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INSPECTOR GENERAL

U.S. Department of Defense

NOVEMBER 16, 2021



(U) 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

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(U) Results in Brief

(U) 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

November 16, 2021

(U) Objective

(U) We determined the extent to which the U.S. Central Command (USCENTCOM) and the U.S. Special Operations Command (USSOCOM) implemented the administrative requirements related to DoD law of war (LoW) policies.

(U) For this report, we reviewed the USCENTCOM and USSOCOM processes for training, exercising, reporting, investigating, and maintaining records of the receipt and disposition of allegations of LoW violations for compliance with DoD policy. We did not review specific incidents or allegations to determine if LoW violations or war crimes occurred or whether specific incidents or allegations should have been determined to be LoW violations or war crimes.

(U) Background

(U) DoD Directive (DoDD) 2311.01 provides overall guidance on the DoD LoW program for all subordinate organizations within the DoD. USCENTCOM and USSOCOM have published their own policies that implement guidance from DoDD 2311.01 and Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01 on LoW programs.

Findings

(U) USCENTCOM and USSOCOM developed LoW policies, procedures, and orders that implemented most DoDD 2311.01 and CJCSI 5810.01 requirements. In addition, the commands included LoW principles in training and exercises. However,

(U) Background (cont'd)

(U) USCENTCOM and USSOCOM policies need to be updated to reflect current DoD policy on LoW. Both commands' subordinate components' or joint commands' training, and USCENTCOM's exercises and reporting processes can be improved. Specifically, we found that:

- (U) The USCENTCOM and USSOCOM policies and procedures for reporting, investigating, and collecting allegations of LoW violations are not consistent with DoD policy. This occurred because USCENTCOM, USSOCOM, and the Joint Staff were still in the process of updating their policies to reflect the requirements of the revised DoDD 2311.01 from July 2, 2020.
- (U) USCENTCOM did not periodically review in-theater LoW training to ensure that it was consistent with the DoD LoW program, as required by Central Command Regulation 27-1. This occurred because, according to USCENTCOM personnel, they relied on subordinate commands to accomplish the training reviews without confirming the reviews were completed. However, the subordinate commands delegated development and administration of LoW training programs to individual units without formally reviewing the training for compliance with the DoD LoW program.
- (U) USSOCOM officials conducted an annual review of component LoW training plans and materials, as directed by USSOCOM Directive 525 27, but did not document completion of the review, including identification and correction of deficiencies. This occurred because DoD and USSOCOM policies do not require documentation of the review. In addition, USSOCOM personnel conducting the review did not identify any deficiencies. However, we found deficiencies in several subordinate component LoW training briefings related to potential LoW violation reporting procedures. Annual reviews should be documented to capture common themes, including best practices and deficiencies, and to confirm that any deficiencies are corrected.



(U) Results in Brief

(U) 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

(U) Findings (cont'd)

- (U) USCENTCOM did not fully exercise their personnel in responding to potential LoW violations. Specifically, USCENTCOM did not include scenarios in headquarters and subordinate component exercises to improve response to and reporting procedures of potential LoW violations as directed in CJCSI 5810.01, Central Command Regulation 27-1, and USSOCOM Directive 525-27. This occurred in USCENTCOM because, according to USCENTCOM personnel, they focused on LoW analysis within planning and targeting processes rather than responding to, and reporting on, potential LoW violations within exercises.

(U) USCENTCOM also reported most, but not all, allegations of LoW violations to the Chairman of the Joint Chiefs of Staff and the Secretary of Defense in accordance with DoD LoW policy. This occurred because USCENTCOM did not execute procedures to make initial reports of reportable LoW incidents separate from procedures for civilian casualties.¹ In addition to reporting within the combatant command, DoDD 2311.01 directs combatant commanders to expeditiously report all reportable incidents to the CJCS, the Secretary of Defense, the Commander of USSOCOM (if applicable), and the relevant Secretaries of the Military Departments.

(U) USCENTCOM generally complied with, and USSOCOM complied with, the administrative requirements related to the DoD LoW program. However both commands' LoW policies require updates, and in-theater training can be improved. In addition, USCENTCOM did not incorporate LoW reporting scenarios in its exercises, and update its reporting processes. As a result, the commands accept additional risk that U.S. personnel

(U) may not initiate and report all potential LoW violations against U.S. and foreign personnel as required by current DoD policy. According to the DoD LoW Manual, compliance with the LoW is in the strong self-interest of everyone as it reinforces military effectiveness, encourages reciprocal adherence by the adversary, and maintains public support and political legitimacy. Proper reporting and investigation of reportable LoW incidents is important to upholding the reputation of the U.S. military when conducting operations in a manner consistent with international law. According to the CJCSI 5810.01, the DoD's priority when LoW allegations are made is to promptly report the allegations and ensure they are thoroughly and impartially investigated.

(U) Recommendations

(U) We recommend that the Commander of U.S. Central Command:

- (U) Revise Headquarters United States Central Command Regulation 27-1, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020. In addition, direct Combined Joint Task Force–Operation Inherent Resolve to review and revise Fragmentary Order 2 to Operations Order 17-12-0002 to make its procedures consistent with DoDD 2311.01.
- (U) Develop procedures to execute and document a periodic review of component command and subordinate joint command training programs to ensure they are consistent with the DoD LoW program.
- (U) Develop procedures to incorporate scenarios into command-level Joint and Service Component exercises that require personnel to respond to and report potential LoW incidents.

¹ (U) According to DoDD 2311.01E, a "reportable incident" is a possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict.



(U) Results in Brief

(U) 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

(U) Recommendations (cont'd)

- (U) Develop procedures to promptly report reportable LoW incidents (regardless of reporting channel) to the combatant commander and appropriate external organizations.

(U) We recommend that the Commander of U.S. Special Operations Command:

- (U) Revise United States Special Operations Command Directive 525-27, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020.
- (U) Develop procedures to document the annual U.S. Special Operations Command Staff Judge Advocate review of Service Component and Theater Special Operations Command Staff Judge Advocate training briefings, identify any deficiencies to the components, and track correction of the deficiencies.

(U) We recommend that the Director of the Joint Staff review and revise Chairman of the Joint Chiefs of Staff Instruction 5810.01, "Implementation of the DoD Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01.

(U) Management Comments and Our Response

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendations to revise USCENTCOM Regulation 27-1 and to develop procedures to incorporate LoW scenarios into command-level Joint and Service Component exercises. Therefore, these recommendations are resolved but will remain open. We will close these recommendations when we receive the revised

(U) USCENTCOM Regulation 27-1 and verify that the revisions align the Regulation with DoDD 2311.01 and that USCENTCOM has incorporated LoW scenarios into its exercises.

(U) The Executive Director of the USCENTCOM Office of the Inspector General agreed with the recommendation to develop procedures to promptly report LoW incidents separately and distinctly from other reporting procedures. However, the response focused on reporting LoW allegations regardless of their credibility rather than addressing the specifics of the recommendation. The Executive Director did not address how USCENTCOM will develop procedures to promptly report LoW reportable incidents made through other reporting channels, such as the Inspector General, and ensure that this reporting is separate and distinct from other reporting requirements, such as civilian casualty reporting. Therefore, this recommendation is unresolved.

(U) The Executive Director of the USCENTCOM Office of the Inspector General disagreed with the recommendation to develop procedures to execute and document a periodic review of component LoW training programs, stating there is no requirement for this within DoD policy and that such a task would impose a significant and un-resourced burden on the command. However, CJCSI 5810.01 and Central Command Regulation 27-1 both require USCENTCOM, its component commands, and joint subordinate commands to periodically review their LoW training programs. The recommendation is not prescriptive in stating how USCENTCOM conducts the periodic review and allows for the delegation of reviews to subordinate commands as long as USCENTCOM headquarters ensures the reviews are performed. The Executive Director's comments did not address how USCENTCOM will implement a periodic review; therefore, the recommendation is unresolved.



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(U) Results in Brief

(U) 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

(U) Comments (cont'd)

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(U) The Vice Director of the Joint Staff, responding on behalf of the Director of the Joint Staff, agreed with the recommendation and estimated that the Joint Staff will update CJCSI 5810.01 no later than January 4, 2022. Therefore, this recommendation is resolved but will remain open.

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(U) Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Commander, U.S. Central Command	1.b., 1.d.	1.a., 1.c.	None
Commander, U.S. Special Operations Command	2.a., 2.b.	None	None
Director, Joint Staff	None	3.b.	None

Please provide Management Comments by December 17, 2021.

Note: The following categories are used to describe agency management's comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – OIG verified that the agreed upon corrective actions were implemented.



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

November 16, 2021

MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDER, U.S. CENTRAL COMMAND
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND

SUBJECT: (U) 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 (Report No. DODIG-2022-038)

(U) This final report provides the results of the DoD Office of Inspector General's evaluation. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

(U) This report contains recommendations that are considered unresolved because the U.S. Central Command and U.S. Special Operations Command did not agree with or fully address all of the recommendations presented in the report.

(U) Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, these recommendations remain open. We will track these recommendations until we reach an agreement on the actions that you will take to address them, and you have submitted adequate documentation showing that all agreed-upon actions are completed.

(U) DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, please provide us within 30 days your response concerning specific actions in process or alternative corrective actions proposed on the unresolved recommendations. Send your response to [REDACTED]

[REDACTED] if classified SECRET.

(U) The Executive Director of the U.S. Central Command Office of the Inspector General, responding for the Commander of U.S. Central Command; the Deputy Director of U.S. Special Operations Command, responding for the Commander of U.S. Special Operations Command; and the Vice Director of the Joint Staff, responding for the Director of the Joint Staff, addressed all the other recommendations presented in the report; therefore, we consider the recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when we receive documentation showing that all agreed-upon

(U) actions to implement the recommendations are completed. Therefore, please provide us within 90 days your response concerning specific actions in process or completed on the recommendations. Send your response to [REDACTED] if classified SECRET.

(U) If you have any questions or would like to meet to discuss the evaluation, please contact [REDACTED]. We appreciate the cooperation and assistance received during the evaluation.

A handwritten signature in black ink that reads "Michael J. Roark". The signature is fluid and cursive, with the first name "Michael" and last name "Roark" being clearly legible.

