



# Beyond CVE: Evolving U.S. Countering Violent Extremism Policy to Prevent the Growing Threat of Domestic Terrorism

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## Executive Summary

U.S. counterterrorism agencies lack the authorities, funding, and political direction to meet the evolving terrorist threat to the United States. Efforts to expand the counterterrorism toolkit to include prevention of all types of terrorism, known under the Bush and Obama Administrations as “countering violent extremism,” or CVE, and under Trump as “terrorism prevention,” have struggled to take hold and the programs have been underfunded and politically unpopular.<sup>†</sup> These efforts have also suffered from the perception that they were biased towards stopping al-Qaeda and ISIS-inspired terrorism and have ignored the threat posed by “right-wing” terrorists.<sup>‡</sup>

The United States must accept that counterterrorism should evolve beyond relying on law enforcement and intelligence alone to prevent the growing threat of domestic terrorism. This evolution should include developing a bipartisan consensus for addressing all forms of terrorism; funding the types of CVE programs we deliver overseas at home; and updating our terrorism laws to incorporate preventative and restorative approaches that build on the best practices and lessons learned from tackling other forms of crime and targeted violence, such as hate crimes and gang violence.

## Background

For nearly 20 years, the U.S. government has prioritized integrated and interagency approaches for detecting and preventing terrorist attacks.<sup>1</sup> Most of these responses have focused on investigations and intelligence operations that target known and suspected terrorists. However, the foreign terrorist threat has evolved from centrally organized groups, such as al-Qaeda, to

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*The opinions and characterizations in this paper are those of the author and do not necessarily represent those of the U.S. Government.*

† Throughout this paper, I have used CVE, which I consider to be a more accurate description of the policy area.

‡ There has been a lack of uniformity in the terminology around the phenomenon of U.S. domestic terrorism and violent extremism. Dr. Mark Pitcavage persuasively argues that it should be called “right-wing” extremism, which includes white supremacist/nationalist, nativists, anti-government extremists and other single-issue extremists. Mark Pitcavage, “Surveying the Landscape of the American Far Right,” The George Washington University Program on Extremism (August 2019).

include more loose-knit and online social movements such as ISIS. At the same time, the threat from international terrorism has been augmented by a resurgent global movement of right-wing terrorism. The tactics employed by terrorists across the ideological spectrum have also evolved away from the spectacular and towards low-tech and hard-to-prevent attacks, such as mass shootings and driving vehicles into crowds.<sup>2</sup>

Since counterterrorism emerged as the center of U.S. national security during the Bush Administration, the U.S. government has struggled to develop a coherent and effective approach to prevent terrorism, particularly domestic terrorism and violent extremism. In 2010, the Obama Administration launched a policy initiative called, “Empowering Local Partners to Prevent Violent Extremism in the United States.”<sup>3</sup> By 2014, the policy area had become known as “Countering Violent Extremism,” or CVE, which the White House described as “the preventative aspects of counterterrorism as well as interventions to undermine the attraction of extremist movements and ideologies that seek to promote violence. CVE efforts address the root causes of extremism through community engagement.”<sup>4</sup> After the rise of ISIS and the Charlie Hebdo attack in Paris in 2015, the Obama Administration hosted a summit on CVE, giving the policy, and its underlying theory that terrorism could be prevented, significant prominence in the U.S. and international national security community.

CVE was intended to augment intelligence and law-enforcement-led counterterrorism efforts by giving governments and communities additional options to prevent terrorism. As one British official told me at the time, “The world is beginning to realize that we can’t shoot or arrest our way out of our terrorism problem.”<sup>5</sup> This approach to counterterrorism was far from perfect, but it was revolutionary in that it sought to recast terrorism as a preventable violent crime and not an existential and solely foreign national security threat.

