



April 26, 2012

Hon. Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Inspector General Horowitz,

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

LAURA W. MURPHY
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

ROBERT REMAR
TREASURER

We write to express our grave concern that the Federal Bureau of Investigation (“FBI”) has improperly targeted American Muslims and Americans of Arab, Middle Eastern, and South Asian descent, and their religious, community, cultural, and student organizations, and that it has violated the Privacy Act by recording and disseminating as intelligence, information about these innocent Americans’ First Amendment-protected speech and activities. The FBI’s own records, obtained through a Freedom of Information Act (“FOIA”) request, show that from at least 2004 through 2010, the San Francisco and Sacramento FBI field offices documented and disseminated records on American Muslims’ exercise of their First Amendment rights, including: the content of a religious sermon;¹ the content of identified speakers’ speeches at community events;² individuals’ religious affiliations and associations;³ and the expressive content of conversations with community members, religious congregants, and students.⁴ We respectfully request that the Office of the Inspector General (“OIG”) investigate these abuses, which are described in greater detail in the attached Appendix, and take measures to curb them.

The FBI’s improper targeting of domestic groups for investigation is not a new phenomenon. In 2010, the OIG investigated allegations that the FBI had improperly targeted American advocacy groups based solely upon their exercise of First Amendment rights. That OIG investigation was in response to a number of congressional inquiries based on documents obtained through ACLU FOIA requests.⁵ The OIG’s resulting September 2010 report revealed several instances in which the FBI initiated surveillance and/or investigations of advocacy groups with insufficient documentation and questionable justification;⁶ provided inaccurate and misleading justifications to extend or expand investigations;⁷ misclassified non-violent civil disobedience as terrorism;⁸ and, most troubling, collected information “almost exclusively focused on the First Amendment activities of persons who were not the subject of any investigation,” which “raised serious questions under the Privacy Act, the Attorney General’s Guidelines, and FBI policy.”⁹ The report raised concerns about 2008 amendments to the

Attorney General's Guidelines which expanded the FBI's authority to initiate investigations without factual predication, and urged the FBI to carefully consider the findings and recommendations "to help avoid similar problems" in the future.¹⁰

Similar concerns now arise based on FBI documents produced in response to a FOIA lawsuit filed by the ACLU of Northern California, the Asian Law Caucus, and the San Francisco Bay Guardian. These documents reveal two disturbing patterns.

First, the FBI targeted American Muslims and Americans of Arab, Middle Eastern, and South Asian origin for intelligence gathering under the guise of mosque or community outreach programs at mosques, community organizations, and college campuses, based on their religion or national origin. Freedom of religion is a foundational element of American democracy, guaranteed by the First Amendment. Our Constitution also requires equal treatment under the law of all people, regardless of their religion or national origin. Law enforcement investigations that wrongly single out Americans based on religion or national origin and not on any suspicion of wrongdoing betray our most fundamental values. Moreover, FBI investigations and intelligence gathering under the guise of community outreach and mosque outreach undermine the trust of the community in law enforcement. There is no indication in the documents described in the Appendix to this letter that the targeted community members and organizations were informed that FBI outreach activities were being used for intelligence gathering purposes, or that the information shared with FBI officials in these informal settings would be documented and stored in intelligence files, shared with other law enforcement and intelligence agencies, and potentially used to target these individuals, their organizations or communities for further investigation.

Second, through these "outreach" efforts, and as almost every document cited in the Appendix shows, the FBI recorded intelligence about Americans' religious beliefs and practices, associations, opinions, and expressive activities in violation of the Privacy Act. But, Congress passed this law specifically to prohibit the FBI (and other federal agencies) from maintaining records describing individuals' exercise of their First Amendment rights absent very limited circumstances.¹¹

Protecting the United States from crime and terrorism does not necessitate violating the rights of innocent people. Indeed, our nation's security would be far-better secured if the FBI invests its resources into developing honest and transparent community relationships and investigating factually predicated criminal and terrorist activity, instead of focusing on innocent Americans' constitutionally protected activities.

