



# Civil Rights and Civil Liberties Considerations for Terrorism Prevention Programs

**Brian Sterling**  
Section Chief, DHS CRCL  
**Rebekah**  
Tosado  
Section Chief, DHS CRCL

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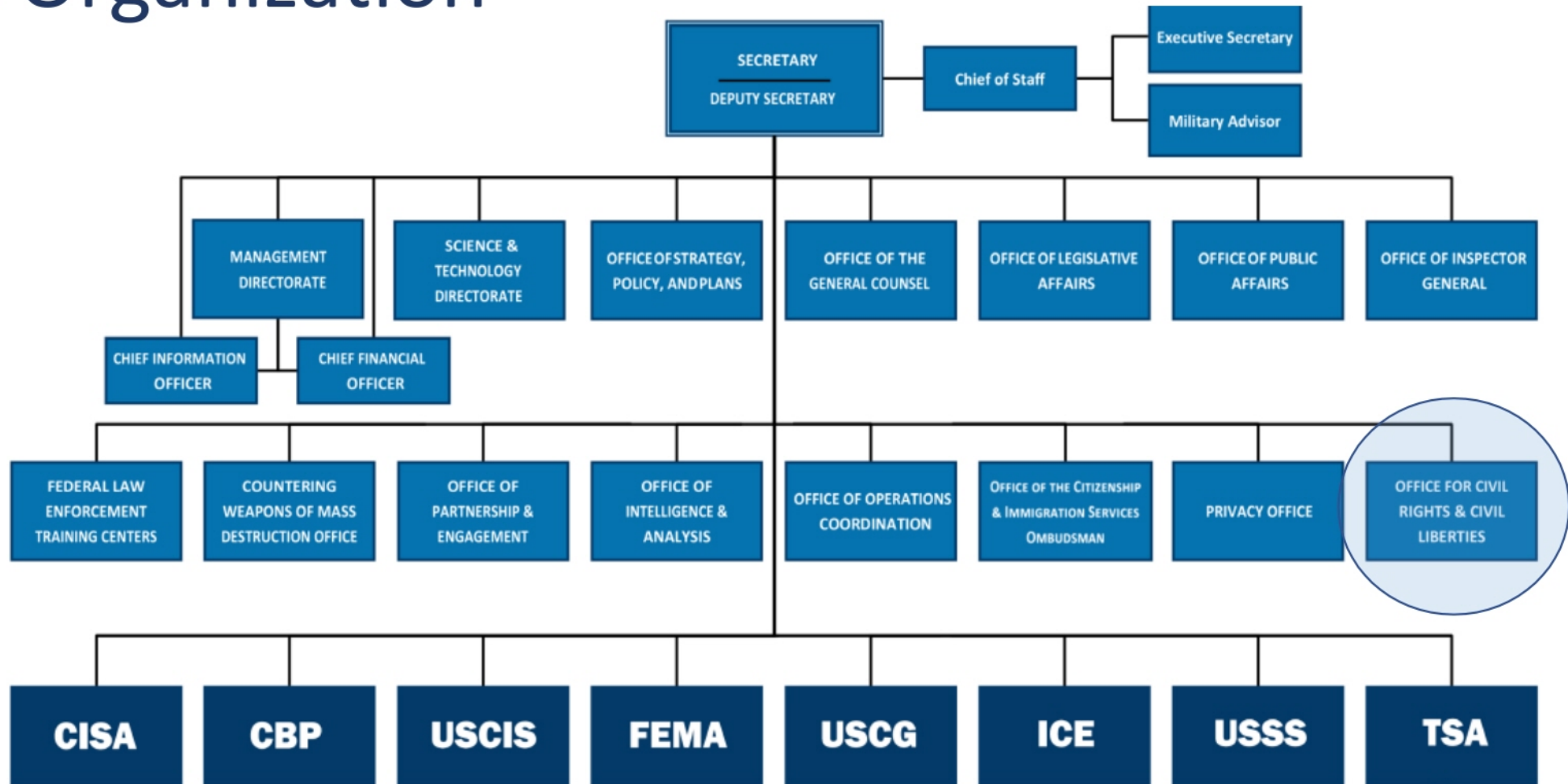
# Topics

1. About the DHS Office for Civil Rights and Civil Liberties  
Questions to ask early in program design  
Specific considerations in the terrorism mission space  
The value of terminology  
Questions and answers

# About CRCL

DHS Mission With honor and integrity, we will safeguard the American people, our homeland, and our values. CRCL Mission The DHS Office for Civil Rights and Civil Liberties (CRCL) supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law.

# DHS Organization



# Statutory Authorities & CRCL's Role

- The CRCL Officer is appointed by the President  
CRCL subject matter experts:  
Provide policy advice to Department leadership and Components on civil rights and civil liberties issues  
Communicate with the public about CRCL and its activities  
Investigate complaints  
Lead the equal employment opportunity (EEO) programs, including workforce diversity and promotion of merit system principles

6 U.S.C. § 345 ■ 42 U.S.C. § 2000ee-1

*“... ensure that civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland.”* 6 U.S.C. § 111(b)(1)(G)

# On any given day, CRCL:

- Investigates conditions of detention and family separation complaints  
Prevents and addresses DHS workplace discrimination and harassment  
Engages with diverse communities  
Integrates civil rights in disaster response  
Conducts intelligence product reviews  
Ensures religious accommodations  
Reviews proposed regulations and policies  
Develops disability access policies  
Provides training and technical assistance to state/local fusion centers

