



Human Rights Concerns with Programs to Prevent and Counter Violent Extremism

American Civil Liberties Union and
Brennan Center for Justice at New York University School of Law
Submission to the Office of the High Commissioner for Human Rights
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The American Civil Liberties Union (ACLU) and the Brennan Center for Justice at New York University School of Law (Brennan Center) welcome the opportunity to submit these comments to the Office of the High Commissioner for Human Rights (OHCHR) on programs to prevent and counter violent extremism.¹

The ACLU is a nationwide organization committed to ensuring that the U.S. government acts in compliance with the U.S. Constitution and laws, including its international legal obligations. The ACLU has been researching and monitoring the development of U.S. programs to prevent and counter violent extremism domestically and internationally since their inception, and has advocated continuously for increased transparency and assurances from the U.S. government that its programs incorporate robust safeguards to protect human rights and fundamental freedoms.

The Brennan Center is a non-partisan public policy and law institute focused on fundamental issues of democracy and justice, including ensuring that U.S. counterterrorism laws and policies respect human rights and fundamental freedoms. The Center has conducted extensive research on U.S. programs aimed at countering violent extremism, focusing particularly on the implementation of these initiatives in the pilot cities of Boston, Los Angeles, and Minneapolis. Like the ACLU, the Brennan Center has advocated for increased transparency and the incorporation of explicit human rights protections.

Programs to prevent or counter violent extremism are proliferating internationally. We note that programs that articulate a clear definition of the phenomenon being addressed, that are properly grounded in research and evidence, and that respect human rights, may have a potentially positive impact. However, as we and other civil society organizations have previously expressed

¹ This submission is in response to the OHCHR's request for input regarding "best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism" in preparation of a report to be submitted to the 33rd session of the U.N. Human Rights Council pursuant to UNHCR Resolution 30/15 ("Human rights and preventing violent extremism").

to the OHCHR and U.N. Human Rights Council, the programs also have serious implications for human rights and fundamental freedoms.²

Many of our concerns are shared by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (“Special Rapporteur”), as documented in his recent report to the U.N. Human Rights Council.³ We describe in this submission a number of the troubling ways in which programs to counter violent extremism are being implemented in the United States, often based on similarly troubling programs implemented in the United Kingdom, and we discuss the programs’ impact on the rights and freedoms of targeted communities.

I. Background.

According to the U.S. government, programs to prevent or “counter violent extremism” (CVE) are a top national security priority. In 2011, the White House released its “Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States.”⁴ The plan’s goal is to “prevent[] violent extremists and their supporters from inspiring, radicalizing, financing or recruiting individuals or groups in the United States to commit acts of violence,” and it includes a general outline of federal government support for preventative programming and “community-led efforts to build resilience to violent extremism.”⁵

In September 2014, Attorney General Eric Holder announced a CVE pilot program, the stated intent of which is to “bring together community representatives, public safety officials, religious leaders, and United States attorneys to improve local engagement; to counter violent extremism; and — ultimately — to build a broad network of community partnerships to keep our nation safe.”⁶ The pilot program was introduced in three U.S. cities: Boston, Massachusetts; Los Angeles, California; and Minneapolis, Minnesota.⁷ In September 2015, the White House

² See, e.g., ACLU, Interactive Dialogue with the Special Rapporteur on the Promotion and Protection of Human Rights While Countering Terrorism, U.N. Human Rights Council 31st Session (Mar. 10, 2016), <https://goo.gl/22E37S>; Letter from ARTICLE 19, et al. to Zeid R’ad Al Hussein, U.N. High Commissioner for Human Rights (Feb. 4, 2016), <https://goo.gl/7F3dDE>.

³ Rep. of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, U.N. Doc. A/HRC/31/65 (Feb. 22, 2016), *advanced unedited version available at* <https://goo.gl/xPx0wi>.

⁴ See generally Office of the President, *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States*, White House (Dec. 2011), <https://goo.gl/1aEOUa>.

⁵ *Id.* at 1-2.

⁶ Press Release, *Attorney General Holder Announces Pilot Program to Counter Violent Extremists*, Dep’t of Justice (Sept. 15, 2014), <https://goo.gl/aV2z0y>.

