

Dec. 4, 2015

The Honorable Paul Ryan (R-WI)
Speaker, U.S. House of Representatives
1233 Longworth House Office Building
Washington, DC 20515

Rep. Kevin McCarthy (R-CA)
Majority Leader, U.S. House of Representatives
2421 Rayburn House Office Building
Washington, D.C. 20515

Rep. Nancy Pelosi (D-CA)
Minority Leader, U.S. House of Representatives
233 Cannon House Office Building
Washington, DC 20515

Rep. Michael McCaul (R-TX)
Chairman, House Committee on Homeland Security
131 Cannon House Office Building
Washington, DC 20515

Rep. Bennie G. Thompson (D-MS)
Ranking Member, House Committee on Homeland Security
2466 Rayburn House Office Building
Washington, D.C. 20515

Via Certified Mail and E-Mail

Re: H.R. 2899, Countering Violent Extremism Act of 2015

The undersigned human rights, community-based, and civil liberties organizations write to oppose H.R. 2899, the Countering Violent Extremism Act of 2015, and to reiterate the concerns set out in our July 10, 2015 letter to Chairman McCaul and Ranking Member Thompson. We understand that Chairman McCaul has officially submitted the CVE Act to be included as a provision in the House omnibus bill—we call on House leaders to reject this request.

H.R. 2899 is not an appropriate response to acts of terrorism. Despite years of experience with CVE programming in the U.S. and abroad, leading experts in the field have found that there is no evidentiary basis to conclude that these programs are successful in achieving their stated goal of contributing to reductions in terrorism. It is a waste of scarce security resources to establish an Office for Countering Violent Extremism (CVE) within the Department of Homeland Security (DHS) with an annual \$10 million budget and headed by a new Assistant Secretary, to promote unproven programs.

Moreover, CVE programs have been targeted at Muslim communities in the U.S.—this is despite the fact that experts have found that since 9/11, far more people have been killed by violence from anti-government and hate groups, than in terrorist plots by American Muslims.¹ This disproportionate and unwarranted focus on American Muslims has serious adverse consequences, including labeling Muslim communities as suspicious and in need of special monitoring. The virulent anti-Muslim rhetoric and hate crimes that we have seen in recent weeks only underscores the hazards of casting suspicion on entire communities. Moreover, CVE programs run the risk of securitizing the relationship between communities and social service providers, and threatening human rights and constitutionally-protected freedoms of speech, association, and religion.

No Evidence that CVE Programming is Effective

The premise of CVE programming is that the adoption or expression of “extreme” or “radical” ideas places individuals on a pathway towards violence, and that there are observable “risk factors” or “indicators” that can be used to identify those “vulnerable” to radicalization or to recruitment by terrorist groups. This is echoed in H.R. 2899, which tasks the proposed Office with “[i]dentifying risk factors that contribute to violent extremism ... and potential remedies.”² This approach is empirically unsound. Despite years of federally-funded efforts, researchers have been unsuccessful in developing empirically-reliable criteria that can be used to conclusively predict who will commit a terror act.³ Increasing funding for CVE efforts aimed at identifying vague, unsupportable “risk factors” for violent extremism will only result in more violations of civil rights and privacy, and unreliable reporting to law enforcement. This will be a further waste of investigative resources.

Stigmatizing and Alienating Communities

To date, CVE programs have almost exclusively targeted American Muslim communities, and as a result, such communities have been branded as inherently suspicious and requiring increased scrutiny. It is easy to imagine future CVE programs, such as those initiated by the new DHS CVE office this bill would create, could target other communities as well. Previous law enforcement efforts have branded a number of communities, including environmental and animal rights advocacy groups,⁴ the far-right,⁵ African-Americans in Georgia, Chinese and Russian-Americans in California, and broad swaths of Latino-American communities in multiple states⁶ as potential threats. Targeting communities for increased scrutiny on anything other than suspicion of actual wrongdoing is impermissible under the American Constitution, and undermines fundamental rights.

