

ARE YOU BEING WATCHED?

CAIR-NY's Anti-Surveillance Project



ANTI-SURVEILLANCE
PROJECT
NEW YORK



CAIR
NEW YORK

THANK YOU

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CAIR-NY would also like to recognize our ASPNY Fellow, Anna Ellison, and all those who played an integral part in the creation and implementation of ASPNY.

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ABOUT CAIR-NY & ANTI-SURVEILLANCE PROJECT NEW YORK (ASP NY)

As America's premier Muslim civil rights group, the Council on American-Islamic Relations (CAIR) has worked for more than 20 years to defend the U.S. Constitution. The New York chapter is one of the busiest and most dynamic of CAIR's 35 nationwide affiliates - defending, representing, and educating nearly one million Muslims in the New York area.

OUR VISION

CAIR-NY's vision is to be a leading advocate for justice and mutual understanding.

OUR MISSION

CAIR-NY's mission is to enhance the understanding of Islam, protect civil rights, promote justice, and empower Muslim Americans.

CAIR-NY serves the Muslim-American Community through legal advocacy, education, media relations, civic engagement and grassroots mobilization. As a first line of defense, CAIR-NY protects New Yorkers who have experienced discrimination, harassment, hate crimes, and more. We combat Islamophobia and systemic discrimination in all its forms.



ABOUT ASPNY

CAIR-NY created the Anti-Surveillance Project to educate New Yorkers about the prevalence and methods of surveillance, and to empower the public through community organizing and civic engagement specifically focused on ending these abusive practices.

**MUSLIMS ARE
ABOUT 3% OF
NYC'S
POPULATION,
BUT ARE THE
TARGET OF 95%
OF THE NYPD'S
SURVEILLANCE.**

- According to a 2016 report from the Office of the
Inspector General for the NYPD

TARGETING OF MUSLIMS

Muslim communities in the New York area have been ethnically and religiously profiled and unconstitutionally surveilled by law enforcement at an astounding rate. A 2016 investigation of NYPD practices by the Office of the Inspector General found that while Muslims make up only about 3% of New York City's population, Muslims were the targets of 95% of the NYPD's surveillance. Since at least 2002, the NYPD's Intelligence Division engaged in the unjustified religious profiling and surveillance of Muslims in New York City and beyond. Their practices included:

- ❖ Mapping Muslim communities based on "ancestries of interest"
- ❖ Arranging for photo and video surveillance of mosques and community centers, capturing the license plates and likenesses of attendees
- ❖ Sending undercover police informants called "crawlers" into houses of worship, schools and universities, social justice organizations and community gatherings
- ❖ Creating daily reports on the lives of innocent Muslim New Yorkers, thousands of which remain in secret police files, potentially being shared with federal agencies
- ❖ Failing to comply with Freedom of Information Law (FOIL) requests regarding surveillance policies, thereby blocking any attempts at transparency



Muslim New Yorkers have also been subject to unjustified surveillance at the federal level, where federal agencies employ the following practices:

- ❖ Profiling Muslims and other people of color at airports and at U.S. borders based on race or other supposed markers of religiosity
- ❖ Constructing secret watchlists of hundreds of thousands of innocent Americans based on race and/or religion and even surveilling travelers not suspected of crime through programs like “Quiet Skies”
- ❖ Using the federal government’s “Countering Violent Extremism” initiative to encourage Muslim Americans to spy on their own community members
- ❖ Targeting innocent Muslim New Yorkers in efforts to aggressively gather intelligence, though they are not suspects of any crimes

METHODS & TOOLS OF NEW YORK POLICE DEPARTMENT (NYPD) SURVEILLANCE

Advancements in technology have allowed the NYPD unprecedented access into everyday civilians’ phones, homes, and lives.

STINGRAY CELL PHONE SURVEILLANCE

(ALSO KNOWN AS “CELL SITE SIMULATORS” OR “IMSI CATCHERS”)

Estimated cost:

\$169,000

per Stingray vehicle with one year of maintenance

Stingrays are cell phone surveillance devices that imitate a cell tower by sending out signals to trick nearby cell phones into sending their locations and identifying information. This allows those using stingrays to track a cell phone user’s location. However, when used to track a suspect’s cell phone, these devices also gather information from the phones of innumerable bystanders. The devices can record every phone number the phone has texted, called or received. In some cases, these devices collect the content of those calls and text.

The NYPD does not require a search warrant or probable cause to use this technology. Moreover, only 2 out of 1,016 uses of the stingray targeted suspected terrorist activity according to the NYPD's own activity log.

