that it represents the next phase of DOD's enduring commitment to improvement.

the action plan because the U.S. military already does everything it can to prevent civilian harm.

- A Navy official told us that it is not clear from the action plan what DOD is trying to improve. The official noted that some staff at lower levels of the Navy are asking questions about what DOD is fixing by implementing the action plan.

Officials from DOD components do not know what constitutes improvement because DOD has not established performance goals and measures for evaluating the effect that implementing the action plan has on improving the mitigation and response to civilian harm. GAO's *Business Process Reengineering Assessment Guide* states that as part of an agency's business case for implementing a new process, it should have established specific performance goals for the reengineered process.³⁴ These goals should include a mixture of intermediate goals to be met at various stages during the implementation phase (e.g., a percentage of unit commanders trained in civilian harm mitigation and response by a certain date), as well as ultimate performance goals for the process after it has been fully implemented (e.g., all service members and DOD staff trained in civilian harm and mitigation by a later date). Measuring the performance of its major processes helps an agency to determine how well it is meeting its mission goals. For example, such goals and measures could help DOD components to connect any positive results regarding civilian harm mitigation and response to the effects of the action plan.

OUSD (P) officials stated that it is clear the goal is to move toward institutionalizing efforts so that continued improvements related to civilian harm will endure. However, discussions with DOD officials about challenges in implementing the action plan suggest that this understanding varies. The officials told us that senior-level officials, such as the commanders of combatant commands, do know what constitutes improvement, while officials at the lower levels do not. For example, a senior-level official from U.S. Central Command said that the broader position of the combatant command is that the end state is clear and senior-level leaders do know what constitutes improvement. As such, as of August 2023, the senior-level leader said the combatant command is actively working to mitigate civilian harm in its area of responsibility and has expanded its civilian harm mitigation efforts even further with the action plan. However, it is important that DOD officials at all levels

³⁴GAO, *Business Process Reengineering Assessment Guide, Version 3*, [GAO/AIMD-10.1.15](#) (May 1997).

understand what constitutes improvement, especially as the department begins to hire 166 full-time equivalents across DOD components to support the implementation of its action plan.

An OUSD (P) official also said that DOD has not discussed performance measures for assessing the department's implementation of its action plan, other than tracking start dates for the individual actions identified in the action plan. However, tracking start dates alone would not help DOD monitor the results of those actions, and OUSD (P) officials acknowledged that performance measures could be helpful. Establishing performance goals and measures for its action plan could help DOD target resources and make adjustments in the remaining years of implementation, increase its ability to get buy-in from DOD components and officials at all levels implementing the action plan, and better monitor progress in implementing it to help ensure that the improvements endure.

DOD Component Officials Are Unclear about How the Action Plan Is Relevant for Large-Scale Conflicts and Nonkinetic Activities

Large-Scale Conflicts

In the action plan, the Secretary of Defense noted that it is scalable, and as such is relevant to both counterterrorism operations and large-scale conflicts against peer adversaries. However, in our discussions with DOD components about challenges in implementing the action plan, some indicated that they are unclear about how to mitigate and respond to civilian harm for large-scale conflicts. This is because they felt that the action plan is geared toward counterterrorism operations. For example, officials from U.S. Special Operations Command told us that the action plan appeared to be focused on counterterrorism operations. According to the officials, when there are targeted raids and strikes that are spaced out in time, as during counterterrorism operations, DOD has ample time to investigate incidents of civilian harm. However, officials said the department may not have that investigation time for large-scale conflicts, during which the operating tempo is faster and access to the site of the incident may not be feasible.

Additionally, OUSD (I&S) officials stated that it will be challenging to mitigate and respond to instances of civilian harm resulting from major combat operations with peer or near-peer adversaries. According to the officials, mitigating and responding to civilian harm in major combat

operations will require much more time, resources, and personnel than during the counterterrorism or irregular warfare operations of the past 20 years. Officials from U.S. Africa Command similarly discussed the challenge scaling from conducting civilian harm response during counterterrorism operations to major combat operations and provided a comparison between the two types of operations. Specifically, U.S. Africa Command has conducted over 225 counterterrorism strikes from 2017 through April 2023 in Somalia, according to an April 2023 briefing provided by the combatant command. In contrast, the briefing noted that the large-scale conflict of Operation Desert Storm in 1991 resulted in over 24,000 sorties and about 5,000 strikes within the first 12 days. According to the officials, the numbers illustrate the difficulty tracking potential civilian harm incidents in larger scale conflicts.

Officials from U.S. Indo-Pacific Command were also unclear about how to mitigate and respond to civilian harm for large-scale conflicts. An official from U.S. Indo-Pacific Command—a combatant command that is preparing for a potential large-scale conflict with China—said that the reaction to the action plan was that civilian harm mitigation and response is more appropriate for counterterrorism or counterinsurgency operations and irrelevant for large-scale conflicts. For example, one official wondered how to avoid mistaken target identification for each strike if there are hundreds or thousands of strikes in a large-scale, high-intensity conflict. Other officials said that collateral damage estimation and battle damage assessments will be harder to undertake in that kind of environment. They added that, to an extent, the feasibility of doing so would depend on the permissibility of the environment (i.e., how much freedom of movement U.S. forces have).³⁵

Joint Staff officials told us that the action plan is a product of lessons learned over the past 20 years mitigating and responding to civilian harm in counterterrorism operations. However, the officials also stated that they are working to clarify how to mitigate and respond to civilian harm in

³⁵According to Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3160.01D, a “collateral damage estimation methodology” is a simple and repeatable process to assess, mitigate, and inform commanders of potential incidental damage to collateral objects or civilians/noncombatants within a defined radius around a target. Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3160.01D, *No-Strike and Collateral Damage Estimation Methodology* (May 21, 2021). According to CJCSI 3162.02A, a “battle damage assessment” is the estimate of damage composed of the physical damage assessment and functional damage assessment, as well as the target system assessment, resulting from the application of lethal or nonlethal military force. Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3162.02A, *Methodology for Combat Assessment* (July 16, 2021).

large-scale conflicts based on the feedback received from within DOD. For example, an OUSD (P) official said that it may be harder to understand how DOD uses condolence and sympathy payments in response to a civilian harm incident in large-scale conflicts. This official told us that the office had selected and funded a federally funded research and development center—the Center for Naval Analyses—to assess how to mitigate and respond to civilian harm in large-scale conflicts. The official anticipates the study to be completed by the end of calendar year 2023. Further, as of October 2023, OUSD (P) officials told us that U.S. Indo-Pacific Command is incorporating civilian harm mitigation and response into its exercises. We believe DOD’s efforts to address this issue, when fully implemented, can help better position the department to mitigate and respond to civilian harm during large-scale conflicts.

