

February 13, 2015

The Honorable Lisa O. Monaco
Assistant to the President for Homeland Security and Counterterrorism
Office of the Homeland Security Advisor
1650 Pennsylvania Avenue, NW
Washington, DC 20502

Via Email and Mail.

Re: Grave Concerns Regarding “Countering Violent Extremism” Pilot Programs

Dear Ms. Monaco:

We, the undersigned organizations based in Greater Boston, write to express our serious reservations about “countering violent extremism” (CVE) pilot programs ahead of the White House Summit on Countering Violent Extremism on February 18. We have grave concerns about CVE programs because we believe they are based on unsound assumptions, will violate constitutional rights in practice, and will actually undermine public safety. We recommend that, to improve public safety, the White House focus on reducing violence regardless of its motivations and work to meaningfully redress systemic human and civil rights violations that erode confidence, domestically and worldwide, in democracy and the rule of law.

Our ability to fully convey our concerns about CVE programs is hindered by the degree to which CVE program development has been shielded from public scrutiny and by the absence of public details regarding plans for program funding and operation. Nevertheless, we believe it is important to share our perspective at this time.

The meaning of “countering violent extremism” is contested, but at its core is a focus on ideologically motivated violence, as opposed to violence in general. “The National Strategy for Empowering Local Partners [to Prevent Violent Extremism in the United States] defines ‘violent extremists’ as ‘individuals who support or commit ideologically motivated violence to further political goals.’”¹ This definition could label an individual a “violent extremist” if the person *believes* violence may be justly used to achieve political ends. By focusing not only on actions but beliefs, this definition casts a broad net, encompassing many who will never commit violence and may in fact abhor violence. Moreover, “extremist” is a subjective label highly vulnerable to politicization. An example from recent history -- the inclusion and subsequent removal in 2008 of Nelson Mandela and other members of the African National Congress from the terrorist watchlist -- illustrates the potential for labels based on associations and ideology, including ideology accepting of certain political violence, to be applied in ways that undermine respect for human rights and opportunities for conflict resolution.

We were deeply troubled, moreover, by your remarks at the Harvard Kennedy School indicating that ideology, constitutionally protected behaviors and personality changes could be warning signs of potential “violent extremism.”

What kinds of behaviors are we talking about? For the most part, they’re not related directly to plotting attacks. They’re more subtle. For instance, parents might see sudden personality changes in their children at home—becoming confrontational. Religious leaders might notice unexpected clashes over ideological

¹ Executive Office of the President of the United States, “Strategic Implementation Plan for Empowering Community Partners to Prevent Violent Extremism in the United States,” December, 2011, at note 1, available at: <http://www.whitehouse.gov/sites/default/files/sip-final.pdf>.

differences. Teachers might hear a student expressing an interest in traveling to a conflict zone overseas. Or friends might notice a new interest in watching or sharing violent material.²

Based on this information, we anticipate that CVE pilot programs may target and surveil persons who are perceived to be sympathetic to groups engaged in armed political struggles (where those groups are not politically aligned with the U.S. government), are critical of American policies, or who simply engage in behaviors common among many youth such as questioning authority, experimenting with new identities, forming independent political views, and showing solidarity with peoples abroad. All youth deserve to pursue their imperfect transitions to adulthood without having such behaviors policed or becoming the targets of interventions. Political views and ideologies should not – and may not constitutionally – be policed by government agencies or by community organizations at the behest of our government.

Interventions based on these factors would not only be invasive, they would also fail to improve our security. A government-driven market for research to identify factors that heighten vulnerability to “extremism” has produced many results-driven reports that purport to identify factors such as social alienation, mental illness, political grievances and strict interpretations of Islam as possible indicators of future violence.³ However, such reports generally lack control groups, rely on small sample sizes, draw conclusory findings, and are often funded by government agencies such as the Department of Defense (which could bias their designs and findings). Other than past commission of violence or the sharing of an actual plan for future violence, the existence of outward signs of the *potential* to commit violence has been strongly refuted by sound evidence. As Faiza Patel of the Brennan Center for Justice has noted, “[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.”⁴ Interventions that target factors falsely correlated with future violence – such as alienation, political grievances, or religious interpretations – will not make us safer.

Sound research methods are not only the concern of the ivory tower; they should be a basic requirement of any research used in the development of government policies. Relying on sound research methods is the first step towards ensuring that policies are effective at solving targeted problems, and are not merely political theater.

The DOJ’s role in spearheading CVE pilot development is also deeply troubling.⁵ The DOJ is of course a law enforcement agency, prosecuting a sizable number of inchoate “terrorism related” crimes, and its agencies may use information about individuals’ vulnerabilities, such as mental illness or inclusion on the bloated and unreliable “terrorist watchlist,” as leverage in recruiting informants. Despite repeated statements that the Boston CVE pilot is focused on developing community resources to address a range of social and health challenges, the DOJ is not a social services agency. CVE programs developed with the input of law enforcement agencies threaten to incorporate intelligence gathering into the process by which individuals are referred to or use mental health and other social

² Remarks by Assistant to the President for Homeland Security and Counterterrorism Lisa O. Monaco, “Countering Violent Extremism and the Power of Community,” Harvard Kennedy School, April 15, 2014, available at: <http://www.whitehouse.gov/the-press-office/2014/04/16/remarks-assistant-president-homeland-security-and-counterterrorism-lisa->.

³ Many factors identified by these studies are both constitutionally protected and quite common among the broader population. 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.

⁴ 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 2; and John Horgan. “Discussion Point: The End of Radicalization?” (2012), available at: <http://www.perma.cc/0iCRqo8gp8K>.

