

# **COUNTERT**ERROR**ISM POLICY**

**MACLC's Critique of the NYPD's Report on Homegrown Radicalism**

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## **ABOUT MACLC**

The Muslim American Civil Liberties Coalition (MACLC), a New York-based coalition of Muslim advocates, attorneys and community leaders, was created in 2007 following the release of the New York City Police Department report, “Radicalization in the West: The Homegrown Threat.” MACLC was created for the purpose of articulating a New York-specific Muslim perspective on homeland security, civil liberty, and counterterrorism decision-making.

Members of MACLC hold firmly that engagement and consultation with the Muslim community and community-based organizations are necessary precursors to effective domestic security discourse, and that the protection of civil liberties—especially protections against racial, religious, and ethnic profiling/bias—is an essential component of an effective security policy.

MACLC’s vision is to promote a partnership with law enforcement and the American Muslim community that upholds local and national security interests without infringing on civil liberties.

MACLC hopes to serve as a working model for law enforcement and minority groups across the nation.

## **MACLC MEMBERS**

Association of Muslim American Lawyers (AMAL)  
Council on American Islamic Relations, New York Chapter (CAIR-NY)  
Council of Peoples Organization (COPO)  
Islamic Circle of North America (ICNA)  
Jamaica Muslim Center, Inc. (JMC, Inc.)  
Muslim American Society New York (MAS-NY)  
Muslim Bar Association of New York (MuBANY)  
Muslim Consultative Network (MCN)  
Muslim Public Affairs Council-New York City Office (MPAC-NY)  
Women in Islam, Inc. (WII, Inc.)

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## PREFACE

*“And every opportunity I have, I reaffirm the fact that 99.9 percent of Muslim Americans, Sikh Americans, Arab Americans are every bit as patriotic as anybody else in the room, and that many of our cases are a result of the cooperation of the Muslim community in the United States.”*  
 --FBI Director Robert Mueller<sup>1</sup>

In August 2007, the New York City Police Department (NYPD) released a 96-page document entitled “Radicalization in the West: The Homegrown Threat”<sup>2</sup> (“NYPD Report”) with the purported aim<sup>3</sup> of analyzing domestic terrorism.

While it recognizes the important aims of the NYPD Report, the MACLC – a diverse coalition of New York City based Muslim leaders and advocates –has expressed great dismay at the report’s analysis because it presents a distorted and misleading depiction of Islam and its adherents. The NYPD Report calls into question the loyalties and motivations of law-abiding and mainstream Muslims in a deeply offensive way and paints them as potential threats to national security without substantiated evidence. Furthermore, it erroneously associates religious precepts with violence and terror, irrespective of First Amendment and Equal Protection rights. As such, MACLC has found that the NYPD Report neither protects American Muslims from undeserved scrutiny and profiling nor strengthens domestic security discourse.

Following the NYPD Report’s publication, MACLC convened at the Brennan Center for Justice at New York University Law School to develop a statement of concern in response to it. Since then, MACLC met on three occasions with NYPD Commissioner Raymond Kelly, the authors of the NYPD Report, Mitch Silber and Arvin Bhatt, and other departmental officials at One Police Plaza, to register their concerns and delineate flaws within the NYPD Report. At the same time, MACLC has advocated for engagement and ongoing dialogue between law enforcement and the Muslim community and community-based organizations as the best preventative measure that safeguards both civil liberties and national security interests. To that end, MACLC has already submitted to Commissioner Kelly recommended edits to the NYPD Report.

This paper builds on the previous submissions<sup>4</sup> made directly to Commissioner Kelly in a sincere effort to guide the NYPD in performing its important mission to safeguard New York’s communities without unduly infringing upon civil liberties. Indeed, MACLC’s responses to the NYPD Report should serve as a case study of how to utilize the knowledge and experiences of the American Muslim community in furtherance of counterterrorism strategy.

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<sup>1</sup>*Oversight on the Federal Bureau of Investigation: Hearing Before the House Comm. on the Judiciary*, 110<sup>th</sup> Cong. (2008) (statement of Robert Mueller, Director, FBI).

<sup>2</sup> Mitchell Silber & Arvin Bhatt, New York Police Dep’t, *Radicalization in the West: The Homegrown Threat*. (2007).

<sup>3</sup> *Id.* at 2. (“The aim of this report is to assist policymakers and law enforcement officials, both in Washington and throughout the country, by providing a thorough understanding of the kind of threat we face domestically. It also seeks to contribute to the debate among intelligence and law enforcement agencies on how best to counter this emerging threat by better understanding what constitutes the radicalization process”).

<sup>4</sup>These are collected on MACLC Blog, *available at* <http://mac11.wordpress.com> (last modified Sept. 13, 2008).

Section I of this Paper challenges the NYPD Report's linking of faith with terror by highlighting its disregard for nuanced religious concepts. Based on guidelines provided by defense experts and Department of Homeland Security documents, Part A of Section I shows why this link is counterproductive to national security interests. As an alternative, this section presents consensus-based terminology that more accurately depicts domestic threats to national security. Part B argues that the NYPD Report's methodology is severely flawed and that its focus on religious conduct rather than criminal conduct is highly unreliable. This section points to the NYPD Report's reliance on a small set of case studies, unsubstantiated quantitative language, inappropriate generalizations and the omission of respected and relevant Muslim scholarship and references. Ultimately, MACLC proposes the adoption of a multidisciplinary and multi-causal approach to better understand the commission and prevention of terrorism.

In further critique, Section II is concerned with the infringement on the free exercise and association rights of American Muslims under the First Amendment of the United States Constitution as well as the sanctioning of religious profiling under the guise of national security. Part A of Section II calls attention to the NYPD Report's implied encouragement of First Amendment violations through a strengthened commitment to treat Islam as a security concern, thereby chilling the free expression of religion. Part B of this section illustrates how the NYPD Report impliedly violates the Equal Protection Clause of the 14<sup>th</sup> Amendment by targeting particular ethnic and religious communities for law enforcement scrutiny.

Section III underscores the policy inadequacies of the NYPD Report. In particular, this section illustrates how the NYPD's analysis alienates the mainstream American Muslim community and at the same time fails to provide practical counterterrorism solutions that target real offenders.