Nonkinetic Activities

The action plan states that it is also relevant to both kinetic activity, such as strikes using munitions, and nonkinetic activity, such as information, space, or cyber operations.³⁶ To officials from U.S. Southern Command and one senior-level official from U.S. Northern Command, this is clear. U.S. Southern Command officials stated that the combatant command plans to apply the action plan to both kinetic and nonkinetic activities. For example, the officials said that reducing migration toward the U.S. southern border—a nonkinetic activity conducted in coordination with partner nations—was an example of how the combatant command planned to apply the action plan to ongoing planning and operations. Specifically, U.S. Southern Command was applying civilian harm mitigation principles in considering how to balance stopping a criminal threat with potentially creating a humanitarian crisis among migrants. The U.S. military could help partner nations eliminate criminal threat networks operating in the Darien Gap—an inhospitable and treacherous area that connects South America and North America. However, these criminal threat networks are helping migrants move through the gap. Therefore, the U.S. military assisting partner nations to eliminate these criminal threat networks could result in thousands of migrants getting stuck in the

³⁶DOD, *Civilian Harm Mitigation and Response Action Plan*. For the purpose of this report we are using the Air Force definition for “kinetic.” “Kinetic” refers to actions designed to produce effects using the forces and energy of moving bodies and directed energy, including physical damage to, alteration of, or destruction of targets. U.S. Air Force, *Air Force Glossary*.

gap, causing civilian harm. Officials said this was an example of applying the action plan to a nonkinetic activity to mitigate civilian harm.

Also, a senior-level official from U.S. Northern Command stated that how the action plan is applicable to kinetic and nonkinetic activities is clear to the combatant command's leadership. For example, according to this official, the combatant command closely coordinates with other combatant commands on both kinetic and nonkinetic activities for its primary mission of homeland defense.

However, in our discussions with DOD components about challenges with implementing the action plan, officials from other DOD components told us that their perception is that the action plan is geared toward kinetic activities. They said it is not clear how the action plan directs them to mitigate and respond to civilian harm in nonkinetic activities. For example:

- U.S. Northern Command officials supporting implementation of the action plan told us that they do not think that it applies to the combatant command's operations, which are all nonkinetic. As an example, they do not think the action plan applies to defense support of civil authorities, such as the combatant command's lead of DOD's support to the COVID-19 pandemic response. Officials said that it is not clear whether such support of a pandemic response is considered a military operation and how the combatant command would mitigate and respond to any harm to U.S. civilians resulting from a pandemic response.
- OUSD (I&S) and Joint Staff officials told us that information operations (i.e., nonkinetic activities) are different from traditional combat operations (i.e., kinetic activities).
- A U.S. Africa Command official said that it is not clear how the action plan applies to nonkinetic activities, such as a cyber attack.

OUSD (I&S) and U.S. Africa Command officials characterized multiple examples of operations and cyber activities that they were unsure how to apply the action plan to, examples of activities that could adversely affect civilian populations. DOD designated these examples as Controlled Unclassified Information. While we characterize them here at a high level, we have separately shared them with the appropriate congressional committees and DOD officials.

According to an OUSD (P) official, the action plan does apply to nonkinetic activities, such as cyberspace operations. The official explained that satellites such as those for Global Positioning Systems

(GPS) directly affect civilian life. As such, space operations against a GPS satellite that then misguides civilians using GPS could result in civilian harm. That is why, in the case of cyber and space operations, the action plan assigns personnel to both U.S. Cyber and Space Commands for implementation of the action plan. According to the OUSD (P) official, these combatant commands should look at what civilian harm looks like in these operations and responses to civilian harm resulting from these operations. However, the official agreed that there is less clarity on how to apply civilian harm mitigation and response to nonkinetic activities.

How the action plan applies to nonkinetic activities is unclear to officials from DOD components because DOD has not conducted, nor does it plan to conduct, an assessment to clarify how to mitigate and respond to civilian harm resulting from nonkinetic activities. This is in contrast with the assessment that the Center for Naval Analyses is undertaking on large-scale conflicts. An OUSD (P) official told us that figuring out the specifics of how to mitigate and respond to civilian harm in these activities was not a priority for DOD. Hence, the department has not put forth much thought toward addressing nonkinetic activities. This official stated, however, that this will become increasingly important. Without conducting an assessment to clarify how to mitigate and respond to civilian harm in nonkinetic activities, DOD components responsible for implementing the action plan will not be positioned to understand which nonkinetic activities to apply the action plan to and how to ensure that the efforts endure to improve the mitigation and response to civilian harm.

Conclusions

Protecting civilians is a strategic priority and moral imperative for DOD, and the U.S. military is steadfastly committed to protecting civilians in military operations. To demonstrate this commitment, DOD has set forth an action plan that identifies how the department will systematically improve its approach to civilian harm mitigation and response. DOD has begun taking a number of positive steps, including broadening its approach to protecting civilians beyond death or injury caused by military operations. These steps also include considering the civilian environment in planning and conducting operations.

However, DOD faces challenges clarifying what constitutes improvement to civilian harm mitigation and response and how the action plan applies to nonkinetic activities. Establishing performance goals and measures could help DOD target resources and make adjustments in the remaining

years of implementation—currently planned to go through fiscal year 2025, increase its ability to get buy-in from DOD components and officials at all levels implementing the action plan, and better monitor progress in implementing it to help ensure that the improvements endure. In addition, an assessment to clarify how the action plan applies to nonkinetic activities could help DOD apply the action plan to all of its operations and activities. Taking these actions could help the department maintain momentum in its implementation efforts so that these efforts are enduring, better positioning DOD to mitigate and respond to civilian harm in current and future conflicts.

Recommendations for Executive Action

We are making the following two recommendations to the Secretary of Defense:

The Secretary of Defense should ensure that the Under Secretary of Defense for Policy establishes performance goals and measures for evaluating the effect that implementing the action plan has on improving the mitigation and response to civilian harm. (Recommendation 1)

The Secretary of Defense should ensure that the Under Secretary of Defense for Policy, in coordination with the Joint Staff and combatant commands, conducts an assessment to clarify how to mitigate and respond to civilian harm resulting from nonkinetic activities. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this report for review and comment to DOD in September 2023. In written comments reproduced in appendix II, DOD nonconcurred with the first recommendation and partially concurred with the second recommendation. DOD also provided technical comments, which we incorporated as appropriate.