The underlying logic of CVE was tied, in part, to the restorative justice movement, which seeks to balance “the needs and roles of the victim, offender and community.”<sup>6</sup> Since the 1990s, restorative justice programs for juvenile offenders have gained popularity across the United States, with 20 states adopting programs focused on prevention and rehabilitation of young offenders. A common example is diversion, where prosecution of a first-time offender is deferred and the offender receives treatment or counseling. These programs are often part of a holistic approach to security wherein police work alongside caregivers, such as teachers, mental health professionals and parents to prevent, rather than just punish. This approach recognizes that violent behavior develops along a spectrum and seeks early intervention to prevent it.<sup>7</sup>

The acceptance of these preventative youth programs at home and abroad, alongside the increased popularity of community policing techniques, encouraged national counterterrorism officials and policymakers to adopt similar approaches to preventing terrorist violence. Federal law enforcement typically has few tools to intervene before a potential terrorist crosses into criminal activity.<sup>8</sup> To many, it seemed that the only “offramp”—a CVE phrase that means “path out of an extremist group”—was through a district court. Proponents of CVE sought to provide U.S. law enforcement with similar tools to rehabilitate and reintegrate homegrown terrorism offenders.

The Obama administration stood-up a 40-person interagency task force and allocated a budget of \$24 million to develop programs and coordinate CVE across the U.S. Government.<sup>9</sup> It seemed, as Michael Nagata, an Army general and then-director of strategic operational planning at the National Counterterrorism Center, told a conference of CVE experts days before the 2016 election, that, in twenty years, CVE would be equal to counterterrorism as a policy priority.<sup>10</sup>

President Trump, who made his opposition to President Obama’s counterterrorism policies a centerpiece of his campaign,

rebranded the domestic initiative “Terrorism Prevention” and kept some of the existing programs, albeit with a reduced mandate and almost no funding.<sup>11</sup> In 2017, the U.S. Department of Homeland Security (DHS) awarded \$10 million in grants to local governments and community organizations to pilot CVE programs. However, these grants did not address all forms of violent extremism and failed to resolve the underlying political challenges with CVE, which continued to be controversial with critics across the political spectrum.<sup>12</sup> These grants have not been renewed or expanded and today the future of CVE remains in doubt.<sup>13</sup>

Thus, five years after it emerged as a policy priority, very little of the ambitious vision for CVE has come to pass. The shortcomings of the Obama and Trump approaches to CVE have been well-documented, but, in brief, the initiative has been under-resourced,<sup>14</sup> overly broad,<sup>15</sup> poorly understood,<sup>16</sup> and unpopular with activists on both the left and right. Some Republicans believed that CVE exposed President Obama’s weakness on terrorism, in much the same way that opponents of restorative justice slur such programs as “hug-a-thug.”<sup>17</sup> The American Civil Liberties Union and many Muslim groups argued that CVE stigmatized American Muslims and did not address the more serious threat of the right-wing terrorism.<sup>18</sup>

As CVE foundered in the United States, a global resurgence of right-wing terrorism and extremism inspired attacks and violence from Charlottesville to Christchurch. Other countries that embrace an all-threats approach to counterterrorism and CVE, such as the United Kingdom and Australia, were largely able to readjust their existing frameworks to account for the rise in right-wing violence. The United States, however, which tore down its nascent CVE architecture, has struggled to adapt.

After the El Paso attack in 2019, DHS published a strategic framework to prioritize domestic terrorism and targeted violence, which stated:

*Foreign terrorist organizations remain a core priority of DHS’s counterterrorism efforts and we will continue to make substantial progress in our ability to detect, prevent, protect against, and mitigate the threats that these groups pose. At the same time, we face a growing threat from domestic terrorism and targeted violence here at home. We must address and prevent the mass attacks that have too frequently struck our houses of worship, our schools, our workplaces, our festivals, and our shopping spaces.<sup>19</sup>*

The strategic framework revived several dormant aspects of CVE, such as fostering partnerships with community groups and faith-leaders, funding research, and providing annual public reports on domestic terrorism.<sup>20</sup> But as George Selim, who previously led the federal government’s interagency CVE Task Force under the Obama and Trump administrations, noted, “it’s not clear what the means of execution and resources are,” as no new funds for programs or staff had been committed.<sup>21</sup>

## Analysis

Despite a consensus among experts that the threat of domestic violent extremism will continue to grow, CVE remains a moribund policy area.<sup>22</sup> The best work happens far away from the national spotlight and eschews the most controversial elements of CVE, including the label. Few political leaders in either party embrace CVE, though there appears to be a bipartisan consensus on the need for some sort of preventative approach to terrorism overseas.<sup>23</sup> At home, despite the 2019 revival of some aspects of CVE, efforts to prevent domestic and right-wing terrorism seem as uncertain as ever.<sup>24</sup>

What then is the way forward? At the most critical, CVE must receive a bipartisan political mandate. According to CVE

expert Ryan Greer, “Without the politics, you don’t have the policy. Without the policy, you don’t have the programs.”<sup>25</sup> Fixing the politics will require embracing honest criticism and ensuring that CVE programs are not politically motivated or racially biased. To accomplish this, CVE proponents should reframe the policy area in two important ways.

