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## The Pentagon is About to Make a Big Mistake on Civilian Harm Mitigation



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On Feb. 20, 2025, Secretary of Defense Pete Hegseth [announced](#), per guidance from the Department of Government Efficiency, an 8 percent reduction to programs not related to [17 priority items](#) he has identified to spare from the downsizing efforts. He emphasized that the department is particularly looking to cut “non-lethal programs.” In accordance with the emphasis on lethality, the Civilian Harm Mitigation and Response Plan and its associated Center for Excellence have been [tagged](#) for elimination. Consistent with Secretary Hegseth’s [complaints](#) about overly restrictive rules of engagement, it is possible that the program may be seen by the new administration as a “woke” project that makes the United States “soft” in war, one that ties the hands of combatant commanders and interferes with U.S. lethality. As one author who supports cutting the program recently wrote on a *Federalist Society* blog, “DoD [explicitly recognized](#) the ... constraints [of the Civilian Harm

Mitigation and Response Plan] go beyond international law, but it nonetheless used them to tie the hands of our soldiers. Even though the ... guidance is not legal, our servicemembers understand that the intention is to hold them responsible for enemy civilian deaths, no matter the circumstances. “

I write this article as someone closely familiar with this center and its importance. I am the faculty director of a national security law center affiliated with the University of Pennsylvania. We have contributed to the Civilian Harm Mitigation and Response Plan through conferences, student research and briefings, and on-going research, particularly in conversation with Army leaders in this area over the course of the past several years. We have received no funds or grants for these efforts so have no financial stake in this. From my knowledge of the program, it is neither “woke” nor “soft.”

The focus on civilian harm mitigation, which was initially set in motion by the first Trump administration, provides several important benefits that are very much in line with the thinking of the current administration. First, an enhanced understanding of the mechanisms of civilian harm is critical for the effectiveness and precision lethality of U.S. forces. Eliminating the focus on civilian harm will deny an important opportunity for the United States to hone its warfighting skills and to enhance precision lethality in its operations. Second, maintaining the current program will provide a critical and highly timely opportunity to study patterns of civilian casualties in the Israel-Hamas war, where the Israelis have faced the formidable challenge of minimizing civilian casualties while fighting an enemy that uses civilians as human shields. Third, the Civilian Harm Mitigation and Response Plan provides an opportunity to develop new technologies that will both assist with mitigating civilian harm in warfare and enhance lethality in both counter-terrorism operations and in large scale combat operations.

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### **How Did the Center Come to Be?**

Based on lessons from America’s own counter-terrorism operations, particularly in view of the [perception](#) that U.S. targeting operations involved [high levels of civilian casualties](#) in Iraq and Syria during the campaign against the Islamic State, Secretary of Defense James Mattis in 2017 [directed](#) the Joint Staff to conduct a [review of civilian casualties](#) and then ordered the development of a department-wide policy on civilian harm mitigation. The Trump administration bolstered these efforts by releasing a [public-facing webpage](#) to improve how the Department of Defense tracks civilian harm, sponsoring additional research, and releasing [annual reports](#) to Congress. Additionally, in the context of security assistance, the Trump administration set up a [targeting working group](#) “to facilitate ally and partner efforts to reduce the risk of partner nation or coalition operations causing

civilian harm.” A joint effort of the Departments of State and Defense, the group released its [Targeting Infrastructure Policy](#) in 2019 to better ensure that weapons sales enabled effective targeting operations. A focus on how civilian harm mitigation could facilitate more precise and effective military operations underpin these efforts.

Thereafter, in 2022, Secretary of Defense Lloyd Austin issued the [Civilian Harm Mitigation and Response Action Plan](#) while Congress established a “center for excellence” with bipartisan support in [10 U.S. Code § 184](#). When properly implemented, civilian harm mitigation can improve targeted lethality and the effectiveness of military operations through more efficient use of munitions. It can also reduce disinformation and misuse of information warfare, provide realistic training for operators, and mitigate psychological impacts on individual troops and combat formations. The Center for Excellence offers direct support to operational commands to advance the U.S. military’s lethality and ability to scale up its efforts to mitigate risk in large scale combat operations. The [Center for Ethics and the Rule of Law](#) has been working in parallel to the [Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict](#) and the Center for Excellence to explore ways to mitigate civilian harm, particularly in urban warfare where civilians are at higher risk, such as in the Israel-Hamas war. We have identified several areas where we believe the focus on civilian harm mitigation can greatly support the department’s core operations.

## **Human Shielding**

One way to mitigate the risk to civilians has to do with understanding and developing protocol to assess combat with enemies that deliberately place non-combatants in harm’s way. America’s future adversaries will use human shields and disinformation at an unprecedented scale in future wars to undermine international and domestic support for U.S. military operations. Loss of civilian life and civilian infrastructure is an inevitable part of war, particularly in urban conflicts, but excessive civilian casualties are inefficient and render warfighting vulnerable to manipulation of the information space and psychological operations. Lack of preparation for civilian harm and ineffective messaging compounds the problem, and the enemy can easily exploit civilian casualties to turn public opinion against U.S. military operations. The collateral benefits to the enemy of increased civilian harm at the hands of U.S. forces will in turn drive up the civilian casualty toll in combat against an enemy unconcerned about minimizing harm to its own civilian population.