DOD nonconcurred with our first recommendation that the Secretary of Defense should ensure that the Under Secretary of Defense for Policy establishes performance goals and measures for evaluating the effect that implementing the action plan has on improving the mitigation and response to civilian harm. In its response, DOD stated that the plan contains several comprehensive objectives and the actions required to

achieve them. DOD also noted that the actions are based on recommendations from past investigations into instances of civilian harm, studies of civilian harm caused by U.S. military operations, the expertise of DOD leaders with extensive operational experience, and the work of the team that developed the action plan. DOD said that progress toward implementation of the actions set forth in the action plan is an appropriate measure of improvement. DOD further stated that it would be infeasible to establish performance goals based on observations of civilian harm in current operations, with recent years seeing few instances of civilian harm.

We agree that completing actions set forth in the action plan demonstrates implementation progress. We also continue to believe, however, that performance goals and measures could help DOD ensure officials at all levels understand what constitutes improvement, enhance DOD's ability to monitor progress implementing the action plan, and ensure that improvements endure. As we stated in our report, officials from DOD components—including OUSD (I&S), U.S. Central Command, U.S. Special Operations Command, U.S. Africa Command, U.S. Indo-Pacific Command, and the Navy—told us that they do not know what constitutes improvement. Many of these officials were part of the team that developed the action plan, indicating that progress toward implementing the actions set forth in the action plan is not enough.

Further, we disagree that it is infeasible for DOD to establish performance goals. First, we are not recommending that DOD use the instances of civilian harm incidents as a goal. Second, DOD is providing significant personnel and financial resources to implement the action plan, and it is important for DOD to assess whether those resources and DOD's efforts are having the desired effect. As DOD stated in its letter, the current tempo of U.S. operations has resulted in few instances of civilian harm. This gives DOD the opportunity to consider performance goals and measures now, rather than during a time frame when U.S. operations are at a higher tempo with increased instances of potential civilian harm. Developing performance goals and measures could also help DOD target resources and make adjustments in the remaining years of implementation, and increase its ability to get buy-in from DOD components and officials at all levels implementing the action plan.

DOD partially concurred with our second recommendation that the Secretary of Defense should ensure that the Under Secretary of Defense for Policy, in coordination with the Joint Staff and combatant commands, conducts an assessment to clarify how to mitigate and respond to civilian

harm resulting from nonkinetic activities. In its response, DOD stated that a further assessment is not required at this time, but cited actions it will take to address this recommendation. Specifically, DOD stated that combatant commands, including U.S. Cyber Command, are already exploring how to better mitigate and respond to civilian harm in both kinetic and nonkinetic activities; it has commissioned a study with the Center for Naval Analyses examining the action plan's implementation across the whole spectrum of warfare, to include nonkinetic activities; and the Army has established the Civilian Protection Center of Excellence that will be developing best practices for civilian harm mitigation and response in every operational context.

We agree that it would be beneficial for DOD to take actions like these to address this recommendation. We also continue to believe that a dedicated assessment that clarifies how to mitigate and respond to civilian harm from nonkinetic activities could help the department. As we noted in our report, officials from DOD components said it is not clear how the action plan directs them to mitigate and respond to civilian harm in nonkinetic activities. In addition, although DOD, in its letter, stated that combatant commands are exploring how to mitigate and respond to civilian harm in nonkinetic activities, DOD did not provide documentation of these efforts. During the course of our review, officials from combatant commands did not mention such efforts and an OUSD(P) official stated that assessing the potential impact of nonkinetic activities was not a priority for DOD.

Further, with regard to our second recommendation, DOD stated that the Center of Excellence will develop best practices for every operational context. However, in order to do so for nonkinetic operations, we believe that the Center of Excellence would benefit from conducting an assessment of how to mitigate and respond to civilian harm resulting from nonkinetic activities. Finally, we asked DOD during our review for information on the Center for Naval Analyses study DOD mentions in its comment letter. DOD did not provide any documentation of the study and told us that it was focused on response to large-scale conflicts and was to have been completed by the end of fiscal year 2023. The study could address our recommendation, were it also to assess how to mitigate and respond to civilian harm resulting from nonkinetic operations. We will review the completed study, along with any additional documentation DOD provides, as we follow up on DOD's actions to address this recommendation.

Below we characterize other points raised by DOD in its written comments and our response.

First, DOD said our report draft title (*Civilian Harm: DOD Needs to Take Action to Improve Mitigation and Response Efforts*) is inconsistent with its content. DOD stated that our report could not accurately assess DOD's process for implementing the action plan as it only covers the initial phases of the implementation effort and, therefore, omits a wide range of activity. DOD stated that the gaps we identified are minor and the sort one might expect during the first few months of the first year of implementation, and many of those gaps have now been addressed. For example, DOD cited the December 2023 approval of the DOD instruction as a significant milestone in implementation of the action plan.

We clearly stated in our report that the action plan will be implemented in phases from fiscal years 2022 through 2025, and we discussed the status of those implementation efforts as of the time of our report. We also stated in our report that DOD has begun taking a number of positive steps implementing the action plan. For example, we agree that DOD's December 2023 instruction on civilian harm mitigation and response is a significant milestone. DOD issued this instruction 3 months after we provided our draft report to DOD for comment, and we added language in our final report to reflect this important development.

However, we do not agree with DOD's contention that the two challenges we mention in our report are minor. We believe that clarifying what constitutes improvement to civilian harm mitigation and response under the action plan and how the action plan applies to nonkinetic activities are constructive actions that would help DOD implement its action plan. By addressing our recommendations, DOD can maintain momentum in its implementation efforts to better position the department to mitigate and respond to civilian harm.

For these reasons, we disagree with DOD's statement that the title of our report is inconsistent with its content. We did revise the title to emphasize that our report focuses on the actions DOD should take to *enhance its action plan*.

Second, in its response, DOD stated that it disagrees with our finding that DOD initially focused on taking actions to implement five of the action plan's 11 objectives. In November 2022, officials from OUSD (P) identified for us the five objectives as key for mitigating and reducing civilian harm and stated that these five objectives are particularly critical

in the implementation of the action plan as they are considered catalysts for the action plan's other objectives and corresponding actions. In July 2023, almost a year into implementation of the action plan, OUSD (P) officials provided no objection to us presenting these five objectives as those that DOD focused on in the department's first year of implementation. However, in October 2023, DOD officials raised concerns about this characterization. We incorporated this comment in our final report and noted that as of October 2023 DOD had begun work on all objectives. However, we disagree with DOD that it initially focused on all 11 objectives.

Third, in its response, DOD stated that our draft report included multiple statements that do not accurately reflect the views of many DOD components. Further, DOD stated that the statements were not made by individuals positioned to speak on behalf of the components. Moreover, DOD stated that officials had asked us to correct the statements before we included them in the draft report.