# Questions to Ask Early in Program Design and Assessment



## Questions to ask:

### Equity and Equal Access

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*Are principles of equity embedded in the design and delivery of the program?*

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*Do planning and outreach efforts take into consideration the demographics and needs of the community? (e.g., Are there limited English proficient persons who reside in the community? What are the major languages spoken by those limited English proficient persons?)*

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*What resources does the state have, or will it put in place, to ensure members of the public have information in accessible formats and in languages other than English?*

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*Are community-based organizations that serve underserved communities or members of underserved communities consulted on planning and outreach efforts?*

Questions to ask:

Impact on  
Individuals and  
Groups

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*Is the program intended to have a direct impact on certain racial, ethnic, or religious groups, or the beliefs of certain groups? Could the program be perceived as intentionally targeting or singling out such groups?*

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*How would the program affect persons exercising religious beliefs and practices?*

## Questions to ask:

### Influence of Government

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*Would the program increase the authority, control, or influence of the Government in its relationship with private citizens?*

*Would the program require or authorize the Government to collect more information about private citizens?*

*Would the program require or authorize the Government to centralize the collection of information that was previously dispersed?*

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*Would the program increase the authority, control, or influence of the Government in its relationship with the private sector?*

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*Would the program require or authorize the Government to share information about private citizens with third parties outside the state?*

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*Does the program include a law enforcement, intelligence, or surveillance component?*

## Questions to ask:

### Notice and Redress

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*Would the public receive notice of the program and be able to comment on it?*

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Will a wide-range of stakeholders be identified and consulted in program development and execution?

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*Are procedures in place for redress of alleged violations of civil rights and civil liberties?*

Questions to ask:  
Alternatives

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*Is the program the least burdensome alternative with respect to civil liberties? Could the agency formulate other alternatives to accomplish the same goal while minimizing the impacts on civil liberties?*

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*Could the agency alter the program to enhance civil liberties?*

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*Will any impositions on liberty created by the program be voluntarily incurred?*

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*Is any imposition on civil rights and civil liberties equally distributed, randomly distributed, or focused on identifiable groups?*

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*Is any imposition on civil rights and civil liberties brief or extended?*

Questions to ask:

Safeguards

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*Would effective implementation of the program be dependent, in whole or in part, on government employees having a heightened awareness of Constitutional rights, laws or regulations, or agency policies as they carry out their duties?*

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*Would the program increase or decrease the discretion of those employees or agents implementing the program?*

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*Does the program have embedded legal counsel or ready access to legal counsel?*

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*Are reports to executive and legislative officials, or mandated audits, required, and if so are they one-time or periodic in nature?*

Questions to ask:

Other Rights

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Could the program limit political or religious expression? Could the program implicitly chill open discourse or a person's ability to express their beliefs?

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Could the program lead to some restriction on property ownership, such as real, personal or intellectual property, firearms, or would it grant an unfair advantage to a particular business entity? Will the program have an impact on voting rights? Does the program take the least restrictive approach possible to regulating travel, including the travel of United States citizens? Does the program take away a freedom without affording proper due process?

# Design measures to protect rights implicated by program attributes

- Equitable access for all persons and communities  
Presence of appropriate and effective policy and procedure  
Practical limitations on program or activity that mitigate risk of harm  
Adequate compliance program and effective accountability measures  
Presence of effective training / testing of line staff, supervisors  
Program operated with oversight office guidance, and reporting to oversight offices  
Appropriate accountability standards are in place and implemented  
Notice and opportunity for redress provided where action can adversely affect an individual  
Measures to ensure transparency, allow option for consent  
Alternatives to intrusive interaction with government are offered  
Any other additional alternatives that mitigate impact on the individual?



# Specific Considerations in the Terrorism Prevention Mission Space

## What is “Prevention?”

- **Radicalization to violence is the process wherein an individual comes to believe that the threat or use of unlawful violence is necessary – or even justified – to accomplish a goal. The goal of terrorism prevention is to get help to any individual radicalizing to violence to halt their progression to violence, ideally before they commit a criminal or violent act. This public health approach is focused on the health and well-being of individuals and their communities and is multi-disciplinary, evidence-based, and proactively places civil rights, civil liberties, and privacy concerns at the forefront of its programs.**

Factors

Behaviors

Radicalization Factors

Protective Factors

# Civil Rights Principles in Threat Assessments

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Threat assessments should be objective and not focus unequal attention on a particular individual or group without clear justification.

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Degree of interest in a subject should not be based on race, ethnicity, or religion—or appear to be so based.

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Treat similarly situated individuals, groups, and organizations in an even-handed fashion; assess and avoid implicit biases.

Page 21

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Page 22

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Page 23

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# The Value of Terminology



# Defining Domestic Terrorism

## **18 U.S.C. § 2331**

**(5) the term “domestic terrorism” means activities that— involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; appear to be intended— to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping; and occur primarily within the territorial jurisdiction of the United States;**

## **6 U.S.C. § 101**

**(18) The term “terrorism” means any activity that— involves an act that—is dangerous to human life or potentially destructive of critical infrastructure or key resources; and is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and appears to be intended— to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping.**

# USG DVE Lexicon Definition

- Domestic Violent Extremist (DVE): US-based actors who conduct or threaten activities that are dangerous to human life in violation of the criminal laws of the United States or any state; appearing to be intended to intimidate or coerce a civilian population; and influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping, as per the definition of domestic terrorism in 18 U.S. Code 2331(5).

Page 27

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Questions?

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**Contacts:**

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