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Dear Community Members, Mosques, and Community-based Organizations,

In 2014 Attorney General Eric H. Holder, Jr. announced a pilot program purporting to establish law enforcement partnerships with Muslim communities in Boston, Minneapolis, and Los Angeles. This program, called Countering Violent Extremism (CVE), was created by various federal government agencies seeking to counteract what the U.S. government has called “violent extremist radicalization.” In response to requests by Muslim community members, organizers, and leaders, CLEAR has created this guidance document for those who are approached to participate in any such engagement program by law enforcement agencies, whether federal or local, whether formally part of CVE or not.

### Reaching an Informed Decision

While community members, mosques, and community based organizations value meaningful engagement and productive relationships with law enforcement, it is critical that decisions with respect to any community outreach or engagement program are reached in a fully informed fashion. To that end, it is important to evaluate how the following may affect your participation in CVE or any other form of engagement with local or federal law enforcement:

- **Community outreach programs may be used to gather information about community members, mosques, and community based organizations.** Law enforcement has a well-documented history of conducting intelligence gathering under the guise of community outreach. Such deceptive practices undermine the trust and cooperation that outreach is meant to build.
- **Community members, mosques, and community organizations might be asked to report on the political ideology and religious expression of others.** Law enforcement has a well-documented history of relying on flawed radicalization models that look upon political speech and religious expression as “indicators” or “predictors” of violent extremism. Under the rubric of CVE, law enforcement may task participants with reporting on the ideology and religious expression of others within their community. Targeting individuals on the basis of such “predictors” stigmatizes certain political or religious expression and improperly chills constitutionally protected thought, speech and activity.

CLEAR is available as a resource to discuss these issues and support communities in their decision-making process, so that those communities can reach fully informed decisions with awareness of potential unforeseen consequences. We are honored to attend board meetings or other gatherings.

**If approached to participate in a community outreach or engagement effort and you have questions or concerns about participating, or otherwise would like to discuss your mosque or organization’s protocol for engaging with law enforcement, please contact CLEAR:**

E-mail: [cunyclear@law.cuny.edu](mailto:cunyclear@law.cuny.edu)

Phone: (718) 340-4558

## What is CVE?

In September 2014, the Department of Justice announced the launch of new pilot programs for Countering Violent Extremism (“CVE”). Attorney General Eric H. Holder, Jr. described the pilot programs as an effort 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.” The program aims to involve religious leaders, school officials, healthcare providers, and community groups in efforts to detect and deter “violent extremism

## Who created CVE?

The Justice Department, the Department of Homeland Security, the National Counterterrorism Center, and the White House are involved in the administration of the program, but its implementation will likely also involve other federal and local law enforcement agencies.

## Who is participating?

Responses among Muslim communities have varied. Some groups have agreed to participate while others have expressed concern. For example, the Shura Council of Southern California, CAIR-LA, and MSA-West have all made the decision not to participate in CVE. Prominent civil rights groups have also expressed deep concerns and continue to raise them with officials.

**Where?** To date, the program has been launched in three U.S. cities: Boston, Minneapolis, and Los Angeles. It is unclear why these cities were selected for the launch of the program. It is likely that CVE will be expanded to other cities.

## Potential Concerns

- **Intelligence gathering:** Participating law enforcement agencies have gathered information about communities under the guise of community outreach in the past. Information gathered from CVE could be used as part of ongoing surveillance and mapping of Muslim communities.
- **Lack of transparency:** As of now the available descriptions of these pilot programs reveal little about what they actually entail, what participants are required to do, and what if any accountability exists. Additionally, the administration has not consulted with a broad range of groups regarding the planning, content, and implementation of CVE.
- **Impact on political speech/religious activity:** Participants may be tasked to identify individuals “at risk” for “radicalization”, which may include monitoring and reporting on the political speech or religious activity of others.
- **Stigmatizing Muslim communities:** CVE’s focus on Muslim communities stigmatizes Muslim communities as inherently suspect, furthering discrimination and anti-Muslim bias.