MOBILE X-RAY VANS

Estimated cost:

\$729,000-\$825,000 per van

These vans are military-grade surveillance tools that enable the NYPD to use x-rays to create high-resolution images of the insides of your home or your car without a search warrant. The NYPD refuses to disclose how mobile x-ray vans operate and in what capacity they are used.

SOCIAL MEDIA MONITORING

At a New York City Council hearing in 2018, NYPD Chief of Detectives stated that just like public places, "public social media platforms are patrolled" by the NYPD. According to a New York Times report, the NYPD has impersonated fictitious female teenagers, sending friend requests to underage individuals to view their private posts. This is in direct violation of Facebook's policies.



Social media monitoring, however, is complex and rarely straightforward. The depth of a "like" or "share" can be interpreted different ways by different people. Moreover, the NYPD's monitoring of social media could impede an individual's First Amendment right to freedom of expression. Social media is meant to connect people and promote engagement, but surveillance by law enforcement could undermine and stifle such participation.

Companies like Geofeedia scrape images from social media platforms, such as Facebook, Instagram, and Twitter, and run them through facial recognition software. These can be used to track protestors pictured in their own or other people's social media posts.

Facial recognition technology is often inaccurate and civil rights advocates warn it could lead to a heightened number of false arrests and misidentification. Notably, research has shown the technology performs less accurately on people with darker skin.

PROJECT HEMISPHERE

Estimated cost:

\$100,000 to \$1 Million

AT&T's secretive mass surveillance program, Project Hemisphere, allows law enforcement to buy records going back to 1987 so they can track callers' whereabouts and contacts without a warrant. Project Hemisphere is similar to the National Security Agency (NSA) spying program uncovered by Edward Snowden but is even bigger, adding 4 billion call records to its database each day.

MENTAL HEALTH EFFECTS

Humans are social creatures, and we depend on feeling free to interact with other humans for our health and happiness. Limiting the social, interactive component of a person's life often has an undeniably negative effect on their mental health. However, a fear of being watched and monitored causes individuals to "self-police," thereby curtailing the freedom to socialize and interact with others. Everyday autonomous choices, like whom to meet or where to go, create anxiety for victims of surveillance.



Being subject to surveillance impacts a victim's self-perception, and breeds a feeling of otherness. Given that surveillance often targets Muslim Americans, transparency through legislation is critical to better understand the discriminatory impact of surveillance technologies.

For years, the NYPD has targeted predominantly Muslim communities and Muslim families with unlawful and unconstitutional surveillance. A consequence of such discriminatory treatment is exclusion, as groups who are targeted by law enforcement can become falsely viewed as problematic or radicalized.

Mosques and local businesses have been spied on and labeled as "place[s] of concern" just because they have customers of Middle-Eastern descent. Subsequently, many Muslim New Yorkers have felt the need to self-censor their religious practices.

SURVEILLANCE ON MUSLIM STUDENTS

The NYPD identified seven MSA's as of concern: Baruch College, Hunter College, La Guardia Community College, City College, Brooklyn College, St. John's University and Queens College.

New York's Muslim Student Associations (MSA) have been targeted with informants and undercover officers for as little as organizing a rafting trip, or for having members deemed "politically active." The result of this discrimination has been self-censorship and disengagement by MSA members. For instance, at Brooklyn College, following disclosure of on-campus surveillance by the NYPD, attendance of Islam Awareness Week events plummeted. One student at City University of New York (CUNY) said that she no longer knew whom to trust.

Research has shown that government surveillance leads to heightened levels of stress, fatigue, anxiety, fosters distrust, and reduces our sense of personal control. As illustrated by the experiences of Muslim students across the state, being subject to surveillance can impact one's ability to form healthy and meaningful relationships with other people.

THE POST ACT



OUTLINING THE PROBLEM

The NYPD has quietly amassed a broad range of new surveillance technologies without public notice, debate, or oversight.

Stingrays that track and capture cell phone data, and mobile vans that use radiation to see through walls and vehicles, are just two of the many invasive technologies NYPD utilizes for surveillance. For example, ShotSpotter is a gunshot detection service with sensitive microphones that can record nearby conversations. The NYPD also uses automatic license plate readers that can track and predict a person's location.

The invasive data collected from these technologies is integrated by the Domain Awareness System (DAS) which can be used to track you and predict your behavior. DAS is a system of tools and databases delivering information directly to police officers. Though there is little transparency as to who this information is being shared with, activists learned last year that data collected by the NYPD is being shared with Immigration and Customs Enforcement (ICE) and has been used to deport immigrant New Yorkers.

