17 APR 18

EXECUTIVE SUMMARY
Civilian Casualty (CIVCAS) Review

1. (U//~~FOUO~~) Strategic Context. The Chairman of the Joint Chiefs of Staff directed the National Defense University to assess civilian casualties (CIVCAS) that resulted from US air or artillery strikes in the US Central Command (USCENTCOM) and US Africa Command (USAFRICOM) Areas of Operation (AOR) from 2015 to 2017. The study focuses primarily on Operation Inherent Resolve (OIR), Operation Resolute Support, Operation Odyssey Lightning and other operations in Libya and Somalia. It provides recommendations relating to policy, doctrine, operational planning, and technological investments.

2. (U//~~FOUO~~) Tasks. The study was organized around the following tasks: a) guidance, intent, and oversight with respect to civilian casualties; b) accuracy and transparency of civilian casualty reporting procedures; c) effective measures to reconcile and verify civilian casualty reporting; d) proper assessment and investigation of civilian casualty allegations; e) appropriate use of *ex gratia* payments, including *solatia* and CIVCAS response; and f) overarching departmental policies in these areas.

3. (U//~~FOUO~~) Findings.

   a. (U) Guidance, Intent, and Oversight.
   (U//~~FOUO~~) *Examine commander's guidance, intent, and command oversight with regard to civilian casualties and adherence to the Laws of Armed Conflict (LOAC).*

   (~~S//NF~~) *Overarching Finding.* [redacted] logs and CIVCAS data from January 2015 to December 2017 indicate that there have been temporary increases in the confirmed number of civilians killed and wounded over time. [redacted]

   (~~S//NF~~) *Finding A.1.* The delegation of Target Engagement Authority did not directly cause an increase in the rate of CIVCAS during OIR.

   (~~S//NF~~) *Finding A.2.* There is clear written guidance and oversight regarding civilian casualty mitigation for deliberate and dynamic strikes. There is also a widespread priority to minimize civilian casualties from the highest to lowest levels.[1]

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(~~S//NF~~) *Finding A.3.* Commanders throughout the chain of command exercised thorough oversight. These findings are consistent for declared theaters with Operating Principles that authorize direct action and Areas of Active Hostility, such as Afghanistan, Iraq, Syria, Libya and Somalia, as well as Outside Areas of Active Hostility.[2]

(~~S//NF~~) *Finding A.4.* The Positive Identification process has sufficient guidance and structure and therefore does not increase the risk for civilian casualties.[3]

(~~S//NF~~) *Finding A.5.* [redacted]

(~~S//NF~~) *Finding A.6.* [redacted]

b. (U//~~FOUO~~) Internal Reporting Procedures.
(U//~~FOUO~~) *Examine the accuracy and transparency of CIVCAS reporting procedures.*

(~~S//NF~~) *Finding B.1.* [redacted]

(~~S//NF~~) *Finding B.2.* Feedback to subordinate commands on the cause and/or lessons learned from a civilian casualty incident is inconsistent. [redacted]

(~~S//NF~~) *Finding B.3.* NGOs consulted on this study are frustrated with what they see as decreased transparency in US government reporting. USCENTCOM's public release of assessment and investigation findings offers little detail as to why a CIVCAS allegation is considered "not credible." NGOs criticized the aggregation of US and coalition CIVCAS incidents since 2017, as well as the Fall 2017 decision to no longer share Operation Freedom's Sentinel strike data.

c. (U//~~FOUO~~) Reconciliation and Verification of External Reports.
(U//~~FOUO~~) *Examine measures to reconcile and verify CIVCAS reporting.*

(~~S//NF~~) *Finding C.1.* US military standards for verifying third party allegations vary significantly, and some may be construed as restrictive.

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d. (U//~~FOUO~~) Investigations.
(U) Examine assessment and investigation of CIVCAS allegations.

(~~S//NF~~) *Finding D.1.* Army Regulation 15-6 (AR 15-6) reports routinely determine the facts of the incident and review compliance with LOAC and key operational procedures. Yet the details and information included in each report and alignment with ongoing NGO investigations vary.[4]

e. (U//~~FOUO~~) CIVCAS Response, Including *Solatia*.
(U) Examine the appropriate use of solatia payments.

(U//~~FOUO~~) *Finding E.1.* There are limits to existing policy, doctrine, and guidance on how regional commands should respond to CIVCAS incidents.

4. (U//~~FOUO~~) Recommendations.

a. Guidance, Intent and Oversight.

(~~S//NF~~) *Recommendations 1 and 2* [redacted] Clarify guidance and doctrine to address the increased risk of CIVCAS when US forces operate by, with, and through partner forces whose interests, priorities, and capabilities may not necessarily align with those of the United States.

- (~~S//NF~~) [redacted]
- (~~S//NF~~) Update existing Joint Doctrine[5] to outline best practices for working by, with, and through partner forces with different priorities, interests, and capabilities.

(~~S//NF~~) *Recommendation 3 (tied to Findings A.5, A.6).* Invest in tools to assist Ground Force Commanders (GFC) with situational awareness. [redacted]

b. (U//~~FOUO~~) Internal Reporting Procedures.

(~~S//NF~~) *Recommendation 4 (tied to Findings B.1, B.3).* Systematically seek out additional sources of information on potential civilian casualties as part of the self-reporting process. These include social media, NGOs [redacted]

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[redacted] and local sources. Place greater attention to CIVCAS as part of the battle damage assessment process.

~~(S//NF)~~ *Recommendation 5 (tied to Finding B.2).* Consider standardizing the CIVCAS review process across combatant commands. This standardization may include review boards for civilian casualty incidents overseen by the next echelon of command. The review boards could serve as an alternative to official administrative investigations and provide feedback and lessons learned to the GFC, as well as pilots, [redacted] and other relevant analysts.

~~(S//NF)~~ *Recommendation 6 (tied to Findings B.1, B.3).* Expand combatant command-level CIVCAS cells to include individuals tasked with reconciling external and US military reports on CIVCAS, as well as coordinating with relevant units to declassify or appropriately release relevant information.

c. (U//~~FOUO~~) Reconciliation and Verification of External Reports.

~~(S//NF)~~ *Recommendation 7 (tied to Finding C.1).* The Joint Force should develop a process for initial assessment reports that broadens the geographic area and timeframe of inquiry. The process should provide flexibility to account for contextual and operational differences across AORs. The Joint Force should also create a range of estimates of CIVCAS numbers and report those estimates (i.e., confirmed/disputed/rejected).

d. (U//~~FOUO~~) Investigations.

~~(S//NF)~~ *Recommendation 8 (tied to Finding D.1).* The US military should institutionalize CIVCAS investigation processes. This should include sharing best practices in AR 15-6 adjudication and public release, as well as closer engagement with NGOs during the process, where feasible.

e. (U//~~FOUO~~) CIVCAS Response, Including *Solatia*.

(U//~~FOUO~~) *Recommendation 9 (tied to Finding E.1).* The Joint Staff should develop specific guidance, processes, and clarifications of authorities for combatant commands for CIVCAS response (e.g. compensation, explanation, working through partner governments, in-kind offerings, community projects, [redacted], apologies, clearing of the family name, etc.). This should be informed by host nation customs, laws, and norms that account for the particularities of each AOR.

5. (U//~~FOUO~~) Conclusion. The study team acknowledges that these recommendations are primarily applicable to low to medium intensity conflicts and may also vary according to mission and specific environments.

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[redacted] (OSD/SOLIC)

[redacted] (TRADOC)
[redacted] (USA CALL)

[redacted] (CNA)
[redacted] (RAND)

(U) Written Comments

USSOCOM
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AFSOC
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JS
USAFRICOM
USAFRICOM HQ
USCENTCOM
USCENTCOM HQ
SOJTF-A

(U) Senior Briefings for Comments

USSOCOM

[redacted]

USA, TRADOC
AFCENT/[redacted]
AFCENT/[redacted]
J5 [redacted]
J5 [redacted]
USCENTCOM
NU [redacted]

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[1] (U//~~FOUO~~) Joint Publication 3-60, *Joint Targeting;* ATP-3-60.1/MCRP 3-16D/NTTP 3-60.1/AFTTP 3-2.3 *Multi-Service Tactics, Techniques, and Procedures for Dynamic Targeting.*

[2] Presidential Policy Guidance (PPG), "Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities" (May 22, 2013) [redacted]

[3] (U//~~FOUO~~) Two study team members, [redacted] and [redacted], disagreed with the finding on PID, noting that more study should be done on this topic to arrive at a firm conclusion. They note that the 2013 Joint Staff report entitled, "Reducing and Mitigating Civilian Casualties: Enduring Lessons," indicated the problem of misidentification and incorrect PID as a major deficiency. It found that "CIVCAS primarily occurs in one of two ways: the first is through collateral damage from an engagement with known enemy forces, where the effects of the engagement also impact nearby civilians; the second is through misidentification, where civilians are mistakenly believed to be enemy and are engaged because of that belief." That Joint Staff report is based on six different studies covering Iraq (2004-2008) and Afghanistan (2007-2012). That report finding is also consistent with incorrect PID being a driver in the major civilian casualty incidents that led to significant DOD reviews, including Bala Balouk (2009), Uruzgan (2010), Kunduz (2015), and the airstrike from the New York Times Uncounted article (2017). [redacted] and [redacted] observed that the current study's interview-based methodology will tend not to detect PID problems, because military personnel are generally unaware of misidentifications when they occur. Investigations and CCARs are the best way to detect potential CIVCAS; however, because of the combination of the lack of a robust US presence on the ground and a sometimes overly restrictive process for evaluating external reports, it is reasonable to expect a systematic undercounting of misidentifications in US military reports in the context of OIR. This may be particularly true given the more complex nature of the Mosul and Raqqa operations. [redacted]

[4] (~~S~~) DOD and other services utilize versions of administrative investigations such as Chapter II of Judge Advocate General Instruction 5800.7F, or the US Air Force Command Directed Investigation.