⁷ Office of Public Affairs, *Pilot Programs are Key to Our Countering Violent Extremism Efforts*, Dep’t of Justice (Feb. 18, 2015), <http://goo.gl/QKMFYf>. See generally *A Framework for Prevention and Intervention Strategies*, U.S. Attorney’s Office, D. Mass. (Feb. 2015), *available at* <https://goo.gl/qaasJx>; *The Los Angeles Framework for Countering Violent Extremism*, L.A. Interagency Coordination Group in Collaboration with

participated, in coordination with the United Nations, in a Leaders' Summit on Countering ISIL and Violent Extremism, where "[p]articipants welcomed progress on the comprehensive, multi-stakeholder action agenda against violent extremism developed at [a] February 2015 White House Summit on Countering Violent Extremism."⁸

Despite the proliferation of CVE initiatives across the U.S. government and, supported by it, in other parts of the world, all but the most general information about U.S. efforts domestically and internationally remains a mystery. Most of the U.S. government's CVE initiatives have been developed and implemented in near-total secrecy, and the scant information about U.S. CVE programs that has been made public has resulted from leaks or targeted communities' outcry.⁹ This is despite repeated requests to the U.S. government from human rights, civil liberties, and community-based groups for information on CVE programs, including the evidentiary bases for them, and evidence that adequate safeguards are in place to protect human rights and fundamental freedoms.¹⁰ Although the U.S. government has generally made broad claims that rights will be protected, such assurances are insufficient in light of the scant information that has become public about CVE programs.

II. CVE Programs Fail to Adequately Define the Problem They Seek to Address.

As a threshold matter, programs to prevent and counter violent extremism, globally, are conceptually flawed in that they fail to adequately define the problem they aim to address. There is no generally agreed-upon definition of "violent extremism," and, as the Special Rapporteur emphasizes, the term remains an "elusive concept."¹¹ National-level definitions vary greatly, are vague and overbroad, and encompass lawful speech, association, and other behavior. For example, in its CVE Strategic Implementation Plan, the White House defines "violent extremists" as "individuals who support or commit ideologically motivated violence to further political goals."¹² There is, however, no unitary definition of violent extremism within the U.S. government. The United Kingdom considers extremism to be "the vocal or active opposition to

Community Stakeholders (Feb. 2015), available at <https://goo.gl/SmYTfz>; *Building Community Resilience, Minneapolis-St. Paul Pilot Program*, U.S. Attorney's Office (Feb. 2015), available at <https://goo.gl/3HtjrD>.

⁸ Press Release, *Leaders' Summit on Countering ISIL and Violent Extremism*, White House (Sept. 29, 2015), <https://goo.gl/Mbt1Ws>.

⁹ See, e.g., Michelle Boorstein, *Muslim Activists Alarmed By the FBI's New Game-Like Counterterrorism Program for Kids*, Wash. Post (Nov. 2, 2015), <https://goo.gl/J7eAPB>; Letter from American Civil Liberties Union et al. to Lisa O. Monaco, Assistant to the President for Homeland Sec. & Deputy Nat'l Sec. Adviser (Dec. 18, 2014), <https://goo.gl/CqwRj6>.

¹⁰ See, e.g., Letter from American Civil Liberties Union et al., *supra* note 9; Letter from Brennan Center for Justice et al. to Rep. Michael McCaul, Chairman, House Comm. on Homeland Sec., et al. (July 10, 2015), <http://goo.gl/b6eQ51>.

¹¹ Special Rapporteur Rep., *supra* note 3 at ¶ 11.

¹² Strategic Implementation Plan, *supra* note 4 at 1 n.1.

fundamental values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs, as well as calls for the death of UK armed forces at home or abroad.”¹³ At the international level, the Secretary General’s Plan of Action to Prevent Violent Extremism offers no definition of “violent extremism,” even as it proposes global measures to fight it, and directs U.N. agencies to adjust their focus to encompass it.¹⁴ Compounding the problem, as the Special Rapporteur also notes, is the challenge of differentiating between violent extremism and terrorism, which are “often used interchangeably and without a clear delineation of the boundaries between them.”¹⁵