Under a loophole in New York City law, the NYPD can fund these purchases with private donations and federal grants without notifying elected lawmakers, thereby reducing the room for oversight by City Council. To make matters worse, these law enforcement tools, like other tools in the past, are being used to disproportionately target marginalized communities, including communities of color and immigrant communities.

OUTLINING THE POST ACT

How does the POST Act counter these problems? The Public Oversight of Surveillance Technology Act (Post Act) is a bill introduced to the New York City Council to increase transparency and oversight over the NYPD's use of surveillance technology. The Act would establish transparency so that citizens and elected lawmakers are aware of what surveillance technologies are being purchased, and how they are being used, in order to have an open debate about how they might compromise your privacy rights.

It is important to note that the information required by the POST Act will not compromise the NYPD's investigatory duties by disclosing operational details. However, the POST Act does allow citizens and law makers to at least partially examine the discriminatory impact of targeted communities, like Muslims and other minorities. The only way to work towards solutions is to know how surveillance is being used and how the data is being shared. The POST Act is necessary for lawmakers, government, and community members to effectively serve as watchdogs and to guarantee the privacy rights of every New Yorker.

**CALL YOUR COUNCIL
MEMBER TODAY AND
DEMAND THEY PASS
THE POST ACT.**

GOVERNMENT WATCHLIST

Thousands of innocent New Yorkers could be on a watch list... and you might be one of them.

The government has secretly characterized several individuals as threats or potential threats to national security and put them on a watch list. CAIR-NY is working tirelessly to fight these arbitrary and ineffective watchlists, because we believe in our Constitution's promise that every person in America deserves equal treatment under law.

The reasons people can be placed on the watchlist are inconsistent and poorly reviewed. For example, individuals have been placed on watchlists due to an error and then not removed for years. The government's strict policy is to neither confirm nor deny one's watchlist status. This makes it nearly impossible to meaningfully contend one's watchlist status.

Being placed on a watchlist can prevent you from being able to travel overseas; subject you to invasive screening at airports; make you ineligible for a U.S. visa; and make you a target for detention and questioning by U.S. authorities.



Several indicators might suggest that you are on a government watchlist:

- ❖ Have you or your family members ever been approached or interrogated by FBI agents?
- ❖ Have you had issues with financial transactions or faced bank account closures?
- ❖ Are you and your family members regularly subjected to additional screening, prolonged delays, or extensive questioning when you travel?
- ❖ Do you have difficulties checking in online or with kiosks at the airport?
- ❖ Have you ever been refused permission to fly?
- ❖ When you fly, have you ever spotted four consecutive Ss on your boarding pass?

Multiple lawsuits challenging the government watchlist have been filed by CAIR. On September 4, 2019, CAIR secured a historical landmark victory against the watchlist after litigation in the United States District Court for the Eastern District of Virginia. Here, a federal judge agreed that the watchlist violates due process and creates extensive harm to those placed on it. As further legal challenges continue, this judgement marks a first step towards ending this unconstitutional program.

COUNTERING VIOLENT EXTREMISM

WHAT IS COUNTERING VIOLENT EXTREMISM (CVE)?

In 2014, the U.S. government announced a new anti-terrorism initiative in the United States called Countering Violent Extremism (CVE). The program was intended to prevent U.S. residents from joining "violent extremist" groups by targeting individuals believed to be becoming radicalized. Individuals on the path to radicalization were to be identified by law enforcement with the help of community leaders, fellow members of the community, and school teachers.



The government's CVE initiative raises many issues. They include concerns that government-led CVE is not an effective use of public resources, that it often relies on subjective measures, and that its efficacy is questionable. Observers note that CVE is generally driven by news events, that the current program exclusively targets Muslim Americans, and find claims that the government is targeting all forms of violent extremism are inconsistently supported. There are arguments that the current CVE initiative undermines national ideals, such as government not having a role in the free exercise of religion.

According to Faiza Patel and Meghan Koushik from the Brennan Center for Justice at New York University (NYU), Countering Violent Extremism (CVE) intervention programs are framed as community-led efforts to counsel young Muslims. In reality, however, these programs are largely led, funded, and administered by law enforcement agencies, including the Department of Justice, Homeland Security, and the FBI.



Opposition to violent extremism is consistent among Muslim American leadership. Al-Qaeda, ISIS, and their ideological allies kill more Muslims than people of any other faith. Actions demonstrating Muslim leadership opposition to such extremism has been acknowledged by former U.S. Attorney General Holder, former FBI Director Mueller, and former National Counterterrorism Center Director Leiter.

