Concerns about "Countering Violent Extremism" (CVE) Programs

Federal government-driven CVE initiatives seek to mobilize local communities to implement strategies and interventions, mainly targeted at young Muslim men, in order to disrupt and prevent individuals' progression to "violent extremism." The following is a non-exhaustive sample of concerns about CVE programs raised by civil rights attorneys, researchers of terrorism and counterterrorism policy, Muslim community members, and others.

- **A basic premise of CVE initiatives, that there are outwardly identifiable signs of a possible progression toward engaging in terrorism, is deeply flawed.** Supposed signs of such a progression may include expressing political grievances or moral outrage over treatment of Muslims, reading or viewing certain materials, or following particular Islamic interpretations or practices -- activities which are not only Constitutionally protected but are quite common among many who oppose terrorism.[1] A report by Brennan Center for Justice notes that, "[d]espite the impetus to find a terrorist profile or hallmarks of radicalization to hone in on incipient terrorists, empirical research has emphatically and repeatedly concluded that there is no such profile and no such easily identifiable hallmarks."[2] Putting Muslim leaders on alert for "warning signs" other than actual threats or expressions of intent to commit violence could be ineffective at best, and, at worst, could alienate community members and damage community leaders' legitimacy.

- **CVE programs may cast scrutiny on common activities of many young people**, such as questioning authority, experimenting with new identities, forming independent political views -- including views perceived by law enforcement or others as "extreme," showing solidarity with peoples living abroad, and expressing a desire to make a difference in the world. Muslim youth -- like all youth -- deserve to pursue their (imperfect) transitions to adulthood without having such behaviors policed or becoming the targets of interventions. Political expression and mobilization are formative activities for many young people, and surveillance or undue scrutiny can stifle their leadership development and future political activism.[3] Moreover, political engagement and dissent against unjust policies are critical for a functioning democracy.

- **Participation in CVE programs will not improve respect for Muslims' rights.** Some may hope that engaging with CVE initiatives will lead to greater understanding of Islam among government agencies and better protection of Muslims' rights. However, experience with similar "community engagement" partnerships shows that notable improvements in respect for Muslims' rights are generally elusive, in part because of inherent conflicts between the interests of communities and of federal law enforcement participating in the forums.[4] Federal-community partnerships may have led to small gains, such as the Traveler Redress Inquiry Program ("TRIP") and other

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[1] Researchers with the think tank DEMOS found, for example, that "foreign policy is a major and consistent grievance among Muslims, and disapproval is nearly unanimous." Jamie Bartlett, Jonathan Birdwell and Michael King, DEMOS, "The Edge of Violence: A Radical Approach to Extremism" (2010) at 25 (hereinafter "The Edge of Violence"), available at: http://www.demos.co.uk/files/Edge_of_Violence_-_full_-_web.pdf?1291806916.

[2] Faiza Patel, Brennan Center for Justice, "Rethinking Radicalization" (2011) at 8, available at: http://brennan.3cdn.net/f737600b433d98d25e_6pm6beukt.pdf. *See also* "The Edge of Violence," *supra* note 1; and John Horgan. "Discussion Point: The End of Radicalization?" (2012), available at: http://www.perma.cc/0iCRqo8gp8K.

[3] *See e.g.* MACLC, CLEAR and AALDEF, "Mapping Muslims: NYPD Spying and Its Impact on American Muslims" (2014), available at: www.law.cuny.edu/academics/clinics/immigration/clear/Mapping-Muslims.pdf.

[4] While community members and government agencies alike value peace, security and freedom, certain government agencies also face pressures to maximize terrorism convictions and gather intelligence which can support that result. *See e.g.* Sahar Aziz, "Policing Terrorists In the Community," 5 Harvard Nat'l Sec. J. 147 (2014) (herinafter "Policing Terrorists"), available at: http://harvardnsj.org/wp-content/uploads/2014/01/Aziz-Final.pdf. Conflicts of interest between the community and government agencies have been observed in such forums as when, for example, a government representative discouraged community members from seeking attorneys before speaking with the FBI by informing them that doing so makes it more difficult for the FBI to do its job.

incremental changes,[5] but it is not clear that such improvements would not have been achieved through use of the advocacy channels available to all Americans. Moreover, such partnerships can shield community grievances from public airing and divert energies from more effective redress channels, and they do not address the deeper, underlying issue of disparate treatment of Muslim communities -- in particular the racial, ethnic and religious profiling of Muslims for terrorism-related investigations.

