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VIA ELECTRONIC COMMUNICATION

Chief Commissioner Martin Castro
United States Commission on Civil Rights
1331 Pennsylvania Ave., NW, Suite 1150
Washington, DC 20425

**REQUEST TO EXAMINE COUNTERING VIOLENT EXTREMISM PROGRAMS
DISPARATE TREATMENT AND IMPACT ON AND USE TO TARGET ARABS AND MUSLIMS**

The Federal Bureau of Investigations (FBI), the U.S. Department of Justice (DOJ) and the Department of Homeland Security (DHS) have inappropriately skewed the threat of violent extremism and domestic terrorism solely against Muslims, ignoring other violent radical groups. The fatally flawed Countering Violent Extremism (CVE) paradigm: CVE programs, policies, practices, and legislation; are aimed at and/or effectively continue to target Arabs and Muslims under the premise that they are inherently predisposed to committing acts of violence, acts of terror.

It is critical for the government to devote substantive resources to criminal investigations based on articulable suspicion and/or probable cause, rather than stereotypes and profiling. Resources should not target communities based upon race, national origin, religion, and immigrations status.¹ Based on the information and documents supported herein, we respectfully request the U.S. Commission on Civil Rights to review the CVE program as it relates to targeting of Arab and Muslim communities, and the continued perpetuation of Islamophobia and stigmatization of these communities.

CVE Program

At a White House summit in February, Obama championed the Department of Homeland Security's "countering violent extremism" program, which calls on teachers, faith leaders and neighbors to watch for early indicators of extremism and report them to law enforcement. This federal initiative, which largely targeted Muslim communities, was piloted in Los Angeles, Minneapolis, and Boston. Contrary to the government and the Department of Homeland Security position and portrayal, reports indicate that the CVE pilot programs were unsuccessful.²

¹ *Homegrown Extremism 2001-2015*, New America, <http://securitydata.newamerica.net/extremists/analysis.html> (last visited Oct.7, 2015) (27.3% non-Islam manipulated extremism monitored by informants as compared to 47.1% of Islam manipulated extremism monitored by informants).

² See Corey Saylor, *Is countering violent extremism ready for a \$40 million investment?*, THE HILL, July 15, 2015, <http://thehill.com/blogs/congress-blog/civil-rights/247908-is-countering-violent-extremism-ready-for-a-40-million>.

The CVE program called for teachers, guidance counselors, religious leaders, and public health workers to assess a person's thoughts, rather than actions, to identify violent extremists and report back to law enforcement.³ In the Somali community, community leaders working with law enforcement to address CVE were assured that spying would not be conducted in their communities.⁴ However, information surfaced that local partner; Minneapolis Public Schools, specifically hired people to watch Somali youth in the Minneapolis schools, to "spot identity issues and disaffection."⁵ This further alienated the Somali community, whom already felt targeted as Muslims and had a long standing lack of trust with law enforcement due to 2007 and 2009 intelligence gathering programs under the guise of community outreach.

The CVE program's focus in particular cities and demographic areas demonstrates that Arab and Muslim communities are the suspect communities. With the FBI, DHS, and the DOJ as the chief agencies implementing the CVE programs, CVE infiltrated these cities from a national security and law enforcement/prosecution/security lenses, not a community and civil rights framework. There is no clear separation between "counter-radicalization and counterterrorism" and "community outreach and intelligence gathering."⁶ There are justified concerns that CVE will be implemented under the guise of community outreach as an instrument for spying on Muslim and Arab communities.⁷ The CVE program was not conducted in large domestic radical, white supremacist, 'sovereign citizen', Ku Klux Klan, or other "home-grown extremism" communities with known violent radical activities.⁸ Although the

³ Saylor, *supra* note at 6.

⁴ See Amanda Sperber, Somalis in Minnesota question counter-extremism program targeted at Muslims, THE GUARDIAN, Sept. 14, 2015, <http://www.theguardian.com/us-news/2015/sep/14/somali-muslims-minnesota-counter-extremism-program>.

⁵ See The 'Countering Violent Extremism' program institutionalizes injustice against Somalis, Minn Post, May 1, 2015, <https://www.minnpost.com/community-voices/2015/05/countering-violent-extremism-program-institutionalizes-injustice-against-so> ("According to the FBI, six percent of all acts of domestic terrorism are attributed to Muslims, which means that the CVE program will ignore the source of 94 percent of threats to homeland security").

