

Office for Civil Rights and Civil Liberties Programs Branch



Homeland Security

Through its four sections, the Antidiscrimination Group, Community Engagement, Immigration Section, and the Security, Intelligence, and Information Policy, the **CRCL PROGRAMS BRANCH** works with DHS Components, state and local partners, and the public to ensure that DHS policies, programs, and practices protect civil rights and civil liberties.

Applying civil rights and civil liberties expertise to:

9/11 Act

DHS Nondiscrimination for Individuals with Disabilities

Data about People

Surveillance

Watchlisting

REAL ID Act

Fusion Center Support

Community Awareness Briefings

Credible and Reasonable Fear

Emerging Technology

Enforcement: E-Verify, Form I-9, SAVE

Screening

287(g) Program

International Human Rights Treaties

Detention Conditions

Immigration Enforcement

Disaster Response, Recovery & Resilience

Asylum

Civil Liberties / Privacy Officers

Cyber-security

ADVICE on policy formulation and Implementation On an ongoing basis, the Branch advises DHS on a broad range of topics through reviewing draft policies, work products, and proposed legislation in addition to consultations with DHS leadership.

FY 2020 additional activities:

- Provided advice across the department on integrating civil rights and civil liberties in the department's response to the Coronavirus Pandemic.
- Issued recommendations to state/territorial emergency management agencies on complying with federal disability law.
- Led the DHS Council on Combating Violence Against Women.
- Supported CBP in its sexual abuse prevention audit.

TRAINING - In FY 2020, the Programs Branch piloted new trainings to support the national cadre of Civil Liberties Privacy Officers at the State and Major Urban Area intelligence fusion center network and conducted training on a wide range of topics nationwide.

Program review and OVERSIGHT - FY2020 highlights include:

- Co-chaired the Privacy, Civil Rights, and Civil Liberties Working Group of the National Vetting Governance Board; supported the National Vetting Center.
- Utilized a Civil Rights Evaluation tool to support financial assistance recipient compliance.
- Participated in the DHS Data Access Review Council process to ensure bulk data sharing agreements contained protections for individual rights.
- Evaluated candidate jurisdictions for ICE's 287(g) program.

Community Engagement and OUTREACH - In FY 2020, CRCL engaged nationwide with multiple non-DHS partners, including federal, state and local officials and law enforcement, immigration and disability advocates, and the general public. Activities ranged from conference presentations and meetings, to rapid national interagency response calls, to CRCL-led community roundtables and issue-specific townhalls.

FY 2020 - By the Numbers

- **Reviewed** more than **800** intelligence products.
- **Met** with over **400** nongovernmental organizations.
- **Reviewed** data submitted by more than **140** DHS grant recipients to support their compliance with civil rights requirements.
- **Mitigated** over **100** civil rights and civil liberties grievances from the public.
- **Promoted** inclusion of civil rights and civil liberties consideration in over **50** new immigration-related DHS policies and regulations.
- **Conducted** over **40** quarterly interagency community roundtable meetings.
- **Coordinated** DHS review of more than **12** international/regional human rights inquiries.
- **Provided** technical assistance to **12** DHS Components on addressing barriers/gaps in plans providing access to activities/programs by persons with disabilities.
- **Reviewed** **9** data sharing agreements.
- **Supported** over **4** State Department International Visitor Leadership Programs.
- **Presented** the **2ND** annual national awards for Fusion Center Excellence on privacy, civil rights, and civil liberties issues.

Programs Branch Impact Statement for a CRCL FY2022 Presidential Budget of \$25M

The CRCL Programs Branch will be unable to grow to meet known and anticipated mission demands in FY2022. At best, a \$25M CRCL budget in FY2022 would maintain status quo operations in the Programs Branch at the FY2020 level, preventing critical planned hiring for understaffed mission requirements. In the alternative, the Programs Branch would cease or scale back support currently provided to some DHS activities, including that required by statute, in favor of new DHS priorities, impacting CRCL's ability to support all missions that impact the public.

About the Programs Branch

The Programs Branch integrates civil rights and civil liberties into all Department of Homeland Security activities through a variety of mechanisms. The Branch is comprised of five distinct teams that interface with DHS operational Components across the Department on matters ranging from counterterrorism, aviation security, and cybersecurity to emergency response, border security, and immigration policy. The Programs Branch also engages with intergovernmental partners like the US Department of Justice, the US Department of State, State and Major Urban Area Fusion Centers, and others who have equities in keeping our nation safe. Importantly, the Programs Branch coordinates outreach and engagement activities in communities where civil rights and civil liberties are particularly affected by DHS programs, in order to inform them about policies and avenues of redress and promote appropriate attention within the Department to their experiences and concerns.

The Programs Branch relies on subject matter experts to provide policy advice, conduct oversight activities, provide training and technical assistance, and engage with partners and communities. These experts actively support the development and implementation of DHS initiatives, programs, and policies to ensure all manner of potential civil rights or civil liberties implications are addressed, including but not limited to Constitutional (e.g., the First, Fourth, and Fifth Amendments), statutory (e.g., Title VI, VII, IX), and policy considerations.