The Conclusion of this paper contains specific recommendations for the NYPD. The aim of these recommendations is threefold: 1) to protect civil liberties; 2) to minimize racial and religious profiling; and 3) to build dialogue with the New York Muslim community. This section calls upon the NYPD to incorporate these recommendations and measures into an official addendum to the 2007 NYPD Report. In addition, MACLC requests the NYPD's official and public endorsement of the proposed measures herein.

## SECTION I: Defining the Threat

The NYPD Report draws a nexus between Islam and terrorist activities. Terrorism, of course, is a monumentally serious topic. Equally serious is positing a direct, causal relation between Islam and terrorism such that expressions of faith are equated with signs of danger: millions of Muslims in the United States, and hundreds of millions worldwide, would be affected by such a conclusion. The NYPD Report's treatment of religion—in particular, its uncritical conflation of religious expression with terrorism—should deeply concern all Americans, regardless of their religious beliefs.

### A. The NYPD Report Erroneously Couples Religion with Terror

The U.S. Department of Homeland Security and the National Center for Countering Terrorism have both recently concluded that national security discourse should define terminology in a way that avoids linking religion with violence and terrorism.<sup>5</sup> Nevertheless, the NYPD Report highlights religion as a factor in the development of a radicalized identity. It evokes terms such as “jihad,” “salafi,” and “jihadi salafi” without discussing the nuances and variety in how these terms are understood by Muslims. In fact, the term “jihad” is not defined anywhere in the NYPD Report. Additionally, the terms “salafi” and “jihadi-salafi” appear in the NYPD Report 123 times<sup>6</sup> without any references to Muslim theologians or scholars in the glossary definitions of “salafi” or “salafi-jihadi,” despite the complexities of their theological roots.

This lack of sensitivity to a broader and varied usage of terms arguably reflects the de facto criminalization of the term “jihad” without any clear understanding of definition of that term. By using the terminology “commit Jihad,”<sup>7</sup> the NYPD Report implicitly characterizes “jihad” as a species or signal of criminal conduct. Moreover, this negative and inaccurate association is inconsistent with mainstream American Muslim discourse.<sup>8</sup> As such, the NYPD Report ignores the depth and breadth of American Muslim attitudes and opinions, and therefore mischaracterizes the nature of the threat to security.

Equally problematic is the NYPD Report's widespread use of the term “radical”<sup>9</sup> to refer to one's place on a spectrum of religious views and *also* to refer to a propensity to commit violence. By subtly conflating these distinct senses of the term “radical,” the NYPD Report wrongfully correlates religiosity with violence. Indeed, this linking is counterproductive to national security discourse for three reasons.

*First*, recent data from a much larger and international sample of Muslims suggests there is no basis to conflate political radicalization with religion. Respondents in a Gallup poll of ten Muslim majority countries found no difference in religiosity between those who were defined as “radical” and those who were defined as “mainstream.” It should also be noted that in the latter

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<sup>5</sup> See U.S. Dep't. of Homeland Security, *Terminology to Define the Terrorists: Recommendations from American Muslims* (Jan. 2008); National Center for Countering Terrorism, *Words that Work and Words that Don't: A Guide for Counterterrorism Communication* (March 14, 2008).

<sup>6</sup> Silber & Bhatt, *supra* note 2, at 6-10, 16-19, 30-37, 39, 41, 43, 54, 58-60, 68-70, 72, 75-78, 82-86.

<sup>7</sup> *Id.* at 43, 46-48, 51-52, 56, 62-64, 66, 73, 79.

<sup>8</sup> AYESHA JALAL, *PARTISANS OF ALLAH: JIHAD IN SOUTH ASIA*, 3-7 (Harvard Univ. Press 2008).

<sup>9</sup> Silber & Bhatt, *supra* note 2, at 1-12, 14-16, 19-23, 28-44, 48, 52, 54-57, 60-62, 66-70, 72-76, 78, 80-85.

study, radicalization was defined more carefully in terms of specific political opinions about the justifiability of the 9/11 terrorist attacks and favorability of the United States.<sup>10</sup>

*Second*, the conflation of radicalism with religion alienates Muslims who are potential allies of law enforcement.<sup>11</sup> It casts a negative shadow of suspicion on the motivations and loyalties of mainstream Americans Muslims whose attitudes and behavior is no differently informed by their religiosity than any is the case with any other American. Using religious terminology also evokes and reifies a clash of civilizations framework of the West against Islam.<sup>12</sup> As stated in a May 2006 National Defense University paper written by Dr. Douglas E. Streusand and LTC Harry D. Tunnell: “Calling our enemies jihadist and their movement a global jihad thus indicates that we recognize their doctrines and actions as being in the path of God and, for Muslims, legitimate.”<sup>13</sup>

*Third*, such religious lexicon gives credence to anti-American forces. For this very reason, the Department of Homeland Security’s (DHS) Office for Civil Rights and the National Counter Terrorism Center (NCTC) issued internal documents urging government officials to avoid terminology that may legitimize groups like Al-Qaida.<sup>14</sup> According to the DHS recommendations, by using phrases like “Islamic terrorism,” U.S. officials and representatives may be “unintentionally portraying terrorists, who lack moral and religious legitimacy, as brave fighters, legitimate soldiers or spokesmen for ordinary Muslims.”<sup>15</sup> Accordingly, these documents provided the following caveat: “caution in using terms such as ‘jihadist,’ ‘Islamist,’ and ‘holy warrior’ as grandiose descriptions,”<sup>16</sup> and thus separate violence or terrorism with religious precepts.

In sum, framing the issue of terrorism in highly religious terms poses national security risks of its own. As an alternative to religious terminology such as “jihadist” and “mujahedeen,” MACLC urges the NYPD to use the term “violent extremist” in its analysis on terrorism and threats to national security. Based on mainstream Muslim discourse and DHS guidelines, such terminology is better suited for domestic security interests since it decouples religion from terror and does not legitimize its usage by proponents of anti-Americanism.

## **B. The NYPD Report’s Focus on Islam Mischaracterizes True Nature of Threat**

MACLC also encourages the NYPD to engage in a more rigorous analysis of the relationship between alienation, politics, and violence before asserting – without any substantiation – that

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<sup>10</sup> Dalia Mogahed, Gallup Center for Muslim Studies, *The Battle for Hearts and Minds: Mainstream vs. Radical Views in the Muslim World* available at <http://www.gallup.com/press/109696/Battle-Hearts-Minds-Mainstream-vs-Radical-Views.aspx> (last visited Sept. 3, 2008).