First, political leaders must make it clear that CVE responds to all forms of violent extremism, not just al-Qaeda and ISIS-inspired terrorism. This must be done rhetorically, with the President delivering a major policy address that makes the all-threats approach clearer in the national counterterrorism strategy. Senior administration officials, such as the Attorney General and the Secretary of DHS, must then amplify the all-threats focus. It also may require new legislation that explicitly instructs the Departments of Justice and Homeland Security to address all forms of terrorism. Domestic terrorism, including right-wing terrorism, currently lacks the same legislative mandate as international terrorism. The Domestic Terrorism Prevention Act—currently before Congress—would make this mandate permanent, and much more difficult for future presidents to reverse or ignore.

In my ten years of experience in counterterrorism and CVE, I have seen a structural bias for countering al-Qaeda and ISIS-inspired violent extremism over domestic right-wing-inspired violence. CVE is not racist, as some of its critics allege, but its practice in the United States has reflected some of the popular biases expressed around terrorism.<sup>26</sup> For example, while CVE experts almost uniformly acknowledge the importance of an all-threats approach, more Americans believe al-Qaeda and ISIS-inspired terrorism poses a greater threat than domestic terrorism.<sup>27</sup> This bias is reflected in U.S. terrorism laws and executive orders that were written in the aftermath of 9/11. These include Executive Order 13354 and the Intelligence Reform and Terrorism Prevention Act of 2004, which restrict the authority of the National Counterterrorism Center to address domestic terrorism.

This belief—that foreign terrorism represents a greater threat—is misplaced. Federal Bureau of Investigation (FBI) Director Christopher Wray recently reported to Congress that in the first three quarters of fiscal year 2019, the FBI arrested about an equal number right-wing and al-Qaeda/ISIS-inspired terrorism suspects.<sup>28</sup> In 2018, according to research from the Anti-Defamation League, right-wing violence killed more Americans than in any year since the Oklahoma City bombing in 1995.<sup>29</sup> This discrepancy between the actual and perceived terrorist threat informs political priorities and funding. Addressing this resurgent threat will require a broader reorientation of U.S. counterterrorism, but political leaders can begin by clarifying, both in rhetoric and in policy, that prevention is intended to protect all communities from violence.<sup>30</sup>

The second task is to narrow the scope of CVE to crime prevention. When it was a new policy area, CVE proponents imagined reordering large elements of American political life in the pursuit of reducing terrorism. A leading and ambitious proposal called for surging CVE spending to \$1 billion.<sup>31</sup> Others advocated for initiatives that focused on mental health,<sup>32</sup> advancing gun control,<sup>33</sup> fostering entrepreneurship<sup>34</sup> and a range of otherwise worthwhile social programs that could have reduced violent extremism. The underlying theory was that inclusive, democratic and safe communities are resilient to extremism and violence. This may be, but the role of the federal government in fostering such communities is a contentious and unresolved question in American politics. These overly broad approaches missed the core point of CVE—preventing at-risk individuals from committing acts of terrorism.

Although a complex and difficult task, this is not an impossible one for the U.S. government. The population of terrorism offenders in the United States is relatively small and manageable compared to other democracies. In May 2019, the FBI reported it was investigating 850 domestic terrorism cases.<sup>35</sup> In contrast, during the same period, the United Kingdom (which has 1/5th the population of the United States) referred 1,314 individuals into its counterterrorism diversion program, Channel.<sup>36</sup>

CVE should be narrowly focused on reaching offenders in the same way that crime prevention programs focus on individuals who have committed, or have been identified as at-risk of committing, a crime. CVE programs should not police the constitutionally protected right to hold extreme or unorthodox beliefs but should focus on changing potentially criminal behavior for the benefit and safety of the community and the offender.