Michael J. Roark
Deputy Inspector General for Evaluations

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(U) Introduction

(U) Objective

(U) We determined the extent to which the U.S. Central Command (USCENTCOM) and the U.S. Special Operations Command (USSOCOM) implemented the administrative requirements related to the DoD law of war (LoW) policies.

(U) For this report, we reviewed the USCENTCOM and USSOCOM processes for training, exercising, reporting, investigating, and maintaining records of allegations of LoW violations for compliance with DoD policy. We did not evaluate whether LoW requirements were considered or implemented during operations nor did we review specific incidents or allegations to determine if LoW violations or war crimes occurred.

(U) Background

(U) According to DoD Directive (DoDD) 2311.01, the LoW (also known as the law of armed conflict or international humanitarian law) is an aggregate of treaties and customary international law, binding on the United States, that regulate the conditions for war and the conduct of warring parties.² According to the DoD Law of War Manual, laws of war address issues of sovereignty and nationhood, states and territories, occupation, and other terms of international law.³ Laws of war also address the declarations of war; acceptance of surrender and the treatment of prisoners of war; mitigation of harm to civilians; military necessity, humanity, and honor, along with distinction and proportionality; and the prohibition of certain weapons that may cause unnecessary suffering. U.S. military personnel who intentionally commit or order any breach of the laws of war may be held individually accountable for war crimes through Uniform Code of Military Justice prosecution.⁴

(U) LoW Criteria Documents

(U) The main policies that govern criteria for LoW programs within the DoD, USCENTCOM, and USSOCOM include the following:

- (U) DoD Law of War Manual
- (U) DoDD 2311.01
- (U) Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01, "Implementation of the DoD Law of War Program"⁵

² (U) DoDD 2311.01, "DoD Law of War Program," July 2, 2020.

³ (U) Office of General Counsel, DoD, "DoD Law of War Manual," December 2016.

⁴ (U) Department of the Army, "Law of War Compliance: Administrative Investigations & Criminal Law Supplement," September 10, 2018.

⁵ (U) CJCSI 5810.01D, "Implementation of the DoD Law of War Program," April 20, 2010.

- (U) U.S. Central Command (USCENTCOM) Regulation (CCR) 27-1, “Law of War Program”⁶
- (U) U.S. Special Operations Command (USSOCOM) Directive 525-27, “Law of War Program”⁷

(U) DoD Law of War Manual and DoDD 2311.01

(U) Under the purview of the DoD General Counsel, the DoD published the DoD Law of War Manual to provide information to DoD personnel responsible for implementing the LoW and executing military operations. The DoD Law of War Manual reflects the lessons learned by the DoD in applying the LoW in actual military operations. In addition, the DoD General Counsel revised DoDD 2311.01E on May 9, 2006, and issued an update, DoDD 2311.01, on July 2, 2020, to establish the basic processes and procedures for training on LoW and the reporting, investigation, and central collection of alleged violations.⁸ According to DoDD 2311.01, all DoD personnel must understand the duties imposed and rights assigned by the LoW. This directive serves as the basis for additional LoW policies issued by the Chairman of the Joint Chiefs of Staff (CJCS), the combatant commands, and the combatant commands’ subordinate commands and components.

(U) Among other changes, DoDD 2311.01 revised the definition of a LoW “reportable incident (RI)” and added a definition for “credible information” to resolve previous ambiguity that affected how combatant commands characterize and report allegations of LoW violations within the commands and to external organizations. According to DoDD 2311.01, a LoW RI is:

(U) an incident that a unit commander or other responsible official determines, based on credible information, potentially involves: a war crime; other violations of the LoW; or conduct during military operations that would be a war crime if the military operations occurred in the context of an armed conflict. The unit commander or responsible official need not determine that a potential violation occurred, only that credible information merits further review of the incident.⁹

⁶ (U) USCENTCOM Regulation 27-1, “Law of War Program,” March 25, 2014.

⁷ (U) USSOCOM Directive 527-27, “Law of War Program,” July 1, 2019.

⁸ (U) DoDD 2311.01E, “DoD Law of War Program,” May 9, 2006 (Incorporating Change 1, November 15, 2010).

⁹ (U) DoDD 2311.01.

(U) The Directive further clarifies the definition of credible information, as “information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the alleged violation.” The revised Directive also added a requirement that commanders who determine that an allegation is not supported by credible information must nevertheless forward the allegation, through the chain of command, to the appropriate combatant commander.

(U) Chairman of the Joint Chiefs of Staff Instruction 5810.01

(U) CJCSI 5810.01 closely follows the definitions and responsibilities of the May 9, 2006, version of DoDD 2311.01E, with the noted addition of directing the combatant commands to include specific LoW scenarios in exercises to improve lawful implementation, and in cases of violations, proper reporting procedures.¹⁰ CJCSI 5810.01 emphasizes that combatant commands are responsible for ensuring that their assigned and attached subordinate units conduct LoW training and dissemination programs. Combatant commands must also ensure that the training and programs are consistent with law and DoD policy, and the training and programs are subject to periodic review by the commands’ legal advisors. Finally, CJCSI 5810.01 directs combatant commands to forward all initial reportable LoW incidents to the Joint Staff National Joint Operations Intelligence Center, serving as the Chairman of the Joint Chief of Staff’s primary organization for full-time situational awareness.

(U) U.S. Central Command Regulation (CCR) 27-1

(U) CCR 27-1 closely follows DoDD 2311.01E policies, directing the Command, component commands, and subordinate joint commands to maintain a collection of LoW RIs that can be used for training exercises.¹¹ CCR 27-1 requires that initial reports from any unit that obtains information about an RI be immediately sent through command channels to USCENTCOM. CCR 27-1 requires that initial reports include known facts and circumstances and be supplemented later once further facts are uncovered and with details of any investigation. CCR 27-1 also provides direction to USCENTCOM headquarters on reporting incidents to the Joint Chiefs of Staff, the Secretary of Defense, and other external organizations and outlines responsibilities for collecting and maintaining reports and investigations that occurred in the USCENTCOM area of responsibility (AOR).

¹⁰ (U) CJCSI 5810.01D.

¹¹ (U) USCENTCOM Regulation 27-1.

(U) U.S. Special Operations Command DoDD Directive 525-27

(U) USSOCOM Directive 525-27 also adopts DoDD 2311.01E policies into guidance for USSOCOM headquarters, Service Components, the Theater Special Operations Commands, the Joint Special Operations Command (JSOC), and National Guard and Reserve Special Operations units and detachments, when activated.¹² The Directive specifies requirements for annual and pre-deployment LoW training and requires an annual review of all training materials by legal advisors. It also directs USSOCOM personnel to follow geographic combatant command policies and procedures for reporting and investigating LoW RIs that occurred while USSOCOM personnel are conducting operations under the authority and operational control of a geographic combatant commander.

(U) Reporting and Investigating LoW Violations

(U) According to DoDD 2311.01, all military and U.S. civilian employees, contractor personnel, and subcontractors assigned to or accompanying a DoD Component must report, through their chain of command, all RIs, including those involving allegations of non-DoD personnel having violated the LoW. Reports of incidents may also be made through other channels, such as the military police, a judge advocate, or an inspector general. However, reports made through other channels must be immediately forwarded to and through the recipient's chain of command and the chain of command of the subject of the allegation, as applicable. In addition to reporting within the combatant command, DoDD 2311.01 directs combatant commanders to expeditiously report all RIs to the CJCS, the Secretary of Defense, the Commander of USSOCOM (if applicable), and the relevant Secretaries of the Military Departments.

¹² (U) USSOCOM Directive 527-27.

(U) Finding

(U) USCENTCOM Generally Complied With, and USSOCOM Complied With, DoD Policy on LoW Program Implementation, but Command Policies, Training, Exercises, and Reporting Can Be Improved

(U) USCENTCOM and USSOCOM developed LoW policies, procedures, and orders that implemented most DoDD 2311.01 and CJCSI 5810.01 requirements. In addition, the Commands included LoW principles in training and exercises. However, USCENTCOM and USSOCOM policies need to be updated to reflect current DoD policy on LoW. Both commands' subordinate components' or joint commands' training, and USCENTCOM exercises and reporting processes can be improved. Specifically, we found that:

- (U) The USCENTCOM and USSOCOM policies and procedures for reporting, investigating, and collecting allegations of LoW violations are not consistent with the DoD LoW policy. In addition, CJCSI 5810.01 is inconsistent with the DoD LoW policy. Specifically, the policies are inconsistent in directing distribution of initial and completed reports; directing formal investigations and referrals to military criminal investigative organizations; and definitions of LoW RIs. This occurred because USCENTCOM, USSOCOM, and Joint Staff personnel were still in the process of updating their policies to reflect the revised DoDD 2311.01 from July 2, 2020. The revised DoDD updated reporting procedures to include reporting of incidents regardless of assessed credibility; eliminated the automatic referral to a military criminal investigative organization, unless "warranted;" and updated the definition of an RI, to include a definition of "credible information."
- (U) USCENTCOM did not periodically review in-theater LoW training to ensure it was consistent with the DoD LoW program, as required by CCR 27-1. This occurred because, according to USCENTCOM personnel, they relied on subordinate commands to accomplish the training reviews without confirming the reviews were completed. However, the subordinate commands delegated development and administration of LoW training programs to individual units without formally reviewing the training for compliance with the DoD LoW program.

- (U) USSOCOM officials conducted an annual review of component LoW training plans and materials, as directed by USSOCOM Directive 525-27, but did not document completion of the review, including identification and correction of deficiencies. This occurred because DoD and USSOCOM policies do not require documentation of the review. In addition, USSOCOM personnel conducting the review did not identify any deficiencies. However, we found deficiencies in several subordinate component LoW training briefings related to potential LoW violation reporting procedures. Annual reviews should be documented to capture common themes, including best practices and deficiencies, and to confirm that any deficiencies are corrected.
- (U) USCENTCOM did not fully exercise their personnel in responding to potential LoW violations. Specifically, USCENTCOM did not include scenarios in headquarters and subordinate component exercises that improved response and reporting procedures of potential LoW violations, as directed in CJCSI 5810.01, CCR 27-1, and USSOCOM Directive 525-27. This occurred because, according to USCENTCOM personnel, their focus was on LoW analysis within planning and targeting processes rather than responding to, and reporting on, potential LoW violations within exercises.