<sup>11</sup> U.S. Dep’t of Homeland Security, *Terminology to Define the Terrorists: Recommendations from American Muslims*, *supra* note 5.

<sup>12</sup> Engin I. Erdem, *The ‘Clash of Civilizations’: Revisited after September 11*, *TURKISH JOURNAL OF INT’L RELATIONS*, Vol. 1, No. 2 (2002).

<sup>13</sup> Douglas Streusand & Harry Tunnell, National Defense University Center for Strategic Communications, *Choosing Words Carefully: Language to Help Fight Islamic Terrorism* (2006).

<sup>14</sup> Associated Press, *‘Jihadist’ booted from U.S. government lexicon: Bush administration targets language in war on terrorism* (April 24, 2008), available at <https://www.msnbc.msn.com/id/24297050> (last visited Oct. 3, 2008).

<sup>15</sup> U.S. Dep’t of Homeland Security, *Terminology to Define the Terrorists: Recommendations from American Muslims*, *supra* note 5.

<sup>16</sup> *Id.*

religious ideology is the primary cause of terrorist acts. In its purported aim of studying radicalization, the NYPD Report raises red flags by focusing on a particular religious ideology as the primary causal or motivational factor in its four stage process that leads to terrorism.<sup>17</sup> In pointing to Islamic beliefs and conduct at each stage of their analysis, the authors of the NYPD Report shift the inquiry away from the real characteristics of violent criminal acts.<sup>18</sup> A recent Library of Congress report<sup>19</sup> cautions against such a single causal analysis of terrorist acts, regarding it as “simplistic” and “erroneous.”<sup>20</sup>

An additional issue is sample size. The NYPD Report contains inferences based on a small sample of eleven case studies,<sup>21</sup> which hardly allows for conclusive claims about the causes of terrorist acts. Moreover, five of the cases that are examined are based in Europe, raising concerns about the application of the NYPD Report model in a different US context. Even the authors of the NYPD Report acknowledge the disparity in European and American socio-economic conditions that may help shape the trajectory of radicalization. It also warrants mentioning that not even one of the eleven cases identifies or distinguishes studies of terrorist acts committed by individuals of other faiths and belief systems. As such, selection of these cases begs a simple question: How do other case histories not mentioned in the NYPD Report compare?<sup>22</sup> In addition, the conclusions drawn from the small sample set are unreliable because there is no control group against which conclusions can be tested. To put matters simply, just because all the cases in a sample of five terrorists have beards does not mean that every person with a beard in Manhattan is a terrorist.

Equally problematic is the use of unsubstantiated quantitative language in the NYPD Report,<sup>23</sup> specifically because it relays an alarmist message of a rapidly growing threat to national security *i.e.*, “Islamic-based radicalism.” The use of quantitative language without actual numerical data renders the claims mere speculation. In fact, recent poll data challenge these claims about a rapid proliferation of radical ideology, but actually suggest that a majority of American Muslims are

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<sup>17</sup> The four stages are pre-radicalization, self-identification, indoctrination and jihadization.

<sup>18</sup> American Civil Liberties Union, *Coalition Memo to the Senate Comm. on Homeland Security and Governmental Affairs Regarding Homegrown Terrorism* (2008), available at <http://www.aclu.org/safefree/general/35209leg20080507.html> (Noting that civil rights groups held similar objections towards the Violent Homegrown Radicalization and Prevention Act: “The reference in pending homegrown terrorism legislation to ‘the process for adopting an extremist belief system’ raises concern that advocacy of particular beliefs would become the subject of study, instead of studying the causes of violence that a person engages in, citing such beliefs”). The legal implications of focusing on religiously held beliefs towards preventative law enforcement are further detailed in Section II of MACLC’s paper.

<sup>19</sup> Rex A. Hudson, *The Sociology and Psychology of Terrorism: Who Becomes a Terrorist and Why?* Interagency Agreement by the Federal Research Division, Library of Congress (15 Sept. 1999) available at [http://www.loc.gov/rr/frd/pdf-files/Soc\\_Psych\\_of\\_Terrorism.pdf](http://www.loc.gov/rr/frd/pdf-files/Soc_Psych_of_Terrorism.pdf).

<sup>20</sup> *Id.*

<sup>21</sup> Silber & Bhatt, *supra* note 5, at 6.

<sup>22</sup> Notably absent from the analysis is the example of Oklahoma City bomber, Timothy McVeigh.

<sup>23</sup> See *id.* at 83 (“logarithmic rate”); see also *id.* at 67-68 (“permeates”); *id.* at 17 (“many Muslims in the West” and “most widely exposed to”); *id.* at 20 (“thousands of extremist websites and chat rooms”); *id.* at 84 (“accelerating in terms of how long it takes, and individuals are getting younger”).

not radical, but rather, mainstream,<sup>24</sup> and that across ten Muslim-majority nations, the vast majority of Muslims (93%) are also mainstream.<sup>25</sup>

A closer look at the footnotes in the NYPD Report further points to the use of biased information to build its argument, and explains why the NYPD Report has arrived at such sweeping conclusions. The authors' list as references includes news coverage of terrorism cases, right wing publications and Islamophobic websites such as *Militant Islam Monitor*, all of which alienate and are viewed with suspicion by Muslims. What is particularly striking is that a great deal of scholarly and expert research has been omitted, which prevents serious and careful consideration of the causes of terror.

For instance, an ex-CIA head of the Osama bin Laden unit, Michael Scheuer, publicly spoke in favor of a foreign policy rationale for commission of terrorist acts: "they attack us because we are over there."<sup>26</sup> A Gallop poll survey of Muslims across the nation echoes a similar line of reasoning that "politics, not piety" drives anti-Americanism overseas.<sup>27</sup> Without a comprehensive analysis of U.S. foreign policy and international conflicts, the reader of the NYPD Report is led to draw unfounded conclusions about the nature of the threat.

Given these shortcomings in methodology and research, MACLC is concerned that the NYPD Report model dangerously misinforms national security discourse and may lead to profiling. Despite explicit caveats to the contrary, the model in the NYPD Report blurs lines between mainstream Muslims and fringe elements by focusing on religious beliefs rather than indicia of violent acts of terrorism. Civil libertarians duly note that this focus on Islam as a predictor of

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<sup>24</sup> Pew Research Center, *Muslim Americans: Middle Class and Mostly Mainstream* (Sept. 2 2008), available at <http://pewresearch.org/assets/pdf/muslim-americans.pdf>.