By way of example, the role of the federal government in juvenile crime prevention is clear. The Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) works with states and local communities to "sponsor research, program, and training initiatives" that "strengthen the juvenile justice system's efforts to protect public safety, hold offenders accountable, and provide services that address the needs of youth and their families."<sup>37</sup> These programs include a focus on prevention and reduction of gang violence, including stopping recruitment of young people into transnational criminal gangs.<sup>38</sup> Terrorism experts have long pointed out the similarities in recruiting between terrorist groups and criminal gangs, begging the question whether similar approaches would be appropriate for preventing terrorism.<sup>39</sup> Given this mandate and experience, it would be reasonable to expand the mandate of OJJDP to include countering violent extremism.

Some successful CVE programs, such as Muflehun (a think tank specializing in preventing radicalization and countering violent extremism), have attempted to re-create the anti-gang approach, but they have been stymied by concerns of violating 18 U.S.C. § 2339A, which prohibits providing material support to terrorists. It seems counterintuitive that programs designed to prevent terrorism could run afoul of counterterrorism law. The concern is that service providers (e.g. counselors, social workers, or clergy) who are administering the CVE programs can be charged with material support if the individuals who engage in these programs derive some benefit while they are still engaging in terrorist activity. This would be analogous to charging a drug abuse recovery clinic with narcotics trafficking for providing methadone.<sup>40</sup>

Similarly, according to a recent Department of State Inspector General report on CVE programs abroad, U.S. diplomats were reluctant to fund rehabilitation and reintegration programs for fear of violating the law.<sup>41</sup> While the Department of State has instituted a case-by-case legal review of support for these programs, no such mechanism exists domestically. Without a clear political and legal mandate, many CVE practitioners can find themselves in this legal grey area.

There are two potential resolutions to this problem. Congress could revise § 2339A to exempt terrorism prevention programs. Alternatively, the Department of Justice could address the issue through executive interpretation. For instance, the Attorney General could seek an opinion from the Office of Legal Counsel on the applicability of § 2339A to CVE programs. The opinion could inform a non-prosecutorial policy where there is a clear CVE objective to the support. New legislation is preferable, however, as it would likely endure across future administrations and provide more concrete political support for the programs.

CVE practitioners have proposed a range of other solutions for reviving meaningful CVE in the United States, including increasing funding,<sup>42</sup> improving leadership,<sup>43</sup> and strengthening national-local coordination.<sup>44</sup> These proposals are worthwhile, but without the wider reframing of CVE described above, they will not address the core challenges that have hamstrung the policy to date.

CVE emerged from an ambitious vision to end the "forever" war on terrorism by working with communities to prevent radicalization and violence. Political leaders, counterterrorism experts, activists and community leaders should come together to develop a bipartisan consensus for an approach to preventing terrorism that respects civil liberties and gives law enforcement and communities something other than bullets and handcuffs to fight terrorism.

## Recommendations

**Recommendation 1:** The U.S. government must expand and update its international counterterrorism authorities to include preventing and investigating domestic terrorism.

Little enduring action can occur to address domestic terrorism until the federal government addresses and strengthens its legal authorities. A vigorous debate around the government's authorities is not only necessary to provide legality clarity, but it is also needed to improve public education and understanding regarding the nature of the threat and how the country can respond to it. A necessary first step is that Congress should require the President to develop a national strategy for domestic terrorism, which would clearly articulate the threat and the government's capabilities (or lack thereof) to meet it.

Additionally, Congress should consider revising the Intelligence Reform and Terrorism Prevention Act of 2004 and the President should update Executive Order 13354, which limit the remit of the National Counterterrorism Center (NCTC) to international terrorism. The NCTC has proven to be an effective and critical tool in the United States' work to identify and prevent international terrorist attacks. Although the NCTC has supported domestic counterterrorism efforts, in particular through its role in the country's watch-listing regime, it should bring its other unique interagency capabilities to bear in this space.

Critics reasonably will object to the blending of domestic and international threats, and expanding the domestic role of the Intelligence Community, but other democracies have balanced these challenges before. The underlying goal should be to make counterterrorism and CVE more transparent and accountable.

Expanding national counterterrorism authorities and institutions to address domestic terrorism will require the U.S. Government to reconcile better counterterrorism initiatives with the protection of Americans' civil liberties. Congress could expand the authority of the Privacy and Civil Liberties Oversight Board, established to ensure greater transparency in counterterrorism efforts, to include CVE and domestic terrorism prevention efforts. This expanded authority should include requirements for annual reports on CVE and domestic terrorism prevention.