⁵ 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 DOJ representative discourages community members from seeking attorneys before speaking with the FBI.

services. Our concerns in this regard have been reinforced by recent revelations about law enforcement use of community outreach programs in Minneapolis-St. Paul as vehicles for surveillance and identification of “vulnerable” Somali community members.⁶

Based on available information about current CVE models in the U.S.,⁷ we additionally believe CVE programs may violate First Amendment guarantees of separation between church and state.⁸ To the extent that government agencies believe certain interpretations of Islam, for example, correlate with propensity to commit violence, they may indirectly or directly use CVE initiatives to discourage such interpretations and promote alternatives. Government favoring of a preferred brand of Islam, even through its community partners, would violate one of our most cherished constitutional liberties and threaten American Muslims’ religious self-determination.

Many of the harms we anticipate CVE programs will inflict on our society have in fact already been experienced by British residents under the UK’s “Preventing Violent Extremism” (or “Prevent”) program launched in 2007. Though ostensibly neutral with regards to religion, Prevent has been used selectively such that it polices British citizens’ behavior by two standards of legality: one for Muslims and one for everyone else.⁹ Under Prevent, a lack of government transparency and accountability, heavy focus on gathering intelligence on Muslim communities and the policing of radical dissent have all resulted in diminished youth confidence in democracy.¹⁰ Prevent has also compromised Muslims’ ability to safely use social services, as its “Channel Program” has been extended to the health sector, eroding practices of doctor-patient confidentiality and increasing stigmatization of mentally ill individuals.¹¹

The content of an unclassified National Counterterrorism Center CVE guide reinforces our misgivings that CVE programs in the U.S. may replicate the abuses of Prevent and other programs internationally. The document favorably cites a number of CVE programs in other countries -- including countries, such as Saudi Arabia, with records of serious human rights abuses and fewer constitutional protections than the U.S. The “guide” also recommends that police, educators, health professionals, and other social service providers rate families, individuals and communities on a range of factors (such as “parent-child bonding” and “perceived economic stress”) -- alleged

⁶ See Michael Price, Brennan Center for Justice at New York University School of Law, “Community Outreach or Intelligence Gathering: A Closer Look at ‘Countering Violent Extremism’ Programs,” available at: https://www.brennancenter.org/sites/default/files/analysis/Community_Outreach_or_Intelligence_Gathering.pdf. These revelations are not the first to expose the use of law enforcement “community outreach” for intelligence gathering. Ibid at note 5.

⁷ For example, in the “Montgomery County Model” originated by the World Organization for Resource Development and Education, interpretations of Islam are viewed as a tool of “interventions” targeting those perceived as vulnerable to “radicalization.” “With the involvement of the Montgomery County Police Department, the [Faith Community Working Group] is designed to reduce homegrown radicalization by creating public awareness about the risk factors and empowering the appropriate figures to intervene with vulnerable individuals...[T]he program relies on a trusting relationship among local police, schools, health and human services agencies, and the faith community, whereby persons who may be radicalized...are identified as possibly benefiting from an intervention...[M]any local Imams have demonstrated a commitment to conducting the theological interventions[.]” Hedieh Mirahmadi, The Washington Institute, “An Innovative Approach to Countering Violent Extremism,” October 9, 2013, available at: <http://www.washingtoninstitute.org/policy-analysis/view/an-innovative-approach-to-countering-violent-extremism1>.

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 e.g. Jahangir Mohammed and Dr Adnan Siddiqui, CAGE, “The Prevent Strategy: A Cradle to Grave Police State” (2014) at 8, 28 (hereinafter “The Prevent Strategy”), available at: <http://cageuk.org/report.pdf>.

¹⁰ See 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>. See also “The Prevent Strategy.” See also “The Prevent Strategy,” House of Commons Community and Local Government Committee, “Preventing Violent Extremism,” March 16, 2010, available at: <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmcomloc/65/65.pdf>

¹¹ See “The Prevent Strategy” at 16 - 19. The Channel program, launched in 2007 to identify “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.

without support to be connected positively or negatively with vulnerability to “violent extremism” -- and that professionals identify “interventions” for these populations.¹² These alarming and offensive recommendations underscore the risk that CVE programs may rely on spurious theories about factors that increase vulnerability to “radicalization” rather than sound evidence about contributors to the phenomenon of political violence.

Finally, we echo the sentiments of the Council on American-Islamic Relations of Los Angeles, Asian Americans Advancing Justice, the American Civil Liberties Union of Southern California, the Sikh American Legal Defense and Education Fund and the Islamic Shura Council of Southern California, expressed in a letter of November 12, 2014, that concerns about overreaching impacts of CVE programs are unavoidable in the context of the ongoing intrusive surveillance of mosques and American Muslims generally, absent evidence of criminal activity, and other forms of religious profiling by government agencies. We recommend the White House work to meaningfully end and redress these systemic violations of Muslims’ constitutional rights rather than launch new programs that threaten to extend such abuses.

We reiterate our belief that attempts to intervene in individuals’ ideologies and religious practices in the name of national security is a fundamentally unsound approach that would inflict substantial damage on our legal system, our values, and our communities. We urge the White House to seek strategies to reduce all violence and work to meaningfully support, domestically and abroad, respect for human and civil rights, which is a necessary foundation for healthy democracy and the rule of law.

Respectfully Submitted,

Muslim Justice League

American Civil Liberties Union of Massachusetts

Black and Pink - Boston Chapter

Jewish Voice for Peace Boston

National Lawyers Guild, Massachusetts Chapter

The Real Cost of Prisons Project

cc. The Honorable Eric Holder, Attorney General
The Honorable Jeh Johnson, Secretary of Homeland Security

¹² National Counterterrorism Center, “Countering Violent Extremism: A Guide for Practitioners and Analysts” (2014), available at <https://www.documentcloud.org/documents/1657824-cve-guide.html>.