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(U) Both USCENTCOM and USSOCOM should update their policies to reflect revised DoD policy on LoW and can improve their subordinate component or joint command in-theater training on LoW reporting requirements. In addition, USCENTCOM and its subordinate commands did not conduct periodic reviews of their training programs, incorporate LoW reporting scenarios in their exercises, and update their LoW reporting processes. As a result, the commands accept additional risk that U.S. personnel may not initiate and report all potential law of war violations against U.S. or foreign personnel in a proactive manner that is consistent with current DoD policy. Knowledge of, and adherence to, LoW principles is important to uphold the reputation of the U.S. military when conducting operations consistent with international humanitarian law. The DoD's priority when LoW allegations are made is to promptly report the allegations and ensure they are thoroughly and impartially investigated.

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(U) USCENTCOM Implemented LoW Training

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(U) USSOCOM Implemented LoW in Training and Exercises

(U) USSOCOM, its Service Components, and JSOC integrated LoW extensively into training programs and exercises. In addition to requiring all personnel to comply with Service Component frequency requirements for LoW training, all permanent personnel must also comply with the USSOCOM policy, which requires annual training at a minimum. The USSOCOM policy also directs deploying personnel

¹³ (U) HQ Resolute Support, "Tactical Directive and Delegation of Approval Authorities (U)," March 31, 2019 (S//REL to USA, FVEY).

(U) to complete pre-deployment LoW training. For example, while the U.S. Air Force only requires Airmen to take LoW training every 3 years, Air Force Special Operations Forces personnel must complete the training annually.

(U) JSOC provided enhanced LoW training to its assigned members through a variety of means, including routine training courses for all personnel and training tailored to personnel with specific duties and responsibilities. For example, both the JSOC 201 Course for all new personnel and the quarterly JSOC 301 Course included blocks of instruction by the JSOC Judge Advocate on ROE and LoW. JSOC 301 also included three tabletop exercises integrating ROE and LoW as critical components of the decision-making process. JSOC provided tailored LoW instruction to members of the JSOC Intelligence Brigade, required for their certification prior to deployment. JSOC also provided tailored LoW training to the Joint Cyber Operations Group, Regional Task Forces, and to all personnel attending the Kinetic Targeting Course.

(U) USSOCOM personnel provided documentation of LoW scenarios in all of their Joint Exercise Program exercises, which are conducted by the Service Components and JSOC. The USSOCOM Joint Exercise Program includes Exercise EMERALD WARRIOR, under the Air Force Special Operations Command; Exercise SAGE EAGLE, under the Army Special Operations Command; Exercise RAVEN, under the Marine Special Operations Command; Exercise TRIDENT, under the Navy Special Warfare Command; and Exercise JADED THUNDER, under JSOC. Several USSOCOM exercises included scenarios that require personnel to respond to potential LoW violations and exercise their reporting procedures. For example, during Exercise RAVEN, the Marine Special Operations Command incorporated scenario-driven live events requiring reporting of a suspected LoW violation. The most recent Exercise RAVEN included a scenario with a possible extra-judicial killing involving partner forces that evolved over multiple days, requiring the unit commander to report the incident up the chain of command and leading to the Special Operations Task Force commander's order to conduct an investigation. Likewise, during a TRIDENT Exercise involving the Naval Special Warfare Group 2, the scenario included injuries to the crew of a vessel involved in a Maritime Interdiction, which required a reporting requirement for the participants.

(U) USCENTCOM and USSOCOM developed LoW policies, procedures, and orders that implemented most DoDD 2311.01 and CJCSI 5810.01 requirements and included LoW principles in training and exercises. However, the commands' policies need to be updated to reflect revised DoD policy on LoW. In addition, the commands' training, and USCENTCOM exercises and reporting processes can be improved.

(U) USCENTCOM and USSOCOM Policies and Procedures for Reporting, Investigating, and Collecting Allegations of LoW Violations Are Not Consistent With DoD Policy

(U) The USCENTCOM and USSOCOM policies and procedures for reporting, investigating, and collecting allegations of LoW violations are not consistent with the DoD LoW policy. In addition, CJCSI 5810.01 is not consistent with the DoD LoW policy.

(U) USCENTCOM, Its Subordinate Joint Commands, and CJCS Policy Do Not Require Distribution of Reports of LoW RIs to the Correct DoD Components

(U) CCR 27-1, CJCSI 58510.01, and DoDD 2311.01 do not require the same distribution of LoW RI reports. For example, CJCSI 5810.01 requires distribution of initial reports immediately through the applicable combatant command and the Military Department chains of command concurrently, as well as to the Joint Staff/National Joint Operations Intelligence Center. DoDD 2311.01 adds the Secretary of Defense and the Commander of USSOCOM, if applicable, to the list. CCR 27-1, on the other hand, directs initial reports to the CJCS Legal Counsel; the Office of the Secretary of Defense, Office of Rule of Law and Detainee Policy (a former OSD Component that no longer exists); and the Secretary of the Army (in the Secretary's capacity as the DoD Executive Agent for LoW). The current version of DoDD 2311.01 eliminated the requirement to report to the Secretary of the Army, since the Deputy Secretary of Defense cancelled the Secretary of the Army's assignment as the DoD Executive Agent for Law of War in April 2020.

(U) Both CCR 27-1 and CJCSI 5810.01 direct combatant commanders to provide a copy of the completed report of investigation of RIs committed by or against members of the U.S. Armed Forces to the appropriate Military Department Secretaries, including the Secretary of the Army, but do not require the same information to be made accessible to the Secretary of Defense. DoDD 2311.01 directs combatant commanders to make all information on RIs, including the results of any review or investigation, current and accessible to the Secretary of Defense in a central collection. In addition, the current version of DoDD 2311.01 eliminated the requirement to automatically report to the Secretary of the Army.

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(U) The USCENTCOM, USSOCOM, and CJCS Policy Definitions of RIs Are Not Consistent With the DoD Policy

(U) CCR 27-1, USSOCOM Directive 525-27, and CJCSI 5810.01 lack elements of the more recent definitions contained in the new DoDD 2311.01. Specifically, the DoDD clarifies the definition of “credible information” as “information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the alleged violation.” The previous definition of a LoW “reportable incident” did not clearly state whether positive determination of credibility was required, or how much time a combatant command could take to determine if an allegation was credible before making an initial report. Because DoDD 2311.01 states that credible LoW allegations must be sent by combatant command staff to a list of organizations external to the combatant command (including the CJCS and the Secretary of Defense), the definition of “credible information” impacts situational awareness at senior DoD levels. In contrast to LoW RIs, Commander’s Critical Information Requirements are not required to be reported to organizations external to the combatant command.

(U) USCENTCOM, USSOCOM, and the Joint Staff Did Not Modify Their Policies to Reflect the Requirements of the Revised DoDD 2311.01

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(U) The SOCOM JA staff stated that they are revising USSOCOM Directive 525-27 based on the USSOCOM Regulation 25-31, "Official Publications," that all directives will be revised every 2 years and anticipated their revision would be published by July 2021.¹⁴ Since the update to DoDD 2311.01 came out in July 2020, USSOCOM is still within the 2-year update window under its policy.

(U) The Deputy Legal Counsel to the Office of the CJCS stated that the Joint Staff intends to rewrite CJCSI 5810.01 to bring it in-line with changes made to DoDD 2311.01, and it is currently in the review process. The Joint Staff developed an initial updated draft of CJCSI 5810.01, as of June 2021, and informally shared it with the combatant command JA offices for review and comment prior to being formally coordinated. The Joint Staff had not yet determined a final publication date for its updated draft of CJCSI 5810.01. Because combatant command and CJCS policies are not consistent with the revised DoD Directive, USCENTCOM should review and revise CCR 27-1; USSOCOM should review and revise USSOCOM Directive 525-27; and the Joint Staff should review and revise CJCSI 5810.01 to make these policies consistent with the revised definitions and current requirements of DoDD 2311.01.

(U) USCENTCOM Did Not Periodically Review In-Theater LoW Training to Ensure it Was Consistent With the DoD LoW Program

(U) USCENTCOM did not periodically review in-theater LoW training to ensure it was consistent with the DoD LoW program, as required by CCR 27-1. According to CCR 27-1, USCENTCOM, its component commands, and subordinate joint commands will ensure that their commands' training programs are periodically reviewed for compliance with the LoW program, particularly in light of any reported violations. Likewise, CJCSI 5810.01 directs combatant commanders to ensure that the combatant commands' training programs are subject to periodic review for compliance with domestic and international law, including the LoW and DoD policy.

(U) USCENTCOM Relied on Its Subordinate Commands to Accomplish the Training Reviews but Did Not Confirm the Reviews Were Completed

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¹⁴ (U) USSOCOM Regulation 25-31, "Official Publications," April 9, 2020.

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(U) USSOCOM personnel stated that they conducted an annual review of component LoW training plans and materials, as required by USSOCOM Directive 525-27; however, they did not document completion of the review, including identification or correction of deficiencies. USSOCOM Directive 525-27 directs the USSOCOM

(U) Judge Advocate office to conduct an annual review of each USSOCOM Service Component and Theater Special Operations Command Staff Judge Advocate LoW training brief to ensure compliance with the LoW.

(U) The USSOCOM SJA tasked all USSOCOM Service Components and Theater Special Operations Command SJAs on August 13, 2020, to provide copies of their LoW training briefings to the SOCOM Office of the Judge Advocate by August 27, 2020, to accomplish this annual review. The USSOCOM SJA also tasked the USSOCOM components to review LoW training briefings from their subordinate units, in accordance with the USSOCOM Directive. However, the USSOCOM SJA did not document the results of the review.