We explained to DOD officials in our August 2023 exit conference and in another discussion in October 2023, after we had provided our draft report, that the DOD officials we met with were well positioned to speak to us as they were supporting implementation of the action plan. We selected whom to meet with at the various DOD components after DOD had identified those officials as experts on civilian harm mitigation and response and implementation of the action plan. Further, in October 2023, DOD officials provided technical comments on our draft report that we included in our final report, as appropriate. These comments provided additional context and perspectives related to challenges that DOD component officials faced in implementing the action plan. We incorporated these comments, as appropriate, and provided DOD with the revisions we made before DOD sent us its February 2024 response letter.

In its response, DOD provided the following examples of statements that it asked us to change.

- DOD cited our statement that we determined that the action plan did not include a recommendation from a November 2021 DOD Inspector General study that U.S. Special Operations Command revise its law of war guidance. In its response, DOD stated that it asked us to revise the draft to state that, despite the fact that this recommendation was not included in the action plan, U.S. Special Operations Command nonetheless revised its law of war guidance. Further, DOD stated that this recommendation was

specific to U.S. Special Operations Command and thus was not appropriate for inclusion in an action plan designed for the entire department.

We disagree with DOD's characterization. Our report accurately characterized the DOD Inspector General study and DOD's response. We stated in our draft report that U.S. Special Operations Command implemented this recommendation. We also stated that the action plan does not include five recommendations from several studies that were focused on specific military operations or DOD components. Further, we stated that OUSD (P) officials told us that this recommendation related to U.S. Special Operations Command and other recommendations on specific military operations or DOD components are not reflected in the action plan because they are directed to a specific DOD component, while the action plan is focused on broad actions for mitigating and responding to civilian harm across the department. Thus, because our draft report already addressed the concerns that DOD raised its comment letter, we did not make any changes in our final report.

- DOD cited a statement in our draft report that "U.S. Special Operations Command officials stated that there is a lack of clarity on how DOD measures successful implementation of the action plan. Officials told us that there is currently no deficiency in DOD's civilian harm mitigation and response efforts and the action plan codifies what the command is already doing."

In its response, DOD stated that this statement did not reflect the view of the command and offered alternative language that DOD stated was more accurate from an official better placed to speak on the issue. DOD officials raised similar concerns during our August 2023 exit conference and in an October 2023 discussion about our draft.

We disagree with DOD and believe our draft report accurately portrayed what was conveyed during our meeting with 11 officials from U.S. Special Operations Command. These officials included the action officer overseeing implementation of the action plan and staff assigned to the offices with equities in the action plan.

DOD also stated in its response that the DOD instruction on civilian harm mitigation and response, approved by Secretary of

Defense Austin, assigns responsibilities and procedures for conducting assessments and investigations. However, responsibilities and procedures for conducting assessments and investigations do not address the challenge U.S. Special Operations Command officials identified—the lack of clarity on how DOD measures successful implementation of the action plan.

- In its response, DOD stated it asked us to clarify the statement from our draft report that officials from U.S. Special Operations command told us that the action plan is focused on counterterrorism operations and that the department does not have similar investigation time for large-scale conflicts, during which the operating tempo is faster, as it does with targeted raids and strikes that are spaced out in time during counterterrorism operations. DOD also stated that U.S. Special Operations Command made clear that the statement in our draft report did not reflect the view of the command and offered language from an official it believes is better placed to speak on the issue. We also discussed DOD's concerns about this statement during our August 2023 exit conference and in an October 2023 discussion about our draft.

U.S. Special Operations Command officials supporting implementation of the action plan made the statements we included in our draft report. While the specific language may not reflect the view of all U.S. Special Operations Command officials, or of the command as an entity, it accurately reflects the view of the officials that we spoke with supporting implementation of the action plan

To reflect the position of the command, following the August 2023 exit conference, we incorporated in our draft report alternative language that U.S. Special Operations Command had offered to state that officials said the action plan appeared to be focused on counterterrorism operations. We also made revisions to incorporate the alternative language that U.S. Special Operations Command offered, as appropriate, to state that the department may not have the investigation time for large-scale conflicts, during which the operating tempo is faster and access to the site of the incident may not be feasible. We continue to believe these statements are accurate and responsive to the command's concerns.

- DOD cited our statement in our draft report that U.S. Central Command officials told us that the combatant command has already been mitigating civilian harm and, from their perspective, the action plan may be more helpful to other combatant commands that have not had recent experiences with combat and civilian harm mitigation. In its response, DOD stated that this statement does not clearly reflect U.S. Central Command's views regarding implementation of the action plan.

The statement in our draft report may not reflect the view of all officials at U.S. Central Command, or the command as an entity, but it accurately reflects the statement made by U.S. Central Command officials that we spoke with supporting implementation of the action plan. We met with eight officials at U.S. Central Command, including the chief of civilian harm mitigation and response and staff assigned to the offices with equities in the action plan. After meeting with DOD officials in October 2023, we added to our final report a statement by a senior-level official from U.S. Central Command that the broader position of the combatant command is that the end state is clear and senior-level officials do know what constitutes improvement. We also added a statement by this official summarizing the positive steps the combatant command has taken. We provided DOD these changes before DOD sent its response letter and do not believe additional changes are needed.

- DOD cited the statement in our draft report that an official from U.S. Africa Command told us that DOD does not know what improvements from implementing the action plan look like, as OUSD (P) and the Joint Staff have not communicated that to the combatant command. In its response, DOD said it asked us to remove or adjust the statement.

After meeting with DOD officials in the August 2023 exit conference, we revised the statement to incorporate, as appropriate, proposed revisions from U.S. Africa Command. In our draft report, we specifically clarified that Africa Command officials stated that guidance in the form of measures of effectiveness is needed to help ensure that the implementation of the action plan is achieving desired outcomes. We included this statement in our draft report and we do not believe additional changes are needed. Specifically, we did not incorporate DOD's proposed statement that Africa Command officials told us "OUSD(P) provided a clear roadmap that articulates objectives and actions that will help the

combatant command successfully implement” the action plan, because we did not hear that statement during our review.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Defense. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9627 or maurerd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

A handwritten signature in black ink that reads "Diana Maurer". The signature is written in a cursive, flowing style.