We therefore respectfully urge you to investigate the pattern of abuses documented in the Appendix, and to remedy them by:

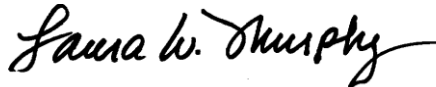
- 1. Initiating an audit of FBI practices at the San Francisco and Sacramento FBI field offices and throughout the nation to determine whether the FBI is improperly targeting American Muslims, Americans of Arab, Middle-Eastern, South Asian origin, and their religious and community organizations for assessment, investigation, or intelligence collection based upon their First Amendment-protected activities;**

2. Investigating Privacy Act violations within the FBI's San Francisco and Sacramento Divisions, including those summarized in the Appendix; and

3. Providing policy recommendations to ensure that the FBI stops misusing community outreach and mosque outreach programs to gather intelligence on innocent Americans and to prevent it from recording and disseminating as intelligence Americans' First Amendment-protected activities.

Thank you for your attention to this matter. If you have any questions, please contact Devon Chaffee, Legislative Counsel, by e-mail at dchaffee@dcaclu.org, or by phone at 202-675-2331.

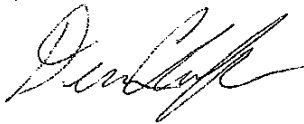
Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Hina Shamsi
Director, National Security Project



Devon Chaffee
Legislative Counsel



Nusrat J. Choudhury
Staff Attorney, National Security Project

Endnotes:

¹ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Mar. 8, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017871.pdf> (San Francisco FBI memorandum naming individual who gave a sermon at a mosque in Seaside, CA that “warned of the evils associated with the practice of earning interest on money”).

² Federal Bureau of Investigation, Electronic Communication: Mosques Outreach Contacts, Oct. 3, 2007, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017973.pdf> (San Francisco FBI memorandum naming members of Islamic Networks Group and the Council of American-Islamic Relations who spoke at a Ramadan open house and describing the content of their speeches and views).

³ Federal Bureau of Investigation, Electronic Communication: Civil Rights Public Outreach Matters, San Francisco Division, May 11, 2007, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM012669.pdf> (San Francisco FBI memorandum identifying 50 individuals as representatives of Muslim community and religious organizations that attended a mosque outreach meeting).

⁴ Federal Bureau of Investigation, Electronic Communication, Sept. 25, 2008, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM013443.pdf> (San Francisco FBI memorandum describing substance of views and expressive activities of several identified attendees at a Ramadan Iftar); Federal Bureau of Investigation, Electronic Communication, June 19, 2009, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM013448.pdf> (San Francisco FBI memorandum identifying leaders of an Assyrian community organization and describing the organization's expressive activities and the content of conversations concerning members' opinions, backgrounds, travel histories, educations, occupations and charitable activities); Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Jan. 17, 2006, <http://www.aclu.org/files/fbimappingfoia/20120217/ACLURM017916.pdf> (San Francisco FBI memorandum identifying members of a Shia Muslim organization and describing their religious affiliations and expressive activities); Federal Bureau of Investigation, Electronic Communication, Feb. 22, 2010, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM007350.pdf> (Sacramento FBI memorandum naming a student interviewed at California State University in Chico, CA, describing him as a Sunni Muslim of Saudi heritage, and documenting his views on challenges confronting Saudi students in the United States).

⁵ Dep't of Justice, Office of Inspector General, A Review of the FBI's Investigations of Certain Domestic Advocacy Groups 1 (2010), *available at* <http://www.justice.gov/oig/special/s1009r.pdf>.

⁶ *Id.* at 181-84.

⁷ *Id.* at 176-77.

⁸ *Id.* at 185, 188.

⁹ *Id.* at 179-80.

¹⁰ *Id.* at 190-91.

¹¹ *See* 5 U.S.C. § 552a(e)(7).