(U) USSOCOM Policy Does Not Require Documentation of the Review and the USSOCOM Judge Advocate Office Determined There Were No Deficiencies During Its Review

(U) USSOCOM JA personnel determined that there were no deficiencies during their review and USSOCOM policy does not require documentation of the review. However, the DoD OIG team reviewed 15 LoW training briefings from U.S. Army Special Operations Command, Naval Surface Warfare Command, and other component headquarters and noted deficiencies in how reporting requirements were addressed within 11 of the briefings. For example, 10 of the 15 briefings provided no guidance on alternative options to reporting through the chain of command, such as a judge advocate, military police, or an inspector general. In addition, 8 of the 15 briefings did not highlight that personnel should report Coalition, partner, host nation, and adversary violations in addition to those of U.S. personnel. Furthermore, 4 of the 15 briefings provided no guidance on reporting LoW violations at all. Based on the deficiencies in the training we identified, and to ensure annual reviews are conducted, USSCOM should require annual reviews of LoW training be documented to capture common themes, including best practices and deficiencies, and to confirm that any deficiencies are corrected.

(U) USCENTCOM Did Not Fully Exercise Their Personnel in Responding to Potential LoW Violations

(U) USCENTCOM did not fully exercise its personnel in responding to potential LoW violations. Specifically, USCENTCOM did not provide documentation of scenarios in headquarters and subordinate component exercises that improved response and reporting procedures for potential LoW violations, as directed in CJCSI 5810.01 and CCR 27-1.

(U) CJCSI 5810.01 directs combatant commanders to “include specific law of war scenarios in exercises to improve lawful implementation, and in cases of violations, proper reporting procedures.” Additionally, CJCSI 5810.01 states that the J7 will “ensure the appropriate exercises in the Chairman’s Exercise Program include law of war scenarios to improve evaluation, response, and reporting procedures, and that combatant commanders are directed to include these scenarios in appropriate Joint Exercise Program events.” CCR 27-1 directs the command, its component commands, and subordinate joint commands to include LoW scenarios in exercises to improve evaluation, responses, and reporting procedures. USSOCOM Directive 525-27 states that “Commanders shall ensure law of war scenarios are appropriately incorporated into exercises and training to improve familiarity, applicability, and compliance with the law of war.” The Directive lists out possible training scenarios, which include reporting possible, suspected, or alleged LoW violations, among other situations.

(U) According to Joint Staff J7 officials, combatant command exercises they observed do not necessarily include specific LoW injects required by CJCSI 5810.01, but the exercises do have academic sessions or training before the exercises begin to walk the staff through LoW and ROE principles, including during coalition partner training. The LoW scenarios they observed are focused on implementing LoW and ROE principles up front to avoid committing a LoW violation rather than responding to a possible or suspected LoW violation. None of the four Joint CENTCOM or SOCOM exercises observed by Joint Staff J7 officials from January 1, 2019, to December 31, 2020, had LoW scenarios that required the staff to respond to an incident that already occurred. A Joint Staff lead analyst trainer and observer stated that he could not recall any exercise that incorporated scenarios which forced the combatant command players to recognize and respond to a potential LoW incident or execute their LoW reporting and handling procedures in accordance with the requirements of the DoDD 2311.01.

(U) USCENTCOM staff did not provide any documentation to show that they included scenario injects into their headquarters or subordinate component exercises which require the players to respond to or report on potential LoW violations. Therefore, USCENTCOM staff may not be adequately exercising personnel in the proper procedures (U) for responding to and reporting LoW violations in accordance with CCR 27-1 and CJCSI 5810.01.

(U) USCENTCOM Did Not Focus on Responding to and Reporting on Potential LoW Violations in Its Exercises

(U) According to USCENTCOM JA personnel, their focus was on LoW analysis within planning and targeting processes rather than responding to, and reporting on, potential LoW violations within exercises. USCENTCOM JA personnel stated that compliance with LoW is built into all exercise scenarios focused on detention operations, dealing with protection of civilians through collateral damage estimates, and other planning and targeting considerations. A USCENTCOM JA official stated that USCENTCOM includes scenarios that require reporting for the Joint Operations Center in various exercises, such as Exercise Internal Look and Exercise Invincible Sentry, as well as component exercises, but did not offer any specifics on how those participating in the exercise practiced their reporting responsibilities. Instead, the official's description of exercise scenarios focused on actions to prevent LoW violations, including analysis within planning and targeting processes, rather than responding to and reporting on potential LoW violations. Because USCENTCOM did not ensure exercises improve LoW response and reporting procedures, USCENTCOM should incorporate scenario injects into command-level Joint and Service Component exercises that require personnel to respond to and report potential LoW incidents.

(U) USCENTCOM Reported Most, but Not All, Allegations of LoW Violations in Accordance With DoD LoW Policy

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(U) According to USSOCOM JA officials, the responsibility for reporting these two hotline complaint-generated LoW RIs belonged to USCENTCOM. USSOCOM JA officials stated that USSOCOM became aware of the cases when the DoD OIG referred the allegations to the USSOCOM IG for review, but that the DoD Hotline had initially assigned the case to USCENTCOM, and the USCENTCOM Commander had already investigated and adjudicated the matters. In addition, USSOCOM JA officials stated that USSOCOM defers to USCENTCOM for review, external reporting, and maintenance of relevant records for incidents that occur in that geographic combatant command's AOR.

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(U) USCENTCOM Did Not Execute Procedures to Initially Report Credible LoW Allegations Separately From Other Reporting Procedures

(U) USCENTCOM and USSOCOM Can Improve Their DoD LoW Programs to Reduce the Risk of Potential LoW Violations Not Being Reported

(U) Both USCENTCOM and USSOCOM should update their policies to reflect revised DoD policy on LoW, and can improve their subordinate component or joint command in-theater training on LoW reporting requirements. In addition, USCENTCOM and its subordinate commands did not conduct periodic reviews of their training programs, incorporate LoW reporting scenarios in their exercises, and update their LoW reporting processes. As a result, the commands accepted additional risk that U.S. personnel may not initiate and report all potential LoW

(U) violations against U.S. or foreign personnel in a proactive manner that is consistent with current DoD policy. Knowledge of, and adherence to, LoW principles is important to uphold the reputation of the U.S. military when conducting operations consistent with international humanitarian law. The DoD's priority when LoW allegations are made is to promptly report the allegations and ensure they are thoroughly and impartially investigated.

(U) Management Comments on the Finding and Our Response

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, provided comments disagreeing with two substantive items in the finding. First, the Executive Director stated the command disagrees with the assertion that a LoW allegation is credible based solely on the complainant's status and his or her source of knowledge, referring to a specific allegation that was not reported as a LoW reportable incident. He stated that these factors may be relevant to a commander's decision, but do not automatically render an allegation credible. He further stated that, per DoDD 2311.01's definition of "credible information," it is the military commander who determines credibility, not the complainant.

(U) Second, he disagreed with our conclusion that the command cannot confirm that all allegations will be reported in a proactive manner that is consistent with the current DoD policy because the command has neither updated its LoW regulation nor reviewed its subordinate's LoW training. He stated that USCENTCOM's subordinate commands are serviced by highly experienced legal staffs and are capable of understanding and applying applicable DoD directives, regardless of the presence or absence of any USCENTCOM guidance.

(U) Our Response

(U) The Executive Director correctly stated that the specific unreported LoW incident cited in this report occurred during the timeframe in which the old DoDD 2311.01E requirements applied. However, he references the new DoDD 2311.01 to support his statement that an allegation's credibility is determined by the commander. DoDD 2311.01E did not explicitly state that determination of credibility is a commander's decision. It states that all military and U.S. civilians must report reportable incidents, which implies that the individual can determine if the information they have access to is credible and reportable. DoDD 2311.01E also stated that the commander of a unit that obtains

(U) information about a reportable incident must immediately report the incident in an initial report. This implies that he or she is authorized to determine if an allegation is not credible, but it must be done “immediately” or otherwise reported initially as it was received—as a reportable incident. We acknowledge that the language in the old DoDD 2311.01E was ambiguous and open to interpretation, which explains the rationale for clarifying this point in the new DoDD 2311.01. The new policy states that the commander must assess whether the allegation is based on credible information and constitutes a reportable incident. But the new DoDD 2311.01 also clarifies that credible information is information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the allegation and, like the old DoDD 2311.01E, requires an immediate and expeditious report. This latter requirement from both versions of the DoDD implies the commander does not have weeks or months to reject the credibility of an initial allegation, and that if the commander orders an inquiry, review, or formal investigation, this fulfills the clarified definition of credible information since he or she determined it warrants further review. In addition to the prescriptions from the old and new versions of the DoD directives, CCR 27-1 provides further guidance to commanders that, if in doubt as to whether or not an event constitutes a reportable incident, U.S. personnel must report the event through their chain of command.

(U) The intent of our conclusion was not to imply that USCENTCOM’s subordinate commands cannot review, understand, and apply the new DoDD 2311.01 requirements, regardless of the presence or absence of any USCENTCOM guidance. Rather, our conclusion is intended to highlight that in the absence of newly published command regulations or interim guidance, and inclusion of new reporting procedures in LoW training, USCENTCOM accepts additional risk that potential LoW violations are not initiated and reported up the chain of command.

(U) In addition, we cited that USCENTCOM and its subordinate commands did not execute a periodic review of their LoW training and that USCENTCOM provided no documentation of LoW response or reporting scenarios in its exercises. We reviewed the most current training briefing provided by a USCENTCOM subordinate joint command and determined that it contained no guidance on reporting. Specifically, the training did not include information on alternate LoW reporting channels that are external to the chain of command such as the military police, a judge advocate, or an inspector general. Additionally the training did not inform U.S. personnel they are required to report LoW violations committed by Coalition personnel, foreign partners, and enemy combatants. Although we acknowledge that the Military Services have the primary responsibility for training personnel who deploy into the USCENTCOM

(U) area of responsibility, USCENTCOM's in-theater training should nevertheless include the major elements of LoW, including reporting requirements. Any deficiencies in training programs regarding reporting requirements and optional channels for reporting increase the risk that personnel assigned or attached to USCENTCOM will not initiate allegations on all suspected violations of the LoW by U.S. or foreign personnel. We modified the wording of the finding to clarify our intent.