Diana Maurer
Director, Defense Capabilities and Management

List of Committees

The Honorable Jack Reed
Chairman
The Honorable Roger Wicker
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Jon Tester
Chair
The Honorable Susan Collins
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Mike Rogers
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Ken Calvert
Chair
The Honorable Betty McCollum
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

Appendix I: Objectives, Scope, and Methodology

Our report examines (1) how the action plan captures the studies on civilian harm and the associated recommendations, (2) the status of the action plan's implementation, and (3) the extent to which DOD has addressed any challenges in implementing the action plan.

For objective one, we compared the 68 recommendations made in nine key studies on civilian harm in military operations that the Office of the Under Secretary of Defense for Policy (OUSD (P)) identified with the August 2022 action plan, *Civilian Harm Mitigation and Response Action Plan*. OUSD (P), in leading the development and implementation of the action plan, identified these studies as key since they were fundamental in informing the action plan.¹ While there is no requirement that the action plan incorporate the recommendations from the nine studies, we assessed which study recommendations the action plan captures.²

If the action plan included at least one recommendation from a study, we assessed the study as being captured in the action plan. If the action plan included any part of a study recommendation, we assessed the recommendation as captured in the action plan. To count the number of study recommendations captured in the action plan, we reviewed the action plan to determine whether at least one part of each study recommendation was referenced in the action plan. To make those determinations, one analyst reviewed the recommendations made in each study to determine the extent to which at least one was included in the action plan. A second analyst reviewed the assessment of the first analyst and where there was disagreement, it was resolved through discussion.

¹DOD, *Civilian Harm Mitigation and Response Action Plan* (Aug. 25, 2022).

²In a January 2022 memorandum, the Secretary of Defense stated that the action plan will outline the steps DOD will take and the resources that will be required to implement appropriate recommendations from recently-completed studies of civilian harm sponsored by DOD, recent DOD Office of Inspector General evaluations, and independent reviews that the Secretary directed about strikes that had resulted in civilian casualties. However, there is no requirement that the action plan incorporate the recommendations from these nine studies. Secretary of Defense Memorandum, *Improving Civilian Harm Mitigation and Response* (Jan. 27, 2022).

In our analysis, we did not include any recommendations that were administrative in nature and not relevant to Department of Defense (DOD) efforts related to mitigating and responding to civilian harm. To corroborate our understanding, we interviewed officials from OUSD (P) and from three of the five organizations that conducted seven of the nine studies—RAND, the Joint Staff, and the DOD Office of the Inspector General—to obtain their perspectives on the recommendations that the action plan captures and does not capture.³

For objective two, to describe the initial steps DOD has taken to implement the action plan, we analyzed ongoing and planned efforts, such as by reviewing implementation status reports, summaries of Civilian Harm Mitigation and Response Steering Committee meetings, briefings on implementation efforts, and a spend plan for fiscal year 2023 funding.

For objective three, as a part of the interviews that we conducted, we asked DOD components about any challenges in implementing the action plan that they had observed and experienced and steps they were taking or planned to take to address these challenges. The interviews were usually conducted with officials from the same component but, in some instances, were conducted with officials from more than one component. Where we had additional questions, we followed up later with DOD component officials by email for clarification.

We compared the steps DOD has taken to address these challenges with criteria identified in GAO's *Business Process Reengineering Assessment Guide*.⁴ Specifically, the guide states that, as part of an agency's business case for implementing a new process, the agency should have established specific performance goals for the reengineered process. These goals should include a mixture of intermediate goals to be met at various stages during the implementation phase as well as ultimate performance goals for the process after it has been fully implemented. The guide also states that measuring the performance of its major processes helps an agency to determine how well it is meeting its mission goals. We also compared the steps DOD is taking to address these

³We did not interview officials from two of the five organizations that conducted two of the nine studies because officials involved in those studies were no longer with their respective organizations.

⁴GAO, *Business Process Reengineering Assessment Guide, Version 3*, [GAO/AIMD-10.1.15](#) (May 1997).

challenges with the actions directed in the action plan.⁵ Specifically, the action plan states that it is relevant to both counterterrorism operations and large-scale conflicts, as well as to kinetic and nonkinetic activities.

For objectives two and three, we interviewed officials from the following 16 DOD components with knowledge of the action plan's implementation and identified challenges in implementing it:

- OUSD (P)
- Office of the Under Secretary of Defense (Comptroller)
- Office of the Under Secretary of Defense for Intelligence and Security
- Joint Staff
- Department of the Air Force
- Department of the Army
- Department of the Navy
- U.S. Africa Command
- U.S. Central Command
- U.S. European Command
- U.S. Indo-Pacific Command
- U.S. Northern Command
- U.S. Southern Command
- U.S. Special Operations Command
- Defense Intelligence Agency
- National Geospatial-Intelligence Agency

Through review of the action plan, studies on civilian harm mitigation and response, and interviews with OUSD (P) officials, we selected the combatant commands that are focused on operations that have resulted or may result in civilian harm.

We also selected and interviewed officials from the following nongovernmental organizations that have worked with DOD on issues related to civilian harm mitigation and response:

⁵DOD, *Civilian Harm Mitigation and Response Action Plan*.

- Airwars
- the Center for Civilians in Conflict
- Human Rights Watch
- the International Committee of the Red Cross

We conducted this performance audit from September 2022 to March 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Defense

**Appendix II: Comments from the Department
of Defense**



**OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
2500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2500**

SPECIAL OPERATIONS /
LOW INTENSITY CONFLICT

February 20, 2024

Ms. Diana Maurer
Director, Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington DC, 20548

Dear Ms. Maurer:

Thank you for the opportunity to comment on the Government Accountability Office (GAO) draft report GAO-24-106257 "Civilian Harm: DOD Needs to Take Action to Improve Mitigation and Response Efforts." I would like to correct some of the inaccuracies in the report and comment on your two recommendations for the Department of Defense (DoD).

First, the title of the report is inconsistent with its content, which does not find that action on implementation is wanting.¹ Indeed, your report could not accurately assess DoD's implementation process as it only covers a brief period of time during the initial phases of the implementation effort and, therefore, necessarily omits a wide range of activity that has occurred to effectively implement the CHMR-AP. Although the report finds that there are some areas that were not yet complete or fully successful during the relevant timeframe, such gaps are minor and are the sort one might expect during the first few months of our first full year of implementation. And, of course, many of those gaps have now been addressed as our CHMR-AP implementation has continued. For instance, on December 21, 2023, Secretary Austin approved the Department of Defense Instruction (DoDI) on CHMR. The release of the CHMR DoDI is a significant milestone in CHMR-AP implementation and it is, in turn, already catalyzing further implementation.