⁶ See National Security Preparedness Group, *Preventing Violent Radicalization in America*, 22, 40, June 2011, <http://bipartisanpolicy.org/wp-content/uploads/sites/default/files/NSPG.pdf> (listing PREVENT initiatives into the Muslim community). No clear separation between counter-radicalization and counterterrorism was an issue identified by the National Security Preparedness Group in the British PREVENT program, and this separation for an U.S. program was one of their recommendations.

⁷ See Cora Currier, *Spies Among Us: How Community Outreach Programs to Muslims Blur Lines Between Outreach and Intelligence*, INTERCEPT, Jan. 21, 2015, <https://theintercept.com/2015/01/21/spies-among-us-community-outreach-programs-muslims-blur-lines-outreach-intelligence/>; see also Michael Price, *Community Outreach or Intelligence Gathering? A Closer Look at "Countering Violent Extremism" Programs*, Brennan Center for Justice, https://www.brennancenter.org/sites/default/files/analysis/Community_Outreach_or_Intelligence_Gathering.pdf.

⁸ Richard Cohen testimony that there have also been several plots stopped by radical right wing extremists to poison water supplies and ricin; see also Scott Shane, *Homegrown Extremists Tied to Deadlier Toll Than Jihadists in U.S. Since 9/11*, NY TIMES, June 24, 2015, http://www.nytimes.com/2015/06/25/us/tally-of-attacks-in-us-challenges-perceptions-of-top-terror-threat.html?_r=0. Note: This sentence was changed after this request was submitted to the U.S. Commission on Civil Rights.

Combating Terrorism Center at West Point found that since 2007 there has been a dramatic rise in the number of violent plots from persons who identify with far-right of American politics.⁹ The major ideological movements linked to violence found ranged from “a racist/white supremacy movement, an anti-federalist movement and a fundamentalist movement.”¹⁰ This should in no way be suggested to endorse government actions signaling out Americans because they adhere to “right-wing” viewpoints. It is merely to point out the folly of pretending that the adherence to the Islamic faith, being Arab, or being from the Middle East predisposes one to terrorism.¹¹

Similar to the British program Prevent Strategy (“PREVENT”)¹², which the CVE program seems to be derived from as government agencies cite as an example of CVE success, also improperly singled out and targeted the Muslim population.¹³ The British university system and professors were trained to monitor Muslim students.¹⁴ Teachers and staff were asked to disclose names and identifying details of Muslim students who they believed were isolated or depressed, without any objective evaluation or proof of radicalization.¹⁵ PREVENT failed to stifle cooperation or understanding with law enforcement, but rather exacerbated mistrust with law enforcement and within the community itself. Some people and groups participated to avoid being identified as “at risk”, perceived or investigated as suspect for violent extremism. The PREVENT program gave dedicated counterterrorism funds to organizations that were not trusted in the communities and viewed suspiciously in the communities they were supposed to serve.¹⁶ Nearly 80 million British pounds (over \$122 million) was used to fund the PREVENT program that was ultimately overhauled and shutdown, citing waste and effectiveness issues.¹⁷ PREVENT effectively segregated the Muslim community and turned groups in the community against each other.¹⁸ This is

⁹ Challengers from the Sidelines: Understanding America’s Violent Far-Right, Jan. 15, 2013, <https://www.ctc.usma.edu/v2/wp-content/uploads/2013/01/ChallengersFromtheSidelines.pdf>.

¹⁰ *See id.*

¹¹ This sentence was added after this request was submitted to the U.S. Commission on Civil Rights.

¹² Prevent is 1 of the 4 elements of CONTEST, the British government’s counter-terrorism strategy.

¹³ *See id.* at 23–4; *see also* Josh Halliday and Vikram Dodd, UK anti-radicalisation Prevent strategy a ‘toxic brand’, THE GUARDIAN, Mar. 9, 2015, <http://www.theguardian.com/uk-news/2015/mar/09/anti-radicalisation-prevent-strategy-a-toxic-brand>.

¹⁴ *See* Ryan Gallagher, *Counter-terror strategy faces university opposition*, Mar. 16, 2012, <http://www.theguardian.com/politics/2012/mar/16/counter-terror-strategy-university-backlash>; *see also* Press Association, *School debate shut down, NUT warns*, DAILY MAIL UK, Apr. 6, 2015, <http://www.dailymail.co.uk/wires/pa/article-3027007/Schools-safe-talking.html>.