<sup>25</sup> Dalia Mogahed, Gallup Center for Muslim Studies, *The Battle for Hearts and Minds: Mainstream vs. Radical Views in the Muslim World* (Sept. 2, 2008), available at <http://www.gallup.com/press/109696/Battle-Hearts-Minds-Mainstream-vs-Radical-Views.aspx> (last visited Sept. 2, 2008).

<sup>26</sup> *A 3rd former CIA analyst comes out in support of Ron Paul* (May 2007), available at [http://archive.redstate.com/blogs/libertarianish/2007/may/26/a\\_3rd\\_former\\_cia\\_analyst\\_comes\\_out\\_in\\_support\\_of\\_ron\\_paul](http://archive.redstate.com/blogs/libertarianish/2007/may/26/a_3rd_former_cia_analyst_comes_out_in_support_of_ron_paul) (last visited Sept. 5, 2008).

<sup>27</sup> John Esposito & Dalia Mogahed, *Muslim true/false: What you think you know about them is likely wrong -- and that's dangerous* (April 2, 2008) available at [http://www.latimes.com/news/opinion/la-oe-esposito2apr02\\_0,6118014story](http://www.latimes.com/news/opinion/la-oe-esposito2apr02_0,6118014story). Islamic studies professor at Georgetown University John Esposito and executive director of the Center for Muslim Studies at Gallup Dalia Mogahed found that respondents' condemnation of 9/11 was based on humanitarian as well as religious reasons. In particular they noted, "20% of Kuwaitis who called the attacks 'completely unjustified' explained this position by saying that terrorism was against the teachings of Islam. A respondent in Indonesia went so far as to quote a direct verse from the Koran prohibiting killing innocents. On the other hand, not a single respondent who condoned the attacks used the Koran as justification. Instead, they relied on political rationalizations, calling the U.S. an imperialist power or accusing it of wanting to control the world."

terrorist acts in the NYPD Report is counterproductive to counterterrorism strategy.<sup>28</sup> In fact, the authors of the NYPD Report point to several shortcomings in the course of their own analysis.<sup>29</sup>

In line with this suggestion, D. Elaine Pressman at the Netherlands Institute of International Relations Clingendael describes most research on terrorism to be “impressionistic, superficial, and often pretentious, venturing far reaching generalizations on the basis of episodic evidence.”<sup>30</sup> In order to have a more objective and accurate analysis of terrorism and the radicalization process, she suggests, the intelligence community must look to systematic approaches that accurately quantify and describe “attitudes” and “motivations” of individuals that engage in the radicalization process.

These considerations are not meant to justify acts of terrorism or violence of any kind. Without a doubt, any and all criminal acts of violence are unacceptable. However, a holistic analysis of the causes and motivations of terrorism at the very least provides a more thorough understanding of terrorism and thus brings us all one step closer to real prevention.

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<sup>28</sup> See American Civil Liberties Union, *Coalition Memo to the Senate Comm*, *supra* note 18, at 18. (listing the following organizations: American Civil Liberties Union, Bill of Rights Defense Committee, Center for Constitutional Rights, Center for Democracy and Technology, Congress Against Racism and Corruption in Law Enforcement, Defending Dissent Foundation, DownsizeDC.org, Inc., Equal Justice Alliance, Friends Committee on National Legislation, International Association of Whistleblowers, Liberty Coalition, National Judicial Conduct and Disability Law Project, Inc, OMB Watch, Pain Relief Network, Republican Liberty Coalition, Rutherford Institute, The Multiracial Activist, United for Peace and Justice and U.S. Bill of Rights Foundation.)

<sup>29</sup> For instance, see p.19 of the NYPD Report that states: “All individuals who begin this process do not necessarily pass through all the stages and many, in fact, stop or abandon the process at different points. Moreover, although this model is sequential, individuals do not always follow a perfectly linear progression.”

<sup>30</sup> Elaine D. Pressman, CCSS Insight, The Hague, Clingendael Centre for Strategic Studies, *Countering Radicalization: Communication and Behavioral Perspectives* (2006).

## SECTION II: Legal Implications

On its own terms, the NYPD Report offers a diagnosis of “the homegrown threat” of terrorism that intends to “assist policy makers and law enforcement officials.”<sup>31</sup> Thus, in reading the report, policymakers and law enforcement officials are expected to develop and enforce policies that conform to the NYPD’s understanding and presentation of the terrorist threat. Clearly, the NYPD Report is far more than a mere analytical framework and it includes the praise of Brian Michael Jenkins, a senior advisor to the Rand Corporation, who notes that:

[t]he utility of the NYPD model . . . goes beyond analysis. It will inform the training of intelligence analysts and law enforcement personnel engaged in counterterrorist missions. . . . It will assist prosecutors and courts in the very difficult task of deciding when the boundary between a bunch of guys sharing violent fantasies and a terrorist cell determined to go operational has been crossed. Above all . . . it should help in the formulation of effective and appropriate strategies aimed at peeling potential recruits away from a dangerous and destructive course.<sup>32</sup>

If the NYPD Report fulfills even a fraction of this prediction, it will substantially influence America’s counterterrorism policy. Such a possibility should concern not only Muslims but all Americans. Even if one were to overlook the NYPD Report’s loose, non-rigorous terminology and its myopic fascination with religion as the sole identified driver of terrorist acts, the NYPD Report strongly implies a policy response that is unwise and unconstitutional.

The defense of America necessarily entails a defense of our Constitution and our constitutional rights. Yet the NYPD Report’s observations would, if acted upon, run counter to the First Amendment<sup>33</sup> and the Fourteenth Amendment.<sup>34</sup> These rights are not ephemeral delusions designed to hobble law enforcement; they are binding and enduring laws to be enforced. They are the legal bedrock upon which our nation is built, and to suggest limiting the freedom of speech or association, or to imply that national security requires the denial of equal protection, as the NYPD Report does, is to propose great harm to our democracy.

### A. The NYPD Report Impliedly Advocates First Amendment Violations

The NYPD Report ultimately treats the free exercise of religion, guaranteed by the Constitution, as a counterterrorism matter. During the so-called “Self-Identification Phase,” individuals who

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<sup>31</sup> Silber & Bhatt, *supra* note 2, at 2. (“[t]he aim of this report is to assist policymakers and law enforcement officials, both in Washington and throughout the country, by providing a thorough understanding of the kind of threat we face domestically”).