Secondly, your report incorrectly states that the Department focused initial implementation of the Civilian Harm Mitigation and Response Action Plan (CHMR-AP) on five specific objectives. As our team explained to GAO, the Department did not limit implementation to a subset of the objectives, but instead directed components to focus on all 11 objectives so that they can be completed within the timeframes set forth in the CHMR-AP. This is because the CHMR-AP is a phased implementation plan and each action has a timeframe during which it must be implemented. Accordingly, while DoD has certainly made significant progress on the five objectives noted in the report, we have also made progress on all of the other objective in the CHMR-AP. Any statement or graphic indicating that the implementation effort has focused on a limited subset of CHMR-AP objectives is incorrect.

¹ Note, for example, that on page 6, your draft states that the "Action Plan Generally Captures the Recommendations Identified in Nine Studies on Civilian Harm." Such findings are inconsistent with your report's title.



Appendix II: Comments from the Department of Defense

Third, the report includes multiple statements that clearly do not accurately reflect the views of many DoD components. These statements have been previously highlighted to GAO, including at the exit conference at which relevant DoD components explained that the statements were not made by individuals positioned to speak on behalf of the component. The relevant components asked the GAO team to correct these statements when they reviewed the draft statement of facts and at the exit conference, yet the GAO team included them in the draft final report. Some examples include:

- Page 11 of the draft report states: “For example, we determined that the action plan did not include a recommendation from the 2021 DOD Inspector General study that U.S. Special Operations Command revise its law of war guidance and develop procedures to document its review of service component and theater special operations command training briefs, including deficiencies and corrections.”
 - U.S. Special Operations Command (USSOCOM) asked to have the draft revised to state that, despite the fact that this recommendation was not included in the action plan, USSOCOM nonetheless revised its law of war guidance and developed procedures to document its review of service component and theater USSOCOM training briefs. This additional information was not included in the final draft report.
 - Moreover, it is evident that this recommendation was USSOCOM-specific, rather than a recommendation aimed at the broader force. The CHMR-AP Tiger Team did not view a command-specific recommendation as appropriate for inclusion in an action plan designed for the entire Department.
 - Importantly, though not a part of the CHMR-AP, this USSOCOM-specific recommendation was subsequently accomplished. Your report, however, makes no mention of the fact that USSOCOM, in fact, did revise its law of war guidance and developed procedures to document its review of service component and theater USSOCOM training briefs. The GAO report, therefore, leaves the incorrect impression that this recommendation was left unaddressed. It was not.
- Page 18 of the draft report states: “U.S. Special Operations Command officials stated there is a lack of clarity on how DOD measures successful implementation of the action plan. They told us that there is currently no deficiency in DOD’s civilian harm mitigation and response efforts and the action plan codifies what the command is already doing.”
 - This does not reflect USSOCOM’s request that GAO correct the statement to say:
 - “U.S. Special Operations Command personnel who were questioned, stated the absence of the approved DOD definitions of Civilian Harm and Civilian Environment present unique challenges to developing proper metrics that measure successful implementation of the action plan. Furthermore, without the approved/published DoDI and the Chairman of the Joint Chiefs of Staff Instruction, the challenges lie in identifying and determining if there are deficiencies in the command’s current response efforts to civilian harm.”

Appendix II: Comments from the Department of Defense

- After USSOCOM made clear that the statement did not reflect the views of the Command and offered alternative language from an official better placed to speak on the issue, GAO should have amended the report to reflect the more accurate language.
- Further, as noted above, on December 21, 2024, Secretary Austin approved the CHMR DoDI, which assigns responsibilities throughout the Department for conducting assessments and investigations when civilian harm occurs. The CHMR DoDI also contains a robust section that lays out procedures for conducting assessments and investigations, including the conduct of assessments and investigations during large-scale combat operations.
- Page 20 the report states: “For example, officials from U.S. Special Operations Command told us that the action plan is focused on counterterrorism operations. According to the officials, when there are targeted raids and strikes that are spaced out in time, as during counterterrorism operations, DOD is able to investigate incidents of civilian harm. However, the officials said the department does not have that investigation time for large-scale conflicts, during which the operating tempo is faster.”
 - U.S. Special Operations Command asked the GAO to clarify the statement by changing it to:
 - “For example, participants from U.S. Special Operations Command told us that the action plan, at first glance, appeared to place more emphasis on counterterrorism operations. According to the participants, when there are targeted raids and strikes that are spaced out in time, as during counterterrorism operations, DOD has ample time to investigate incidents of civilian harm. However, the participants mentioned that without OUSD(P)’s DoDI, which will contain the “standardized process for civilian harm assessments,” it will be difficult to determine if SOF has the capability/capacity to conduct investigations during large-scale conflicts, especially when operations tempo is elevated and access may not be feasible.”
 - This revised statement was not included in the final draft report. After USSOCOM made clear that the statement did not reflect the views of the Command and offered alternative language from an official better placed to speak on the issue, GAO should have amended the report to reflect the more accurate language.
 - Further, as noted above, on December 21, 2024, Secretary Austin approved the CHMR DoDI, which contains a robust section that lays out procedures for conducting assessments and investigations, including the conduct of assessments and investigations during large-scale combat operations.
- Page 18 of the report, in reference to U.S. Central Command (USCENTCOM), states that “the Combatant Command [USCENTCOM] has already been mitigating civilian harm” and “From their perspective, the action plan may be more helpful to other combatant commands that have not had recent experience with combat and civilian harm mitigation.”

Appendix II: Comments from the Department of Defense

- This statement does not clearly reflect USCENTCOM's views regarding CHMR-AP implementation. USCENTCOM provided the following information to the GAO team:
 - "U.S. Central Command is actively working to mitigate civilian harm in its volatile area of responsibility and has expanded its civilian harm mitigation efforts even further with the introduction of CHMR-AP. The command released official guidance to forward-deployed personnel in 2022 requiring the incorporation of a 'Red Team' function during pre-strike processes to help negate cognitive bias prior to engagements. Additionally, it conducts periodic Staff Assistance Visits to conventional and Task Force units throughout the Middle East to inform deployed senior leaders and action officers of U.S. Central Command targeting and civilian harm mitigation guidance. In addition, CCJ3 hosts monthly CIVCAS Working Group meetings with the Components and subordinate operational commands to discuss ongoing implementation of the CHMR-AP, highlight lessons learned and best practices, and provide updated information and guidance, as appropriate."
- As with other statements and information given to GAO, this information was not included in the final draft report.
- Page 19 of the draft states that "[a]n official from U.S. Africa Command [AFRICOM] told us that DOD does not know what improvements from implementing the action plan looks like, as OUSD(P) and Joint Staff have not communicated that to the combatant command."
 - AFRICOM has asked the GAO to remove the statement or to adjust it to read as follows:
 - "OUSD(P) provided a clear roadmap that articulates objectives and actions that will help the combatant command successfully implement the CHMR-AP. However, guidance in the form of measures of performance and effectiveness, that is anticipated to be provided in the DoD Instruction and from the Civilian Protection Center of Excellence, is needed to help ensure that the implementation of the action plan is achieving desired outcomes."