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The CLEAR project is housed at Main Street Legal Services, Inc., the clinical arm of the CUNY School of Law. CLEAR primarily aims to address the legal needs of Muslim, Arab, South Asian, and other communities in the New York City area that are particularly affected by national security and counterterrorism policies and practices deployed by various law enforcement agencies. Our work is defined by our relationships with communities and grassroots organizations whose members wish to shape and respond to national security and counterterrorism policies and practices affecting them. CLEAR's community-oriented approach combines free legal representation with other services directed at satisfying the fuller range of community concerns. CLEAR represents and advises community members as they respond to requests for voluntary FBI interviews, during searches by law enforcement, as they consider charitable giving options, and in the course of overseas and domestic travel. CLEAR also offers Know Your Rights workshops and supports community organizing in all of these issue areas.

CLEAR services are free of charge. We can be contacted at:

Phone: 718-340-4588

E-mail: [cunyclear@law.cuny.edu](mailto:cunyclear@law.cuny.edu)

## **Introduction & Purpose**

The purpose of this document is to provide general guidance for community institutions, organizations, and mosques when they are approached for community outreach or engagement by law enforcement.

Muslim, Arab, South Asian, and other communities in New York City and beyond value meaningful engagement and productive relationships with law enforcement. Furthermore, community members take seriously their civic duties to assist in criminal investigations and have their own concerns about public safety.

To that end, it is important to have a clear understanding of what community outreach/engagement with law enforcement should and should not entail:

- ✓ Community outreach *should be* a way to enhance mutual understanding between the community and law enforcement.
- ✓ Community outreach *should not be* a tool for law enforcement to gather information about local communities, or to ask community members to report on each other.

Local and federal attempts at community outreach may take the following forms (recent examples):

- DHS roundtables
- Community “resilience” exercises
- General invitations from FBI/US Attorneys’ office to discuss how to conduct outreach with the community
- FBI Forum co-hosted with community organization about terrorism

In September 2014, the White House announced a revamping of its Countering Violent Extremism (CVE) program. CVE is based on a program in the UK called Prevent and uses models of community policing whereby federal agencies hope to deter certain types of violent crime by partnering with American Muslim communities. Certainly, community engagement and outreach by law enforcement and other government agencies is not new, and unfortunately such engagement has been used historically to collect intelligence about communities and can result in stifling political and religious expression. This guidance is meant to serve as a starting point from which community members, organizers, and leaders can consider the potential consequences, preferably in consultation with attorneys at CLEAR or elsewhere, of participation in community engagement programs.

### **Reaching an Informed Decision**

The key takeaway of this guidance is that community members, mosques, and community-based organizations should reach an informed decision when considering whether to participate in community engagement or outreach efforts. It is important to recognize that participation in these programs is *voluntary*. Your individual organization or mosque is always free to choose not to participate or to stop participating.

CLEAR is available as a resource to support members and leadership as they think through these factors. We will be able to tailor advice to your specific institution or mosque.

### **Considerations**

Consider the following to reach an informed decision about participating.

<b>Information sharing: what information will be gathered by law enforcement and government agencies, where will it be stored, and who will have access to it?</b>
Knowing what types of information may be gathered is an important consideration for reaching an informed decision. These programs, whether framed as roundtables where community members directly meet with law enforcement, or as increased focus on job training and youth programs, may involve the storage of information concerning community members who participate, and possibly even those who do not. Without a clear picture of what type of information is being collected through these efforts, where that information is stored, and who has access to it, it is possible that participation may leave community members vulnerable in other settings (criminal investigations, applications for immigration benefits, Family Court, mental incapacitation proceedings, etc.). Where participating community organizations receive funding through CVE or similar programs, it is also necessary to consider that funding likely comes with potentially problematic reporting requirements.