APPENDIX A

- The San Francisco FBI met with members of the South Bay Islamic Association five times ([1](#), [2](#), [3](#), [4](#), & [5](#))¹ from 2004 to 2007. FBI agents documented as “positive intelligence” and disseminated outside the FBI an [individual’s complaint](#)² of travel delays during the Hajj pilgrimage caused by the No Fly list, as well an [individual’s conversation](#)³ about the Hajj, “Islam in general,” Muslims’ safety in the U.S., and community fears regarding an FBI investigation of imams in Lodi, California. Two memoranda from [2006](#)⁴ and [2007](#)⁵ contain no descriptive information apart from the name and location of mosques contacted by the FBI, which might be appropriate to record in a normal community outreach context, but these documents were instead classified as “secret,” labeled “positive intelligence,” and disseminated outside the FBI.
- The San Francisco FBI visited the Seaside Mosque five times in 2005 for “mosque outreach,” and documented congregants’ innocuous discussions regarding [frustrations over delays in airline travel](#),⁶ a property [purchase of a new mosque](#),⁷ where men and women [would pray at the new mosque](#),⁸ and even the [sale of date fruits after services](#).⁹ It also documented the subject of [a particular sermon](#),¹⁰ raising First Amendment concerns. Despite an apparent lack of information related to crime or terrorism, the FBI’s records of discussions with mosque leaders and congregants were all classified as “secret,” marked “positive intelligence,” and disseminated outside the FBI.
- A 2005 San Francisco FBI [memorandum](#)¹¹ contained a detailed description of the Islamic Center of Santa Cruz, and documented a meeting with a congregant, including his name and religious affiliation, and his discussion of congregants’ financial contributions to the Center and community support for Islam. The document was classified as “secret,” marked “positive intelligence,” and disseminated outside the FBI.
- A 2005 San Francisco FBI [memorandum](#)¹² described contacts with a representative of the South Bay Afghan Community Center and failed attempts to set up an outreach meeting with the Afghan Cultural Center. The document identifies the representatives of each organization, and lists the address and phone number of the Afghan Cultural Center. This information was described as “positive intelligence” and disseminated outside the FBI.
- A 2005 San Francisco FBI [memorandum](#)¹³ described a meeting with a representative of the Granada Islamic School at the Santa Clara Muslim Community Association. The document detailed the school’s facilities and summarized a conversation regarding the school’s structure and its relationship with its parent organization. This information was described as “positive intelligence” and disseminated outside the FBI.
- A 2006 San Francisco FBI [memorandum](#)¹⁴ documented a contact with a named representative of the Islamic Network Group to discuss a recently written article, the name of which was redacted. This information was labeled “positive intelligence” and disseminated outside the FBI.

- A 2006 San Francisco FBI [memorandum](#)¹⁵ described attempts to make contact with Muslim Student Associations at two California colleges and contact with the Shia Muslim Association of the Bay Area (SABA) as part of the Mosque Outreach program. It documented an internet search on the De Anza College MSA and named the person contacted. The memorandum also documented an internet search on SABA, the names of members and their contact information, and a visit to the mosque. It described the mosque's facilities, the national origin of "most" congregants, and congregants' religious beliefs and practices, including observation of the month of Muharram. The memorandum attached the mosque's fliers and newsletter, which identified members and speakers at mosque services and described congregants' religious beliefs and practices and expressive activity. The memorandum was classified as "secret."
- A heavily redacted 2006 San Francisco FBI [memorandum](#)¹⁶ described a meeting with an individual at the Monterey Islamic Society Center and information about the individual's family and recent travels. The memorandum was disseminated outside the FBI as "positive intelligence."
- A 2007 San Francisco FBI [memorandum](#)¹⁷ documented a mosque outreach meeting attended by 50 people representing 27 Muslim community and religious organizations, analyzed the "demographics" of attendees, and identified each individual by name and organization. This memo was sent to three different case files.
- A 2007 San Francisco FBI [memorandum](#)¹⁸ documented two visits to the Anjuman-e-Najmi mosque in Fremont, California, identified congregants by name, described their conversations, associated them with the Dawoodi Bohra community of Shi'a Muslims, and reproduced the contents of a lengthy e-mail describing the community's religious beliefs and history. This information was labeled "positive intelligence" and disseminated outside the FBI.
- San Francisco FBI memoranda written in [2007](#)¹⁹ and [2008](#)²⁰ by FBI agents who attended Ramadan Iftar dinners through the FBI's mosque outreach program documented in several case files the names of attendees, the contents of participants' conversations and presentations, and the FBI's collection of pamphlets about different community organizations and identification of associated individuals. The 2008 memorandum documented individuals' contact information, opinions and associations, and reported that an agent conducted internet searches for further information about attendees, including a photo of a dinner participant. Both memoranda were "disseminated outside the FBI," presumably to other law enforcement or intelligence agencies.
- Two 2008 San Francisco FBI [memoranda](#)²¹ described contacts with representatives of the Bay Area Cultural Connections (BAYCC), which was formerly the Turkish Center Musalla. The first describes the history, mission, and activities of the BAYCC, the ethnicity of its members and its affiliation with another organization. The [second memorandum](#)²² indicates the FBI used a named meeting participant's cell phone number to search LexisNexis and Department of Motor Vehicle records, and obtained and recorded detailed information about him, including his date of birth, social security number, address and home telephone number.