¹⁵ *See id.*

¹⁶ Halliday, *supra* note 6.

¹⁷ The “Channel” de-radicalization program part of PREVENT is still in effect. *See* Dominic Casciani, Analysis: The Prevent strategy and its problems, BBC NEWS, Aug. 26, 2014, <http://www.bbc.com/news/uk-28939555>. “Evaluation of Prevent activity to date has been poor. Money has been wasted.” HM Government, Prevent Strategy 6, June 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf.

¹⁸ Gallagher, *supra* note 7, at 21 (“Prevent also handed out grant money to the non-violent Islamists’ more secular opponents who accused the Islamists of providing the ideological “mood music to which suicide bombers dance”); Frank Gardner, *Prevent strategy: Is it failing to stop radicalisation?*, BBC NEWS, Mar. 6, 2015,

precisely what the CVE pilot program in the United States has done and will continue to do with a rollout of the current CVE paradigm.

The CVE program's identified risk factors for radicalization and/or susceptibility to engage in violent extremism are broad and over inclusive, and not grounded in science.¹⁹ Risk factors for communities include discrimination, access to educational and recreational resources, and access to health care.²⁰ Risk factors for individuals include connection to a group identity, experiences of loss, and economic stress.²¹ Risk factors for families include family member's awareness of each other's activities, families' involvement in community cultural and religious activities, and parental involvement in child's education.²² These risk factors can be used to justify targeting of any U.S. citizen. If you are Muslim, if your parent does not know you skipped school, if you live in poverty stricken area with poor schools and no health facilities, if your father died, if you are on welfare or food stamps and live paycheck to paycheck, if your spouse does not know your mistress, you are at risk. The generalist definition for identified signs of radicalization risk is problematic as its ability to actually identify people "at risk" is unlikely; but at the same time opening the door to discriminatory interpretations of the risk factors. Arab and Muslim Americans, minority communities, and the poor, which make up a majority of the United States population,²³ are "at risk" because of immutable characteristics and demographics out of their control.²⁴

Disturbingly, the decision to implement the CVE program from the initial pilot cities to across the country was made without any substantive review and consideration of the pilot program outcomes, feedback, and recommendations and comments. Nor concerns and issues raised with previous programs addressing CVE, such as AIMCOP and SCOT in Minnesota, were substantively considered. The success, rationale and need for the rollout of the CVE pilot programs across the nation are speculative. CVE

<http://www.bbc.com/news/uk-31756755>(If the idea was to understand the roots of extremism, the roots of radicalization, by putting a magnifying glass across the Muslim communities of Great Britain, what has happened is that has widened the schism between the 'Muslim' us and the British 'other'").

¹⁹ Despite nearly a decade of research into radicalization, no one can predict if any particular individual will become a "homegrown terrorist."

²⁰ *See id.* at 19.

²¹ *See id.* at 20–21.

²² *See id.* at 22.

²³ According to the 2010 U.S. Census, approximately 36.3 percent of the population currently belongs to a racial or ethnic minority group: American Indian or Alaska Native, Asian American, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander. In 2014, the official poverty rate was 14.8 percent. There were 46.7 million people in poverty. Reports indicate there are nearly 3.5 million Arab Americans living in the United States and 7 million Muslim Americans.

²⁴ Notably, testimony by Farah Pandith, Richard Cohen, and Seamus Hughes, at the House Homeland Security Committee supports the position that there is no set profile or link, nor one demographic for radicalization or violent extremism. Hearing: The Rise of Radicalization: Is the U.S. Government Failing to Counter International and Domestic Terrorism?, Homeland Security Committee, <https://homeland.house.gov/hearing/rise-radicalization-us-government-failing-counter-international-and-domestic-terrorism/>.

efforts can be addressed by already existing programs and there are no sound metrics to evaluate the program. The May 2014 NCTC report found that employing existing programs are suitable options to CVE efforts, such as programs that address reducing delinquency, countering gangs, and preventing violence.²⁵ The NCTC report further provides that creating a new program to address CVE from scratch is unproductive, and that a viable route is to incorporate CVE goals into these existing programs.²⁶ The NCTC report further found that prevention of radicalization is not easy to quantify.²⁷

