

July 10, 2015

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, civil liberties, and community-based organizations write to express our grave concerns about H.R. 2899, the Countering Violent Extremism Act of 2015, introduced on June 25, 2015.

H.R. 2899 seeks to establish within the Department of Homeland Security (DHS) an Office for Countering Violent Extremism (CVE) headed by a new Assistant Secretary and supported by a career Deputy Assistant Secretary. It allocates \$10 million annually from the budget of the Office of the Secretary of DHS to this new office. Our organizations believe that this effort is misguided and likely to be harmful. It will also dilute DHS accountability for CVE programs by farming them out to local entities.

First, despite years of experience with CVE programming in the U.S. and abroad, there is no evidentiary basis for concluding that these programs contribute to reducing terrorism, which is their stated goal. While Obama Administration officials have tried to distance U.S. programs from the British CVE program, Prevent, the similarities between the two are obvious. Prevent is hardly a successful template. It has been widely criticized for alienating the very communities it was seeking to influence and for lacking any means of measuring effectiveness.¹ Moreover, the trajectory of the U.K.'s efforts shows how these programs can morph into outright censorship.² Yet, U.S. CVE programs have repeated Prevent's mistakes, focusing exclusively on Muslim

¹ See COMMUNITIES AND LOCAL GOV'T COMM., HOUSE OF COMMONS, [PREVENTING VIOLENT EXTREMISM](#) (2010).

² See John Bingham, [Sharia Law or Gay Marriage Critics Would Be Branded 'Extremists' Under Tory Plans, Atheists and Christians Warn](#), GUARDIAN (Oct. 31, 2014).

communities and using community outreach programs as a means to gather intelligence on the very groups and organizations that participate in them.³

Moreover, CVE programs ignore social science research in positing that the adoption or expression of extreme or “radical” ideas lead to violence, and that there are observable “indicators” to identify those “vulnerable” to radicalization, or “at risk” of being recruited by terrorist groups. Despite years of federally-funded efforts, researchers have not developed reliable criteria that can be used to predict who will commit a terrorist act.⁴ CVE training that conveys vague and unsupportable “indicators” of violent extremism will only result in further civil rights and privacy violations, unreliable reporting to law enforcement, and will waste investigative resources.⁵

Given the lack of a sound research basis for CVE programming, establishing a high-level DHS office devoted to the matter would be a further waste of security resources. This is particularly the case since the Obama Administration rolled out pilot CVE programs in Boston, Los Angeles, and Minneapolis led by the Justice Department last year. These programs have already garnered intense opposition within the American Muslim communities they target.⁶ There are at least two independent National Institute of Justice-funded evaluations of these CVE efforts ongoing. Before a new high-level CVE office is created, it would be prudent to await these assessments.

CVE efforts threaten freedoms of speech, association, and religion. H.R. 2899 tasks the Office for Countering Violent Extremism with coordinating DHS efforts aimed at “identifying risk factors that contribute to violent extremism in communities in the United States and potential remedies for Government and non-government institutions.” The risk factors that government agencies put forward often include common behaviors associated with religious practice and political activism.⁷ To date, CVE programs have almost exclusively targeted American Muslim communities, often while explicitly acknowledging that acts of domestic terrorism have emanated from many ideological sources. But it would be easy to imagine that future CVE programs like those initiated by the DHS CVE Office this bill would create could target other

³ See, e.g., Michael Price, [Community Outreach or Intelligence Gathering? A Closer Look at ‘Countering Violent Extremism’ Programs](#) (2014); A.C.L.U., [Eye on the FBI: San Francisco](#) (2012).

⁴ 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).

⁵ Murtaza Hussein, Cora Currier & Jana Winter, [Is Your Child A Terrorist? U.S. Government Questionnaire Rates Families at Risk for Extremism](#), INTERCEPT (Feb. 9, 2015).

⁶ Press Release, MSA West, [Muslim Student Associations Across CA Against Federal Government’s Countering Violent Extremism Program](#) (Feb. 21, 2015); Press Release, Asian Americans Advancing Justice—Los Angeles *et al*, [Los Angeles Based Groups Serving American Muslim Communities Question Federal Government’s ‘Countering Violent Extremism’ Programs As Ill-Conceived, Ineffective, And Stigmatizing](#) (Nov. 13, 2014); [Letter from Muslim Justice League et al to Lisa O. Monaco, Assistant to the President for Homeland Security and Counterterrorism](#) (Feb. 13, 2015).

