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Obama, American Muslims, and Our Constitutional Duplicity

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President Obama's recent speech to the Islamic Society of Baltimore was an attempt to reassure an American minority population feeling very much under siege that they are, in fact, full-fledged Americans -- part of the national fabric, valued, and indeed badly needed in the West's war on ISIS and like-minded groups. The president acknowledged that "there have been times where we have fallen short of our ideals," adding that "the best way for us to fight terrorism is to deny these organizations legitimacy and to show that here in the United States of America, we do not suppress Islam; we celebrate and lift up the success of Muslim Americans. That's how we show the lie that they're trying to propagate."

Yet Obama's own Departments of Justice and Homeland Security, and members of Congress, have taken actions in direct contradiction to the president's claim that "we have to reject a politics that seeks to manipulate prejudice or bias, and targets people because of religion."

Since 2011, the federal government has developed and expanded a number of programs within the Departments of Justice, Homeland Security and State under the rubric of "countering violent extremism" (CVE), a concept for which there is no agreed-upon, government-wide definition or approach except for a general focus on identifying and neutralizing alleged or potential Islamic terrorists within the Arab- and Muslim-American community.

Although groups like the Ku Klux Klan, Aryan Brotherhood, and related right-wing or white supremacist organizations have plagued America with violence over many decades, the federal government only developed the CVE concept in response to the violent political and religious philosophy of al Qaeda, and now, ISIS. Government CVE programs' current focus is exclusively on the Arab- and Muslim-American community. And it is that select focus on members of a particular ethnic or religious community that has sounded alarm bells among civil liberties advocates.

As legal and policy scholars at the Brennan Center have noted, "the three existing U.S. government sponsored CVE pilot programs running in Boston, Los Angeles, and Minneapolis, are conducting outreach to Muslim communities and are not making any effort to address other types of domestic terrorism. This focus paints American Muslims as inherently suspect and alien from American society, feeding into the anti-Islam narrative that is becoming increasingly dominant in our public discourse."

Moreover, in crafting its own problematic CVE initiatives, the Obama administration has clearly ignored lessons from a similar public policy debate and CVE program disaster in the U.K.

In 2008, the *Guardian* published a classified British Security Service (MI5) report that analyzed "several hundred individuals known to be involved in, or closely associated with, violent extremist activity" and concluded that those who ultimately became terrorists "are a diverse collection of individuals, fitting no single demographic profile, nor do they all follow a typical pathway to violent extremism."

The CVE program ultimately rolled out in the U.K. and named *Prevent*, ignored the lessons contained in the MI5 report and instead focused exclusively on the Arab and Muslim community in the U.K. A subsequent 2010 House of Commons report on *Prevent* was quite clear about the program's negative consequences: "The single focus on Muslims in *Prevent* has been unhelpful. We conclude that any programme which focuses solely on one section of a community is stigmatising, potentially alienating, and fails to address the fact that that no section of a population exists in isolation from others."

Ignoring the lessons learned from Britain's *Prevent* program, Homeland Security Secretary Secretary Jeh Johnson announced in September 2015 the establishment of the innocuously sounding "Office of Community Partnerships" -- an entity that is exclusively focused on detecting extremism in Arab- and Muslim-American communities.

So far, DHS has provided no details on the scope of OCP's mandate or whether DHS's Office of Civil Rights and Civil Liberties will be involved in monitoring OCP's programs for compliance with the Bill of Rights. Indeed, DHS/CRCL's own CVE "best practices" document focuses on al Qaeda and lists only Arab- or Muslim-American-focused local police liaisons, university research programs, or cooperating Arab- or Muslim-American groups in its "For More Information" section. That bias raises questions about CRCL's ability to prevent OCP from deepening DHS's CVE focus on Arab- or Muslim-American organizations and communities.

In October 2015, the administration announced the creation of a "domestic counter terrorism counsel" within the Department of Justice. During his speech on the subject, Assistant Attorney General John Carlin talked about the use of undercover operatives and informants to determine if someone suspected of radical views will "walk the walk" when "they are given the opportunity to act." But while Carlin claimed that the FBI does not investigate individuals or groups on the basis of their political beliefs, the historical record amply demonstrates otherwise.

In 2006, St. Martin's University professor David Price obtained several hundred documents via the Freedom of Information Act that chronicled decades of FBI surveillance of Arab-American and Columbia University professor Edward Said and others in the Arab-American and Palestinian-American community. Neither Said or any of his interlocutors had any role in or connections with terrorist activities.