(U) Commander, U.S. Special Operations Command Comments

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(U) Recommendations, Management Comments, and Our Response

(U) Recommendation 1

(U) We recommend that the Commander of U.S. Central Command:

- a. (U) **Revise Headquarters United States Central Command Regulation 27-1, “Law of War Program,” to make it consistent with the revised definitions and current requirements of DoD 2311.01, “DoD Law of War Program,” July 2, 2020. In addition, direct Combined Joint Task Force–Operation Inherent Resolve to review and revise Fragmentary Order 2 to Operations Order 17-12-0002 to make its procedures consistent with DoDD 2311.01.**

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendation and stated that USCENTCOM initiated a revision of CCR 27-1 after its receipt of the updated DoD 2311.01. USCENTCOM’s completion of a revision of CCR 27-1 was paused to consider updates from the corresponding revision of CJCSI 5810.01. CJTF-OIR’s Fragmentary Order 2 will be updated to be consistent with the updated CCR 27-1 and DoDD 2311.01.

(U) Our Response

(U) USCENTCOM self-initiated a review of CCR 27-1 and is in the process of updating its policy. Therefore, the Executive Director’s comments were responsive to the recommendation; this recommendation is resolved but will remain open. We will close this recommendation when we receive and verify that new versions of CCR 27-1 and CJTF-OIR Fragmentary Order 2, which implement the changes to DoDD 2311.01, have been completed.

- b. (U) Develop procedures to execute and document a periodic review of component command staff and subordinate joint command training programs to ensure they are consistent with the DoD law of war program.

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, disagreed with the recommendation. He stated that there is no requirement within DoD policy for a combatant command headquarters to periodically review LoW training programs conducted by every component and subordinate joint command with the USCENTCOM area of responsibility. He further stated that interpreting DoDD 2311.01 in this way would impose a significant and un-resourced requirement on any combatant command that has relatively few assigned forces and which is supported largely by rotational forces that are manned, trained, and equipped by the Military Services. He stated that the correct interpretation of DoDD 2311.01 is that the commands have responsibility to ensure that the LoW training they conduct is consistent with current DoD or Joint directives, instructions, and regulations, which can be accomplished through USCENTCOM regulations and orders.

(U) Our Response

(U) We acknowledge that a periodic review of every component and subordinate joint command unit assigned or temporarily deployed in the USCENTCOM area of responsibility would represent a significant additional burden on USCENTCOM headquarters. This recommendation is not intended to be prescriptive in how USCENTCOM conducts the review, or to impose the burden of performing the reviews on the Command headquarters itself. USCENTCOM headquarters may direct its subordinate commands to conduct the periodic reviews and report the results to the headquarters. Regardless of how USCENTCOM implements this activity, the Command must fulfill its responsibility to ensure its assigned or attached subordinate units' LoW training programs are periodically reviewed for compliance with the LoW and DoD policy, as directed within CJCSI 5810.01 and CCR 27-1. The Executive Director's comment did not address how USCENTCOM will implement a periodic review process of LoW training programs by its subordinate commands; therefore, this recommendation is unresolved. We request that USCENTCOM provide details for how it plans to ensure that periodic review processes are conducted.

- c. **(U) Develop procedures to incorporate scenarios into command-level Joint and Service Component exercises that require personnel to respond to and report potential law of war incidents.**

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendation. USCENTCOM will ensure LoW injects are appropriately incorporated in exercises, but given the multitude of objectives established in the exercise program, will retain discretion as to which exercises and what aspects of LoW will be incorporated.

(U) Our Response

(U) We concur that not every exercise is required by DoD policy to have a LoW scenario inject, but exercises should include LoW items or scenarios that improve evaluation, responses, and reporting procedures, in accordance with CCR 27-1. However, the Executive Director's comments were responsive to the intent of the recommendation; therefore, this recommendation is resolved but will remain open. We will close this recommendation when USCENTCOM provides documentation demonstrating that specific LoW scenarios that require personnel to respond to and report potential LoW incidents are incorporated into USCENTCOM Joint and Service Component exercises.

- d. **(U) Develop procedures to promptly report reportable law of war incidents (regardless of the reporting channel) to the combatant commander and appropriate external organizations that are distinct from other reporting procedures such as civilian casualty reporting.**

(U) Commander, U.S. Central Command Comments

(U) The Executive Director of the USCENTCOM Office of the Inspector General, responding on behalf of the Commander of USCENTCOM, agreed with the recommendation. He stated that the updated CCR 27-1 includes provisions from the revised DoDD 2311.01 that the unit commander or superior commander will forward LoW allegations through the chain of command to the Commander, if even they determine the allegation is not supported by credible information.

(U) Our Response

(U) The Executive Director stated that USCENTCOM's revision to CCR 27-1 will incorporate revised reporting requirements for all allegations, including those determined to be not supported by credible information. However the response did not address the specifics of the recommendation. The Executive Director did not address how USCENTCOM will develop procedures to promptly report LoW reportable incidents made through other reporting channels, such as the Inspector General, and ensure that this reporting is separate and distinct from other reporting requirements, such as civilian casualty reporting. Therefore, this recommendation is unresolved. We request that USCENTCOM provide details for how it plans to develop these procedures.

(U) Recommendation 2

(U) We recommend that the Commander of U.S. Special Operations Command:

- a. (U) Revise United States Special Operations Command Directive 525-27, "Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020.

(U) Commander, U.S. Special Operations Command Comments

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- b. (U) Develop procedures to document annual U.S. Special Operations Command Judge Advocate review of Service Component and Theater Special Operations Command training briefs, identify any deficiencies to the components, and track correction of the deficiencies.

(U) Commander, U.S. Special Operations Command Comments

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(U) Our Response

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(U) Recommendation 3

(U) We recommend that the Director of the Joint Staff review and revise Chairman of the Joint Chiefs of Staff Instruction 5810.01, "Implementation of the DoD Law of War Program," to make it consistent with the revised definitions and current requirements of DoDD 2311.01, "DoD Law of War Program," July 2, 2020

(U) Director of the Joint Staff Comments

(U) The Vice Director of the Joint Staff, responding on behalf of the Director of the Joint Staff, agreed with the recommendation and estimated that the Joint Staff will update CJCSI 5810.01 no later than January 4, 2022.

(U) Our Response

(U) The Vice Director's comments were responsive to our recommendation; therefore this recommendation is resolved but will remain open. We will close this recommendation when we receive and verify that the revised CJCSI 5810.01 is completed.

(U) Appendix

(U) Scope and Methodology

(U) We conducted this evaluation from January 2021 through September 2021 in accordance with the “Quality Standards for Inspection and Evaluation,” published in January 2012 by the Council of Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

(U) This evaluation focused on USCENTCOM and USSOCOM implementation of the DoD’s LoW policy requirements, including policies, training, exercises, reporting and investigating, and collection of allegations of LoW violations and reportable LoW incidents. We reviewed combatant command, Service Component, and subordinate joint command policies, standard operating procedures, and orders that include direction regarding LoW training, exercising, reporting and investigating, collecting and implementing LoW programs. These policies and procedures include the following.

- (U) DoDD 2311.01E
- (U) DoDD 2311.01
- (U) CJCSI 5810.01D
- (U) Central Command Regulation 27-1
- (U) CJTF-OIR Fragmentation Order 2 to OPORD 17-12-0002, “Process for Initial Reporting of Law of Armed Conflict (LOAC) Violations,” November 13, 2008
- (U) HQ Resolute Support, “Tactical Directive and Delegation of Approval Authorities (U),” March 31, 2019
- (U) U.S. Special Operations Command Directive 525-27

(U) We submitted requests for information to USCENTCOM, USSOCOM, the Joint Staff, and the DoD General Counsel to collect all DoD, CJCS, USCENTCOM, USSOCOM, and subordinate command and component LoW-related policies, SOPs, operational and fragmentary orders, or other documents related to implementing LoW programs. The requests for information also solicited data or descriptions on how the combatant commands track and verify that headquarters and subordinate commands and components are satisfying the training and exercising requirements

(U) of DoD LoW policy. We reviewed and analyzed 3 years of allegations of LoW violations and RIs against U.S. personnel operating in the USCENTCOM AOR (from January 2018 to December 2020), with respect to the disposition of each incident, results of any investigations, and any corrective actions taken. USCENTCOM and USSOCOM both responded with 10 total allegations. We solicited the same data from Joint Staff and the DoD General Counsel to confirm they received the same RIs. We also submitted a request for information to the DoD Hotline to request any hotline complaints related to allegations of LoW violations over the last 3 years not provided by USCENTCOM or USSOCOM and to provide the current status of all cases. The DoD Hotline provided two additional allegations of LoW violations that were not provided by USCENTCOM or USSOCOM.

(U) We conducted interviews with DoD General Counsel staff members, including the primary staff individual responsible for the DoD LoW program. We sought to clarify the DoD General Counsel's intent behind all of the requirements in DoDD 2311.01 and clarify the reasons why the changes made in the most recent version were made. We conducted an interview with the Joint Staff/J-7 Joint Exercise Division to determine the extent to which the combatant command Joint Exercises incorporated LoW scenarios, as prescribed in DoD and CJCSI policy. We requested, and obtained, from the Deployable Training Teams excerpts from their Consolidated Functional Reports on LoW observations they made while serving as deployed analyst trainers during USCENTCOM and USSOCOM joint exercises. We also conducted an interview with a DoD Hotline representative to clarify the data the office provided to us and clarify the responses taken by the responsible combatant commands.

(U) We conducted interviews with USCENTCOM HQ, USFOR-A, CJTF-OIR, and USSOCOM HQ and JSOC staff to determine if they have any additional policy or procedures not provided in response to the request for information and, if there are any deviations, what they are doing to correct the discrepancies in new revisions to policy. We also solicited input on how the staff from these offices execute their processes for tracking completion of pre-deployment and in-theater training requirements; ensure that scenario injects that require players to respond to and report on potential LoW violations are incorporated into CCMD and Service Component exercises; report allegations; and interpret the reporting prescriptions in the original and the revised versions of DoDD 2311.01. In addition, we asked the staff how they maintain a central collection for all LoW RIs.