[5] (U) This includes *Security Force Assistance* (JDN 1-13), *Counterinsurgency Operations* (JP 3-24), *Foreign Internal Defense* (JP 3-22), *Unconventional Warfare* (JP 3-05.1), *Counterterrorism* (JP 3-26), *Stability Operations* (JP 3-07), *Security Cooperation* (JP 3-20), *Joint Operations* (JP 3-0), and *Joint Urban Operations* (JP 3-06).

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(U//~~FOUO~~) Purpose: The purpose of this study is to examine civilian casualties (CIVCAS) that resulted from US air or artillery strikes in the US Central Command (USCENTCOM) and US Africa Command (USAFRICOM) Areas of Operation (AOR) from 2015 to 2017.[1] The report specifically examines the following tasks: a) guidance, intent, and oversight with respect to civilian casualties; b) accuracy and transparency of civilian casualty reporting procedures; c) effective measures to reconcile and verify civilian casualty reporting; d) proper assessment and investigation of civilian casualty allegations; e) appropriate use of *ex gratia* payments, including *solatia*, and CIVCAS response; and f) overarching departmental policies in these areas.

(U//~~FOUO~~) Background: On 28 November 2017, the Secretary of Defense tasked the Chairman of the Joint Chiefs of Staff to create an independent body to examine the issue of civilian casualties in armed conflict. The Chairman directed the Joint Staff to form a team to undertake the study. The Chairman specified that the group should include retired senior officers and academics, and could also include representatives from Non-Governmental Organizations (NGO).

(U) Recent attention to civilian casualties has increased in the public domain since the 2001 operation in Afghanistan, the 2003 Iraq war, a series of high-profile, CIVCAS incidents in Iraq, Syria, and Yemen, and heightened media attention to the gap between CIVCAS figures reported by the US military and NGOs.[2]

(U//~~FOUO~~) Methodology: This research study was led by the National Defense University's Institute for National Strategic Studies and included a research team of experts from think tanks and the Department of Defense (DOD), as well as an NGO advisory panel. The research had four components: 1) a literature, legal, and policy review; 2) analyses of quantitative data: strikes, civilian casualties, and US military assessments of civilian casualties; 3) semi-structured interviews with operators, analysts, headquarters staff, and senior commanders, and 4) roundtable discussions with NGOs.

(U//~~FOUO~~) Literature Review. The study team reviewed US military tactical guidance, directives, theatre-specific supplementary Rules of Engagement (ROE), targeting and strike processes, and procedures to identify and handle allegations involving civilian deaths. This review consisted of 40 documents ranging from presidential guidance to DOD Standard Operating Procedures (SOPs). The team compared US military civilian casualty investigations related to incidents in Mosul, Kunduz, al-Hatra, al-Jinah, and Ramadi with NGO investigations. The team also reviewed public documents produced by the US military, NGOs, and academia on the subject of civilian casualties.

(~~S//NF~~) Quantitative Data Analyses. The study team utilized available quantitative data to explore civilian casualties by country and target-type, as well as patterns of strikes over time. These data sources include strike and CIVCAS databases. Using these two sources, we analyzed the number of civilian casualties reported by the US military and divided these numbers by strike (rate of civilian casualties per strike) and by munitions dropped (rate of civilian casualties per munition). We also examined CIVCAS numbers reported by NGOs. For comparative purposes, the study team used Airwars data because it was the only NGO that provided consistent reporting on the number of CIVCAS for Iraq and Syria within the study period. The study team also accessed and

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reviewed over 200 CIVCAS Credibility Assessment Reports (CCAR) for Operation Inherent Resolve (OIR), Operation Odyssey Lightning, and other operations in Libya and Somalia.[3]

~~(S//NF)~~ [redacted]

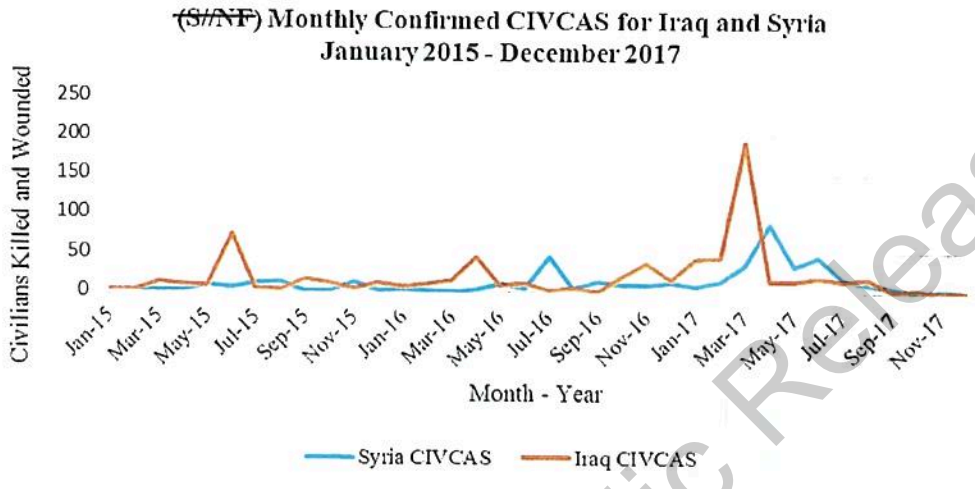
(U//~~FOUO~~) NGO Roundtables. The study team conducted three meetings with NGOs that work on the issue of CIVCAS and reviewed their data, methodology, and policy recommendations. [redacted]

(U//~~FOUO~~) Classification: The paragraphs in the report are marked according to derivative classification guidelines. Findings and recommendations that draw on the interviews and CCARs from USAFRICOM are classified as SECRET//NOFORN. Those that utilize the strike and CIVCAS databases, along with CCARs from OIR, are classified SECRET//FVEY.

(U) CONTEXT

~~(S//NF)~~ [redacted]

(U) Figure 2: Monthly Confirmed CIVCAS for Iraq and Syria (OIR Reporting)



(U//~~FOUO~~) TASK A: GUIDANCE, INTENT, AND OVERSIGHT

(U//~~FOUO~~) *Specific task: Examine commander's guidance, intent, and command oversight with regard to civilian casualties and adherence to the Laws of Armed Conflict (LOAC).*

(U//~~FOUO~~) Background to guidance, intent, and oversight

(U//~~FOUO~~) The LOAC standard for CIVCAS provides the foundational legal principles upon which the US military establishes its Standing Rules of Engagement (SROE) and other military guidance and intent.[4] The SROE establish fundamental policies and procedures governing the actions to be taken by US commanders and their forces during all military operations and contingencies.[5] Supplemental ROE are mission-specific measures tailored for specific operations.[6] Generally, the ROE will not specify the targeting process (i.e., deliberate targeting, dynamic targeting) that is to be used to exercise targeting authorities. Rather, authorities in the ROE establish what groups and individuals may be targeted because they have been declared hostile and what groups may be defended (i.e., US forces, partner military forces, designated non-military personnel and groups). See Appendix A for further discussion on ROEs.

(U//~~FOUO~~) In addition to the ROE, other command guidance provides commander's intent and considerations to help US forces make appropriate decisions regarding the use of force. Such additional guidance includes Joint Force Commander Tactical Directives, Special Instructions (SPINS)[7], Operational Orders[8], and Fragmentary Orders[9]. This guidance is theater-specific and will change over time to adjust to fluctuating operational environments and mission objectives.

(U) To understand guidance, intent, and oversight, it is necessary to recognize the types of strikes conducted during operations relevant to this study.

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~~(S//NF)~~ Deliberate targeting. Strikes conducted against deliberate (i.e., planned) targets to support and shape future operations or the ground scheme of maneuver.[10] [redacted]

- (U) *Scheduled.* Strikes against deliberate targets that are prosecuted at a specific predetermined time.

- (U) *On-call.* Strikes against deliberate targets but not for a specific delivery time. These targets are unique in that actions are planned against them using deliberate targeting processes, but execution is normally conducted using dynamic targeting.[11] Strikes against on-call deliberate targets are also known as deliberate/dynamic or planned dynamic strikes.

~~(S//NF)~~ Dynamic targeting. Dynamic targeting can be subdivided into three subgroups: unplanned, unanticipated, and self-defense. [redacted]

- (U//~~FOUO~~) *Unplanned.* These are known targets and are included on the target list, but not selected for the deliberate process due to various reasons (i.e., could not process quickly enough through deliberate planning process or was not expected to be available for engagement within the target cycle). Changes to the target status (priority, access, permissions), however, could result in the need to engage the target outside of the deliberate targeting process and as a dynamic strike.[12]

- (U//~~FOUO~~) *Unanticipated.* These targets are previously unidentified and not expected to be present in the operational environment. They are not included on a target list and an evaluation of the target is needed to determine engagement requirements and timing.