¹ [Deadly Attacks Since 9/11](#), NEW AMERICA FOUNDATION., (last visited Dec. 3, 2015) (noting that nearly twice as many people have been killed in right-wing attacks than in attacks perpetrated by Muslims).

² H.R. 2899, 114th Cong. § 2(d)(1)(A) (as reported by H. Comm. on Homeland Sec., Nov. 19, 2015).

³ See, e.g., JAMIE BARTLETT, JONATHAN BIRDWELL & MICHAEL KING, DEMOS, [THE EDGE OF VIOLENCE: A RADICAL APPROACH TO EXTREMISM](#) (2010); Alan Travis, [M15 Report Challenges Views on Terrorism in Britain](#), GUARDIAN (Aug. 20, 2008); FAIZA PATEL, [RETHINKING RADICALIZATION](#) (2011); [Declaration of Marc Sageman in Opposition to Defendants’ Cross-Motion for Summary Judgment](#), Latif v. United States Department of Justice et al, 2015 WL 1883890 (2015) (No. 3:10-cv- 00750).

⁴ See, e.g., Henry Schuster, [Domestic Terror: Who’s Most Dangerous?](#), CNN (Aug. 24, 2005); [FBI: Eco-Terrorism Remains No. 1 Domestic Terror Threat](#), FOX NEWS (Mar. 31, 2008).

⁵ See Jeanne Meserve, [Napolitano Defends Report on Right-Wing Extremist Groups](#), CNN (April 15, 2009).

⁶ ACLU, [Eye on the FBI: The FBI Is Engaged In Unconstitutional Racial Profiling and Racial “Mapping.”](#) (2012).

Securitizing Relationships with Schools and Social Service Providers

CVE at the federal level is heading in an extremely problematic direction. The most recent crop of CVE programs includes a troubling new element: asking teachers and social workers to identify students believed to be at risk of violent extremism. The FBI is reportedly planning to launch an interactive game which asks children and teachers to identify signs of violent extremism based on relatively innocuous behavior such as attending a political protest.⁷ As explained, experts have concluded that there is no empirical basis to make these assertions. Bringing inappropriately trained school administrators and teachers into the mix will not only result in the warrantless targeting of children, but will make our U.S. schools into environments where children are viewed as potential threats. The recent arrest of a Texas high school student for bringing a homemade clock to school illustrates how undue suspicion on Muslim children can lead to troubling outcomes.⁸

Threat to Freedom of Speech, Association, and Religion

CVE efforts threaten freedoms of speech, association, and religion. As described, CVE proceeds from the premise—which has been rejected by experts—that there are observable risk factors for violent extremism. The risk factors put forth by government agencies frequently include common behaviors associated with religious behavior and political activism.⁹

We note that the bill requires the CVE office to ensure that all CVE-related activities “fully respect the privacy, civil rights, and civil liberties of all Americans.” However, history shows that the outreach programs that form the core of many CVE efforts have frequently been subverted into intelligence-gathering operations. Most recently, the FBI announced a plan for establishing “Shared Responsibility Committees,” comprised of community leaders and FBI representatives. Through the SRCs, community leaders would be tasked with meeting with youth identified by the FBI as potentially radical, speaking with their mental healthcare providers or other “mentors,” and reporting back to the FBI. Arab and Muslim groups who represent communities most impacted by these programs have raised serious concerns about this initiative, including that it would “institutionalize an informant system.”¹⁰ A similar Montgomery County, Maryland CVE program that has been touted by the White House as a national model, was described by local police officers as an intelligence tool.¹¹

In light of these types of programs, the bill’s assertion that civil liberties will be protected has little meaning. Many of the undersigned groups have repeatedly requested the Administration to provide information about privacy, civil rights and civil liberties protections in CVE programming and provided suggestions for doing so. These efforts have not garnered any response. Substantive information on

⁷ See, e.g., Laurie Goodstein, [F.B.I. Tool to Identify Extremists is Criticized](#), N.Y. TIMES (Nov. 1, 2015); AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE, [TEACHERS, SCHOOLS AND UNIONS, DO NOT BECOME THE GOVERNMENT’S PUPPET TO MONITOR OUR CHILDREN: THE IMPACT OF THE FBI’S “DON’T BE A PUPPET” CVE WEB-BASED PROGRAM IN YOUR SCHOOLS](#) (2015).