<sup>32</sup> *Id.* at 11.

<sup>33</sup> U.S. CONST, amend. I. Under the First Amendment, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” *Id.*

<sup>34</sup> U.S. CONST, amend. XIV. This prohibition on federal conduct is generalized to state governments as well under the Fourteenth Amendment, which states in part that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; . . . nor deny to any person within its jurisdiction the equal protection of the laws.” *Id.*

are baffled by life's vicissitudes reach out to the balm of religion.<sup>35</sup> Others are inspired by compassion for Muslims in war-torn countries and a hunger for social justice, which “leads them in a sense to become ‘born again’—a ‘religious’ renewal . . . The key influences during this phase of conflict and religious seeking include trusted social networks made up of friends and family, religious leaders, literature and the Internet.”<sup>36</sup> Outward signs that the NYPD Report views with concern include “affiliating with like-minded individuals; joining or forming a group of like-minded individuals in a quest to strengthen one’s dedication to Salafi Islam; giving up cigarettes, drinking, [and] gambling . . . wearing traditional Islamic clothing, growing a beard; becoming involved in social activism and community issues.”<sup>37</sup> Indeed, these lifestyle changes are consistent with the values of mainstream American Muslims.

Organizations linked to Islam, from mosques to Muslim student associations, are flagged as “incubators” of radicalism that must be monitored.<sup>38</sup> In addition, while the NYPD Report confesses the impossibility of identifying so-called “pre-radicals,” it stresses that the consistent factor across all case studies is that the terrorists were young Muslim men.<sup>39</sup> Yet, since the NYPD selected the cases to be examined, and since it did not engage in any kind of random sampling, it is unclear how the NYPD’s decision to select cases involving Muslim men can be used to justify any empirically grounded conclusions about young Muslim men.

The logical consequence is that even if a suspect never moves beyond the “Self-Identification Phase” and never advocates violent action or joins a terrorist cell, he remains an everlasting security risk by virtue of his faith.<sup>40</sup> Though it contains a few token caveats, if taken in its entirety, the NYPD Report calls for increased police surveillance of the American Muslim community.

Any law or government policy that purposely singles out Muslims for special law enforcement scrutiny is invalid if it violates the Free Exercise Clause of the First Amendment. The U.S. Supreme Court has explained:

At a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all religious beliefs or regulates or prohibits conduct because it is undertaken for religious reasons . . . [I]f the object of a law is to infringe upon or restrict practices because of their religious motivation, the law is not neutral. . . and it is invalid unless it is justified by a

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<sup>35</sup> See Silber & Bhatt, *supra* note 2, at 30 (“[t]his stage . . . marks the point where the individual begins to explore Salafi Islam, while slowly migrating away from their former identity—an identity that now is re-defined by Salafi philosophy, ideology, and values”). On a personal level, such upsetting events may include a family tragedy, or the desire for personal growth and self-discovery. See Silber & Bhatt, *supra* note 2, at 30.

<sup>36</sup> Silber & Bhatt, *supra* note 2, at 30. Intriguingly, turning to religion in the face of massive humanitarian tragedies is attributed to “extremist political campaigns [which] may initiate feelings of moral outrage.” Silber & Bhatt, *supra* note 2, at 30.

<sup>37</sup> *Id.* at 31.

<sup>38</sup> See *id.* at 20 (listing several alleged “radicalization incubators”).

<sup>39</sup> See *id.* at 22-29.

<sup>40</sup> See *id.* at 10 (“[i]ndividuals who have been radicalized but are not jihadists may serve as mentors and agents of influence to those who might become the terrorists of tomorrow”).

compelling interest and is narrowly tailored to advance that interest.<sup>41</sup>

The elements of this exacting level of judicial review—laws must be “narrowly tailored” to serve a “compelling interest”—is referred to as “strict scrutiny.” The burden on proving that such laws or regulations satisfy strict scrutiny falls upon the government agency.

Although preserving national security is certainly a compelling government interest,<sup>42</sup> the government’s indiscriminate surveillance of young Muslim men—or even a narrower possible profile suggested by the NYPD Report, young Muslim men from middle class immigrant families<sup>43</sup>—is far from the least restrictive method of protecting the nation’s security. There are tens of thousands of young, middle-class Muslim immigrants who are patriotic and who have no ties whatsoever to radical beliefs or terrorism. Without a profile far more specific than “young Muslim men,” policies inspired by the NYPD Report would be unconstitutionally overbroad, burdening the free exercise of religion by a large number of Muslims. By treating one’s strengthened commitment to Islam as a security concern, the NYPD Report appears to condone chilling the right to free expression of religion in an unconstitutional manner.

The First Amendment’s Speech Clause also protects a broad range of expression, even that which is “malicious, scandalous, and defamatory.”<sup>44</sup> Again, the First Amendment’s protection of speech can be curtailed by national security interests. In *Near v. Minnesota*, for example, the United States Supreme Court observed in dicta that a newspaper had no First Amendment right to publish American troop movements in wartime.<sup>45</sup> But the threat to national security must be imminent and actual, as opposed to theoretical: in *New York Times Co. v. United States*, the Supreme Court ruled in favor of the Pentagon Papers, finding that only a “grave and irreparable” danger would justify prior restraint.<sup>46</sup> And in *Brandenburg v. Ohio*, a unanimous Supreme Court held that “the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing *imminent* lawless action and is *likely* to incite or produce such action”<sup>47</sup> (emphasis added).

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<sup>41</sup> *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 532 (1993) (finding the city ordinance, which was passed ostensibly for the prevention of animal cruelty but in fact to frustrate religious rituals associated with Santeria, was unconstitutional). See *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872, 878-87 (1990) (holding that if the purpose of a law is to restrict a particular religion, then the law is not neutral). Note that the holding of *Smith* permits the policing of unlawful activities that incidentally burden religion: a law forbidding the smoking of peyote, for example, is constitutional in spite of its impact on certain Native American faiths. See *Smith*, 494 U.S. 872. Yet policing unlawful activities that results in specifically targeting particular sects or religious practices presents a much closer constitutional question.

<sup>42</sup> See, e.g., *New York Times Co. v. United States*, 403 U.S. 713, 732-33 (1971) (White, J., concurring) (finding that restraining publication of information which would pose “grave and irreparable” injury would be a compelling interest); *Near v. Minnesota*, 283 U.S. 697, 716 (1931) (protecting immediately actionable military secrets is a compelling interest); *Korematsu v. United States*, 323 U.S. 214 (1944) (protecting the United States from sabotage and espionage during World War II is a compelling government interest).