- (U//~~FOUO~~) *Unit Self-Defense / Collective Self-Defense*. In response to a hostile act or a demonstrated hostile intent, unit commanders retain the inherent right of unit self-defense and may respond with force, up to and including lethal force, if necessary to meet the threat. Strikes under this condition have shortened processes that still involve the four principles of LOAC – distinction, unnecessary suffering, military necessity, proportionality – and routinely accomplish those principles using the same processes as offensive lethal strikes. Personnel and/or equipment can be directly engaged due to an immediate threat to coalition or partnered forces under self-defense/collective self-defense situation. The execution of a strike in self-defense falls upon the judgment of the on-scene commander about the threat at hand and the amount of force needed to remove the threat, often with guidance (such as the dynamic targeting checklist) but always taking the LOAC into account. Under self-defense ROE, commanders are not required to conduct formal or field Collateral Damage Estimate (CDE) methodology, but must abide by the LOAC principles, including

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proportionality. Self-defense strikes should not exceed the nature, duration, and scope of force required to respond decisively to hostile acts or demonstrated hostile intent.

~~(S//NF)~~ Dynamic strikes are one of the most important areas for examination in this study because they made up the vast majority of the strikes in OIR. Dynamic strikes under troops-in-contact conditions in an urban environment are especially challenging. Some interviewees estimated that the vast majority of CIVCAS resulted from these strikes. These strikes are held to the same LOAC standards but are often executed in a reduced timeframe.

~~(S//NF)~~ **Finding A.1. Delegation of Target Engagement Authority (TEA).** The delegation of TEA did not directly cause an increase in the rate of CIVCAS during OIR.

~~(S//NF)~~ [redacted]

~~(S//NF)~~ **Finding A.2. Guidance and Commander's Intent.** There is clear written guidance and oversight regarding civilian casualty mitigation for deliberate and dynamic strikes. There is also a widespread priority to minimize civilian casualties from the highest to lowest levels.[14]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ **Finding A.3. Oversight for Ground Force Commanders.** Commanders throughout the chain of command exercised thorough oversight. These findings are consistent for declared theaters with Operating Principles that authorize direct action and Areas of Active Hostility (AAH), such as Afghanistan, Iraq, Syria, Libya and Somalia, as well as Outside Areas of Active Hostility (OAAH).[15]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ **Findings A.4. Positive Identification (PID).** The PID process has sufficient guidance and structure and therefore does not increase the risk for civilian casualties.[17]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ **Finding A.5.** [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ **Finding A.6. Operating in an Urban Environment.** [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

~~(S//NF)~~ [redacted]

(U) TASK B: INTERNAL REPORTING PROCEDURES

(U//~~FOUO~~) *Specific Task: Examine the accuracy and transparency of CIVCAS reporting procedures.*

(U//~~FOUO~~) Background on internal reporting procedures and assessments

~~(S//NF)~~ CIVCAS reporting guidance for the US military has gone through a maturation of processes and transference from SOPs developed in Afghanistan by the International Security Assistance Force.[22] The specific guidance varies across theaters, but involves three basic steps:

(U//~~FOUO~~) First Report. The first step is self-reporting of suspected CIVCAS through a rapid report with the basic details of the incident, including estimated civilian casualty numbers. In OIR, this is known as a First Impression Report (FIR) and for USAFRICOM, an Initial Assessment.

(U//~~FOUO~~) Corroboration of the Report. This step screens out reports that cannot be corroborated with US strike logs or have other credible information. In OIR, this is known as the Initial Assessment and for USAFRICOM, a "Basic Assessment." In Combined Joint Task Force–OIR (CJTF-OIR) the Initial Assessment has been a formal part of the process conducted by the CIVCAS cell since roughly March 2017. Prior to that, the Initial Assessment was part of the CIVCAS credibility assessment report as discussed in step 3 below.

(U//~~FOUO~~) Credibility Assessment. If corroborated in the strike log, the report then moves to a credibility assessment that determines whether civilian casualties likely occurred. In OIR, the final product is known as the CCAR and in USAFRICOM, a Memorandum for Record. Commands follow slightly different models for the credibility assessments:

- ~~(S//NF)~~ [redacted]
- ~~(S//NF)~~ [redacted]
- (U//~~FOUO~~) [redacted]

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(S//NF) Finding B.1. Reporting on Civilian Casualties. [redacted]

(S//NF) In some instances, the TEA who approved a strike that led to a civilian casualty allegation is the same person who conducts or oversees the CCAR for this strike. This practice creates the appearance of bias in the assessment process. The study team interviewed individuals from the OIR Civilian Casualty Assessment Teams, the Civilian Casualty Mitigation Team for Afghanistan, [redacted] USAFRICOM similarly routes the assessments through two levels of the chain-of-command.

(S//NF) Finding B.2. Feedback on Civilian Casualty Reporting to Subordinate Commands. Feedback to subordinate commands on the cause and/or lessons learned from a civilian casualty incident are inconsistent. [redacted]

(U//FOUO) Finding B.3. Transparency in CIVCAS Reporting. NGOs consulted on this study are frustrated with what they see as decreased transparency in US Government reporting. USCENTCOM's public release of assessment and investigation findings offers little detail as to why a CIVCAS allegation is considered "not credible." NGOs criticized the aggregation of US and coalition CIVCAS incidents since 2017, as well as the Fall 2017 decision to no longer publicly share Operation Freedom's Sentinel strike data.

(U//FOUO) [redacted]

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(U) TASK C: RECONCILIATION AND VERIFICATION OF EXTERNAL REPORTS

(U//~~FOUO~~) *Specific task: Examine measures to reconcile and verify CIVCAS reporting.*

(U) Background on reconciliation and verification of external reports

(~~C~~) The US military is not the only source of CIVCAS reporting and allegations. Reports can come through social media, NGOs, [redacted]. When the US receives an external CIVCAS allegation from these sources, it works to corroborate this information with its own strike logs and operational data. A CIVCAS allegation must undergo a process to be validated and warrant a CCAR.[24]

- (U//~~FOUO~~) The CIVCAS cell conducting the initial assessment tries to isolate the alleged incident to within a 48-hour range and identify a specific location where it may have occurred.

- (U//~~FOUO~~) If the cell cannot ascertain either of these pieces of information, it must instead identify a 48-hour range, a specific time of day, AND a general location for the alleged incident before evaluating whether the information is sufficient to search for corroborating strikes.

- (U//~~FOUO~~) If this corroboration cannot be done, the cell can still narrow the date/time/location of the allegation using photo/video evidence OR two independent, high-quality sources OR other specific facts that warrant a search for strikes.

- (U//~~FOUO~~) The verification process also requires the CIVCAS cell to assess whether the allegation contains sufficient information on the time, location, and details to conduct the search.

- (U//~~FOUO~~) Finally, the CIVCAS cell can search for strikes and filter out allegations within a wider timeframe or geographic area: 48 hours extended to 72 hours.

(U//~~FOUO~~) Finding C.1. Verification of Civilian Casualty Incidents. US military standards for verifying third party allegations vary significantly, and some may be construed as restrictive.

(U//~~FOUO~~) Some criteria on date, time, and location may overly filter civilian casualty allegations. Local populations can be prevented from reporting an incident in a timely manner due to wartime contexts and cultural constraints; they often do not have access to reporting channels. Some commands also verify CIVCAS based on a range of a few days and locations within less than a few hundred meters. In our roundtable discussions, NGO participants noted that when they send information about a CIVCAS incident to their US military contacts and offer more data (i.e., munitions remnants, photos, satellite imagery, witness statements), they seldom receive a response.

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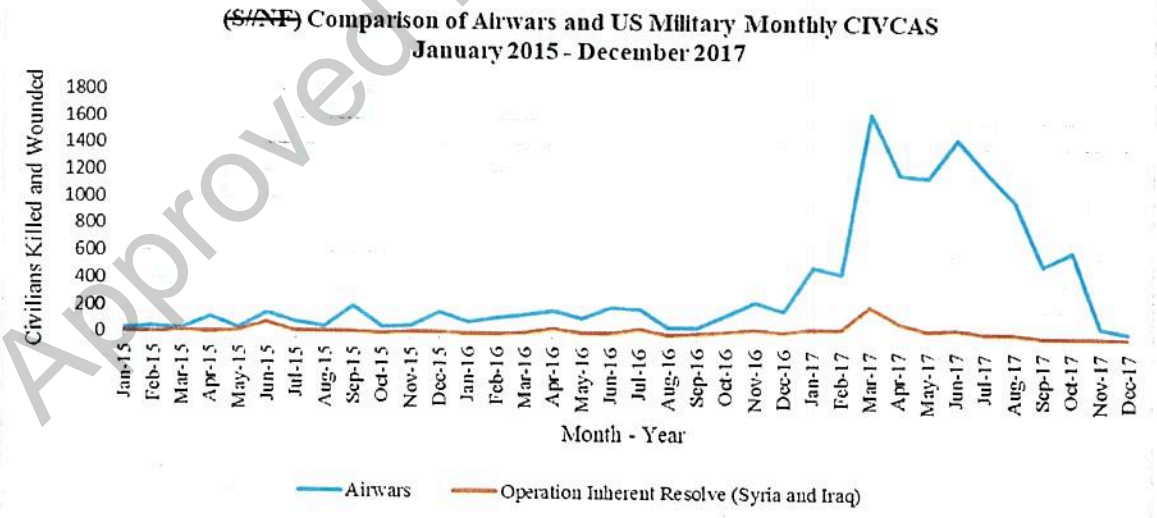
~~(S//NF)~~ The study team reviewed 191 credible incidents from the OIR CIVCAS database, which occurred between January 2015 and December 2017. External allegations are the source for only 23 of these 191 incidents, even though external allegations account for 58 percent of the total number of dead and wounded civilians. [redacted]

~~(S//NF)~~ Figure 3 illustrates the challenges in verifying external reports of CIVCAS incidents. In OIR, there is a considerable gap in the number of civilians killed and wounded reported by Airwars and those confirmed by the US military from OIR. (The study team used Airwars data because it was the only NGO that provided consistent reporting on the number of CIVCAS for Iraq and Syria within the study period). The gap between US military and Airwars data fluctuates over time and expands in early 2017 and likely stems from differences in each organization's data sources, objectives, and verification processes. Airwars relies largely on journalist accounts, social media, and local sources, whereas OIR supplements CIVCAS allegations with intelligence reporting, social media, and where available, information from partner forces. Figure 3 also reveals that the number of CIVCAS reported by Airwars drops off precipitously in late 2017. This decline could be attributed to a decrease in the number of strikes as well as a lag in Airwars' own reporting.