CVE Legislation, Policies and Practices

The Countering Violent Extremism Act of 2015, H.R. 2899 (“Act”) is predicated upon completely false premises and an inherently flawed CVE Program was initiated by the White House earlier this year. The Act would authorize the creation of a new Office for Countering Violent Extremism (“CVE Office”) at DHS and will allocate 40 million dollars of funding for its establishment over four years.²⁸ The Act attempts to codify unfair practices of racial and religious profiling under the CVE program that targets minority communities, particularly Arabs and Muslims, by claiming: 1) there are identifiable factors that can be linked to the presence of extremism in communities; and 2) that extremism must be combatted through a law enforcement mechanism. These two points are meant to represent the guiding principles of the CVE Office. However, these so called “principles” are not supported by facts and leaves open the implementation of CVE in a discriminatory manner.

In the Responsibilities section of the Act, the Act opens the door beyond the generalist risk factors as discussed in the NCTC report, and commands the CVE office to “[identify] risk factors that contribute to violent extremism in communities in the United States...”²⁹ Past actions of government agencies demonstrate that the risk factors the CVE program will likely identify are religious or ethnic identifying traits and use the program for surveillance.³⁰ For example, in 2009, original efforts to address

²⁵ See National Counterterrorism Center, (*U//FOUO*) *Countering Violent Extremism: A Guide for Practitioners and Analysts*, 4, May 2014.

²⁶ See *id.*

²⁷ See *id.*

²⁸ See Countering Violent Extremism Act of 2015, H.R. 2899, 114th Cong., Sess. 1, <https://www.govtrack.us/congress/bills/114/hr2899/text/ih>. It is important to note that the president’s budget for the next fiscal year includes \$15 million for the Justice Department to support community-led efforts to counter radicalization and a request for \$390 million for the State Department for counterterrorism and countering violent extremism.

²⁹ *Id.* Notably, testimony by Farah Pandith, Richard Cohen, and Seamus Hughes, at the House Homeland Security Committee supports the position that there is no set profile or link, nor one demographic for radicalization or violent extremism. Hearing: The Rise of Radicalization: Is the U.S. Government Failing to Counter International and Domestic Terrorism?, Homeland Security Committee, <https://homeland.house.gov/hearing/rise-radicalization-us-government-failing-counter-international-and-domestic-terrorism/>.

³⁰ See, e.g., Maria L. La Ganga, *FBI Documents Reveal Profiling of N. California Muslims*, L.A. TIMES, Mar. 28, 2012, available at <http://articles.latimes.com/2012/mar/28/local/la-me-fbi-california-mosques-20120328> (indicating

community concerns about access to social, health and public safety services in the St. Paul –Twin Cities turned into developing a list of ‘radicalized youth.’ The list and documents were stored on a police database shared with the FBI, and transmitted to the Behavioral Analysis Unit.³¹

*The SPPD ... in partnership with the FBI and US Attorney’s Office, ... will first seek to gain the trust of the Somali immigrants ... [by] attend[ing] community meetings in the targeted areas and refer[ing] you to the [Police Athletic League] and YWCA programs. ... During this period, the team will also identify radicalized individuals ... who refuse to cooperate with our efforts. ... The effort of identifying the targets will increase law enforcement’s ability to maintain up-to-date intelligence on these offenders, alert team members to persons who are deserving of additional investigative efforts and will serve as an enhanced intelligence system to alert team members to the fact that they are interacting with an individual who poses a greater risk to personal and public safety. ... This intensive prevention period will last for six months and once completed, the officers will move to the enforcement mode using the information they have gained from the prevention period as well as the automated intelligence and reporting systems already in place.*³²

A 2006 FBI report and 2007 New York City Police Department (NYPD) report claimed that the commonplace activities of many American Muslims, including wearing traditional religious attire, frequent attendance at mosques, participating in a pro-Muslim social group or political cause, or even growing facial hair could be indicative of radicalization or extremism.³³

Beginning in 2002, the NYPD engaged in a mass community-wide secret surveillance program against Muslims in New York, and surrounding states including but not limited to New Jersey, Pennsylvania, and Connecticut.³⁴ The CIA has formed a partnership with the NYPD to specifically build

that federal agents routinely profiled Muslims in Northern California, using community outreach as a cover for compiling intelligence on local mosques); Dave Zirin, *Not a Game: How the NYPD Uses Sports for Surveillance*, NATION (Sept. 10, 2013,9:00 AM), <http://www.thenation.com/blog/176082/not-game-how-nypd-uses-sports-surveillance>.