<sup>43</sup> See Silber & Bhatt, *supra* note 2, at 23. The status of this somewhat narrower list is unclear, as the NYPD Report expends a great deal of energy insisting that no profile of so-called “pre-radicals” exists. See Section III-C, *infra*.

<sup>44</sup> See *Near v. Minnesota*, 283 U.S. 697 (1931).

<sup>45</sup> *Id.* at 716.

<sup>46</sup> See *New York Times Co. v. United States*, 403 U.S. 713 (1971).

<sup>47</sup> 395 U.S. 444, 447 (1969).

The NYPD Report creates a risk of policing activities that harm First Amendment interests. To be sure, the NYPD Report does not overtly call for criminalization of any Muslim speech, but it implies that such speech should be monitored and the speaker(s) or audience members merit surveillance.<sup>48</sup> Tellingly, the NYPD Report identifies the “Spiritual Sanctioner” as a so-called archetypal terrorist worthy of serious concern, even though “the sanctioner is not involved in any operational planning,” his theological views “can have an enormous effect on [a terrorist cell’s] choices.”<sup>49</sup>

The NYPD Report also targets a wide range of locations as havens for nascent radicals, ranging from mosques to “flophouses” to book stores, in ways that flag First Amendment freedom of association concerns.<sup>50</sup> Though the First Amendment does not protect the right to assemble for every purpose,<sup>51</sup> it does protect the right to assemble for expressive or political purposes,<sup>52</sup> and forbids the State to punish individuals who belong to associations that advocate violent political reform.<sup>53</sup> Nevertheless, the NYPD Report views with concern “extremist-like discussions in halal butcher shops, cafes, gyms, student associations, study-groups, [and] non-governmental organizations . . . Ultimately the individual . . . affiliates with like-minded individuals . . . Subsequently, clusters of like-minded individuals begin to form, usually around social circles that germinate within the extremist incubators [the aforementioned locations].”<sup>54</sup> Ironically, the Report makes no mention of the potentially negative influence of informants affiliated with law enforcement agencies, whose involvement ultimately undercuts the reliability of evidence in terrorism related cases.

Targeting any place where Muslim Americans might discuss world affairs or community issues, or surveillance of Muslims who discuss such matters, imperils Muslim Americans’ right to assemble for expressive purposes. The right to expressive assembly is also not unlimited: it can be curtailed by government action “narrowly tailored” to advance a “compelling government interest.”<sup>55</sup> But surveillance of *all* mosques, Muslim student associations, and other

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<sup>48</sup> Silber & Bhatt, *supra* note 2, at 30 (“[a] political crisis is sometimes brought about by some of the some of the ‘moral shock’ tactics used by extremists in spewing out political messages arguments and associated atrocities that highlight some particular political grievance that Islam has with the West”). This presents a security concern, because “[i]ndividuals who have been radicalized but are not jihadists may serve as mentors and agents of influence to those who might become the terrorists of tomorrow. . . . [T]he need to identify those entering this process at the earliest possible stage makes intelligence the critical tool in helping to . . . prevent the planning of future plots.” *Id.* at 30.

<sup>49</sup> *Id.* at 38.

<sup>50</sup> *Id.* at 20.

<sup>51</sup> See *Dallas v. Stanglin*, 490 U.S. 19 (1989) (upholding a city regulation creating a dance hall for youths which excludes adults, as “we do not think the Constitution recognizes a generalized right of ‘social association’ that includes chance encounters in dance halls).

<sup>52</sup> See *Roberts v. United States Jaycees*, 468 U.S. 609 (1984) (right to assembly for political or expressive purposes is an integral part of the First Amendment right to free speech); *NAACP v. Alabama ex re. Patterson*, 357 U.S. 49, 460 (1958).

<sup>53</sup> See *Brandenburg v. Ohio*, 395 U.S. 444, 447-48 (“the mere abstract teaching . . . of the moral propriety or even moral necessity for a resort to force and violence is not the same as preparing a group for violent action and steeling it to such action,” quoting *Noto v. United States*, 367 U.S. 290, 297-98 (1961).

<sup>54</sup> Silber & Bhatt, *supra* note 2, at 30-31. Note that these suspicious discussions are “extremist-like” as opposed to “extremist,” a distinction the NYPD Report makes no effort to clarify.

<sup>55</sup> See *Cal. Democratic Party v. Jones*, 530 U.S. 567, 583 (state interference in an organization’s political purposes must be narrowly tailored to serve a compelling state interest).

organizations, as the NYPD Report impliedly suggests, is an impermissibly broad approach. If the Muslim community as a whole cannot congregate to discuss civic life without fearing government eavesdropping, the right to assembly is unconstitutionally abridged.

### **B. The NYPD Report Impliedly Advocates Violation of the Equal Protection Clause**

The NYPD Report encounters Equal Protection Clause difficulties with its treatment of immigrants and their families. While failing to identify a coherent profile of terrorists-to-be, the NYPD Report claims that most terrorists are either recent immigrants from North Africa, the Near East, or Southeast Asia, or else are second or third generation immigrants from those regions.<sup>56</sup> The Equal Protection Clause of the Fourteenth Amendment allows judicial review of a state statute or a state agency's policy which intentionally singles out a class of people for unequal treatment. Just as religious-based classifications merit strict scrutiny under the Free Exercise Clause of the First Amendment, so do classifications based on race or national origin under the Equal Protection Clause of the Fourteenth Amendment.<sup>57</sup> Targeting communities defined by ethnicity or national origin for law enforcement attention is not narrowly tailored to preventing terrorist attacks, at least for the reason that terrorists are an infinitesimally small fraction of such communities.

\* \* \*

It is important to emphasize again that MACLC agrees with the NYPD Report that combating terrorism is a national priority, and recognizes that these equal protection concerns may seem to frustrate law enforcement policies, yet these constitutional problems arise from a needlessly broad definition of the terrorist threat. MACLC does not oppose counterterrorism efforts; it opposes the assumption that enormous portions of the Muslim community present counterterrorism concerns. A more selective and narrowly tailored method of gathering actionable intelligence would satisfy both the Equal Protection Clause and many of MACLC's concerns.