The lack of an agreed-upon definition of “extremism” or “violent extremism” — and the vagueness of the definitions that do exist — leaves states with significant latitude to apply measures to curtail violent extremism in an overly broad or harsh manner, or in a way that deliberately targets or disproportionately impacts civil society, political opponents, journalists, or minority groups.¹⁶ We reiterate the Special Rapporteur’s concern that “[g]iven the absence of any attempt at a definition at the international level and the broad national definitions, the use of the term as a basis for the adoption of new strategies, measures and legislation may prove even more dangerous for human rights than the term terrorism.”¹⁷ And we echo his caution that any measures to impose criminal liability must be narrowly and clearly defined.¹⁸

III. CVE Programs Pose Grave Risks to the Freedoms of Thought, Belief, Opinion, and Expression.

A. U.S. CVE programs aim to prevent violence by policing ideas and beliefs, including by charging teachers and social workers with monitoring and reporting to law enforcement on the ideas and beliefs of schoolchildren.

A core component of U.S. CVE initiatives involves tasking teachers, social workers, and mental health professionals with monitoring and reporting to law enforcement or intelligence agencies on children in their care. Boston’s pilot program framework, for example, describes “establishing and enhancing communication” among law enforcement and mental health and social service agencies and calls for the development of programs to identify “individuals vulnerable to isolation, alienation and becoming disenfranchised,” potentially through teacher-created lists that

¹³ Special Rapporteur Rep., *supra* note 3 at ¶ 12.

¹⁴ See, e.g., U.N. Secretary-General, *Plan of Action to Prevent Violent Extremism*, U.N. Doc. A/70/674 (Dec. 24, 2015); Naz Nodirzadeh, *If It’s Broke, Don’t Make it Worse: A Critique of the U.N. Secretary General’s Plan of Action to Prevent Violent Extremism*, Lawfare (Jan. 23, 2016), <https://goo.gl/ayAYMG>.

¹⁵ Special Rapporteur Rep., *supra* note 3 at ¶ 13.

¹⁶ See, e.g., *id.* at ¶ 21.

¹⁷ *Id.* at ¶ 35.

¹⁸ *Id.* at ¶ 21.

include students who express anger or frustration at U.S. foreign policy.¹⁹ Intelligence agency guidelines that were leaked to the media instruct teachers and social workers to monitor and evaluate students on a five-point rating scale according to factors like “Expressions of Hopelessness, Futility,” and “Connection to Group Identity (Race, Nationality, Religion, Ethnicity).”²⁰ A Federal Bureau of Investigation (FBI) website purporting to raise awareness among parents, teachers, and teenagers about violent extremism instructs its users to report students who exhibit “warning signs” that they may commit violence, which include talking about traveling to places that “sound suspicious.”²¹

A recent FBI document reveals in further detail what the U.S. government expects of teachers and school officials with respect to CVE efforts. The document makes clear that the FBI essentially expects teachers and administrators to monitor and report on students’ thoughts. It encourages, for example, school officials to identify students who “engage in communications[] indicating support for extremist ideologies” or who are “curious about the subject matter” of extremism.²²

This sort of suspicion and monitoring of ideas and beliefs can stifle freedom of expression and alienate the very people the programs are intended to help. CVE programs in the United States appear to be based to a significant degree on similar efforts in the United Kingdom, and the experience of the United Kingdom illustrates negative outcomes. Under the United Kingdom’s “Prevent” program, for example, teachers are statutorily obligated to refer to police students they suspect of being susceptible to radicalization or extremism.²³ In one case, a university student studying counterterrorism was investigated for reading a book on terrorism.²⁴ In another, a fourteen-year-old boy was interrogated after simply discussing “eco-terrorists” in school, a topic he had learned at a debate society meeting.²⁵ Recently, the United Kingdom’s national teachers union voted to reject Prevent based on concerns that it causes undue suspicion of students, stifles classroom debate, and is ineffective.²⁶

¹⁹ *A Framework for Prevention and Intervention Strategies*, supra note 7 at 2, 6, 8.

²⁰ See Murtaza Hussain, Cora Currier, & Jana Winter, *Is Your Child a Terrorist? U.S. Government Questionnaire Rates Families at Risk for Terrorism*, Intercept (Feb. 9, 2015), <http://goo.gl/jHUF63>.

²¹ See Federal Bureau of Investigation, *When to Report Violent Extremism*, <https://cve.fbi.gov/where/?state=report> (last visited Apr. 6, 2016).

²² Office of Partner Engagement, *Preventing Violent Extremism in Schools*, Federal Bureau of Investigation, at 11, 15 (Jan. 2016), available at <http://goo.gl/KfDFy0>.