³¹ CITY OF ST. PAUL POLICE DEPT., PROGRAM NARRATIVE: AFRICAN IMMIGRANT MUSLIM COORDINATED OUTREACH PROGRAM (“AIMCOP”) 1, 4 (2008), available at <http://bit.ly/1CBsmBW>. Michael Price, Community Outreach or Intelligence Gathering? *A Closer Look at “Countering Violent Extremism” Programs*, 1–4, Brennan Center for Justice at New York Univ. School of Law, https://www.brennancenter.org/sites/default/files/analysis/Community_Outreach_or_Intelligence_Gathering.pdf; see Memorandum from Dir.’s Office, Office of Pub. Affairs/Comm. Relations, FBI to All Field Offices Re: Implementation of Specialized Community Outreach Team (Jan. 7, 2009), at 2–9, available at <http://bit.ly/1yrQGae> (this program was also incorporated into FBI field offices in Cincinnati, Seattle, San Diego, Washington DC, and Denver).

³² AIMCOP, *supra* note 40, at 4-5.

³³ FED. BUREAU OF INVESTIGATION, INTELLIGENCE ASSESSMENT, THE RADICALIZATION PROCESS: FROM CONVERSION TO JIHAD (May 2006); MITCHELL D. SILBER AND ARVIN BHATT, NEW YORK CITY POLICE DEP’T, RADICALIZATION IN THE WEST: THE HOMEGROWN THREAT 31 (2007), http://www.nypdshield.org/public/SiteFiles/documents/NYPD_Report-Radicalization_in_the_West.pdf. Reports encourage law enforcement officials to unfairly and inappropriately to view Muslim converts as potential threats and suspects for radicalization. The FBI employed these factors although it has been proven time and time again that no religious, ethnic or behavioral traits can be substantively linked to violent extremism.

³⁴ The Creating Law Enforcement Accountability & Responsibility (CLEAR) Project

intelligence programs to spy on Muslims.³⁵ The NYPD engaged in direct entrapment of Arab and Muslim communities to commit terrorist acts and/or to violently radicalize.³⁶ The NYPD strong-armed Arab and Muslims into becoming informants with threats of deportation and criminal prosecution.³⁷ The NYPD specifically targeted and infiltrated religious institutions and cultural centers for surveillance without probable cause, relying on religious stereotypes, and acting on the premise that religious identity alone is a legitimate justification for surveillance.³⁸ Thomas Galati, commanding officer of the NYPD Intelligence Unit stated in deposition testimony that “a business can be labeled a ‘location of concern’ whenever police can expect to find groups of Middle Easterners there.”³⁹ In 2011 recommendations by the National Security Preparedness Group (NSPG) called for the teaching of the difference between the “ideology of ‘violent Islamist extremism’ and the religion of Islam.”⁴⁰ The NSPG called for a stop to federal counterterrorism training upon findings that the training was “inaccurate and even inflammatory, when

CUNY School of Law, *Mapping Muslims: NYPD Spying and Its Impact on American Muslims*, 29, 50 <http://aaldef.org/Mapping%20Muslims%20NYPD%20Spying%20and%20its%20Impacts%20on%20American%20Muslims.pdf>; see David Caruso, *Mayor Bloomberg Defends NYPD Intelligence-Gathering On Muslim Communities Across Northeast*, HUFFINGTON POST, Feb. 25, 2012, http://www.huffingtonpost.com/2012/02/25/mayor-bloomberg-defends-nypd-intelligence-gathering-on-muslim-communities-across-northeast_n_1301042.html. Mayor Bloomberg and Police Commissioner Kelly repeatedly and publically defended blanket surveillance of American Muslim communities and Muslim student associations as necessary to protect Americans’ safety. See Associated Press, *Newark Mayor: NYPD Spying on Muslims Offensive*, NBC NEWS, Feb. 22, 2012, http://www.nbcnews.com/id/46488695/ns/us_news-security/t/newark-mayor-nypd-spying-muslims-offensive/#.Vh0zAU2FO70; see Joseph Goldstein, *Kelly Defends Surveillance of Muslims*, NY TIMES, Feb. 27, 2012, <http://www.nytimes.com/2012/02/28/nyregion/new-york-police-commissioner-defends-monitoring-of-muslims.html>.