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<sup>56</sup> See Silber & Bhatt, *supra* note 2, at 22-23.

<sup>57</sup> See, e.g., *Rice v. Cayetano*, 528 U.S. 495 (2000) (restrictions on the right to vote distinguishing between native Hawaiians and Hawaiians is tantamount to a race-based restriction meriting strict scrutiny); *Hernandez v. Texas*, 347 U.S. 475 (1954) (noting that just as racially discriminatory laws merit strict scrutiny under the Equal Protection Clause, so too do laws which discriminate on the basis of ancestry, as "community prejudices are not static").

### SECTION III: Policy Implications

The threat of terrorism is alarmingly real and cause for the deepest concern. Yet, to great disappointment, the NYPD Report offers no legally sound, practical or useful policy to address this threat.

Consider the NYPD Report's attempt to identify a "likely candidate for radicalization": "There is no useful profile to assist law enforcement or intelligence to predict who will follow this trajectory of radicalization,"<sup>58</sup> the NYPD Report notes at the outset. But then it goes on to provide exactly such a profile. Allegedly, likely radicals are young, male second or third-generation immigrants with respectable educations and little criminal history, from middle class homes within "[e]nclaves of ethnic populations that are largely Muslim."<sup>59</sup> Of course, such observations are not conclusive: "[t]here's really no profile"<sup>60</sup> and "the individuals who take this course begin as 'unremarkable' from various walks of life,"<sup>61</sup> which is to say, any seemingly ordinary person could become a terrorist. In spite of such a lack of specificity, Alain Bauer, a Sorbonne-trained criminologist, proclaims that "[t]he NYPD has learned to detect imported terrorists, new converts and homegrown operators."<sup>62</sup> Thus, between its assertions and its caveats, the NYPD Report's case studies reveal that the only common factor among Islamic radicals in Western societies is that they are invariably Muslim men between the ages of 15 and 35.<sup>63</sup>

Beyond the difficulties of trying to match potential radicals to a profile that may or may not exist, the NYPD Report stresses that potential radicals may conspire anywhere. These locations—"radicalization incubators," in the parlance of the NYPD Report—include mosques as well as "cafes, cab driver hangouts, flophouses, prisons, student associations, non-governmental organizations, hookah (water pipe) bars, butcher shops and book stores."<sup>64</sup> In other words, law enforcement only ought to monitor those places where people socialize, work, sleep, are incarcerated, attend school, improve their community, become intoxicated, buy food, or read. It is difficult to think of a place that the NYPD Report does not view with suspicion; one may fall under law enforcement's eye numerous times throughout the day.

The Internet, too, "with its thousands of extremist websites and chat-rooms, is a virtual incubator of its own."<sup>65</sup>

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<sup>58</sup> Silber & Bhatt, *supra* at 8.

<sup>59</sup> *Id.* at 22-23.

<sup>60</sup> *Id.* at 22 (quoting *Al Qaeda Today: The New Face of Global Jihad*, PBS.org), <http://www.pbs.org/wgbh/pages/frontline/shows/front/etc/today.html> (last visited Sept. 4, 2008).

<sup>61</sup> *Id.* at 8.

<sup>62</sup> *Id.* at 13.

<sup>63</sup> *See id.* at 23-28. (noting that "The Madrid terrorists were primarily composed of 1<sup>st</sup> generation North African Muslim men . . . Some were drug dealers [who had criminal records]. Other were students [with] promising futures.") The Hofstad Group in Amsterdam did not include any university students. *Id.* The London cell responsible for the 2005 attacks appear to have been completely integrated within British society. *Id.*

<sup>64</sup> *Id.* at 20.

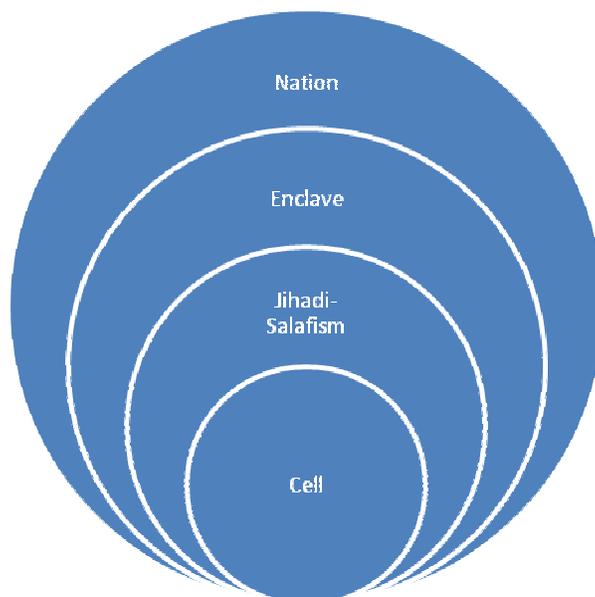
<sup>65</sup> *Id.*

[T]he Internet provides the wandering mind of the conflicted young Muslim or potential convert with direct access to unfiltered radical and extremist ideology. . . . [T]he Internet allows the aspiring jihadist to view the world . . . through this extremist lens. . . . In the Jihadization phase . . . the Internet serves as an enabler—providing broad access to an array of information on targets, their vulnerabilities and the design of weapons.<sup>66</sup>

In studying the role of the internet in the radicalization process, the authors of the NYPD Report fail to discuss its potential role in preventing terrorism through aiding arguments against violence.

Counterterrorism units will always have finite budgets, and cannot afford to waste time, money, or personnel chasing down tens of thousands of false leads. If every young Muslim American man is seen as being a budding radical, and if every location where they gather to talk is a likely terrorist headquarters, how can counterterrorist agents ever hope to identify, let alone neutralize, the actual threats lost in a waste land of bad data? The NYPD's overbroad approach provides no useful means to predict who will become a terrorist—except for religious or ethnic identity. Thus, the NYPD Report effectively brands the entire Muslim American community as a potential threat, where conspiracies may occur at any time or in any place. In the absence of an Orwellian-style police state with unlimited resources, the NYPD Report provides no help to policymakers endeavoring to make difficult resource allocation decisions. Instead, the NYPD Report reads as thinly veiled Islamophobia, and if its conclusions are implemented as policy, it is quite likely that the nation will be less safe.

The NYPD Report's chief insight is that the process of radicalization can be broken down into four stages in which the individual becomes increasingly isolated from the community at large,<sup>67</sup> as illustrated below.