⁷ Michael German, [CVE Efforts Should Be Based on Facts, Not Flawed Theories](#), JUST SECURITY (Feb. 19, 2015).

communities as well. For example, in 2005, the FBI targeted environmental and animal rights advocacy groups, claiming that the “eco-terrorism, animal-rights movement” had become the number one domestic threat.⁸ Similarly, a 2009 DHS report on right-wing extremism linked the debate on immigration and proposed gun control policies to an increase in violent activities by the far right.⁹ And FBI documents from 2009 make clear that field offices engaged in unconstitutional and widespread stereotyping, attributing a propensity to commit certain types of crimes to entire racial and ethnic communities, including African-Americans in Georgia, Arab-Americans in Michigan, Chinese and Russian-Americans in California, and broad swaths of Latino-American communities in multiple states.¹⁰ Targeting individuals for increased scrutiny or other intervention on anything other than suspicion of wrongdoing is impermissible under the U.S. Constitution, and antithetical to American values.

It is also unlikely to promote counter-terrorism objectives. One stated goal of CVE is to direct people away from addressing grievances through violence and towards using the tools of democracy and persuasion. But if religious and political views are identified as markers of pre-terrorist behavior that must be reported to the government, the public spaces for discussion and engagement will simply be shut down and the opportunity to contest and challenge violence as a means for achieving change will disappear. This effect has been documented among American-Muslim communities who have been the principal target of CVE efforts thus far.¹¹

We note that the bill would require the CVE office to ensure that all CVE-related activities “fully respect the privacy, civil rights, and civil liberties of all Americans.” Unfortunately, given the history of and ongoing abuses in federal counterterrorism policy, including the use of community outreach to gather intelligence and the pressuring of American-Muslims to become informants against their own communities, these words have little meaning. Many of the undersigned groups have requested the Administration to provide information about privacy, civil rights and civil liberties protections in CVE programming and provided suggestions for doing so.¹² These efforts have not garnered any response. Concrete information on safeguards for protected speech, association and religious freedom, must be provided before any new CVE initiative is launched.

Finally, while it may seem that assigning a single office to coordinate CVE efforts will increase DHS accountability, the opposite is more likely to occur. We understand that the vast majority of the CVE budget will be sub-granted to governmental and non-governmental entities to carry out program activities. As is often the case with outsourcing, this will create an entire layer of

⁸ 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).

⁹ Jeanne Meserve, [Napolitano Defends Report On Right-Wing Extremist Groups](#), CNN (April 15, 2009).

¹⁰ ACLU, [Eye on the FBI: The FBI Is Engaged In Unconstitutional Racial Profiling and Racial “Mapping”](#) (2012).

¹¹ See generally MUSLIM AMERICAN CIVIL LIBERTIES COALITION ET AL, [MAPPING MUSLIMS: NYPD SPYING AND ITS IMPACT ON AMERICAN MUSLIMS](#) (2013).

¹² See [Letter from American Civil Liberties Union et al, to Lisa O. Monaco, Assistant to the President for Homeland Security](#) (Dec. 18, 2014).

programming that will be difficult to monitor and evaluate. This outcome is particularly to be expected in the CVE context because there is no agreement, even among experts, about how best to approach the issue.

For the reasons outlined above, we recommend that H.R. 2899 should not move forward through committee.

Sincerely,

Brennan Center for Justice at NYU School of Law
American-Arab Anti-Discrimination Committee (ADC)
American Civil Liberties Union (ACLU)
Arab American Association of New York
Arab-American Institute
Arab Community Center for Economic and Social Services (ACCESS)
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice- Los Angeles
Bill of Rights Defense Committee
Center for Constitutional Rights (CCR)
Center for New Community
Charity & Security Network
CLEAR (Creating Law Enforcement Accountability & Responsibility) Project at CUNY Law
Council on American-Islamic Relations—National (CAIR-National)
Council on American-Islamic Relations—Minnesota (CAIR-Minn.)
Council on American-Islamic Relations—Massachusetts (CAIR-Mass.)
Council on American-Islamic Relations—Los Angeles (CAIR-LA)
Council for the National Interest
Defending Dissent Foundation
DownsizeDC.org Inc.
Greater Cleveland Immigrant Support Network
Islamic Circle of North America (ICNA)
Islamic Shura Council of Southern California
Islamic Society of Boston Cultural Center (ISBCC)
Minnesota Dawah Institute
Muslim Advocates
Muslim American Society of Boston
Muslim American Society of New York
Muslim Anti-Racism Collaborative
Muslim Justice League
Muslim Legal Fund of America (MLFA)
Muslim Public Affairs Council (MPAC)

National Association for the Advancement of Colored People (NAACP)
National Coalition to Protect Civil Freedoms (NCPCF)
National Lawyers Guild
National Lawyers Guild—Minnesota Chapter
National Network for Arab American Communities (NNAAC)
Nicaragua Center for Community Action
Restore the Fourth
South Asian Americans Leading Together (SAALT)
Sikh American Legal Defense and Education Fund (SALDEF)
Sikh Coalition
T'ruah: the Rabbinic Call for Human Rights

**Added on July 13, 2015

The Leadership Conference on Civil and Human Rights
Liberty Coalition
Islamic Da'wah Center
Taxpayers Protection Alliance