(U) We analyzed each LoW policy document to:

- (U) determine whether USCENTCOM and USSOCOM, or their subordinate commands and components, developed policies and processes for LoW and whether they are consistent with DoD policies on LoW;
- (U) identify deviations from the prescribed criteria and the outcome of those deviations; and,
- (U) determine whether the CCMDs incorporated LoW requirements into plans and operational orders.

(U) We analyzed LoW training briefings provided by USCENTCOM and USSOCOM for compliance with DoD LoW policy. We also reviewed command input regarding specific exercises and how each command incorporated LoW principles into the scenarios. We analyzed each allegation of LoW violations or RI to determine if it was promptly reported up the chain of command to the combatant commander and forwarded to the CJCS, the DoD General Counsel, and the Secretary of Defense, as required. We also analyzed what process each CCMD and its subordinate commands and components employed for initial reporting and follow-on reporting, and whether they followed the processes. We assessed how and when the commands determined credibility while ensuring reporting is promptly reported up the chain of command.

(U) Use of Computer-Processed Data

(U) We did not use computer-processed data to perform this evaluation.

(U) Prior Coverage

(U) No prior coverage has been conducted on LoW during the last 5 years.

(U) Management Comments

(U) Commander, U.S. Central Command



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UNITED STATES CENTRAL COMMAND
OFFICE OF INSPECTOR GENERAL
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

25 October 2021

MEMORANDUM FOR OFFICE OF INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Response to the DODIG Draft Report – 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.

Ref: (a) DODIG Draft Report - 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, 28 September 2021.

1. Reference (a) requested U.S. Central Command (USCENTCOM) provide a response and proposed corrective action to four recommendations contained in the subject draft report.

2. The response to the subject recommendations is included as Tab A.

3. My point of contact for this subject is [REDACTED]


MARIO V. GARCIA, Jr.
GS-15
Executive Director

TAB A: USCENTCOM Information Paper – USCENTCOM Response to Recommendations in DoD IG's draft Evaluation of USCENTCOM and SOCOM Implementation of the Administrative Requirements related to the DoD's LoW Policies, 22 October 2021.

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(U) Commander, U.S. Central Command (cont'd)

CUI

USCENTCOM INFORMATION PAPER

22 October 2021

(U) Subject: USCENTCOM Responses to Recommendations in DoD IG's draft Evaluation of USCENTCOM and SOCOM Implementation of the Administrative Requirements related to the DoD's LoW Policies

(U) USCENTCOM provides the response below to DoD IG's recommendations to USCENTCOM in the subject draft Evaluation. Additionally, USCENTCOM renews its previous non-concurrence to certain sections of the draft Evaluation. Recognizing the composition of the DoD IG evaluation team did not include subject matter experts with the training or expertise in supervision and execution of this critical program, the resultant evaluation potentially misinterprets the program's intent and supporting processes. Substantive confusion related to command responsibility and integration or reference to other DoD rules and regulations is likely to create confusion for those reading this evaluation. Given the significant emphasis the DoD places on this program, the evaluation may have benefited from including subject matter experts with a comprehensive background in the Law of War/Law of Armed Conflict and the corresponding intent and purpose of the DoD's LoW program, and not required the commands to provide extensive foundational background to educate the evaluators.

1. (U) Response to Recommendation 1a:

a. (U) USCENTCOM has revised 27-1 "Law of War Program," to be consistent with the revised definitions and requirements of DoDD 2311.01, "DoD LoW Program." As noted during the evaluation process, USCENTCOM initiated revision of CCR-27-1 after receipt of the updated DoDD 2311.01. Completion of this revision was paused to consider updates from the corresponding Joint Staff document. CJTF-OIR's Fragmentary Order 2 to Operations Order 17-12-0002 will be updated to be consistent with updated CCR27-1 and DoDD 2311.01.

2. (U) Response to Recommendation 1b.

a. (U) USCENTCOM objects to the recommendation to develop procedures to execute and document a periodic review of component command staff and subordinate joint command training programs to ensure they are consistent with the DoD LoW program.

b. (U) There is no requirement for a combatant command to periodically review component and subordinate commands' LoW training programs, including those done in theater.

(1) DoDD 2311.01, para. 2.9a, states it is a combatant commander's responsibility to:

"(U) ... have effective programs within their respective commands to prevent violations of LoW and ensure that their commands' plans, policies, directives, and rules of engagement are subject to periodic review and evaluation, particularly in light of any violations."

(2) (U) The directive does not require Headquarters, USCENTCOM, to specifically review LoW training programs conducted by every component and subordinate joint command

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Controlled by: USCENTCOM
Controlled by: CCJA
CUI Category: (CUI//SP-
PRIVILEGED/AC/DELIB)
POC: [REDACTED]

(U) Commander, U.S. Central Command (cont'd)

CUI

within the USCENTCOM Area of Responsibility (AOR). Interpreting DoDD 2311.01 in this manner – such that it applies not only to the Headquarters itself, but also to any command or unit temporarily present in the AOR – would impose a significant and unresourced requirement on any combatant command, particularly one like USCENTCOM, which has relatively few assigned forces, and is supported largely by the episodic presence of rotational forces that are manned, trained and equipped by the services. The component and subordinate commands are tasked, trained and better suited to review and document their own training in accordance with DoD, service and USCENTCOM rules and regulations. We believe the correct interpretation of DoD 2311.01 is to understand the combatant command's responsibility to ensure that the LoW training they conduct is consistent with current DoD or Joint directives, instructions, and regulations, which can be accomplished through appropriate USCENTCOM regulations and orders, but not to require USCENTCOM to review and assess their individual programs. As noted in the language, review and evaluation are focused on situations where violations indicate a process or training deficiency.

3. (U) Response to Recommendation 1c.

a. (U) USCENTCOM does not object, although provides comment, to the recommendation to develop procedures to incorporate scenarios into command-level Joint and Service component exercises that require personnel to respond to and report potential LoW incidents.

b. (U) USCENTCOM will ensure LoW injects are appropriately incorporated in such exercises, but given the multitude of objectives established in the exercise program, retains discretion as to which exercises and what aspects of LoW will be incorporated. It bears repeating that whenever a military exercise incorporates simulated combat operations, the LoW is, by definition, incorporated in it, because that is the standard to which DoD personnel are trained.

4. (U) Response to Recommendation 1d.

a. (U) USCENTCOM does not object to the recommendation to develop updated procedures to reflect the new guidance on reporting processes to promptly report reportable LoW incidents (regardless of the reporting channel) to the combatant commander and appropriate external organizations that are distinct from other reporting procedures such as civilian casualty reporting.

b. (CUI)

(CUI)

(CUI)

(U) Commander, U.S. Central Command (cont'd)

CUI

5. (U) USCENTCOM non-concurs with the following substantive items in the draft Evaluation (note, administrative recommendations and recommendations to improve readability and clarity are provided in the attached Word document):

a. (U) Credibility Determination. While corrected in other parts, pages 12 and 26 still assert that a LoW allegation is credible based solely on the complainant's status and his/her source of knowledge. Although these factors may be relevant to a commander's decision, they do not automatically render an allegation credible. Per DoDD 2311.01's definition of "credible information," it is the military commander who determines credibility, not the complainant; it is entirely conceivable that a credible complainant may present information that a commander determines, based on the totality of information then available, to be non-credible.

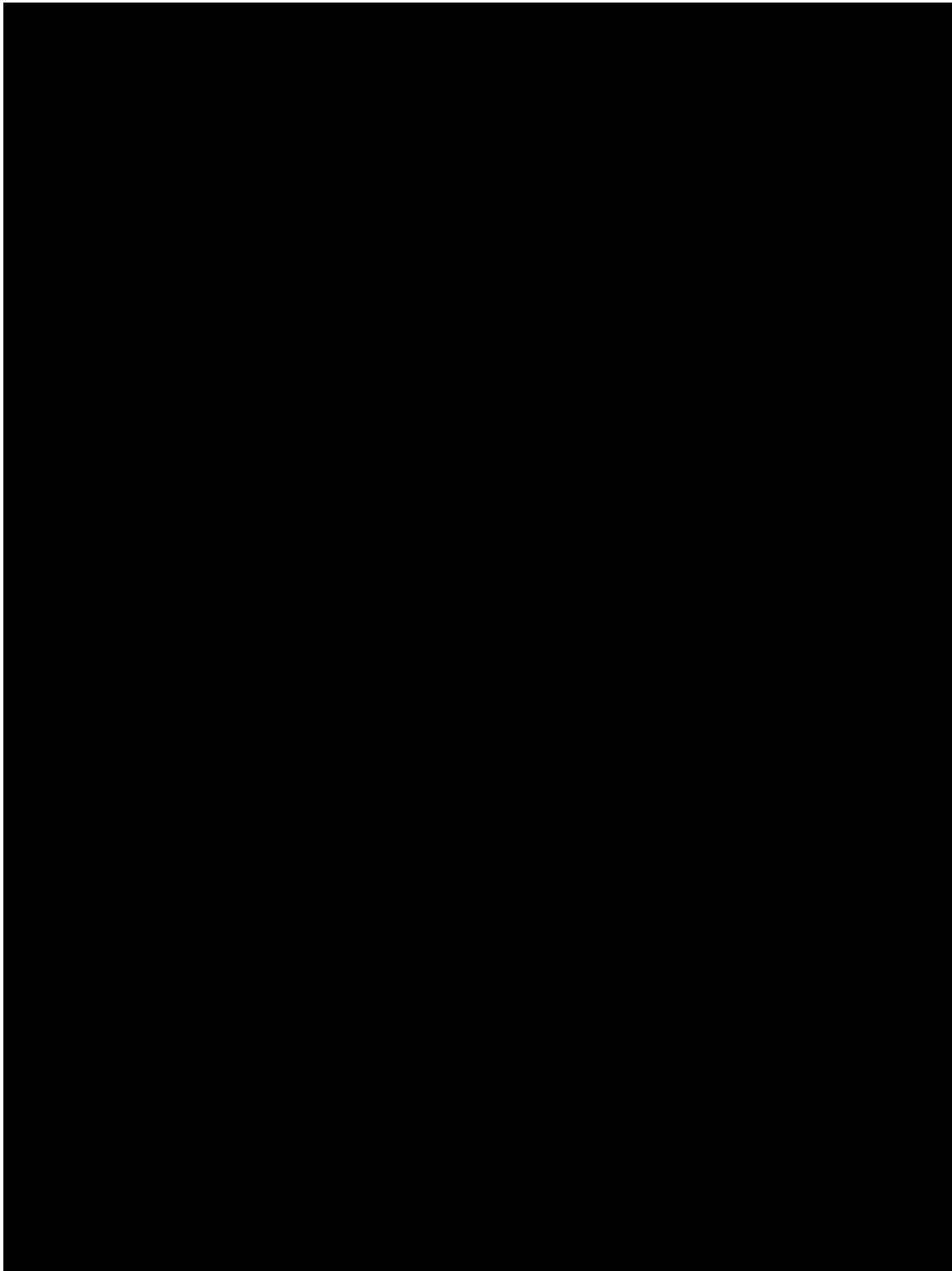
b. (U) Capability of Subordinate to Review DoD Directives and Instructions. Pages ii, 13, and 27 state there is no assurance USCENTCOM's subordinate commands will report "all" LoW allegations because USCENTCOM has either not updated its regulation or reviewed subordinates' LoW training. USCENTCOM objects to this characterization and recommends deleting this statement as it is misleading, insulting, and inappropriately and incorrectly implies that subordinate commands – including multiple 3-star and 2-star headquarters, which are serviced by highly experienced legal staffs of their own s– are incapable of reviewing, understanding, and applying applicable DoD directives and instructions that would exist, and apply them irrespective of the presence or absence of any USCENTCOM guidance.