~~(S//NF)~~ Airwars and the US military also have different criteria for what constitutes verifiable information. In order for the US military to confirm a civilian has been killed or wounded as a result of its operations, it must corroborate the occurrence of CIVCAS with one of its strikes. As a result, a considerable number of external allegations are disregarded due to insufficient information.[25] The US military's verification process also has led to a backlog of pending external allegations, which, if eventually deemed credible would narrow this gap but not close it.

~~(S//NF)~~ Figure 3: Comparison of Airwars and US Military Monthly CIVCAS



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(U//~~FOUO~~) TASK D: INVESTIGATIONS

(U) Specific task: Examine assessment and investigation of CIVCAS allegations.

(U//~~FOUO~~) Background on Investigations

(~~S~~) [redacted]

(~~S//NF~~) **Finding D.1.** AR 15-6 reports routinely determine the facts of the incident and review compliance with LOAC and key operational procedures. Yet the details and information included in each report and alignment with ongoing NGO investigations, vary.

(~~S//NF~~) [redacted]

(U) TASK E: CIVCAS RESPONSE, INCLUDING SOLATIA

(U) Specific task: Examine the appropriate use of solatia payments.

(U//~~FOUO~~) **Finding E.1. Solatia Payments or Other Amends.** There are limits to existing policy, doctrine, and guidance on how regional commands should respond to CIVCAS incidents.

(~~S//NF~~) Acknowledging CIVCAS, including through amends, is one element of the 2016 White House Executive Order titled, "United States policy on pre and post-strike measures to address civilian casualties in US operations involving the use of force." The Executive Order does not provide granularity for how the US military should respond to civilian harm, including whether or how to offer *ex gratia* payment for civilian harm, issue an apology, or provide some other form of acknowledgement.

(~~S//NF~~) [redacted]

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~~(S//NF)~~ There are challenges to offering amends in places like Iraq and Syria. In Iraq, the US military is operating at the behest of the Iraqi Government, which maintains its own payments program. In Syria, there is limited US presence, which reduces the situational awareness required to make *ex gratia* payments. The State Department and NGOs have offered the US military recommendations on how to overcome these challenges.

(U) RECOMMENDATIONS

(U//~~FOUO~~) TASK A: Guidance, intent, and oversight

~~(S//NF)~~ *Recommendations 1 and 2* [redacted]. Clarify guidance and doctrine to address the increased risk of CIVCAS when US forces operate by, with, and through partner forces whose capabilities, interests, and priorities do not necessarily align with the United States.

- ~~(S//NF)~~ [redacted]
- ~~(S//NF)~~ Update existing Joint Doctrine[29] to outline best practices for working by, with, and through partner forces with different priorities, interests, and capabilities.

~~(S//NF)~~ *Recommendation 3 (tied to Findings A.5, A.6).* Invest in tools for GFCs to assist with situational awareness. [redacted]

(U//~~FOUO~~) TASK B: Internal Reporting Procedures

~~(S//NF)~~ *Recommendation 4 (tied to Findings B.1, B.3).* Systematically seek out additional sources of information on potential civilian casualties as part of the self-reporting process. These include social media, NGOs [redacted]

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[redacted] and local sources. Place greater attention to CIVCAS as part of the battle damage assessment process.

~~(S//NF)~~ *Recommendation 5 (tied to Finding B.2).* Consider standardizing the CIVCAS review process across combatant commands. This standardization may include review boards for civilian casualty incidents overseen by the next echelon of command. The review boards could serve as an alternative to official administrative investigations and provide feedback and lessons learned to the GFC, as well as pilots, [redacted] and other relevant analysts.

~~(S//NF)~~ *Recommendation 6 (tied to Finding B.1, B.3).* Expand combatant command-level CIVCAS cells to include individuals tasked with reconciling external and US military reports on CIVCAS, as well as coordinating with relevant units to declassify or appropriately release relevant information.

(U//~~FOUO~~) TASK C: Reconciliation and Verification

~~(S//NF)~~ *Recommendation 7 (tied to Finding C.1).* The Joint Force should develop a process for initial assessment reports that broadens the geographic area and timeframe of inquiry. The process should provide flexibility to account for contextual and operational differences across AORs. The Joint Force should also create a range of estimates of CIVCAS numbers and report those estimates (i.e., confirmed/disputed/rejected).

(U//~~FOUO~~) TASK D: Investigations

~~(S//NF)~~ *Recommendation 8 (tied to Finding D.1).* The US military should institutionalize CIVCAS investigation processes. This should include sharing best practices in AR 15-6 adjudication and public release, as well as closer engagement with NGOs during the process, where feasible.

(U//~~FOUO~~) TASK E: CIVCAS Response, Including *Solatia*

(U//~~FOUO~~) *Recommendation 9 (tied to Finding E.1).* The Joint Staff should develop specific guidance, processes, and clarifications of authorities for combatant commands for CIVCAS response (e.g. compensation, explanation, working through partner governments, in-kind offerings, community projects, [redacted], apologies, clearing of the family name, etc.). This should be informed by particular host nation customs, laws, and norms.

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(U) ACRONYM LIST

AAH – Area of Active Hostility

AOR – Area of Operations

AR 15-6 – Army Regulations 15-6

CCAR – Civilian Casualty Credibility Assessment Report

CDE – Collateral Damage Estimate

CERP – Commanders Emergency Relief Project

CIVCAS – Civilian Casualty

CJTF-OIR – Combine Joint Task Force-Operation Inherent Resolve

DCG – Deputy Commanding General

DOD – Department of Defense

FIR – First Impression Report

[redacted]

GFC – Ground Force Commander

HUMINT – Human Intelligence

[redacted]

ISIS – Islamic State of Iraq and al-Sham

JTAC – Joint Tactical Air Controller

LOAC – Law of Armed Conflict

NATO – North Atlantic Treaty Organization

NCV – Non-Combatant and Civilian Casualty Cutoff Value

NGO – Non-Governmental Organization

OAAH – Outside Areas of Active Hostility

OIR – Operation Inherent Resolve

PID – Positive Identification

ROE – Rules of Engagement

SOP – Standard Operating Procedures

SPINS – Special Instructions

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SROE – Standing Rules of Engagement

TTP – Tactics, Techniques, and Procedures

TD – Tactical Directive

TEA – Target Engagement Authority

USAFRICOM – United States Africa Command

[redacted]

USCENTCOM – United States Central Command

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[1] (U//~~FOUO~~) Findings in the report were derived from the specific tasks provided to the study team by the Chairman of the Joint Chiefs of Staff. Given the specific scope of the study, the report does not attempt to determine causality for the observed increase in civilian casualties between January 2015 and December 2017 or to explain the gap in civilian casualty numbers between the US military and NGOs.

[2](U) Taylor B. Seybolt and Jay D. Aronson and Baruch Fischhoff. 2013. *Counting Civilian Casualties: An Introduction to Recording and Estimating Nonmilitary Deaths in Conflict* (Oxford: Oxford University Press). This attention is attributed to an article in a British medical journal (*the Lancet*), claiming 650,000 civilian deaths in Iraq from 2003-2006.

[3] (U//~~FOUO~~) The CCAR is an internal process that begins with a CIVCAS allegation (self-reported or externally-reported), and determines whether a CIVCAS incident likely occurred. For more information, see Task B. Internal Reporting Procedures.

[4] (~~S//NF~~) It is important to note that strikes resulting in CIVCAS do not necessarily violate LOAC or US policy if the commander authorizing the strike made a reasonable, good faith assessment based on the information known to him/her at that time; that the strike would be conducted in accordance with LOAC and US policy. LOAC does not require zero CIVCAS. The LOAC standard is set in the fundamental principle of proportionality.

[5] (U//~~FOUO~~) Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3121.01B, *Standing Rules of Engagement* (SROE)

[6] (U//~~FOUO~~) Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3121.01B, *Standing Rules of Engagement* (SROE)

[7] (U//~~FOUO~~) The Combined Forces Air Component Commander publishes SPINS that establishes approved operating procedures that must be adhered to by all air components. (JP 3-30, *Command and Control of Joint Air Operations)*

[8] (U) Operational Order (OPORD) - A directive issued by a commander to subordinate commanders for the purpose of effecting the coordinated execution of an operation. (JP 5-0, *Joint Planning*)

[9] (U) Fragmentary Order (FRAGORD) - An abbreviated operation order issued as needed to change or modify an order or to execute a branch or sequel. (JP 5-0, *Joint Planning*)

[10] (U) Joint Publication 3-60, *Joint Targeting,* II-2.

[11] (U) Joint Publication 3-60, *Joint Targeting,* II-2.

[12] (U) Joint Publication 3-60, *Joint Targeting*, x.