I also wanted to provide specific response to the two recommendations that the report lays out. The first recommendation is that "[t]he Secretary of Defense should ensure that the Under Secretary of Defense for Policy establishes performance goals and measures for evaluating the effect that implementing the action plan has on improving the mitigation and response to civilian harm." DoD non-concurs in this recommendation. At the outset, the CHMR-AP is an action plan containing several comprehensive objectives and the actions required to achieve them. These actions are based on the recommendations from past investigations into instances of civilian harm, studies of civilian harm caused by U.S. military operations, the expertise of DoD leaders with extensive operational experience, and the work of the CHMR-AP Tiger Team. Progress toward implementation of the actions set forth in the CHMR-AP is, therefore, an appropriate measure of improvement within the Department. Moreover, in light of the current tempo of U.S. military operations – with recent years seeing

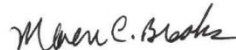
**Appendix II: Comments from the Department
of Defense**

few instances of civilian harm caused by U.S. military operations – it would be infeasible to establish performance goals based on observations of civilian harm in current operations.

The second recommendation in your report states that “[t]he Secretary of Defense should ensure that the Under Secretary of Defense for Policy, in coordination with the Joint Staff and combatant commands, conducts an assessment to clarify how to mitigate and respond to civilian harm resulting from non-kinetic activities.” DoD partially concurs in the recommendation. As part of the CHMR-AP implementation, combatant commands, including U.S. Cyber Command, are already exploring how to better mitigate and respond to civilian harm in both kinetic and non-kinetic activities. In addition, the Department has commissioned a study with the Center for Naval Analysis examining CHMR-AP implementation across the whole spectrum of warfare, to include non-kinetic activities. Lastly, pursuant to the CHMR-AP, the Department of the Army has established the Civilian Protection Center of Excellence which will be developing best practices for civilian harm mitigation and response in every operational context. Accordingly, we do not believe a further assessment is required at this time.

We appreciate your continued efforts. If you have any additional questions on this issue, my point of contact is Cara Negrette, 703-697-3512.

Sincerely,



Maren Brooks
Deputy Assistant Secretary of Defense for
Irregular Warfare and Counterterrorism

Accessible Text for Appendix II: Comments from the Department of Defense

February 20, 2024

Ms. Diana Maurer
Director, Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington DC, 20548

Dear Ms. Maurer:

Thank you for the opportunity to comment on the Government Accountability Office (GAO) draft report GAO-24-106257 "Civilian Harm: DOD Needs to Take Action to Improve Mitigation and Response Efforts." I would like to correct some of the inaccuracies in the report and comment on your two recommendations for the Department of Defense (DoD).

First, the title of the report is inconsistent with its content, which does not find that action on implementation is wanting.¹ Indeed, your report could not accurately assess DoD's implementation process as it only covers a brief period of time during the initial phases of the implementation effort and, therefore, necessarily omits a wide range of activity that has occurred to effectively implement the CHMR-AP. Although the report finds that there are some areas that were not yet complete or fully successful during the relevant timeframe, such gaps are minor and are the sort one might expect during the first few months of our first full year of implementation. And, of course, many of those gaps have now been addressed as our CHMR-AP implementation has continued. For instance, on December 21, 2023, Secretary Austin approved the Department of Defense Instruction (DoDI) on CHMR. The release of the CHMR DoDI is a significant milestone in CHMR-AP implementation and it is, in turn, already catalyzing further implementation.

¹ Note, for example, that on page 6, your draft states that the "Action Plan Generally Captures the Recommendations Identified in Nine Studies on Civilian Harm." Such findings are inconsistent with your report's title.

Secondly, your report incorrectly states that the Department focused initial implementation of the Civilian Harm Mitigation and Response Action Plan (CHMR-AP) on five specific objectives. As our team explained to GAO, the Department did not limit implementation to a subset of the objectives, but instead directed components to focus on all 11 objectives so that they can be completed within the timeframes set forth in the CHMR-AP. This is because the CHMR-AP is a phased implementation plan and each action has a timeframe during which it must be implemented. Accordingly, while DoD has certainly made significant progress on the five objectives noted in the report, we have also made progress on all of the other objective in the CHMR-AP. Any statement or graphic indicating that the implementation effort has focused on a limited subset of CHMR-AP objectives is incorrect.

Third, the report includes multiple statements that clearly do not accurately reflect the views of many DoD components. These statements have been previously highlighted to GAO, including at the exit conference at which relevant DoD components explained that the statements were not made by individuals positioned to speak on behalf of the component. The relevant components asked the GAO team to correct these statements when they reviewed the draft statement of facts and at the exit conference, yet the GAO team included them in the draft final report. Some examples include:

- Page 11 of the draft report states: "For example, we determined that the action plan did not include a recommendation from the 2021 DOD Inspector General study that U.S. Special Operations Command revise its law of war guidance and develop procedures to document its review of service component and theater special operations command training briefs, including deficiencies and corrections."
 - U.S. Special Operations Command (USSOCOM) asked to have the draft revised to state that, despite the fact that this recommendation was not included in the action plan, USSOCOM nonetheless revised its law of war guidance and developed procedures to document its review of service component and theater USSOCOM training briefs. This additional information was not included in the final draft report.
 - Moreover, it is evident that this recommendation was USSOCOM-specific, rather than a recommendation aimed at the broader force. The CHMR-AP Tiger Team did not view a command-specific recommendation as appropriate for inclusion in an action plan designed for the entire Department.
 - Importantly, though not a part of the CHMR-AP, this USSOCOM-specific recommendation was subsequently accomplished. Your

report, however, makes no mention of the fact that USSOCOM, in fact, did revise its law of war guidance and developed procedures to document its review of service component and theater USSOCOM training briefs. The GAO report, therefore, leaves the incorrect impression that this recommendation was left unaddressed. It was not.

