

## REPORT ON THE LEGAL AND POLICY FRAMEWORKS FOR THE UNITED STATES' USE OF MILITARY FORCE AND RELATED NATIONAL SECURITY OPERATIONS

This report is provided in accordance with Section 1264(a) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. No. 115-91), as amended by Section 1261 of the NDAA for FY 2020 (Pub. L. No. 116-92), codified at 50 U.S.C. §1549(a). It constitutes the calendar-year 2023 annual report on changes to the legal and policy frameworks from the preceding calendar year for the United States' use of military force and related national security operations.<sup>1</sup> Consistent with Section 1264(c) of the NDAA for FY 2018, as amended (50 U.S.C. §1549(c)), this report contains a classified annex.

On December 21, 2023, President Biden submitted a notification in accordance with Section 1264(b) of the NDAA for FY 2018, as amended (50 U.S.C. §1549(b)), describing a change to the legal and policy frameworks for the United States' use of military force and related national security operations related to Iran-aligned militia groups. The classified annex contains additional information.

In 2023 the U.S. Armed Forces used military force in Iraq, Syria, and Somalia.

### *2001 Authorization for Use of Military Force*

Foreign Forces, Irregular Forces, Groups, or Individuals for Which a Determination Has Been Made That Force Could Legally Be Used Under the Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001): No change.

Criteria for Designating a Foreign Force, Irregular Force, Group, or Individual as Lawfully Targetable, as a High-Value Target, and as Formally or Functionally a Member of a Group Covered Under the 2001 AUMF: No change.

### *Application of Key Domestic and International Legal Principles to Key Theaters*

*Iraq and Syria:* United States forces continue to carry out strikes or other vital operations against ISIS and al-Qa'ida in Syria and Iraq. U.S. forces deployed to Iraq and Syria for operations against ISIS and al-Qa'ida continued to be threatened and attacked by militia groups affiliated with Iran's Islamic Revolutionary Guard Corps (IRGC). In response to these threats and attacks, U.S. forces continued to use necessary and appropriate force to defend themselves and partner forces from attacks or threats of imminent attack.<sup>2</sup> For example, U.S. forces struck Iran-aligned militia group facilities in Syria on March 23, October 26, November 7, and November 12 and in Iraq, U.S. forces struck Iran-aligned militia group facilities November 21

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<sup>1</sup> President Obama issued the "Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations" on December 5, 2016. Pursuant to Section 1264, as amended, former President Trump submitted reports on March 12, 2018, and October 16, 2020, and President Biden submitted reports on March 1, 2021, March 1, 2022, and March 1, 2023.

<sup>2</sup> Statutes that authorize the use of necessary and appropriate force, including the 2001 AUMF and the 2002 AUMF, encompass the use of force both to carry out the missions under the authorizing statutes and to defend U.S. or partner forces as they pursue those missions.

and December 25, 2023. Further detail is provided in the classified annex related to the use of military force in Iraq.

Somalia: No change

### ***U.S. Policies Regarding Targeting and Incidental Civilian Casualties***

The December 2016 *Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations* described that the United States is committed to complying with its obligations under the law of armed conflict, including those obligations that address the protection of civilians, and as a matter of policy, the United States frequently applies certain heightened policy standards and procedures that underscore its commitment to reducing civilian casualties and to enhancing transparency and strengthening accountability for its actions.

On January 27, 2022, the Secretary of Defense issued a memorandum directing the development of a Civilian Harm Mitigation and Response Action Plan (CHMR-AP) to outline the steps the Department of Defense (DOD) will take and the resources needed to improve how DOD mitigates and responds to civilian harm. On August 25, 2022, the Secretary of Defense approved the CHMR-AP.<sup>3</sup> On December 21, 2023, DoD published DoD Instruction (DoDI) 3000.17, Civilian Harm Mitigation and Response, which established policies and procedures for mitigating civilian harm, assessing and investigating civilian harm, and responding to civilian harm. The DoDI also establishes the Civilian Protection Center of Excellence within DOD.<sup>4</sup>

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<sup>3</sup> Department of Defense, Release, Civilian Harm Mitigation and Response Action Plan Fact Sheet, August, 25, 2022, *see* <https://defense.gov/News/Releases/Release/Article/3140007/civilian-harm-mitigation-and-response-action-plan-fact-sheet/>. The CHMR-AP is *available at* <https://media.defense.gov/2022/Aug/25/200306470/-1/-1/1/CIVILIAN-HARM-MITIGATION-AND-RESPONSE-ACTION-PLAN.PDF>

<sup>4</sup> Department of Defense Instruction 3000.17, Civilian Harm Mitigation and Response, December 21, 2023 (available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/300017p.PDF?ver=EaU00OCh3Y07Kiu5BYOTYw%3d%3d>)