²³ See, e.g., Rachel Williams, *School Heads Raise Alarm Over New Duty to Protect Students From Extremism*, Guardian (June 9, 2015), <http://goo.gl/JhUdbx>.

²⁴ Randeep Ramesh & Josh Halliday, *Student Accused of Being a Terrorist for Reading Book on Terrorism*, Guardian (Sept. 24, 2015), <http://goo.gl/QAplRa>.

²⁵ Homa Khaleeli, *‘You Worry They Could Take Your Kids’: Is the Prevent Strategy Demonising Muslim Schoolchildren?*, Guardian (Sept. 23, 2015), <http://goo.gl/IzlmE0>.

²⁶ See, e.g., Richard Adams, *Teachers Back Motion Calling for Prevent Strategy to be Scrapped*, Guardian (Mar. 28, 2016), <http://goo.gl/R4mY1w>.

Schools should be environments in which curiosity, inquiry, and expression thrive. Placing education officials in partnership with law enforcement agencies to spy on students and report on their ideas and beliefs corrupts relationships of trust that must exist between teachers and students. Targeting children for suspicion without any reliable, factual basis risks transforming schools from environments of learning to places in which children are viewed as potential threats, jeopardizing their rights to education and freedom of thought, belief, opinion, and expression.

The FBI document regarding CVE in schools also reveals that the U.S. government has expanded the scope of CVE to target all “extreme” beliefs, including “white supremacists, animal rights and eco-terrorists, and anti-government or radical separatist groups.”²⁷ Just as it is wrong to single out one belief system or ideology for government monitoring, it is wrong to impose blanket surveillance on all belief systems that the government may consider radical or unorthodox. International law ensures that every person has the right to hold and peacefully express beliefs, even those that may be considered extreme.²⁸ Moreover, research has revealed no correlation between beliefs — including radical or extreme beliefs — and a propensity to commit violence.²⁹

Unfortunately, the U.S. government has a history of invoking national security as a basis for monitoring and surveilling communities whose beliefs it disfavored or found offensive.³⁰ To take just one example, as part of its infamous counterintelligence program (COINTELPRO) the FBI spied on Dr. Martin Luther King, Jr. and other leaders and activists in the U.S. civil rights movement based on suspicions that they held radical beliefs and were therefore national security threats.³¹ Law enforcement resources are better spent addressing actual criminal conduct and violent behavior, and all societies are better served when people, no matter their beliefs, are able to exercise their human rights to freedom of thought, belief, opinion, and expression.

²⁷ See *Preventing Violent Extremism in Schools*, *supra* note 22 at 3, 5, 7.

²⁸ See Special Rapporteur Rep., *supra* note 3 at ¶ 38.

²⁹ See, e.g., Jamie Bartlett, Jonathan Birdwell, & Michael King, *The Edge of Violence: A Radical Approach to Extremism*, Demos (2010), available at <http://goo.gl/Wx557I>.

³⁰ See, e.g., Michael German, *Radically Wrong: A Counterproductive Approach to Counterterrorism* (Feb. 14, 2013), <https://goo.gl/Lc9675>.

³¹ See, e.g., David J. Garrow, *The FBI and Martin Luther King*, Atlantic (July/Aug. 2002), available at <http://goo.gl/SHaayA>; *Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities*, U.S. Senate (Apr. 14, 1976).

B. U.S. CVE programs risk becoming another means for the government to spy on people, and for the government to task people to spy on each other.

The U.S. government asserts that CVE programs are community-focused and community-driven.³² However, U.S. policies and practice make clear that law enforcement and intelligence agencies lead CVE efforts.³³ The prominent role of U.S. law enforcement and intelligence agencies in CVE programs raises the troubling prospect that the programs will serve as a conduit for law enforcement surveillance, much as other “community outreach” programs involving the same government agencies have been used as a means to gather intelligence on the groups and organizations that participate in them.³⁴

For instance, documents obtained through U.S. freedom of information laws show that even mundane and routine observations of FBI outreach officers on members of American Muslim communities ended up in intelligence files.³⁵ Similarly, a Minneapolis outreach program sought to build relationships among municipal police officers and American Somali-Muslim teenagers. Unbeknownst to the teenagers, however, the officers shared intelligence they gathered on the youth with the FBI.³⁶ A county-level program in Maryland that the White House touted as a model was described by local police officers as an intelligence tool, providing a “conduit of information” that is passed on to federal authorities.³⁷