In 2014, *The Intercept* revealed FBI and NSA monitoring of the email traffic of several prominent Arab- and Muslim-Americans between 2002 and 2008, including civil liberties activists, lawyers, and at least one GOP political candidate. None had connections to terrorism.

Between 1993 and possibly as late as 2006, several Arab- and Muslim-American suburban communities near Chicago were the subject of intense FBI surveillance, an episode that will be featured in the 2016 documentary The Feeling of Being Watched.

As reported by *The Intercept* in January 2015, a Department of Justice-issued CVE-related grant to the St. Paul-Minneapolis Police Department was used in 2009 to fund a police liaison position with the Muslim American Society of Minnesota, which used the liaison to organize community outreach meetings on gang prevention and domestic violence. The police subsequently pressured MAS officials to turn over lists of attendees at the meetings, but MAS officials refused out of concerns community members would end up in local, state, or federal law enforcement databases without cause.

The FBI's renewed emphasis on surveillance and informant development within the Arab- and Muslim-American community for intelligence gathering purposes is not only discriminatory and having a chilling effect on the community, it contravenes efforts by local officials to uncover potential extremists by making citizens less willing to talk to government officials and police at any level.

Another revelation in October 2015 was the FBI's development of a school-based CVE initiative that Arab- and Muslim-American civil society groups briefed on the program asserted would be "...asking teachers to become an extension of law enforcement." The U.K. experience in this area is also instructive of the pitfalls of such a program.

During its annual meeting in April 2015, the U.K.'s National Union of Teachers voted in favor of amotion condemning the *Prevent* program in the face of government pressure on teachers to report on student behavior or comments involving terrorism or Islamic radicalism. Talha Ahmed, spokesperson for the Muslim Council of Britain, told Al Jazeera that "Many parents and some students feel they can no longer confide in their teachers or even crack a joke about certain things because what they say or how they act could be interpreted as signs of radicalisation or extremism." Indeed, the 2015 Counterterrorism and Security Act passed by Parliament levies a duty on public employees, including Britain's teachers, to "prevent people from being drawn into terrorism."

While the FBI's proposed "Don't Be A Puppet" program cannot be forced on American school districts, its emphasis on looking for vaguely defined signs of extremism among only Arab- or Muslim-American students in U.S. schools is likely to have the same stigmatizing and chilling effects as those already seen in Britain's schools.

And the executive branch's troubling commitment to CVE is being mirrored in Congress.

Earlier this year, a number of civil society groups wrote to House Homeland Security Chairman Michael McCaul (R-TX) to express their strong opposition to his Countering Violent Extremism Act. The bill would create an Office for Countering Violent Extremism in DHS and fund it at not less than \$10 million annually, a portion of which would allegedly go for research into "indicators" of potential extremist behavior. As the bill's critics noted in their letter to McCaul, "Despite years of federally-funded efforts, researchers have not developed reliable criteria that can be used to predict who will commit a terrorist act."

In December 2015, Senator Corey Booker (D-NJ) introduced the Countering Online Recruiting of Violent Extremists Act. Booker's bill would create DHS-funded, university-based "CVE labs" whose purpose would be, among other things, the analysis of social networks "to identify individuals on social media who are susceptible to recruitment to violent extremism and at whom technology-based CVE solutions can be directed, and indicators of susceptibility recruitment to violent extremism..."

The bill reads very much like a university-based version of the FBI's proposed high school-focused "Don't Be A Puppet" program, based on the same failed belief that there are a discrete, scientifically verifiable number of indicators for who will become a terrorist. And it has exactly the same kind of domestic intelligence gathering overtones and associated risks to the constitutional rights of those identified -- or misidentified -- as alleged terrorists-in-waiting.

These CVE programs and proposed laws are little more than expensive, wasteful, and discriminatory "counterterrorism theater" designed to convince the non-Muslim public that federal officials are "doing something" about the threat from ISIS here at home. And indeed these CVE-related actions are doing something: they are causing us to "fall short of our ideals" yet again, handing ISIS and like-minded extremists unearned victories at the expense of our Arab- and Muslim-American neighbors. Victory against ISIS does start here at home -- by ending policies and programs that treat all Arab- and Muslim-Americans as suspects first, and citizens a very distant second.

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