(U) Approved by: [REDACTED]

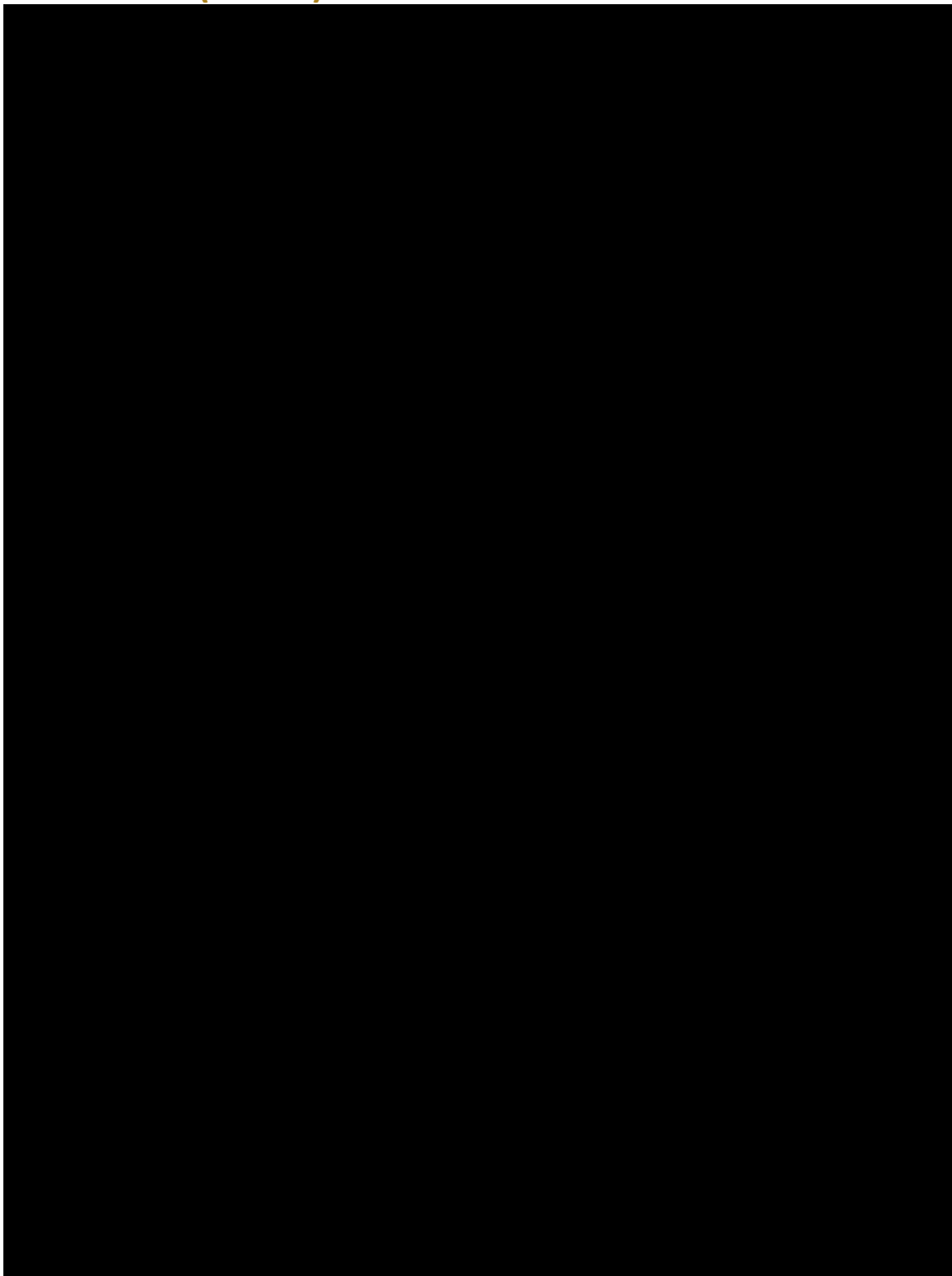
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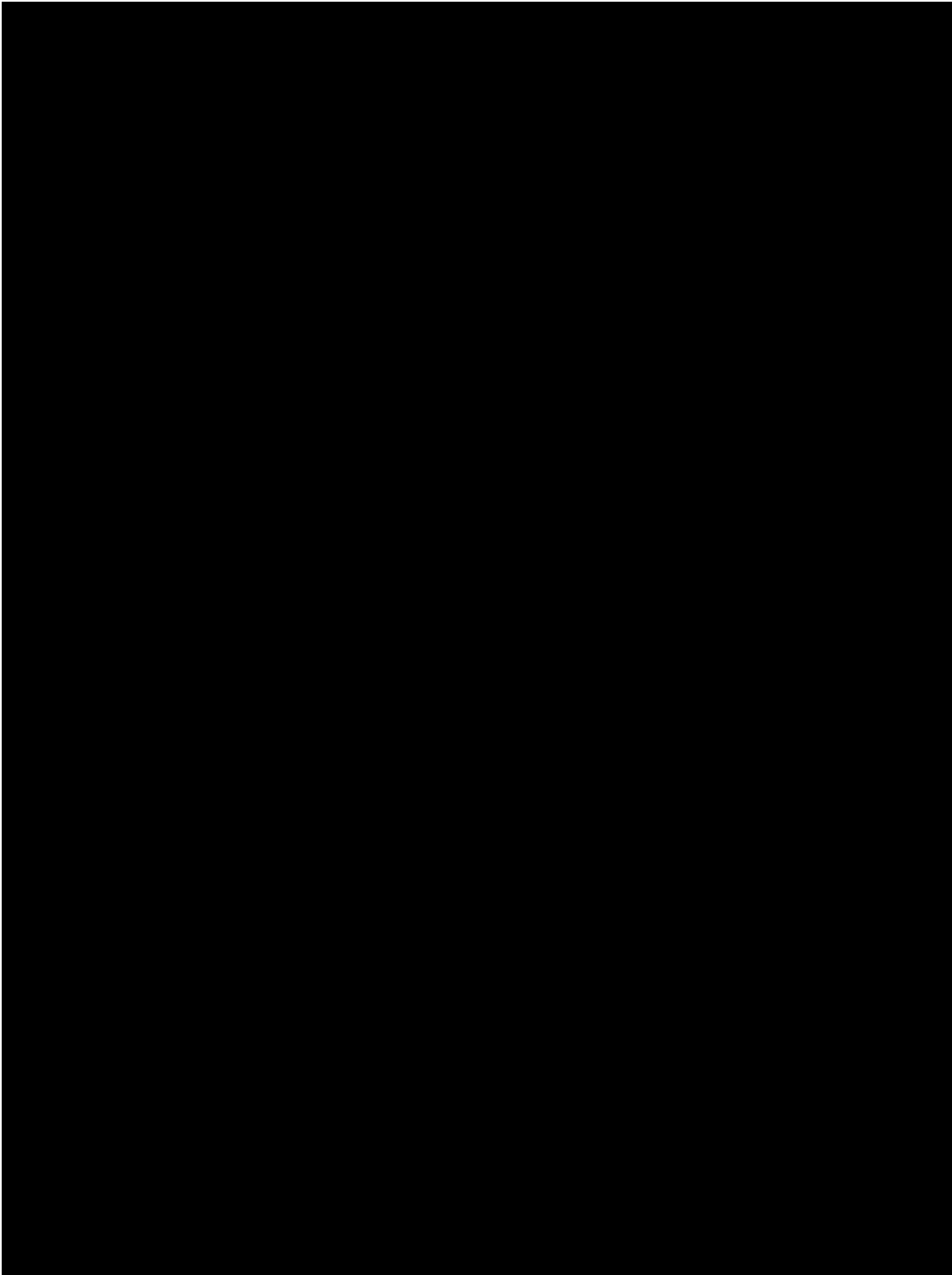
(U) Commander, U.S. Special Operations Command