The FBI has told American Muslim community groups of its plans for “Shared Responsibility Committees,” through which community leaders, religious figures, mental health professionals, and educators will be expected to monitor and report on individuals the FBI suspects are at risk of committing extremist violence, and then make “recommendations” to the FBI as to whether the FBI should continue or drop the investigations of those individuals.³⁸ Although most details about this initiative remain secret, what is known about it is troubling. The government reportedly expects committee members to share information about monitored individuals, which risks violating U.S. privacy laws. And the effects of community members and others in positions of trust spying on fellow citizens are likely to be particularly destructive. The program also

³² See, e.g., Strategic Implementation Plan, *supra* note 4 at 10, 11.

³³ See, e.g., *id.* at 3-4.

³⁴ See, e.g., ACLU, Factsheet: The NYPD Muslim Surveillance Program, <https://goo.gl/2nyDMV>; Maria L. La Ganga, *FBI Documents Reveal Profiling of N. California Muslims*, L.A. Times (Mar. 28, 2012), <http://goo.gl/HDBvev>; ACLU, Eye on the FBI: Exposing Misconduct and Abuse of Authority, <https://goo.gl/Rx0pm7> (last visited Apr. 6, 2016).

³⁵ Eye on the FBI, *supra* note 34.

³⁶ Laura Yuen, *Muslims Fear Anti-Terror Program Could Spy on Their Communities*, MPR News (Jan. 30, 2015), <http://goo.gl/6VYKWN>.

³⁷ Aaron Miguel Cantú, *In Maryland, Faith Leaders and Law Enforcement Fight Radicalization*, Al Jazeera Amer. (Sept. 12, 2015), <http://goo.gl/SgrQFh>.

³⁸ See, e.g., Arjun Singh Sethi, *The FBI Needs to Stop Spying on Muslim-Americans*, Politico (Mar. 29, 2016), <http://goo.gl/eLtkiH>; Michael Hirsh, *Inside the FBI's Secret Muslim Network*, Politico (Mar. 24, 2016), <http://goo.gl/I9cUAP>.

threatens to serve as a mechanism for the FBI to pressure vulnerable individuals to serve as government informants.

Ultimately, the result of the generalized monitoring that CVE entails, whether by the government or community “partners,” can be a climate of fear, distrust, and self-censorship.³⁹ When individuals feel they have no choice but to forsake religious exercise, political discussions, and intellectual debate to avoid being tracked into CVE programs that brand them as potential terrorists or violent extremists, they sacrifice their rights to freedom of thought, belief, opinion, and expression.

C. U.S. CVE initiatives include dangerous and misguided efforts to restrict online speech.

The U.S. government has made clear that a significant component of its CVE initiatives involves pressuring social media companies to monitor and take down online content that is potentially related to terrorist recruitment or “radicalization.”⁴⁰ These kinds of restrictions pose serious risks to the freedom of expression online. While it is clear that terrorists have used social media for publicity and recruitment, social media platforms already have systems in place for identifying and reporting real threats, incitement to violence, or actual terrorism. Further restricting content that is potentially terrorism-related would not only lead to arbitrary and haphazard enforcement, but would also inevitably sweep in innocent thoughts, beliefs, opinions, and associations.

As with community surveillance, restricting online speech will discourage the free exercise of the fundamental rights to expression, association, and belief. Empirical studies have shown that government surveillance of online activity silences people, especially those holding minority opinions, which in turn stifles debate and expression integral to open societies and the protection of human rights.⁴¹ Moreover, censoring speech that the government finds offensive or threatening only makes it harder to identify and respond to that speech, making censored speech all the more dangerous.

Ultimately, the freedoms of thought, belief, opinion, and expression are fundamental human rights that must be upheld and protected. CVE-related efforts to monitor ideas and beliefs,

³⁹ See, e.g., Faiza Patel, *Muslims and American Fear*, N.Y. Daily News (Oct. 25, 2015), <http://goo.gl/ckkiI1>; Conor Friedersdorf, *The Horrifying Effects of NYPD Ethnic Profiling on Innocent Muslim Americans*, Atlantic (Mar. 28, 2013), <http://goo.gl/9J83PI>; Omar Sacirbey, *Muslims Detail Fear From NYPD Spy Probe*, Wash. Post (Mar. 11, 2014), <http://goo.gl/17oGWV>; CLEAR Project, AALDEF, and MACLC, *Mapping Muslims: NYPD Spying and its Impact on American Muslims* (2013), available at <http://goo.gl/M4kQU2>.