³⁵ See Kiran Khalid, *New York's Bloomberg defends city surveillance of Muslims*, CNN, Feb. 21, 2012, <http://www.cnn.com/2012/02/21/us/new-york-muslim-surveillance/>; see *Bloomberg defends secret surveillance of NYC Muslims*, RT, Sept. 8, 2011, <https://www.rt.com/usa/bloomberg-surveillance-nypd-muslim-113/>.

³⁶ See *id.*

³⁷ See *id.* The case of Mohamed Mohamud is one big example. The FBI used father’s request for help as an excuse to send in informants to specifically target his son and ignited him further down the wrong path. Murtaza Hussain, *Avoiding the Sting: U.S. Organization Proposes Different Approach to "Radicalization"*, The Intercept, May 1, 2015, <https://theintercept.com/2015/05/01/fbi-needs-stop-manufacturing-terrorist-plots/>.

³⁸ See *id.*; see Amicus Curiae, *Hassan v. City of New York*, Case No. 14-1688, at 23–24 (3d Cir. 2014) <https://ccrjustice.org/sites/default/files/assets/Hassan%20-%20AALDEF%20Orgs%20Amicus%20Brief.pdf>; see First Amended Complaint, *Hassan v. City of New York*, Case No. 2:12-cv-03401-SDWMCA, at 2–4 (D. Ct. NJ 2012), https://ccrjustice.org/sites/default/files/assets/10_First%20Amended%20Complaint.10.3.2012.pdf. For example, the Program surveilled at least 20 mosques, sought to place an informant inside every mosque within a 250-mile radius of New York City, and prepared an analytical report on every mosque within 100 miles, essentially treating mosques as incubators of violence without *any* supporting evidence. The Program also deemed more than 40 mosques, restaurants, retail establishments and a grade school as “Locations of Concern” – meaning susceptible to “co-conspirators for illegal actions,” or “demonstrat[ing] a significant pattern of illegal activities” – without any evidence that would justify such “concerns.”

³⁹ Adam Goldman & Matt Apuzzo, *NYPD: Muslim Spying Led to No Leads, Terror Cases*, Associated Press, Aug. 21, 2012 (citing deposition testimony of Thomas Galati, the commanding officer of the NYPD Intelligence Unit), <http://www.ap.org/Content/AP-In-The-News/2012/NYPD-Muslim-spying-led-to-no-leads-terror-cases>.

⁴⁰ See National Security Preparedness Group, *supra* note 5, at 40.

dealing with issues related to Muslims and Islam.”⁴¹ In 2011, NSGPG also determined that the counterterrorism training programs not only failed to address counter-radicalization, but actually may be creating radicalization.⁴²

The CVE Office’s mandate to “[manage] the outreach and engagement efforts of the Department directed toward communities at risk” is arguably another way to legitimize racial and religious profiling in Arab and Muslim communities. Under the DOJ guidelines released in December 2014, certain federal agencies namely the FBI, which is charged with implementing the CVE programs as well as state and local law enforcement, are legally authorized to profile and target American Muslims under a large carved out national security exception.⁴³ The guidance also permits massive data gathering operations that map residents of communities based on their religion, race, or ethnicity.⁴⁴ This carved out exception eliminates any effective blanket of security for the protection of Muslim and Arab Americans under the CVE programs. The 2010 FBI Community Outreach Policy Directive also does little to aid protection, as it fails to explicitly provide that its new policy to separate outreach and intelligence gathering activities applies to the CVE programs, or the pilot programs that involved interagency activities, or mixed federal and state law enforcement.⁴⁵

The Act also does not provide for oversight. The lack of oversight is a serious concern, especially for ensuring accountability and transparency in implementation, and protecting traditionally targeted vulnerable communities’ civil rights. Alarming, as of the date of this letter, the Department of Homeland Security has failed to issue a memorandum on the procedures, reporting, and overall implementation of CVE office created under H.R. 2899.⁴⁶ However, legislation to authorize the

⁴¹ *Id.* at 44, *citing* Thomas Cincotta, *Manufacturing the Muslim Menace* (Boston: Political Research Associates, 2011), *available at* http://www.publiceye.org/liberty/training/Muslim_Menace_Complete.pdf, *and* Meg Stalcup and Joshua Craze, “How We Train Our Cops to Fear Islam,” *Washington Monthly*, March/April 2011, *and* Dina Temple-Raston, “New Concerns About Bias in Counterterrorism Training,” *National Public Radio*, March 9, 2011, *and* Letter by Senators Joe Lieberman and Susan M. Collins, cited in “Senators Seek Accurate, Effective Counterterrorism Training,” Senate Committee on Homeland Security and Governmental Affairs; *available at* http://hsgac.senate.gov/public/index.cfm?ContentRecord_id=022400b1-5056-8059-7631-782f7c4c592e&FuseAction=Press.MajorityNews.