**Tasks and responsibilities: will community members and leaders be tasked with providing information about others, and if so, what type of information?**

Having a clear sense of the roles and responsibilities of participants is also a significant consideration for meaningful engagement and productive relationships. CVE trainings and programs, as other programs in the past, may be based on flawed “radicalization” models that focus on political speech, religious behavior, and other social metrics as “indicators” or “predictors” of violence. These programs may require participants to identify individuals “at risk for radicalization” on the basis of those “indicators.” Participation in these programs may thus leave community members vulnerable, as their political or religious expressive activity, or other social behavior relating to family and community life may be monitored by others in the community. If it becomes clear that participants are being tasked with providing information about other community members, such a situation is likely to sow seeds of distrust among an institution’s members or congregation and is likely to chill constitutionally protected spiritual, thought, and speech activity.

**Accountability: who is participating and who is in charge?**

Determining which agencies are participating, whether federal or local, and who precisely is in charge is also important for reaching an informed decision. Knowing who is participating and who is the lead agency or is directing outreach or engagement efforts will help ensure accountability should any issues arise. Additionally, if the U.S. Attorney’s Office is in charge – as appears to be the case for the CVE pilot cities – and the FBI is also participating, it is important to keep in mind that the U.S. Attorney is a prosecutor and that the FBI is primarily an investigative agency that has in the past gathered information about community members under the guise of community outreach. Given this recent history, it may be difficult to establish the mutual trust necessary for productive engagement.

To fully think through these considerations, there are many questions worth asking, preferably through your attorneys at CLEAR or elsewhere:

- ✓ What are the conditions for participating?
- ✓ Which agencies are involved?
- ✓ Will the agencies involved impose any reporting requirements?
- ✓ What type of information will be gathered through these programs?
- ✓ Who will have access to information gathered through these programs?
- ✓ Will participants be tasked with providing information about other community members?

## **Meaningful Engagement with Law Enforcement**

Engagement will be most meaningful when it is the result of a collective mobilization strategy sustained and developed across the community. Building towards meaningful engagement with law enforcement (as opposed to accepting the government's flawed CVE framework) requires a defined political agenda and goals for that engagement with law enforcement or other government agencies. This will ensure that any engagement takes place on the community's own terms and advances the community's concrete goals. It will also help in terms of accountability down the road.

Another important component of meaningful engagement with law enforcement is ensuring that it is carried out in a rights-protecting manner. To that end, CLEAR is providing core principles that should be implemented in any attempt at meaningful engagement. To be clear, these principles do not signal CLEAR's endorsement of participation in CVE or other government-initiated activities. As noted above, that is a careful, case-by-case assessment. Rather, these principles are intended to provide concrete examples of issues that should be assessed prior to launching a community initiated effort towards meaningful engagement with law enforcement.

If your institution or mosque needs support in organizing towards meaningful engagement along these principles, CLEAR can work with you in a manner that will be tailored to your particular community's needs and dynamics.

### **Meaningful Engagement with Law Enforcement: Core Principles**

- Community members, mosques, and community-based organizations must set the agenda for engagement through a process of internal consultation, including specific goals, objectives, and indicators to evaluate outcomes.
- The goals of engagement must include a range of community concerns and demands, and must not be limited to the subjects of terrorism and extremism.
- Community members, mosques, and community-based organizations will hold officials accountable regarding requests and demands made during any engagement initiatives.
- Community based organizations and mosques will not participate in engagement efforts when there is any risk that they result in any intelligence gathering.
- Community members and religious leaders will not be asked to provide information about other individuals. This includes providing information about the political or religious beliefs or affiliations of other community members, or other personal details, including immigration status, criminal, or mental health background.
- Imams and spiritual advisers' relationship of confidentiality with their congregants will be respected. As such, they will not provide information about their congregants' personal lives, political or religious views or affiliations.
- Community members will not be asked to provide their opinions about particular events, whether local, national or international.