⁴⁰ See, e.g., Ellen Nakashima, *Obama’s Top National Security Officials to Meet with Silicon Valley CEOs*, Wash. Post (Jan. 7, 2016), <https://goo.gl/p14z4b>.

⁴¹ Karen Turner, *Mass Surveillance Silences Minority Opinions, According to Study*, Wash. Post (Mar. 28, 2016), <https://goo.gl/vup4bl>.

particularly those of schoolchildren; to spy on entire communities and task community members to spy on each other; and to censor online expressive activity are ill-advised, ineffective, and rights-threatening.

IV. CVE Programs Threaten the Rights to Equal Protection and Freedom from Discrimination.

Government officials claim that U.S. CVE efforts address all types of violent extremism, without regard to particular beliefs or ideology.⁴² In reality, CVE programs planned and implemented to date in the three U.S. target cities — Boston, Los Angeles, and Minneapolis — focus overwhelmingly on American Muslims.⁴³ For example, Minneapolis police received a grant from the U.S. Department of Justice to hold outreach meetings with Somali-Muslim community groups to direct youth into after-school programs, but also to identify those who did not participate as “radicalized.”⁴⁴ The FBI’s planned Shared Responsibility Committees are reportedly targeted at American Muslim community groups.⁴⁵

This singular focus on American Muslim communities reinforces the false and corrosive notion that Muslims are inherently suspicious and prone to political violence. American Muslim leaders and community members in the three U.S. target cities have stated that the undue government scrutiny sets them apart from their neighbors and stigmatizes them as suspicious based on their faith, race, and ethnicity.⁴⁶ Rather than empowering communities — the professed intent of U.S.

⁴² See, e.g., Countering Violent Extremism, <https://www.dhs.gov/topic/countering-violent-extremism> (last visited Apr. 6, 2016).

⁴³ See, e.g., Amanda Sperber, *Somalis in Minnesota Question Counter-Extremism Program Targeted at Muslims*, Guardian (Sept. 15, 2015), <http://goo.gl/93yJQM>; Tami Abdollah & Philip Marcelo, “It Sets People Off”: Some People See Profiling in U.S. Anti-Terror Program, NBC L.A. (Apr. 20, 2015), <http://goo.gl/bKfZCC>; Audie Cornish, *Critic: Extremism Summit Focused Too Narrowly on Muslims*, NPR.com (Feb. 19, 2015), <http://goo.gl/Kn4wZi>; Bryan Bender, *Islamic Leader Says US Officials Unfairly Target Muslims*, Boston Globe (Feb. 18, 2015), <https://goo.gl/OwPw4z>.

⁴⁴ See, e.g., Cora Currier, *Spies Among Us: How Community Outreach Programs to Muslims Blur Lines Between Outreach and Intelligence*, Intercept (Jan. 21, 2015), <http://goo.gl/EoSA8H>.

⁴⁵ See, e.g., Hirsh, *supra* note 38; Boorstein, *supra* note 9.

⁴⁶ See, e.g., Press Release, Council on American-Islamic Relations- Minnesota et al, *Minnesota Muslims Concerned About New ‘Stigmatizing, Divisive and Ineffective’ CVE Pilot Program* (May 1, 2015), <http://goo.gl/hBzIIu>; Tamara Audi, *US Muslim Community Divided Over White House Outreach Plan*, Wall. St. J. (Apr. 20, 2015), <http://goo.gl/eKM50M>; Press Release, Muslim Students Association West, *Muslim Students Associations Across CA Against Federal Government’s Countering Violent Extremism Programs* (Feb. 21, 2015), <http://goo.gl/o4B7qV>; Letter from Muslim Justice League et al. to Lisa O. Monaco, Assistant to the President for Homeland Security and Counterterrorism (Feb. 13, 2015), <http://goo.gl/sWVjz1>; 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), <http://goo.gl/c98Uwc>; Audie Cornish, *Critic: Extremism Summit Focused Too Narrowly on Muslims*, NPR.com (Feb. 19, 2015), <http://goo.gl/Kn4wZi>; Juliet Eilperin, *Trying to Counter Extremism at Home, US. Faces a Risk: Sowing More Mistrust*, Wash. Post (Feb. 16, 2015), <http://goo.gl/ZB4zx2>.

