

AMENDMENT TO RULES COMM. PRINT 116-19
OFFERED BY MR. ENGEL OF NEW YORK

In subsection (b) of section 1087—

(1) redesignate paragraphs (7), (8), and (9) as paragraphs (9), (10), and (11), respectively; and

(2) insert after paragraph (6) the following:

1 (7) An analysis of reasons for any disparity be-
2 tween third party public estimates and official
3 United States Government estimates of civilian cas-
4 ualties resulting from United States or joint oper-
5 ations, including with respect to each specific mis-
6 sion, strike, engagement, raid, or incident.

7 (8) A comparison of a representative sample of
8 pre-strike collateral damage estimates and confirmed
9 civilian casualty incidents for the purposes of devel-
10 oping possible explanations for any gaps between the
11 two and assessing how to reduce such gaps.

In paragraph (10) of section 1087(b), as redesignated, add at the end before the period the following: “, including an analysis of the principal and secondary causes of civilian casualties in a suitably representative

sample of air operations that includes both planned and dynamic strikes”.

In paragraph (1) of section 1087(d), insert “and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives” after “congressional defense committees”.

At the end of subtitle G of title XII, add the following:

1 **SEC. __. AMENDMENTS RELATING TO CIVILIAN CASUALTY**
2 **MATTERS.**

3 (a) MODIFICATION OF RESPONSIBILITY FOR POLICY
4 ON CIVILIAN CASUALTY MATTERS.—Section 936 of the
5 John S. McCain National Defense Authorization Act for
6 Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 134
7 note) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (3)—

10 (i) by inserting “appropriate to the
11 specific regional circumstances” after
12 “publicly available means”; and

13 (ii) by inserting “or in-person” after
14 “Internet-based”;

15 (B) in paragraph (5)—

1 (i) in subparagraph (A), by inserting
2 “, including for acknowledging the status
3 of any individuals killed or injured who
4 were initially reported as lawful targets,
5 but subsequently determined not to be law-
6 ful targets” after “operations”; and

7 (ii) in subparagraph (B)—

8 (I) by inserting “or other assist-
9 ance” after “payments”; and

10 (II) by striking “necessary” and
11 inserting “reasonable and culturally
12 appropriate”; and

13 (C) in paragraph (7), by striking “and” at
14 the end;

15 (D) by redesignating paragraph (8) as
16 paragraph (10); and

17 (E) by inserting after paragraph (7) the
18 following:

19 “(8) uniform processes and standards across
20 the combatant commands for integrating civilian
21 protection into operational planning, including as-
22 sessments of the optimal staffing models for track-
23 ing, analyzing, and responding to civilian casualties
24 in named military operations of various sizes and

1 compositions, to include multinational coalition oper-
2 ations;

3 “(9) cultivating, developing, retaining, and dis-
4 seminating lessons learned about the proximate
5 cause or causes of civilian casualties, and practices
6 developed to prevent, mitigate, or respond to such
7 casualties; and”;

8 (2) by redesignating subsection (c) as sub-
9 section (d);

10 (3) by inserting after subsection (b) the fol-
11 lowing:

12 “(c) COORDINATION.—

13 “(1) IN GENERAL.—The senior civilian official
14 designated under subsection (a) shall develop and
15 implement steps to increase coordination with the
16 Chiefs of Mission and other appropriate positions in
17 the Department of State in any country with respect
18 to which the policy required pursuant to subsection
19 (a) is relevant.

20 “(2) MATTERS FOR COORDINATION.—The co-
21 ordination required by paragraph (1) shall include
22 the following:

23 “(A) The development of publicly available
24 means, appropriate to the specific regional cir-
25 cumstances, including an internet-based or in-

1 person mechanism, for submission to the
2 United States Government of allegations of ci-
3 vilian casualties resulting from United States
4 military operations.

5 “(B) The offering of reasonable and cul-
6 turally appropriate ex gratia payments or other
7 assistance to civilians who have been injured, or
8 to the families of civilians killed, as a result of
9 United States military operations.”;

10 (4) by inserting after subsection (d), as redesign-
11 nated, the following:

12 “(e) BRIEFING.—Not later than 180 days after the
13 date of the enactment of this subsection, the senior civilian
14 official designated under subsection (a) shall brief the con-
15 gressional defense committees and the Committee on For-
16 eign Relations of the Senate and the Committee on For-
17 eign Affairs of the House of Representatives on—

18 “(1) the updates made to the policy developed
19 by the senior civilian official pursuant to this sec-
20 tion; and

21 “(2) the efforts of the Department to imple-
22 ment such updates.”.

23 (b) MODIFICATION OF ANNUAL REPORT ON CIVILIAN
24 CASUALTIES IN CONNECTION WITH UNITED STATES
25 MILITARY OPERATIONS.—Section 1057 of the National

1 Defense Authorization Act for Fiscal Year 2018 (Public
2 Law 115–91) is amended—

3 (1) in subsection (a), by striking “congressional
4 defense committees” and inserting “appropriate con-
5 gressional committees”; and

6 (2) in subsection (b)—

7 (A) in paragraph (3), by striking the pe-
8 riod at the end and inserting the following:
9 “and, when relevant, makes ex gratia payments
10 or provides other assistance to the victims or
11 their families, including—

12 “(A) whether interviews were conducted
13 with witnesses and survivors of United States
14 lethal actions, directly or through a third party
15 or intermediary;

16 “(B) whether the investigation relied on
17 public reports or other nongovernmental
18 sources; and

19 “(C) the process, criteria, and methodology
20 used to assess external allegations of civilian
21 casualties, including the sources of such allega-
22 tions.”;

23 (B) in paragraph (4), by adding at the end
24 before the period the following: “, including any
25 assistance and support, as appropriate, pro-

1 vided for civilians displaced by such oper-
2 ations”;

3 (C) by redesignating paragraph (6) as
4 paragraph (9); and

5 (D) by inserting after paragraph (5) the
6 following:

7 “(6) A list of allegations where the Department
8 could confirm United States military activity but
9 could not confirm civilian casualties due to lack of
10 evidence, and any steps taken to further corroborate
11 the allegations.

12 “(7) A list of allegations that the Department
13 could not fully assess in a Civilian Casualty Assess-
14 ment Review (CCAR) due to lack of information and
15 any steps taken to obtain additional information
16 needed to conduct a CCAR.

17 “(8) A description of the specific criteria the
18 Department employed during the CCAR to deter-
19 mine that a civilian casualty is more likely than not
20 to have occurred.”; and

21 (3) by adding at the end the following:

22 “(f) APPROPRIATE CONGRESSIONAL COMMITTEES
23 DEFINED.—In this section, the term ‘appropriate congres-
24 sional committees’ means—

25 “(1) the congressional defense committees; and

1 “(2) the Committee on Foreign Relations of the
2 Senate and the Committee on Foreign Affairs of the
3 House of Representatives.”.