- **CVE programs may undermine community cohesion.** Specifically, CVE programs may deputize Muslim community leaders to police activities and speech which the government recognizes it may not[6] and may offer government funds to replicate programs that have the effect of chilling speech or religious activities. Both of these CVE tactics may provoke suspicion within Muslim communities and exacerbate false "good Muslim"/"bad Muslim" dynamics.[7] (In this false dichotomy, "good Muslims" cooperate with government agencies in an effort to demonstrate loyalty as Americans while "bad Muslims" refuse to cooperate and may vocally resist discriminatory policies. "Good Muslims" may be viewed as collaborators abdicating the rights of the community, while "bad Muslims" may be seen as recklessly endangering the reputation of Muslims among the broader American community.) Such mistrust can discourage Muslims from attending their mosques as well as destroy the unity required for effective community advocacy and for the health and sustainability of faith communities.

- **CVE programs may tread dangerously close to government establishment of an "official" Islam.[8]** If government agencies believe that certain Islamic interpretations increase Muslims' propensity to commit violent crimes, they may use CVE initiatives to encourage community leaders to discourage such interpretations. CVE initiatives may cause some Muslims to self-censor their religious beliefs, modify their religious practices, or avoid communal worship altogether to avoid suspicions that they are prone to violence. Government favoring of its preferred brand of Islam, even indirectly through its "community partners," would violate one of our most cherished Constitutional liberties -- the right to be free from state-sanctioned religion. Even aside from First Amendment concerns, government promotion of so-called "moderate" Islam threatens to impede American Muslims' religious self-determination.

- **A similar program in the U.K. has inflicted harms on Muslim communities.** Numerous problems have been identified with the Preventing Violent Extremism (or "Prevent") programme in the UK, which -- like CVE -- was also framed by the government as a "community-led" approach. Among the many problems which came to light with that program were that government transparency and accountability were lacking; that a significant focus of the program was to gather intelligence on Muslim communities; and that the program sought to police radical dissent and, counterproductively, diminished youth confidence in democracy.[9]

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[5] *See e.g.* "Policing Terrorists," *supra* note 4, at 220-222. Aziz notes that TRIP "became notorious for its late responses, which sometimes came years after a complaint was filed, and for the absence of due process for complainants to meaningfully challenge their inclusion on a list."

[6] *See* Executive Office of the President of the United States, "Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States" (2011) at 18, available at: http://www.whitehouse.gov/sites/default/files/sip-final.pdf. ("Countering the ideologies and narratives that legitimize violence is central to our effort, but it is also the most challenging area of work, requiring careful consideration of a number of legal issues, especially those related to the First Amendment. In many instances, it will be more effective to empower communities to develop credible alternatives that challenge violent extremist narratives rather than having the Federal Government attempt to do so.") See also "Policing Terrorists," *supra* note 4.

[7] For example, as reported in "The Edge of Violence," one community member stated in relation to a radicalization prevention program in the UK that, "those who take the money are seen as complicit with the government agenda and are sell-outs. Those who don't are seen as borderline extremists." *Supra* note 2 at 63. *See also* "Policing Terrorists," *supra* note 4; "Spooked!," *infra* note 9.

[8] *See* "Policing Terrorists," *supra* note 4, at 191, and Samuel J. Rascoff, "Establishing Official Islam? The Law and Strategy of Counter-Radicalization," 64 Stan. L. Rev. 125 (2012), available at http://www.stanfordlawreview.org/print/article/establishing-official-islam.

[9] *See* Arun Kundnani, Institute of Race Relations, "Spooked! How Not to Prevent Violent Extremism" (2009), available at http://www.irr.org.uk/pdf2/spooked.pdf.