CVE programs — unwarranted monitoring divides and harms them, and runs counter to the fundamental human rights to equal protection before the law and freedom from discrimination.

V. CVE Programs Are Based on Flawed Theories of Radicalization.

The core premise of CVE initiatives is that the adoption of beliefs that are “extreme” or “radical” places individuals on a path toward violence, and that there are observable indicators to identify people who might engage in political or other violence.⁴⁷ This premise is false. Despite years of study and experience in the United States and elsewhere, researchers have not developed reliable criteria that can be used to predict who will commit a terrorist act.⁴⁸ As the Special Rapporteur’s report notes, numerous empirical studies have concluded that a person’s decision to engage in political violence is a complex one, involving myriad environmental and individual factors, none of which is necessary or sufficient in every case, and none of which falls into a linear path or process resulting in violence.⁴⁹ Social science research shows that many people who hold views that might be called radical or extreme — or even abhorrent — do not support or engage in violence. Moreover, researchers have demonstrated that “[c]ertain ideas which are sometimes associated with terrorism were, in fact, held by large numbers of people who renounced terrorism.”⁵⁰ Programs based on flawed premises such as these are not only destined to fail, but are also likely to ensnare and punish innocent people.

VI. Conclusion and Recommendations.

Despite investing major resources into its CVE programs, the U.S. government has kept all but the most general outlines of those programs secret. What little information has been made public raises significant concerns about the programs’ impact on the human rights and fundamental freedoms of targeted communities. Of particular concern are the policing of ideas and beliefs, particularly within schools and online, and the lead role of law enforcement and intelligence agencies in executing CVE programs, which presents a serious risk that the programs will serve as channels for government and community spying. We are also deeply troubled by the ways in which the U.S. government has singled out and targeted entire communities of law-abiding American Muslims for CVE efforts, which is harmful and stigmatizing.

⁴⁷ See, e.g., Strategic Implementation Plan, *supra* note 4 at 13.

⁴⁸ See, e.g., Decl. of Marc Sageman, *Latif v. Holder*, No. 3:10-cv-00750, 2015 WL 1883890 (D. Or., Aug. 7, 2015), available at <https://goo.gl/USdp5E>; Jamie Bartlett, *supra* note 29 at 11.

⁴⁹ Nat’l Defense Research Institute, *Social Science for Counterterrorism* (2009), available at <http://goo.gl/dGRqBE>; see also Special Rapporteur Rep., *supra* note 3 at ¶ 15.

⁵⁰ Jamie Bartlett, *supra* note 29 at 11.

We have focused on the United States' policies and practices in this submission. We are also deeply concerned that the negative example it is setting will be invoked and used by other states to target human rights defenders and civil rights groups, and suppress human rights in the name of "preventing or countering violent extremism."⁵¹

We appreciate Secretary General Ban Ki-moon's emphasis on the importance of respecting human rights when implementing programs and measures to prevent or counter violent extremism.⁵² We urge the OHCHR to ensure that it promulgates strong guidance and robust rights-protecting standards for the international community and states that are adopting or implementing programs to prevent or counter violent extremism.

To that end, at a minimum, we recommend:

- CVE programs must incorporate detailed, specific, and public safeguards to protect human rights and prevent abuses. All programs must be regularly and independently reviewed to determine their impact on human rights, with an opportunity for meaningful civil society input, and the reviews must be made public.
- Law enforcement and intelligence agencies should play no role in community strengthening and empowerment programs, which should instead be overseen by agencies addressing education or health issues, without any collaboration with or reporting to law enforcement and intelligence agencies.
- Members of the public should not be tasked with monitoring or reporting on communities and individuals, especially children, to law enforcement and intelligence agencies.

We appreciate the opportunity to make this submission.

⁵¹ See U.N. H.R.C.: 58 NGOs Warn of Harmful Impact of "Countering and Preventing Violent Extremism", Article 19 (Feb. 4, 2016), <https://goo.gl/YdVlgn>.

⁵² See Special Rapporteur Rep., *supra* note 3 at ¶ 33.