⁸ See Faiza Patel, [Obama’s Response to Ahmed Mohamed’s Clock is Hypocritical](#), TIME (Sept. 20, 2015).

⁹ Michael German, [CVE Efforts Should Be Based on Facts, Not Flawed Theories](#), JUST SECURITY (Feb. 19, 2015).

¹⁰ Michelle Boorstein, [Muslim Activists Alarmed by the FBI’s New Game-Like Counterterrorism Program for Kids](#), WASH. POST (Nov. 2, 2015).

¹¹ See Aaron Miguel Cantu, [In Maryland, Faith Leaders and Law Enforcement Fight Radicalization](#), AL JAZEERA AMERICA (Sept. 12, 2015) (“The Assistant Chief of the Department stated that people who the police met through these programs serve as a “conduit of information,” which is passed on to federal authorities.”)

safeguards for protected speech, association and religious freedom, must be provided before any new CVE initiative is launched.

DHS Already Has a Dedicated CVE Office

On September 28, 2015, DS Secretary Jeh Johnson introduced the creation of an Office for Community Partnerships within DHS, dedicated “to the mission of countering violent extremism,” and “find[ing] innovative ways to support communities that seek to discourage violent extremism and undercut terrorist narratives.”¹² DHS plans to “consolidate and reassign key personnel” currently working on CVE within DHS to the new Office. In other words, DHS has already established an office that would provide a focal point for CVE efforts, which is the purported goal of H.R. 2899.

Outsourcing CVE Will Make Oversight More Difficult

The bill earmarks over half of the new CVE Office’s budget to establish a grant program targeted at community groups to “assist such groups and organizations in establishing counter-messaging campaigns targeting violent extremism.” In all likelihood, this will dilute DHS accountability for CVE programming by essentially outsourcing programmatic responsibilities to local entities. As is often the case with subcontracting, this will create an entire layer of program activities that will be difficult to effectively monitor and evaluate for efficacy, especially as it is unclear what reporting requirements may be attached to these grants. This outcome is particularly likely in the CVE context, because there is no agreement, even among experts in the field, about how best to approach the issue. Moreover, providing such grants runs the risk of promoting certain political or religious viewpoints, which would also raise constitutional issues.

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In sum, establishing a new office dedicated to CVE programming within DHS institutionalizes a highly contested approach and is redundant of existing efforts. For these reasons, we recommend that H.R. 2899 should not move forward through the House or be included in the omnibus bill.

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)
American Civil Liberties Union (ACLU)
American Civil Liberties Union of Massachusetts (ACLUM)
Amnesty International USA
Bill of Rights Defense Committee
Boston Workmen’s Circle Center for Jewish Culture and Social Justice
Brennan Center for Justice at NYU School of Law
Center for Constitutional Rights
Charity & Security Network
CLEAR (Creating Law Enforcement Accountability & Responsibility) Project at CUNY Law
Council on American-Islamic Relations (CAIR)

¹² Press Release, Department of Homeland Security, [Statement by Secretary Jeh C. Johnson on DHS’s New Office for Community Partnerships](#) (Sept. 28, 2015).

Council on American-Islamic Relations—Minnesota (CAIR-MN)
Council for the National Interest
Defending Dissent Foundation
Islamic Shura Council of Southern California
Islamic Society of Boston Cultural Center
Jewish Voice for Peace
Minnesota Dawah Institute/Islamic Dawah Center, St. Paul
MSA West
Muslim Advocates
Muslim American Society- New York (MAS-NY)
Muslim Justice League
Muslim Legal Fund of America (MLFA)
NAACP
National Coalition to Protect Civil Freedoms
National Lawyers Guild
National Network for Arab American Communities
Restore the Fourth
Sikh Coalition
South Asian Americans Leading Together (SAALT)
T'ruah: The Rabbinic Call for Human Rights