Nonetheless, the underlying basis of CVE programs deform the perception of Muslims as an inherent security risk. Consequently, law enforcement's analysis of the Muslim community is skewed through a security lens. Even worse, CVE measures attempt to use the Muslim community itself to promote the validity of this narrative. The ramifications of this bias include tainting the public discourse on violence committed by different actors. Muslims are labeled as terrorists while non-Muslim actors are often portrayed as victims of social, emotional, and/or mental issues.

OUTLINING THE POST ACT

CVE programs promote disproven theories that are not grounded in science, as noted by the American-Arab Anti-Discrimination Committee in their report on CVE programs. The CVE framework is based on concepts such as the “radicalization theory” that posits that there is a discernible path that an individual follows to become radicalized and ultimately commit a violent act. Another theory is rooted in the concept of “indicators,” the idea that certain identifiable characteristics in an individual can determine whether they are on the path to commit a violent crime. These theories have been debunked by numerous academics and politicians yet still provide the framework for the CVE program.



The use of these inherently biased indicators result in the default marginalization of entire groups of people, namely Muslims. Common practices of Muslims that the FBI and NYPD have used as indicators for signs of a threat risk include:

- ❖ Wearing traditional Muslim attire, growing facial hair;
- ❖ Frequent attendance at mosque or prayer group;
- ❖ Travel to a Muslim country;
- ❖ Increased activity in a pro-Muslim social group or political cause;
- ❖ Giving up cigarettes, drinking, gambling, urban hip-hop gangster clothes;
- ❖ Reading religious scripture;
- ❖ Showing unusual maturity and seriousness

CVE IN THE TRUMP ERA

The problems inherent in the CVE approach have only been exacerbated under the Trump administration. According to a report from the Brennan Center for Justice at NYU, the Trump administration has nearly tripled the amount of CVE funding that feeds directly to law enforcement agencies—an increase from \$764,000 to \$2,340,000. Moreover, despite the mental health effects of surveillance and opposition from teachers, 14 out of 26 programs funded by the Department of Homeland Security (DHS) target schools and students, some as young as five years old.

The Trump administration has provided funding to surveil Muslim communities, Black Lives Matter activists, LGBTQ Americans, immigrants, and refugees. These CVE programs promote discriminatory beliefs and practices that have a substantial impact on the communities they target.

The impact of this surveillance has had tremendous effects. Law enforcement has further stigmatized what is already one of the most marginalized communities in New York City, and in turn has solidified Muslims' suspicion and fear of law enforcement. Imams (religious leaders) record their sermons knowing their words can be taken out of context. Young children hesitate to identify themselves as Muslim. College students are too afraid to research "controversial" subjects or take up leadership roles in their campus communities. Even hate crime victims forgo reporting the crimes committed against them to avoid interacting with NYPD.

Additionally, the stigma of surveillance on the Muslim community has itself bred suspicion and otherization based on faith, national origin, and ethnicity. These actions potentially feed into the 974% increase in anti-Muslim discrimination that CAIR-NY tracked from 2015-2017. This is no different from what CAIR sees at the national level: in 2017 alone, 35% of all anti-Muslim bias incidents stemmed from government agency-instigated episodes—almost double the figure for 2016 and triple that of 2015.





Americans are constantly under surveillance but little is known about how information is being collected and how it is being used. Law enforcement methods and technology are rapidly advancing, but accountability and transparency are lagging.

CAIR-NY launched the ASPNY to start a public discussion about NYPD surveillance methods and demand oversight from public officials.

The primary goals of the Anti-Surveillance Project are:

- ❖ To pass the POST Act so New Yorkers will know the surveillance tools and practices of the NYPD
- ❖ To raise awareness about how NYPD surveillance efforts target Muslims, immigrants, and other marginalized groups
- ❖ To empower New Yorkers through educational workshops and events

To learn more about our efforts and how you can help, please visit our website at:

www.aspny.org



CAIR-NY
www.cair-ny.org
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CAIR-NY's mission is to protect civil liberties, empower Muslim Americans, and build coalitions that promote justice and mutual understanding. Through legal representation, education, media relations, and advocacy, CAIR-NY empowers the Muslim American community and encourages their participation in political and social activism. CAIR-NY counsels, mediates, and advocates on behalf of Muslims and others who have experienced discrimination, harassment, or hate crimes. We work to protect and defend the constitutional rights of Muslim Americans, thus supporting the rights of all Americans.

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Council on American-Islamic Relations, New York