[13] (~~S//NF~~) [redacted]

[14] (U//~~FOUO~~) Joint Publication 3-60, *Joint Targeting;* ATP-3-60.1/MCRP 3-16D/NTTP 3-60.1/AFTTP 3-2.3 *Multi-Service Tactics, Techniques, and Procedures for Dynamic Targeting.*

[15] Presidential Policy Guidance (PPG), "Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities" (May 22, 2013) [redacted]

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[16] ~~(S//NF)~~ A strike cell provides advice to the TEA. It includes team members with experience in operations, intelligence, and weaponeering, as well as a staff judge advocate. The strike cell interacts with the strike team on an ongoing basis in the lead-up to authorization for strikes.

[17] (U//~~FOUO~~) Two study team members, [redacted] and [redacted], disagreed with the finding on PID, noting that more study should be done on this topic to arrive at a firm conclusion. They note that the 2013 Joint Staff report entitled, "Reducing and Mitigating Civilian Casualties: Enduring Lessons," indicated the problem of misidentification and incorrect PID as a major deficiency. The report found that "CIVCAS primarily occurs in one of two ways: the first is through collateral damage from an engagement with known enemy forces, where the effects of the engagement also impact nearby civilians; the second is through misidentification, where civilians are mistakenly believed to be enemy and are engaged because of that belief." That Joint Staff report is based on six different studies covering Iraq (2004-2008) and Afghanistan (2007-2012). The report finding is also consistent with incorrect PID being a driver in the major civilian casualty incidents that led to significant DOD reviews, including Bala Balouk (2009), Uruzgan (2010), Kunduz (2015), and the airstrike from the New York Times Uncounted article (2017). [redacted] and [redacted] observe that the current study's interview-based methodology will tend not to detect PID problems, because military personnel are generally unaware of misidentifications when they occur. Investigations and CCARs are the best way to detect potential CIVCAS; however, because of the combination of the lack of a robust U.S. presence on the ground and a sometimes overly restrictive process for evaluating external reports, it is reasonable to expect a systematic undercounting of misidentifications in U.S. military reports in the context of OIR. This may be particularly true given the more complex nature of the Mosul and Raqqa operations. [redacted]

[18] ~~(S//NF)~~ This is a requirement based on special instructions.

[19] ~~(S//NF)~~ One challenge often noted by interviewees, as it relates to judgment, is the learning curve for new commanders, pilots, analysts, as they rotate in. Commands have tried to devise ways to minimize this learning curve.

[20] ~~(S//NF)~~ [redacted]

[21] ~~(S//NF)~~ There is one important caveat to these findings; the research team was not able to conduct the same detailed analysis with the NGO data on civilian casualties. [redacted]

[22] (U//~~FOUO~~) Specifically, Standard Operating Procedure 307, HQ ISAF CIVILIAN CASUALTY BATTLE DRILL, 22 May 2010.

[23] (U//~~FOUO~~) [redacted]

[24] ~~(S//NF)~~ [redacted]

[25] (U//~~FOUO~~) CJTF-OIR Policy for Reporting and Responding to CIVCAS Incidents, 27 March 2017.

[26] ~~(S)~~ DOD and other services utilize versions of administrative investigations such as Chapter II of Judge Advocate General Instruction 5800.7F, or the US Air Force Command Directed Investigation.

[27] USCENTCOM Guidance for Reporting and Investigating Civilian Casualties (CIVCAS) Allegations for Ongoing Operations in Iraq and Syria, 05 October, 2014. While not universal guidance, we found these three items a useful yardstick to measure investigation quality.

[28] For example, the Combatant Commander Initiative Fund (10 USC. 166a(b)(6)) authorizes the Chairman of the Joint Chiefs of Staff to provide funds to Combatant Commands that could be used for *ex gratia* payments similar to CERP.

[29] (U) This includes *Security Force Assistance* (JDN 1-13), *Counterinsurgency Operations* (JP 3-24), *Foreign Internal Defense* (JP 3-22), *Unconventional Warfare* (JP 3-05.1), *Counterterrorism* (JP 3-26), *Stability Operations* (JP 3-07), *Security Cooperation* (JP 3-20), *Joint Operations* (JP 3-0), and *Joint Urban Operations* (JP 3-06).