⁴² *Id.*

⁴³ *See* U.S. Dep’t of Justice, *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity*, Dec. 2014, <http://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>.

⁴⁴ For example, it doesn’t prevent the widely criticized New York police mapping program, which used undercover officers to monitor Muslim student groups, Muslim-owned businesses, and establishments frequented by American Muslims.

⁴⁵ FED. BUREAU OF INVESTIGATION, *CORPORATE POLICY DIRECTIVE: COMMUNITY OUTREACH IN FIELD OFFICES* (2010), §§ 8.8, 8.13, *available at* <http://www.brennancenter.org/sites/default/files/analysis/2010%20FBI%20Outreach%20Directive.pdf>.

⁴⁶ DHS also refused to provide testimony at the June 25, 2015 hearing, although requested by the Homeland Security and inextricably tied to DHS work.

appropriation of \$6 million in grants, for the undefined, unorganized, unstructured, unevaluated, and unaccountable CVE program, Countering Violent Extremism Grant Program Act of 2015, H.R. 3075, was already introduced on July 15, 2015.⁴⁷

CVE Hearing Testimony

On July 15, 2015, the Chairman McCaul of the House Homeland Security committee held a hearing titled *International & Domestic Terrorism*⁴⁸, in anticipation of markup of the Countering Violent Extremism Act of 2015, H.R. 2899.⁴⁹ The hearing largely focused on Islam manipulated extremism in contrast to domestic terrorism.⁵⁰ The hearing was unbalanced, with limited objective witness testimony on domestic extremism, and fueled with bias motivated attacks.⁵¹

Richard Cohen, President of the Southern Poverty Law Center, testified that contrary to belief DHS mission is not solely to combat Islamic manipulated terrorism merely because it was created in the wake of 9/11. DHS mission to combat terrorism is much broader including but not limited to addressing all violent extremism and “[DHS] ought to devote sufficient resources in light of the threat.”⁵² Congressman King stated in response to Mr. Cohen’s testimony, “so long as nothing is taken away from the Islamist threat.”⁵³ Congressman Perry provided ‘I just want the intent and motivation to be clear for this legislation, is that we want to deal with violent extremism wherever it comes from, however to also acknowledge that there is a matter of scale and prioritization, there is a 100 meter target and a 1000 meter target and we are dealing with a 50 meter target [Islamist extremism].’⁵⁴

Statements by witness, Farah Pandith, *Adjunct Senior Fellow* at the Council on Foreign Relations and who also worked for the Obama administration, provided a government law enforcement perspective that perpetuated the focus of CVE programs on Muslims. In response to questioning by Congresswoman Torres, Ms. Pandith provided, ‘by no means [does the government] just need to focus on ISIL... but want

⁴⁷ Countering Violent Extremism Grant Program Act of 2015, H.R. 3075, 114th Cong., Sess. 1, <https://www.govtrack.us/congress/bills/114/hr3075/text/ih>.

⁴⁸ International & Domestic Terrorism Hearing, CVE Bill Markup, Homeland Security Committee, <https://homeland.house.gov/press/international-domestic-terrorism-hearing-cve-bill-markup/>.

⁴⁹ See Countering Violent Extremism Act of 2015, H.R. 2899, 114th Cong., Sess. 1, <https://www.govtrack.us/congress/bills/114/hr2899/text/ih> (introduced into House on June 25, 2015). The same day of the hearing, July 15, 2015, without time for further deliberation or understanding of H.R. 2899 and the hearing witness testimony, the Act was put to the House Homeland Security Committee for markup.

⁵⁰Hearing: The Rise of Radicalization: Is the U.S. Government Failing to Counter International and Domestic Terrorism?, Homeland Security Committee, <https://homeland.house.gov/hearing/rise-radicalization-us-government-failing-counter-international-and-domestic-terrorism/>.

