

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 Muslims, 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 outward signs of a possible progression toward engaging in terrorism, is deeply flawed.** Signs of this supposed progression may include expressing political grievances or moral outrage, reading or viewing certain materials, or following particular Islamic interpretations -- activities which are not only Constitutionally protected but 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 and could alienate community members and damage community leaders’ legitimacy.
- **CVE programs may cast scrutiny on common activities of many young people:** 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 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 and better protection of Muslims’ rights. 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 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 profiling of Muslims for terrorism-related investigations.

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) (hereinafter “Policing Terrorists”), available at: <http://harvardnsj.org/wp-content/uploads/2014/01/Aziz-Final.pdf>. Such conflicts of interest can be observed when, for example, a government representative discourages community members from seeking attorneys before speaking with the FBI.

⁵ See e.g. “Policing Terrorists,” *supra* note 4, at 220-222. Aziz notes that TRIP “became notorious for its late responses . . . , and for the absence of due process for complainants to meaningfully challenge their inclusion on a list.”

- **CVE programs may undermine community cohesion.** Specifically, CVE programs may deputize community members to police activities and speech which the government recognizes it may not⁶ 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 certain Islamic interpretations increase propensity to commit violent crimes, they may use CVE initiatives to discourage such interpretations and promote others. CVE initiatives may cause some Muslims to self-censor religious beliefs, modify religious practices, or avoid communal worship altogether to avoid suspicions that they are prone to violence. Government favoring of a preferred brand of Islam, even indirectly through “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 any particular interpretation of Islam threatens American Muslims’ religious self-determination.
- **A similar program in the U.K. has been damaging.** Numerous harms have been inflicted by the “Preventing Violent Extremism” (or “Prevent”) program launched in the UK in 2007. Prevent’s many problems have included a lack of government transparency and accountability; a significant focus on gathering intelligence on Muslim communities; and the policing of radical dissent and, counterproductively, diminished youth confidence in democracy.⁹ Critics charge that, though ostensibly neutral with regards to religion, Prevent is selectively used and polices British citizens’ behavior by two different standards of legality: one for Muslims and one for everyone else.¹⁰ Prevent has also compromised expectations of confidentiality and Muslims’ ability to safely use services. Prevent’s “Channel Program” has been extended to the health sector with troubling repercussions including for doctor-patient confidentiality and the stigmatization of persons with mental health issues.¹¹

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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 in the UK stated 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; Arun Kundnani, Institute of Race Relations, “Spooked! How Not to Prevent Violent Extremism” (2009) (hereinafter “Spooked”), available at <http://www.irr.org.uk/pdf2/spooked.pdf>.

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 “Spooked,” *supra* note 4. See also Jahangir Mohammed and Dr Adnan Siddiqui, CAGE, “The Prevent Strategy: A Cradle to Grave Police State” (2014) (hereinafter “The Prevent Strategy”), available at: <http://cageuk.org/report.pdf>.

¹⁰ See e.g. “The Prevent Strategy” at 8, 28.

¹¹ See “The Prevent Strategy” at 16 - 19. The Channel program, launched in 2007 “to identify early on those considered ‘vulnerable’ or, ‘at risk’ of being drawn towards extremism or violence, . . . provides collaboration between the Police and other agencies such as schools and youth workers in identifying and referring individuals and carrying out de-radicalising interventions.” “The Prevent Strategy” at 12.