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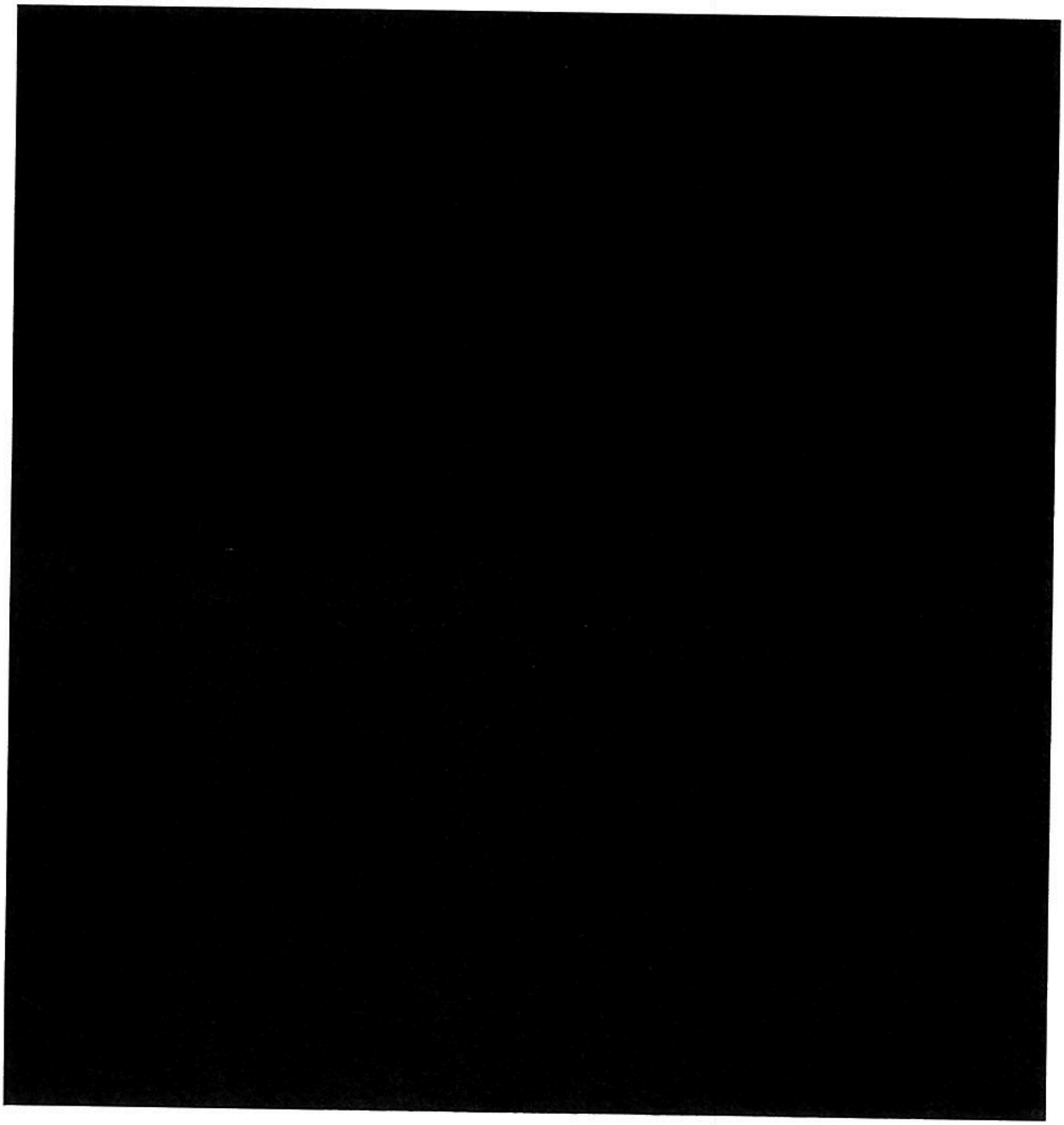
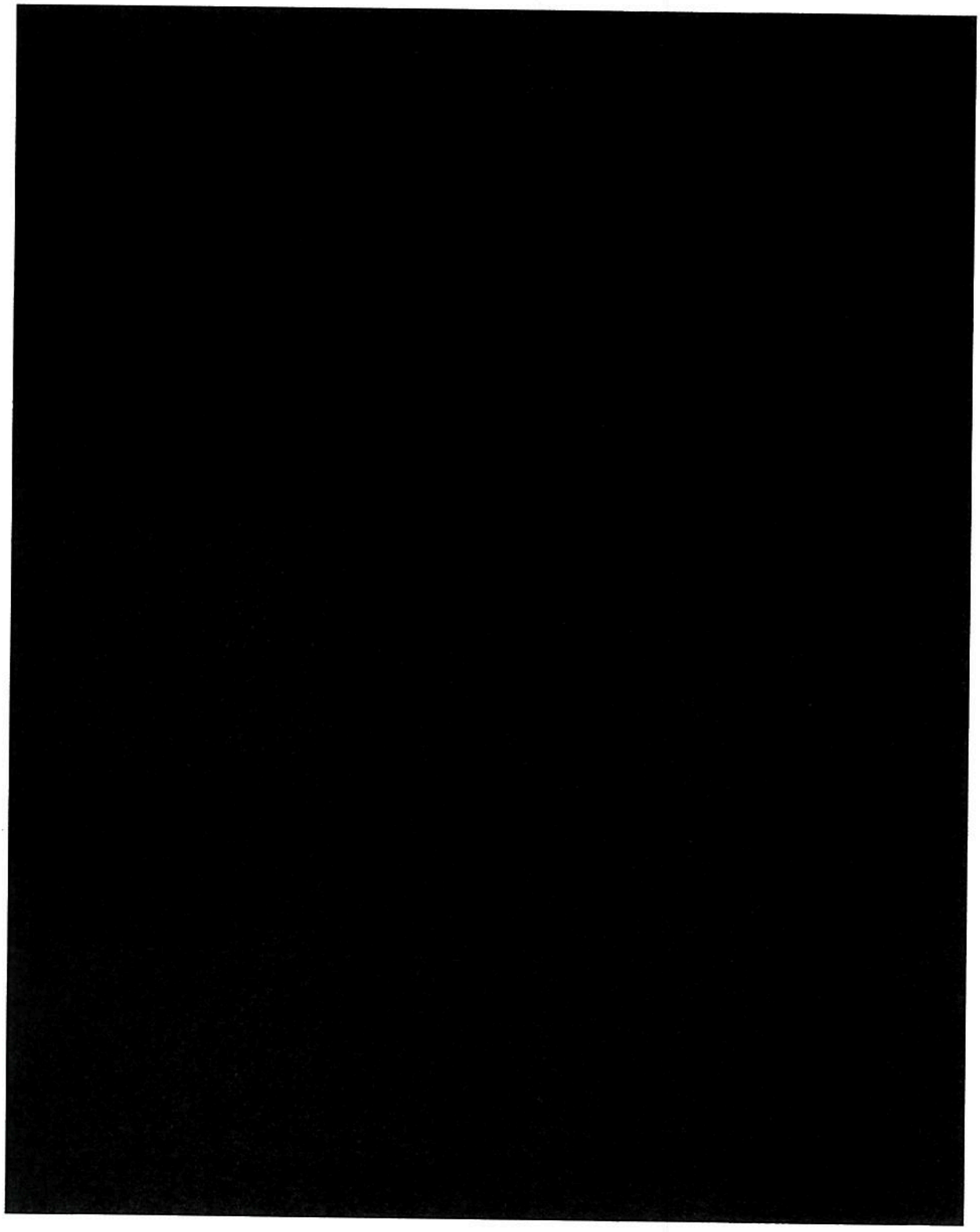
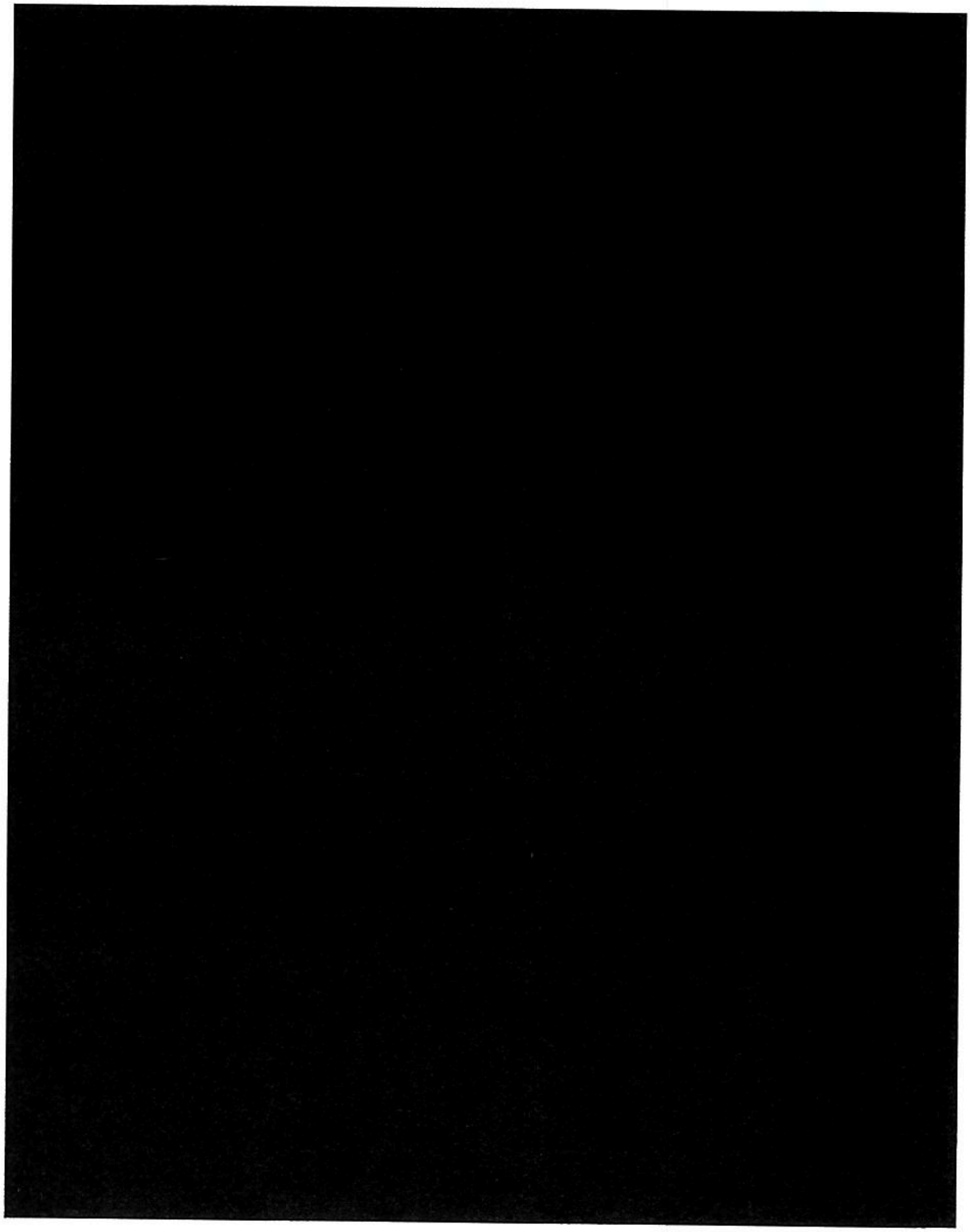