Operational Impact on FY 2022-2026 DHS Priority Mission Investments

Budget limitations in FY 2022 will cause CRCL to confront challenges in its ability to keep up with resource-intensive demands to identify and advise on civil rights and civil liberties implications in several DHS Priority Mission Investments. The Programs Branch is unlikely to be able to maintain current operations and program support when required to also prioritize in FY2022:

1. DHS Strategic Framework for Countering Terrorism and Targeted Violence

The DHS *Strategic Framework for Countering Terrorism and Targeted Violence* (Sept. 2019) explains how DHS will use the tools and expertise that have protected and strengthened the country from foreign terrorist organizations to address the evolving challenges of today, including domestic terrorism and targeted violence. It directs over 50 priority actions in the next four years while committing to guiding principles, including "uphold individual rights." Among

the 56 Priority Actions in the Framework's Implementation Plan, CRCL has responsibilities in 35 areas, which will include over 100 new or expanding activities. CRCL must be prepared to do the detailed analysis and give the policy advice, training, and technical assistance support necessary so that implementation complies with legal requirements and policies for the protection of privacy, civil rights, and civil liberties. CRCL cannot seek additional resources to support the Department's efforts if the FY2020 status quo funding is maintained in FY2022.

2. Fusion Center Support

As required under the Implementing the 9/11 Commission Recommendations Act, CRCL leads a joint initiative with the DHS Privacy Office to provide civil liberties training and technical assistance to the network of eighty State and Major Urban Area Fusion Centers. With DHS seeking new and innovative ways to respond to emerging threats, advanced training and technical assistance on the evolving range of civil rights and civil liberties issues faced by these homeland security partners have become even more critical. CRCL has seen a significant increase in the demand for this type of training and technical assistance support from the fusion center network. Through its Fusion Center training program, CRCL also leverages and supports prevention work conducted elsewhere within the Department to further compliance with the DHS mission to ensure that "civil rights and civil liberties of persons are not diminished by DHS... activities and programs", including those aimed at prevention. Calls for an expanded prevention role for fusion centers in targeted violence and terrorism prevention (e.g. HSAC Preventing Targeted Violence Against Faith-Based Communities report) now pose unique challenges in this mission space. With budget cuts, CRCL may have to discontinue this required training and technical assistance outreach program. CRCL would also be forced to abandon its partnership with the National Fusion Center Association (NFCA) to develop a national curriculum for the cadre of Civil Liberties/Privacy Officers.

3. DHS Cybersecurity Strategy Implementation Plan

CRCL continues its efforts to support the Department's implementation of Executive Order 13636, *Improving Critical Infrastructure Cybersecurity* and Executive Order 13691, *Promoting Private Sector Cybersecurity Information Sharing*. CRCL also provides advice and oversight to DHS cybersecurity programs and activities consistent with the Implementation Plan, which includes advising the Department's newest operational Component—the Cybersecurity and Infrastructure Security Agency—on civil liberties protections in cybersecurity activities to ensure appropriate protections of individual rights were built into pre-existing and new programs and activities. This includes providing guidance and oversight to those DHS-led programs that secure the .gov domain and protect critical infrastructure, including assistance in operations of the EINSTEIN program, Enhanced Cyber Security program, Continuous Diagnostics and Mitigation, and the Automated Indicator Sharing program. Future planned hiring is expected to ensure CRCL's support in this area remains responsive to the fast-moving operational elements to ensure solutions to mitigate and respond to cyber threats have civil liberties built into them.

Operational Impact on FY 2022 Contract Support

The Programs Branch relies in part on contract services to support subject matter experts and certain operational programs. The Programs Branch anticipates ending otherwise necessary contract support services to meet budget shortfalls in FY 2022.

Community Engagement Services

The Programs Branch would experience severe work-stoppage if contracts for community engagement services were to be eliminated. This support plays a pivotal role in logistical support and data collection capabilities necessary for CRCL's nationwide community engagement mission on behalf of DHS. It would also severely hamper the ability to distribute information and solicit input in a timely fashion. Most importantly, it would severely impact the ability to activate the national Incident Community Coordination Team (ICCT) mechanism in the immediate aftermath of a homeland security incident; a tool that is heavily relied upon by Department leadership and the interagency in the aftermath of homeland security incidents where immediate communication with and input from impacted communities has historically played a pivotal role in the hours and days following terrorist attacks and similar incidents.

Specifically, should this contract service be eliminated, CRCL would not be able to conduct public engagement with diverse communities, whose civil rights and civil liberties may be affected by Department activities which has been a priority to CRCL since its inception in 2004. CRCL's ability to respond to community concerns and provide information on Department programs, activities, and policies would be severely hampered, including:

- Sharing reliable information about federal programs and policies, including avenues for redress and complaints;
- Obtaining information and feedback about community concerns and on-the-ground impacts of DHS activities;
- Incorporating community ideas and issues relating to civil rights and civil liberties into the policymaking process;
- Deepening channels of communication between communities, regional DHS leadership and federal officials in order to facilitate solution of problems would be severely hampered.

Sign Language Services

The Programs Branch requires access to sign language interpreter services and Communication Access Real-time Translation (CART) to meet its obligations to provide effective communication for individuals who are deaf with whom we interact in our programs, events, and activities. Failure to provide sign language interpreters and CART may result in CRCL violating Section 504 of the Rehabilitation Act and the Department's implementing regulation, 6 CFR part 15: *Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Homeland Security*. This is the very law and regulation that CRCL is charged with enforcing across DHS.

A lack of sign language interpreter services would make it impossible for the Programs Branch to hold training programs, especially trainings on disability law and policy. For example, CRCL convened the December 2019 DHS Disability Access Forum involving participants who rely on sign language services to effectively participate. Loss of funding would also impact CRCL's engagement generally and engagement with the disability community specifically because CRCL would not be able to offer or provide this type of reasonable accommodation.

Operational Impact on FY 2022 Additional Needs

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