**Recommendation 2:** The U.S. government should restructure its approach to terrorism to better delineate between law enforcement and intelligence-led investigations into known and suspected terrorists and community-led prevention efforts. The latter should not be led by law enforcement.

One of the most significant criticisms of CVE is that its proponents seek to provide social services as a guise for surveillance. In my experience, this has not been the case, but citizens might rightly wonder why a Joint Terrorism Task Force would be interested in providing mental health treatment for terrorism suspects.

Overseas, when CVE works best, it is because the clear lines between criminal investigation and community services allow CVE practitioners to foster the deep trust necessary to engage vulnerable people about their potential targeting and recruitment into violent groups. Because of the U.S. federal system and the uneven availability of social and mental health services across the country, U.S. law enforcement increasingly find themselves meeting demands that in other developed democratic countries would be managed outside of the criminal justice system.

**Recommendation 3:** Congress should mandate and provide funds for OJJDP to add terrorism prevention-oriented programs.

An ideal place to begin delivering on the second recommendation above is OJJDP, which has a track-record of working with communities, states, and local governments to prevent and mitigate juvenile crime, in particular gang recruitment. These programs should be based on OJJDP anti-gang and anti-drug abuse models to create restorative justice and crime prevention programs that address terrorism and violent extremism.

**Recommendation 4:** The federal government must provide legal protection for state and local agencies, the private sector, and nonprofits who work in the CVE field.

The federal government will play an important role in CVE, but it requires the help and work of others for the United States to fully address domestic extremism. At present, the threat of federal prosecution under 18 U.S.C § 2339A for “supporting” terrorism is a substantial obstacle for the society-wide effort that is needed. Ideally, Congress should revise § 2339A to exempt terrorism prevention programs. In the absence of legislative action, however, the Attorney General should seek an opinion from OLC on the applicability of §2339A to CVE programs to inform a non-prosecutorial policy where there is a clear CVE objective.

# Endnotes

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Domestic terrorists differ from international terrorists in two critical ways that vex law enforcement efforts to preempt violence. First, domestic terrorists, for the most part, don't operate as physical, named groups in the way that al Qaeda and the Islamic State have in an international terrorism context. With domestic terrorism, threat knowledge comes anecdotally from the experience of the most seasoned investigators. Few, if any, personnel and resources are dedicated to establishing a collective picture of which violent ideologies perpetrate violence, why they do it, and how they overlap. [4] For background on Moonshot CVE and its approach for preempting violent extremism, see, here: <http://moonshotcve.com>. Preventing/Countering Violent Extremism (P/CVE) forms an important part of ICCT's work on the prevention of violent extremism, terrorism and conflict. ICCT's work focuses on the early identification of threats and more importantly analyses the effectiveness of measures available to respond to these threats. This policy brief uses data gathered from the growing number of Violent Extremist Offenders in Malian prisons to provide an overview of and recommendations for implementing rehabilitation interventions. Read more. Policy Brief | 28 Apr 2020

The growing power of online communities of the extreme-right: deriving strength, meaning, and direction from significant socio-political events "in real life". The key to countering violent extremism is to steer would-be attackers down a positive, productive path before they cross over from radical thinker to radical extremist. Success requires cooperation between law enforcement from all levels and an ongoing dialogue with communities that stands on a firm foundation of trust. The FBI CVE Model aids in the prevention of violence and provides communities with tools to build resilience against the catalysts to extremism. The CVE Model aligns the specific threats of a field office with the tools needed to counter violent extremism in a local community. This will aid threat mitigation by delivering a customized solution for the field offices. Our office provides special agents in charge (SACs) with a CVE approach they can implement immediately. Executive Summary. Are programmes and policies dedicated to preventing or "countering violent extremism" (CVE) making the UK and Western nations safer or are they increasing the risk of terrorism? This submission answers this question in reference to the UK's official countering-violent extremism policy "Prevent". It argues that current approaches to countering radicalisation and extremism are ill-informed, counterproductive and therefore do little by way of generating security. In order to make this argument, the submission firstly explains how the threat of terrorism perpetrated by political Islamic groups, notably al-Qaida and ISIL, is claimed to be ideologically and religiously motivated despite overwhelming evidence to the contrary.