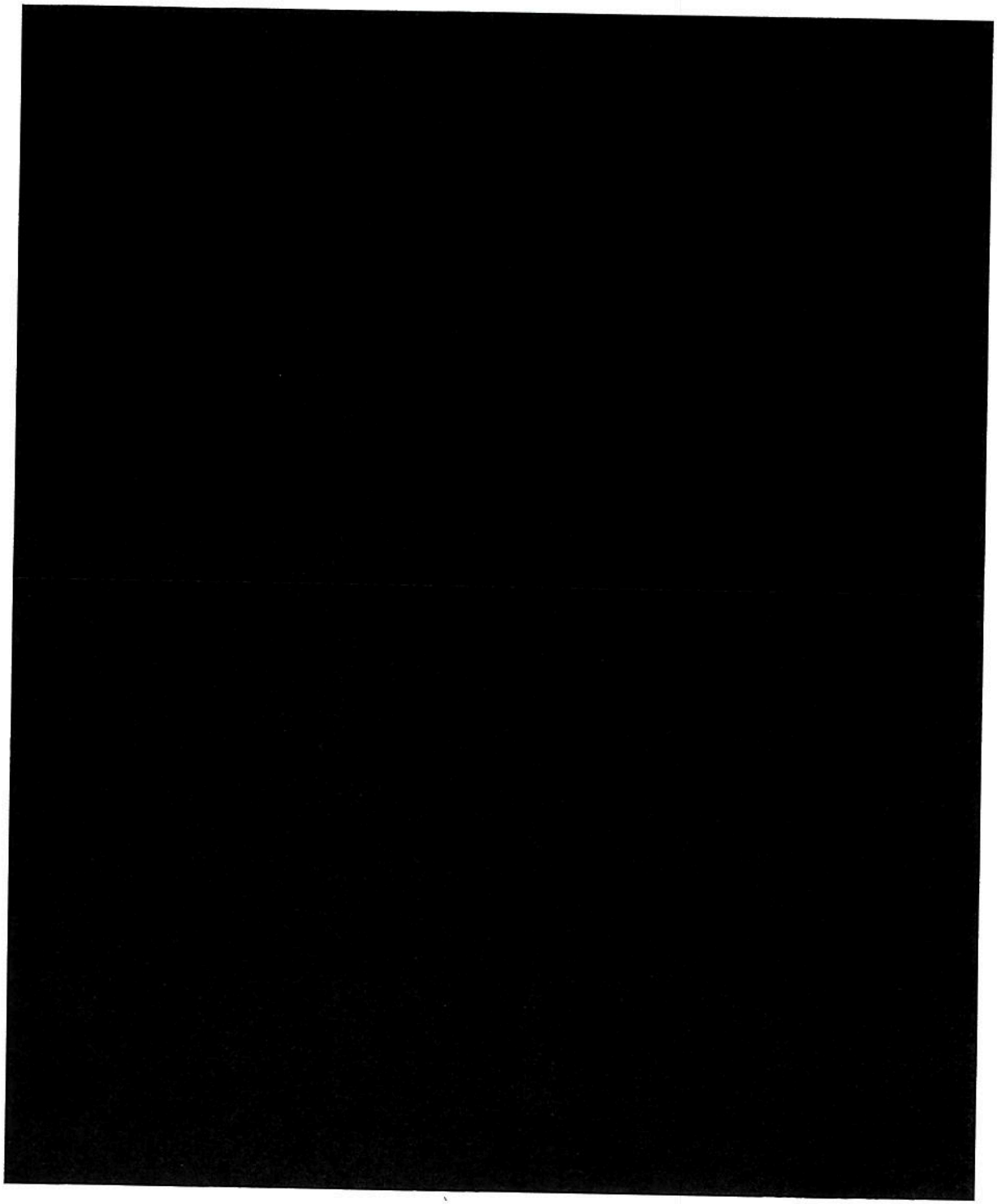
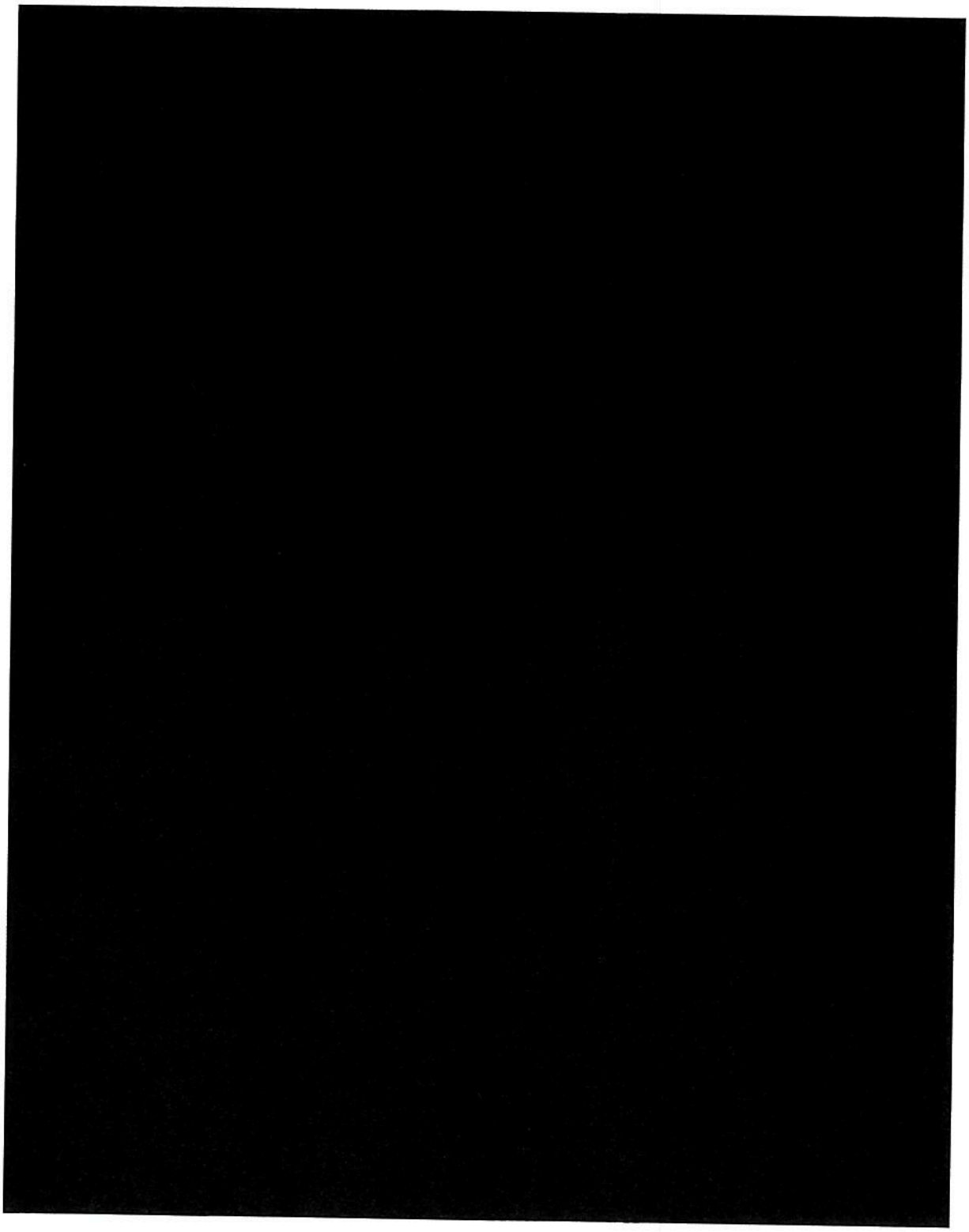
(U//~~FOUO~~) APPENDIX A. SECRETARY OF DEFENSE LEVEL RULES OF ENGAGEMENT