- A 2008 San Francisco FBI [memorandum](#)²³ to an intelligence file documented “outreach activities” to a Pakistani community organization, identified the organization’s officers, directors and advisors, and recorded information about the organization’s First Amendment-protected activities, including operation of an Urdu-language radio program.
- A 2009 San Francisco FBI [memorandum](#)²⁴ described FBI “community outreach” through participation in a career day hosted by an Assyrian community organization. It reported on the organization’s expressive activities, the identities of several leaders, and the content of conversations with three community leaders and members about their opinions, backgrounds, travel histories, educations, occupations and charitable activities.
- A 2009 Sacramento FBI [memorandum](#)²⁵ regarding outreach at California State University, Chico documents a conversation with a student about the Saudi Student Association, including its size, purpose, and activities. This memorandum, which includes the student’s social security number, telephone number and address, was sent to the FBI in Washington, DC.
- A 2010 Sacramento FBI [memorandum](#)²⁶ named a student interviewed at California State University in Chico, CA, identified him as a Sunni Muslim, described his Saudi heritage and educational background, and documented his views on the cultural challenges confronting Saudi students in the United States.

¹ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Dec. 9, 2004, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017866.pdf>; Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Apr. 28, 2005, <https://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017873.pdf>; Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Aug. 25, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017890.pdf>; Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, Nov. 24, 2006, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017941.pdf>; Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, Apr. 5, 2007, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017952.pdf>.

² Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Apr. 28, 2005, <https://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017873.pdf>.

³ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, Aug. 25, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017890.pdf>.

⁴ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, Nov. 24, 2006, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017941.pdf>.

⁵ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Aug. 25, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017890.pdf>.

⁶ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison contacts, Feb. 22, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017868.pdf>.

⁷ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, May 31, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017882.pdf>.

⁸ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, July 25, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017887.pdf>.

-
- ⁹ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, Aug. 30, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017892.pdf>.
- ¹⁰ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Mar. 8, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017871.pdf>.
- ¹¹ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, May 26, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017879.pdf>.
- ¹² Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Oct. 11, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017904.pdf>.
- ¹³ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Oct. 4, 2005, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017902.pdf>.
- ¹⁴ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Feb. 9, 2006, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017925.pdf>.
- ¹⁵ Federal Bureau of Investigation, Electronic Communication: Mosques Liaison Contacts, Jan. 17, 2006, <http://www.aclu.org/files/fbimappingfoia/20120217/ACLURM017916.pdf>.
- ¹⁶ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, Dec. 29, 2006, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017947.pdf>.
- ¹⁷ Federal Bureau of Investigation, Electronic Communication: Civil Rights Public Outreach Matters, San Francisco Division, May 11, 2007, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM012669.pdf>.
- ¹⁸ Federal Bureau of Investigation, Electronic Communication: Mosque Liaison Contacts, June 29, 2007, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017968.pdf>.
- ¹⁹ Federal Bureau of Investigation, Electronic Communication, Oct. 10, 2007, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM013438.pdf>.
- ²⁰ Federal Bureau of Investigation, Electronic Communication, Sept. 25, 2008, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM013443.pdf>.
- ²¹ Federal Bureau of Investigation, Electronic Communication: Mosque Outreach Contacts, Jan. 14, 2008, <http://www.aclu.org/files/assets/aclurm017989.pdf>.
- ²² Federal Bureau of Investigation, Electronic Communication: Mosque Outreach Liaison, Feb. 21, 2008, <http://www.aclu.org/files/fbimappingfoia/20120302/ACLURM017992.pdf>.
- ²³ Federal Bureau of Investigation, Electronic Communication: Community Outreach Matters, Mar. 3, 2008, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM011160.pdf>.
- ²⁴ Federal Bureau of Investigation, Electronic Communication, June 19, 2009, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM013448.pdf>.
- ²⁵ Federal Bureau of Investigation, Electronic Communication, Nov. 10, 2009, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM007341.pdf>.
- ²⁶ Federal Bureau of Investigation, Electronic Communication, Feb. 22, 2010, <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM007350.pdf>.