- Page 18 of the draft report states: "U.S. Special Operations Command officials stated there is a lack of clarity on how DOD measures successful implementation of the action plan. They told us that there is currently no deficiency in DOD's civilian harm mitigation and response efforts and the action plan codifies what the command is already doing."
 - This does not reflect USSOCOM's request that GAO correct the statement to say:
 - "U.S. Special Operations Command personnel who were questioned, stated the absence of the approved DOD definitions of Civilian Harm and Civilian Environment present unique challenges to developing proper metrics that measure successful implementation of the action plan. Furthermore, without the approved/published DoDI and the Chairman of the Joint Chiefs of Staff Instruction, the challenges lie in identifying and determining if there are deficiencies in the command's current response efforts to civilian harm."
 - After USSOCOM made clear that the statement did not reflect the views of the Command and offered alternative language from an official better placed to speak on the issue, GAO should have amended the report to reflect the more accurate language.
 - Further, as noted above, on December 21, 2024, Secretary Austin approved the CHMR DoDI, which assigns responsibilities throughout the Department for conducting assessments and investigations when civilian harm occurs. The CHMR DoDI also contains a robust section that lays out procedures for conducting assessments and investigations, including the conduct of assessments and investigations during large-scale combat operations.
- Page 20 the report states: "For example, officials from U.S. Special Operations Command told us that the action plan is focused on counterterrorism operations. According to the officials, when there are targeted raids and strikes that are spaced out in time, as during counterterrorism operations, DOD is able to investigate incidents of civilian harm. However, the officials said the department does not have that

investigation time for large-scale conflicts, during which the operating tempo is faster.”

- U.S. Special Operations Command asked the GAO to clarify the statement by changing it to:
 - “For example, participants from U.S. Special Operations Command told us that the action plan, at first glance, appeared to place more emphasis on counterterrorism operations. According to the participants, when there are targeted raids and strikes that are spaced out in time, as during counterterrorism operations, DOD has ample time to investigate incidents of civilian harm. However, the participants mentioned that without OUSD(P)’s DoDI, which will contain the “standardized process for civilian harm assessments,” it will be difficult to determine if SOF has the capability/capacity to conduct investigations during large-scale conflicts, especially when operations tempo is elevated and access may not be feasible.”
- This revised statement was not included in the final draft report. After USSOCOM made clear that the statement did not reflect the views of the Command and offered alternative language from an official better placed to speak on the issue, GAO should have amended the report to reflect the more accurate language.
- Further, as noted above, on December 21, 2024, Secretary Austin approved the CHMR DoDI, which contains a robust section that lays out procedures for conducting assessments and investigations, including the conduct of assessments and investigations during large-scale combat operations.
- Page 18 of the report, in reference to U.S. Central Command (USCENTCOM), states that “the Combatant Command [USCENTCOM] has already been mitigating civilian harm” and “From their perspective, the action plan may be more helpful to other combatant commands that have not had recent experience with combat and civilian harm mitigation.”
 - This statement does not clearly reflect USCENTCOM’s views regarding CHMR-AP implementation. USCENTCOM provided the following information to the GAO team:
 - “U.S. Central Command is actively working to mitigate civilian harm in its volatile area of responsibility and has expanded its civilian harm mitigation efforts even further with the introduction of CHMR-AP. The command released official

guidance to forward-deployed personnel in 2022 requiring the incorporation of a 'Red Team' function during pre-strike processes to help negate cognitive bias prior to engagements. Additionally, it conducts periodic Staff Assistance Visits to conventional and Task Force units throughout the Middle East to inform deployed senior leaders and action officers of U.S. Central Command targeting and civilian harm mitigation guidance. In addition, CCJ3 hosts monthly CIVCAS Working Group meetings with the Components and subordinate operational commands to discuss ongoing implementation of the CHMR-AP, highlight lessons learned and best practices, and provide updated information and guidance, as appropriate.”

- As with other statements and information given to GAO, this information was not included in the final draft report.
- Page 19 of the draft states that “[a]n official from U.S. Africa Command [AFRICOM] told us that DOD does not know what improvements from implementing the action plan looks like, as OUSD(P) and Joint Staff have not communicated that to the combatant command.”
 - AFRICOM has asked the GAO to remove the statement or to adjust it to read as follows:
 - “OUSD(P) provided a clear roadmap that articulates objectives and actions that will help the combatant command successfully implement the CHMR-AP. However, guidance in the form of measures of performance and effectiveness, that is anticipated to be provided in the DoD Instruction and from the Civilian Protection Center of Excellence, is needed to help ensure that the implementation of the action plan is achieving desired outcomes.”

I also wanted to provide specific response to the two recommendations that the report lays out. The first recommendation is that “[t]he Secretary of Defense should ensure that the Under Secretary of Defense for Policy establishes performance goals and measures for evaluating the effect that implementing the action plan has on improving the mitigation and response to civilian harm.” DoD non-concurs in this recommendation. At the outset, the CHMR-AP is an action plan containing several comprehensive objectives and the actions required to achieve them. These actions are based on the recommendations from past investigations into instances of civilian harm, studies of civilian harm caused by U.S. military operations, the expertise of DoD leaders with extensive operational experience, and the work of the CHMR-AP Tiger Team. Progress toward implementation of the actions set forth in the CHMR-

AP is, therefore, an appropriate measure of improvement within the Department. Moreover, in light of the current tempo of U.S. military operations – with recent years seeing few instances of civilian harm caused by U.S. military operations – it would be infeasible to establish performance goals based on observations of civilian harm in current operations.

The second recommendation in your report states that “[t]he Secretary of Defense should ensure that the Under Secretary of Defense for Policy, in coordination with the Joint Staff and combatant commands, conducts an assessment to clarify how to mitigate and respond to civilian harm resulting from non-kinetic activities.” DoD partially concurs in the recommendation. As part of the CHMR-AP implementation, combatant commands, including U.S. Cyber Command, are already exploring how to better mitigate and respond to civilian harm in both kinetic and non-kinetic activities. In addition, the Department has commissioned a study with the Center for Naval Analysis examining CHMR-AP implementation across the whole spectrum of warfare, to include non-kinetic activities. Lastly, pursuant to the CHMR-AP, the Department of the Army has established the Civilian Protection Center of Excellence which will be developing best practices for civilian harm mitigation and response in every operational context. Accordingly, we do not believe a further assessment is required at this time.

We appreciate your continued efforts. If you have any additional questions on this issue, my point of contact is Cara Negrette, 703-697-3512.

Sincerely,

Maren Brooks
Deputy Assistant Secretary of Defense for Irregular Warfare and Counterterrorism

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, individuals who made key contributions to this report include Cary B. Russell (Director, retired), James A. Reynolds (Assistant Director), Jodie Sandel (Assistant Director), Ji Byun (Analyst-in-Charge), Tracy Burney, Pamela Davidson, Michael Dworman, Alexandra Gonzalez, Mae Jones, Amie Lesser, Demetrios Marinides, Kara Marshall, and Michael Shaughnessy.

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