⁵¹ Several attacks by congressional members against Richard Cohen, President of the Southern Poverty Law Center, the only witness representing and defending the civil rights and civil liberties community on the hearing panel.

⁵² See *id.*

⁵³ *Id.*

⁵⁴ *Id.*

to put things in perspective, there is 1.6 billion Muslims in the world that is ¼ of our planet, 62% of that number is under the age of 30, almost a billion people, and that is the pool from which the bad guys are recruiting.”⁵⁵ In response to questioning by Congressman Carter, Ms. Pandith also discussed a program at the U.S. Institute of Peace, entitled Generation Change, as an example of a successful CVE program. Generation Change has 30 chapters around the world, with more than 600 million Muslims under the age of 30 years old, which Ms. Pandith testified the government needs to use and scale up.⁵⁶

The hearing testimony and questioning demonstrates the intent and background on how this CVE legislation and programs funded through such legislation will be implemented. Congress and governmental agencies intend for H.R. 2899 to conduct surveillance on Muslim populations separate from any tangible cause of criminal activity or reasonable suspicion not tied to their ethnicity and/or religion. Congress and governmental agencies intend for H.R. 2899 resources to be explicitly dedicated to Islam manipulated extremism regardless actual criminal activity.

U.S. House of Representatives Homeland Security Committee Task Force Report

In late September 2015, the U.S. House of Representatives Homeland Security Committee Task Force released their final report on Combating Terrorist and Foreign Fighter Travel (“Report”).⁵⁷ The Report made thirty-two (32) key findings and accompanying recommendations. Particularly worrisome is that the CVE program will be glorified as the answer to prevention activities and to address the Report findings on: 1) the U.S. failure to stop Americans from traveling overseas to join terrorist groups; 2) the U.S. lack of a national strategy for combating terrorist travel; 3) the existence of few initiatives to raise awareness about foreign-fighter recruitment and to assist communities with spotting warning signs; and 4) the U.S. failure to develop clear early-intervention strategies to radicalization.⁵⁸

The CVE program represents that its aim is to focus on “at risk communities” and in response focused its programming at mosques and with religious organizations in predominately Arab and Muslim population areas. However, online recruitment and propaganda through the use of peer to peer terrorist recruiting on social media is not exclusively directed at only Muslims. The Report supports this position, and recognizes that ideology and religion is not the sole basis for ISIS recruits.⁵⁹ The fact is that ISIS recruits are “motivated by the desire for adventure, to be a part of a cause larger than themselves, or for

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Homeland Security Committee, Final Report of the Task Force on Combating Terrorist and Foreign Travel, Sept. 2015, *available at* <https://homeland.house.gov/wp-content/uploads/2015/09/TaskForceFinalReport.pdf>.

⁵⁸ *See id.* at 6, 22–23, 32–36.

⁵⁹ *Id.*

camaraderie and a sense of belonging.”⁶⁰ Nevertheless, the current structure of the CVE program is focused on government identified risks for ideological motivation, in other words you are at risk if you are a Muslim or could be a Muslim

Conclusion

Contrary to the government’s public position, CVE unproven prevention tactics equate to actual surveillance of Arab and Muslim communities based on national origin and religion. The CVE paradigm is virtually exclusively focused on Muslims, particularly Arab Muslims. CVE is used to continue to cultivate fear, demonization, and criminalization of Arabs, Muslims, and those perceived to be Muslim. It is necessary for the United States Commission on Civil Rights (USCCR) to examine the targeting and disparate treatment of Arabs and Muslims under CVE programs, policies and practices.

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)

Bill of Rights Defense Committee

Council on American-Islamic Relations

Defending Dissent Foundation

KARAMAH: Muslim Women Lawyers for Human Rights

South Asian Americans Leading Together (SAALT)

X-Lab

⁶⁰ *Id.* A 19 year old nurse aid from Colorado, Shannon Maureen Conley, attempted to join ISIS and planned to marry an ISIS fighter she met online. *Id.*; see e.g. *id.*, fn. 105 citing Shimon Prokupecz, 3 *Denver Teens Back Home After Failed Trip to Syrian*, CNN, Oct. 23, 2014). Discussion of Nicholas Teasant and Keonna Thomas who attempted to leave the U.S. as an ISIS recruit. *Id.* at 16.