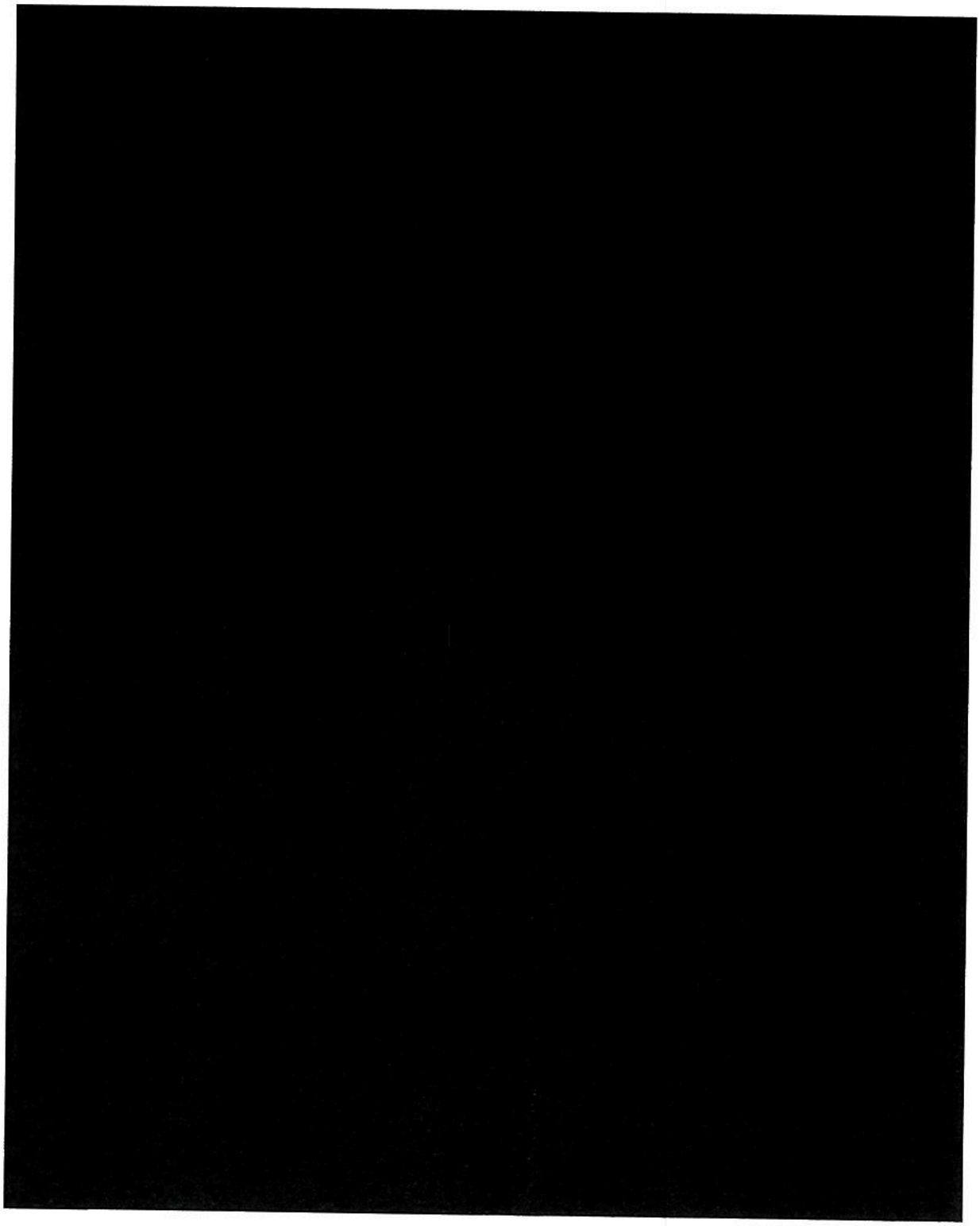


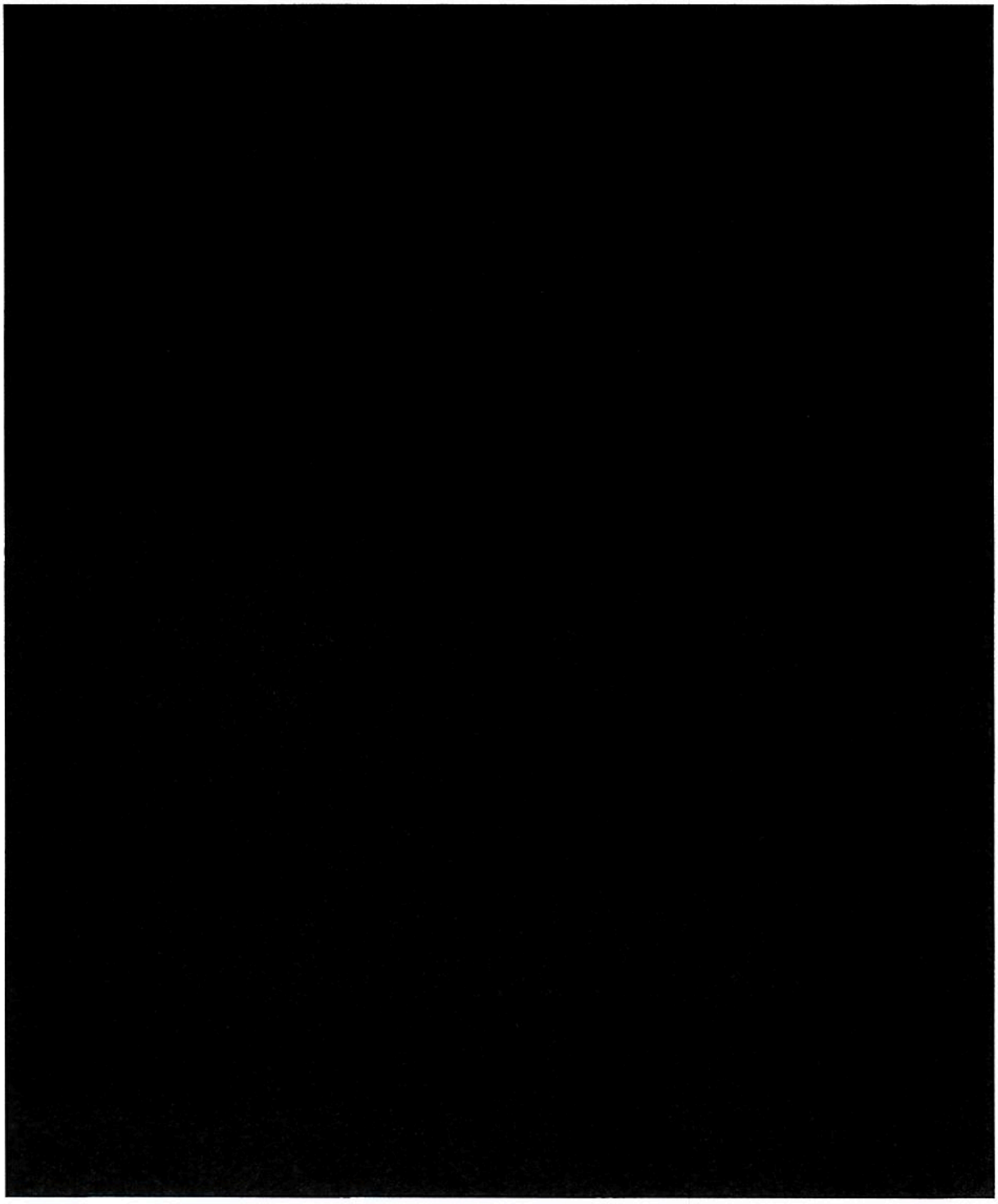


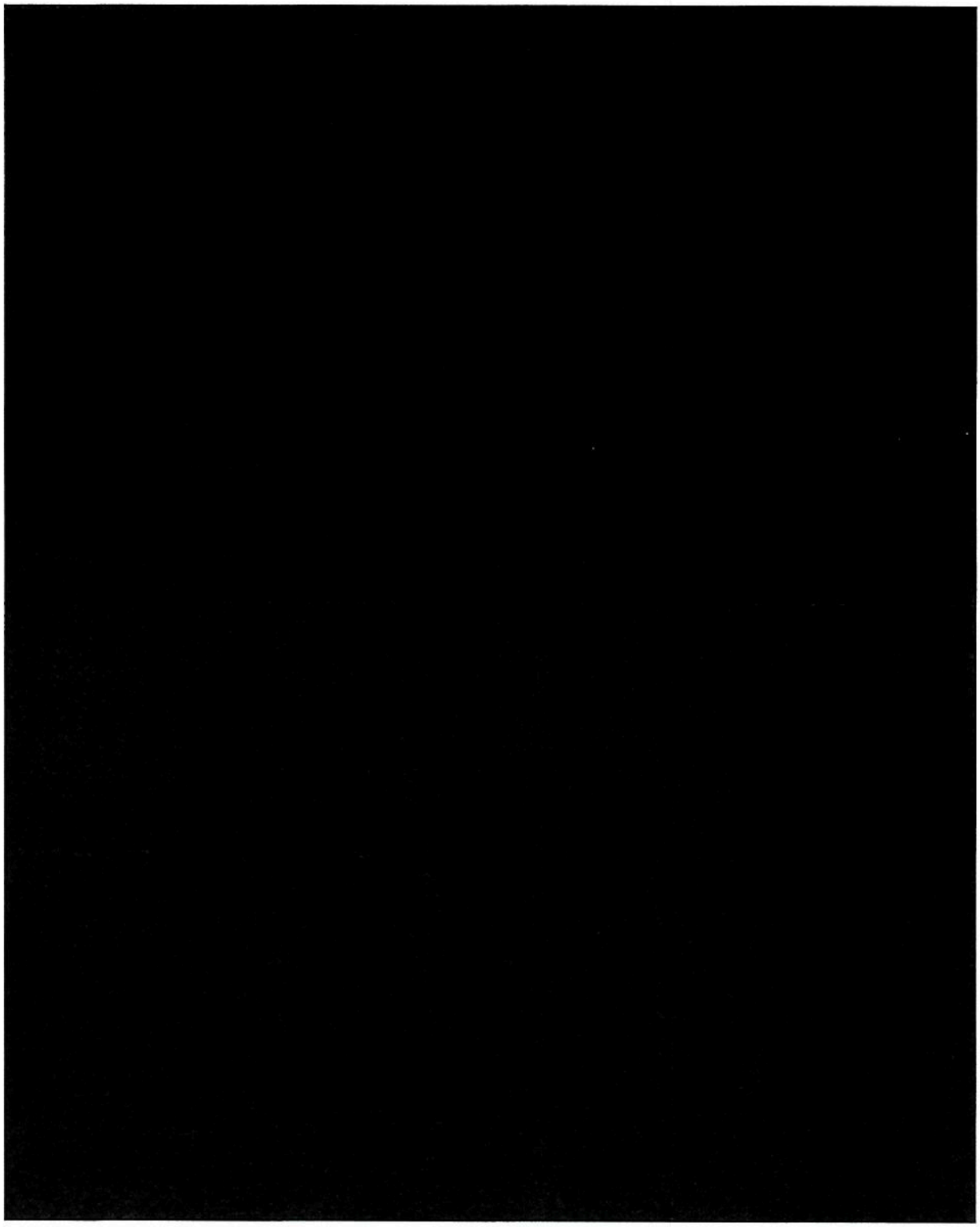


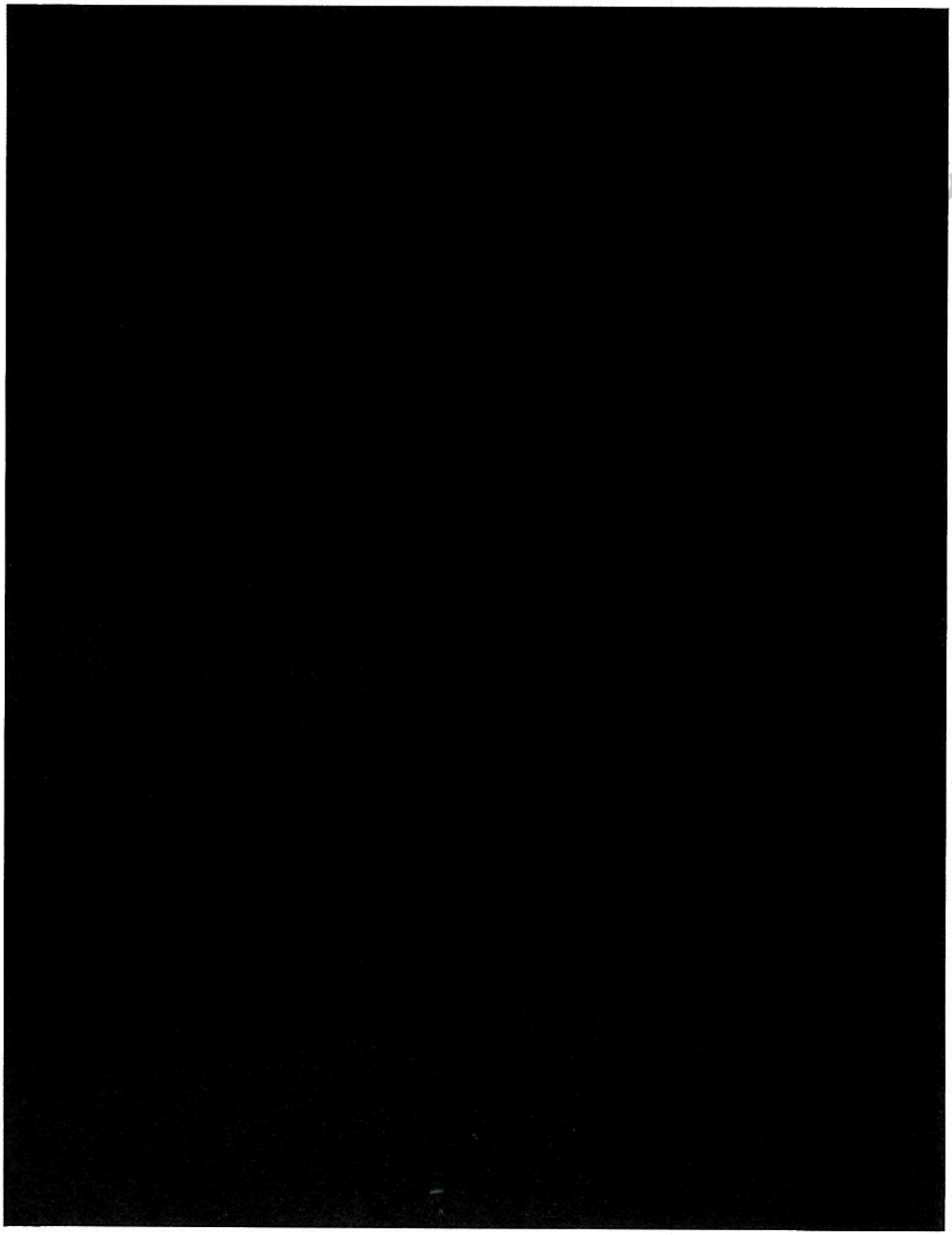












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