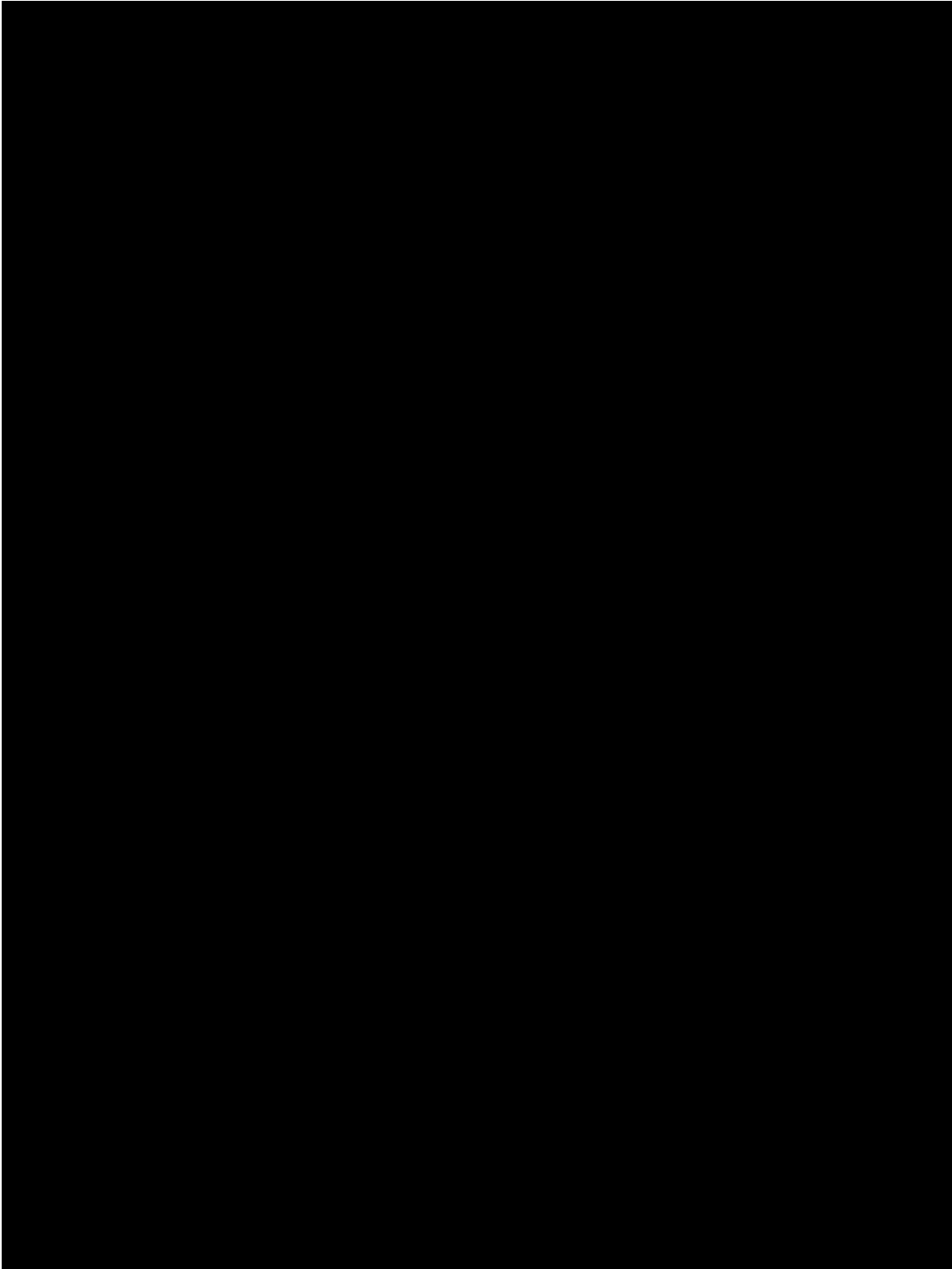
(U) Commander, U.S. Special Operations Command (cont'd)



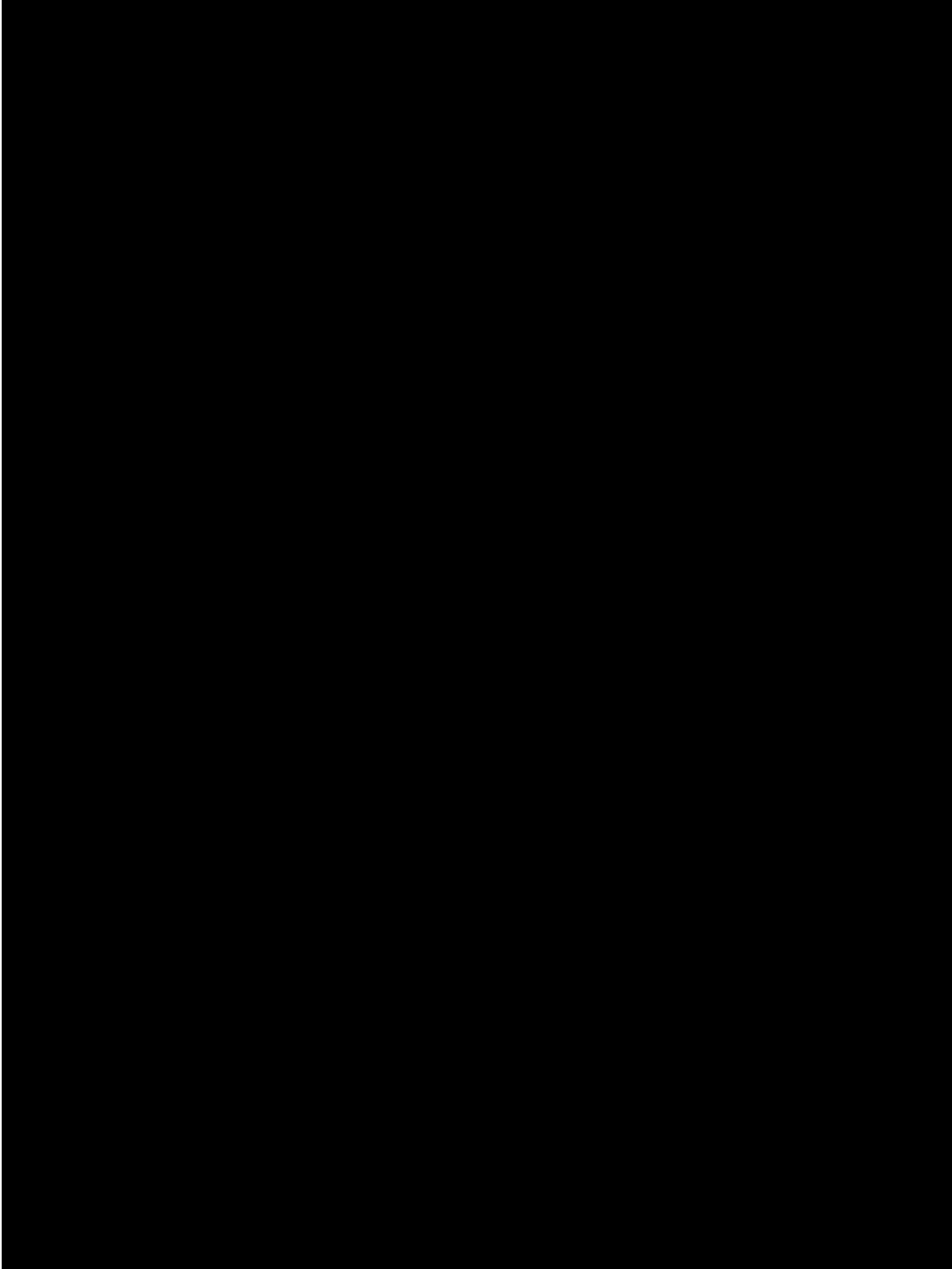
**(U) Commander, U.S. Special Operations
Command (cont'd)**



**(U) Commander, U.S. Special Operations
Command (cont'd)**



**(U) Commander, U.S. Special Operations
Command (cont'd)**



(U) Director of the Joint Staff



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THE JOINT STAFF

WASHINGTON, DC

DJSM 0188-21
12 October 2021

Reply Zip Code:
20318-0300

MEMORANDUM FOR INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: 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

1. The Joint Staff concurs with the recommendation that the Director, Joint Staff review and revise Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01, "Implementation of the DoD Law of War Program," to make it consistent with the revised definitions and current requirements of Department of Defense Directive 2311.01, "DoD Law of War Program," July 2, 2020.
2. The Joint Staff will update CJCSI 5810.01 with an estimated completion date no later than January 4, 2022.
3. The Joint Staff point of contact is [REDACTED]

GEORGE M. WIKOFF, RADM, USN
Vice Director, Joint Staff

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(U) Acronyms and Abbreviations

AOR	Area of Responsibility
AR	Army Regulation
CCR	Central Command Regulation
CJCS	Chairman of the Joint Chiefs of Staff
CJCSI	Chairman of the Joint Chiefs of Staff Instruction
CJTF-OIR	Combined Joint Task Force – Operation Inherent Resolve
DoDD	Department of Defense Directive
JA	Judge Advocate
JSOC	Joint Special Operations Command
LoW	Law of War
ROE	Rules of Engagement
SJA	Staff Judge Advocate
USFOR-A	U.S. Forces - Afghanistan
USCENTCOM	U.S. Central Command
USSOCOM	U.S. Special Operations Command

(U) Glossary

(U) Credible information. Information that a reasonable military commander would believe to be sufficiently accurate to warrant further review of the alleged violation. The totality of the circumstances is to be considered, including the reliability of the source (for example, the source's record in providing accurate information in the past and how the source obtained the information), and whether there is contradictory or corroborating information. **(DoDD 2311.01, July 2, 2020)**

(U) Law of war. The treaties and customary international law binding on the United States that regulate: the resort to armed force; the conduct of hostilities and the protection of war victims in international and non-international armed conflict; belligerent occupation; and the relationships between belligerent, neutral, and non-belligerent States. Sometimes also called the "law of armed conflict" or "international humanitarian law," the law of war is specifically intended to address the circumstances of armed conflict. **(DoDD 2311.01, July 2, 2020)**

(U) Reportable incident. A possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict. (DoDD 2311.01E, May 9, 2006, incorporating change 1, November 15, 2010) An incident that a unit commander or other responsible official determines, based on credible information, potentially involves: a war crime; other violations of the law of war; or conduct during military operations that would be a war crime if the military operations occurred in the context of an armed conflict. The unit commander or responsible official need not determine that a potential violation occurred, only that credible information merits further review of the incident. **(DoDD 2311.01, July 2, 2020)**

(U) War crime. Serious violation of the law of war that generally has been committed intentionally, such as murder, torture, rape, pillage, extensive and wanton destruction of property without justification, and intentionally directing attacks against the civilian population or civilians protected as such. "War crimes" may be defined differently in other contexts for other legal purposes. **(DoDD 2311.01, July 2, 2020)**

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