The experience of Israel’s war in Gaza provides a [clear case in point](#), and the United States can benefit from close study of the patterns of civilian losses and ensuing information space distortions. [Hamas’ consistent and intentional practice](#) of embedding military targets within civilian infrastructure has ensured that Israeli military operations against targets in Gaza would result in civilian casualties and destruction to civilian infrastructure. The mounting casualty figures — [whether genuine or exaggerated](#) — have in turn created openings for effective anti-Israel sentiment.

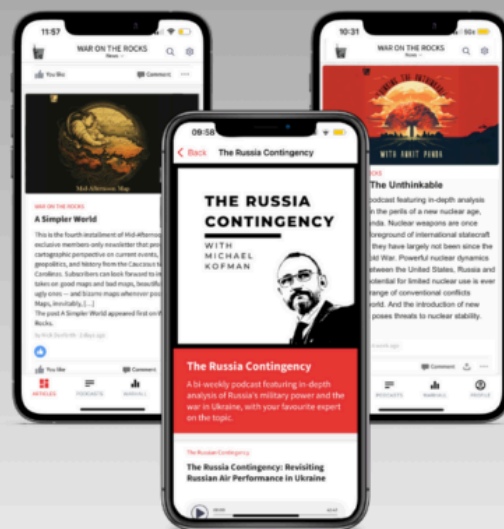
On April 24, 2024, Congress passed the “[Strengthening Tools to Counter the Use of Human Shields Act](#)” (better known as the 2024 Shields Act) as part of [Public Law 118-50](#), which required the secretary of defense to submit a report to Congress describing lessons learned from the United States and its partners and allies in fighting terrorist organizations that use human shields. It also directed the Department of Defense to report on measures the United States and other nations were taking to counter human shielding and to take steps to deter the use of human shielding in war. The Biden administration failed to implement this law, and the required report has not yet been written. Retaining the Civilian Harm Mitigation Action Plan, including its associated Center for Excellence, and insisting that the center produce such regular reports and address the problem of human shielding would be a natural implementation of the 2024 Shields Act.

The requirements of the Shields Act are not unimportant. It is critical that the United States develop a clear set of metrics as well as reliable and transparent protocol for addressing the challenges associated with fighting an enemy that makes extensive use of intermixing of combatants with civilians and civilian assets. To date, there have been few efforts to distinguish between different types of civilian casualties, such as those caused by U.S. forces as regrettable but routine incidents to combat operations, and those that are caused by the enemy’s deliberate placement of civilians in harm’s way. The failure of casualty statistics and incident reports to differentiate the different kinds and sources of civilian casualties has grave consequences for the public’s understanding of the legality of military operations and can confuse the assessment of the legality of U.S. or allied operations.

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**Advanced Technologies**

The emphasis on developing protocols and expertise relating to civilian loss mitigation dovetails with the Trump administration's emphasis on advanced technology development, particularly using AI and advanced robotics. A recent Executive Order issued by President Trump entitled "[Removing Barriers to American Leadership in Artificial Intelligence](#)" directs various federal agencies to develop a plan to "sustain and enhance America's global AI dominance in order to promote human flourishing, economic competitiveness, and national security." Making use of AI-based techniques and robotics to aid the dual goals of operational precision and civilian loss minimization would provide opportunities to exercise leadership and show dominance in advanced technologies. Facial recognition technologies paired with drone technologies can enhance lethality while reducing the risk of inaccuracies in targeting. The same technologies that protect civilians in war also protect U.S. forces both against the enemy and against friendly fire incidents. Technological development at the cutting edge of AI and robotics is a critical part of both enhanced lethality and enhanced civilian protection and minimizing civilian losses in war. The Defense Department's current programs for studying civilian harm in war provide excellent opportunities for leadership in advanced technologies in ways that are in line with the administration's current approach.

### **Precision Lethality Should Be the Goal**

Hegseth's focus on lethality is an unsurprising correction, given America's comparable lack of success in defeating the Taliban and the perception of largesse in the U.S. military budget. However, lethality as a blanket goal will not help the United States win wars as such. What is needed is *precision lethality*. When the U.S. military is unsuccessful in its targeting objectives, the costs — not only to the affected civilians — are exponential. Wasted ordnance and other military equipment, risks to U.S. personnel, resentment by other countries, and often an increase in the very terroristic or adversarial activity U.S. forces are trying to combat are just some of the costs of failed targeting activity.

In the coming years, one of the most challenging aspects of studying civilian casualty minimization will be the need to extrapolate from recent and ongoing conflicts to prepare the United States for future war. To be sure, the United States has made its share of civilian harm mistakes in the past. Continuing to study harm minimization methods by learning from current conflicts and projecting such methods into future warfare, particularly warfare driven by advanced technologies, will be a critical task for the U.S. military. The specialized programs of the Civilian Harm Mitigation and Response Action Plan will assist combatant commanders and civilian strategists to reap those lessons learned effectively.

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