<sup>66</sup> *Id.* at 83.

<sup>67</sup> *See id. passim.*

During the so-called “Pre-Radicalization Phase,” an individual is “unremarkable” among the general population.<sup>68</sup> Following a moral crisis, he or she enters the “Self-Identification Phase,” become more interested in establishing a distinctly Muslim identity, usually within what the NYPD Report refers to as an “ethnic enclave,” and often cuts off ties to the broader community.<sup>69</sup> During the “Indoctrination” phase, the individual becomes more interested in a Salafist mosque, particularly those known to denounce other Muslims as insufficiently devout.<sup>70</sup> Ultimately the individual even rejects the Salafist mosque as too moderate, associating instead with a tiny cell of fellow radicals.<sup>71</sup> In other words, the individual’s frame of social reference shrinks from the entire nation to a handful of like-minded radicals as his beliefs grow increasingly extreme.

In light of this progressive alienation from the wider community, the NYPD Report appears to favor widespread surveillance of the Muslim community as a whole and conflates extremist speech with imminent security threats. MACLC believes that these overreactions will only serve to accelerate the alienation of Muslims from the wider New York community. If an individual begins to believe that his or her government is prejudiced against Muslims, a policy that treats all Muslims as potential threats would only ratify that belief. The NYPD Report notes that during the “Self-Identification Phase,” individuals are acutely sensitive to mistreatment of Muslims: why, then, would the NYPD Report indiscriminately regard harmless, law-abiding Muslims as potential radicals and terrorists? Overcoming radicalization requires, at least in part, trying to establish a larger, stronger community, rather than ratifying a siege mentality. This is particularly important post-9/11 when the community has faced a strong backlash and stereotyping.

In addition to possibly accelerating the radicalization process, the NYPD Report’s evident distrust of Islam can also serve to suppress cooperation from the American Muslim community. Whether or not they agree with government policies, American Muslims are as proudly patriotic as other citizens, but many feel intimidated or distrusted by law enforcement. Given that anyone may be a “pre-radical,” and anyone with undefined “extremist” views is a lasting threat, large numbers of Muslims could justifiably distrust law enforcement agencies. If a halal butcher shop is targeted for surveillance as an “incubator,” how many customers would be subject to surveillance? Given that during the “Self-Identification Phase” suspects seek deeper connections with their families and co-religionists, would a customer’s family, friends, and neighbors fall under suspicion as well? If certain websites are linked to radical or terrorist groups, would academics or school children visiting these sites for research purposes arouse concern? Cooperation between communities requires good faith, trust, and respect. The NYPD Report’s view of a branch of Islamic theology as a driver of terrorism, or almost every location as a potential terrorist headquarters, or many thousands of young Muslim men as potential terrorists, greatly damages law enforcement’s social capital.

The effective defense of American citizens and their civil liberties is a matter of the utmost urgency. The NYPD Report’s contradictions suggest that the NYPD Report’s authors, though well-meaning and knowledgeable concerning their case studies, have not thought critically about

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<sup>68</sup> *See id.* at 6.

<sup>69</sup> *See id.* at 30-31.

<sup>70</sup> *See id.* at 36-37.

<sup>71</sup> *See id.*

their work's legal or practical implications. Americans deserve a counterterrorism policy that will get results that still respects the Constitution.

## **CONCLUSION: MACLC's Recommendations to the NYPD**

The NYPD Report continues to be promoted and used by government agencies around the nation.<sup>72</sup> If history is any guide, prevention efforts stemming from the NYPD Report will unnecessarily result in the erosion of civil liberties. Indeed, focusing on race, religion, and national origin predicts profiling, not commission of terrorist acts. The NYPD Report has already alienated mainstream Muslims, and if translated into policy, it will only deepen mistrust between law enforcement and community members. At the same time, it will fail to provide practical counterterrorism solutions that target actual offenders and will require an increase in taxpayer funded monitoring of a largely law abiding religious group.

Therefore, MACLC proposes the following next steps to restore community trust in the NYPD and to avoid harmful and counter-productive profiling. The NYPD should:

### **1) Develop and make transparent its standards on civil liberties restrictions.**

- Organize discussions and regular task force groups including Muslim community experts, religious and community leaders and leading analysts of NYPD's intelligence and counterterrorism divisions to help ensure the protection of civil liberties and develop a more careful analysis of security issues as they impact the community.
- Redefine "radicalization" in a way that avoids criminalizing political thought, opinion and religious views; avoids profiling, stereotyping or other distortions; and specifies how its policing strategies will be defined and implemented to address "radicalization" without violating constitutional rights.
- Define and publicize threshold standards for NYPD investigations of religious, political, and community spaces, and the electronic monitoring of such spaces, and provide assurance that safeguards are in place to ensure that First Amendment liberties are not violated. This is necessary at a time when there have been unprecedented rollbacks of civil liberties such as the right of habeas corpus and other protections, with still other changes proposed as part of the War on Terror.<sup>73</sup> Such efforts may also help demystify professional police work and reduce the level of fear in the community.
- Clarify NYPD standards for the use of informants, particularly in religious, political, and community associations.
- Develop a plan to mitigate backlash, both real and feared, and to protect Muslim, South Asian and Arab communities from hate crimes by working with local and national media to avoid publicity and hype around terrorism cases. Ultimately, this approach will also improve community relations.

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<sup>72</sup> On May 8, 2008, the U.S. Senate Committee on Homeland Security and Government Affairs issued a report titled, "Violent Islamist Extremism, The Internet, and the Homegrown Terrorist Threat" that endorses the NYPD Report view of radicalization, *available at* [http://hsgac.senate.gov/public/\\_files/IslamistReport.pdf](http://hsgac.senate.gov/public/_files/IslamistReport.pdf) (last visited Sept. 3, 2008).

<sup>73</sup> DAVID COLE, *TERRORISM AND THE CONSTITUTION: SACRIFICING CIVIL LIBERTIES IN THE NAME OF NATIONAL SECURITY* (New Press 2002).

## 2) **Develop structured approaches for partnering with community.**

- Educate Muslim, South Asian and Arab communities about past or potential collaborations with other local and federal law enforcement agencies (e.g., the “Bridges program” in Detroit; the Muslim Safety Forum in London).<sup>74</sup>
- Explore and commit to incorporate lessons from other states’ and nations’ experiences with community-based policing efforts<sup>75</sup> related to terrorism in New York strategies.
- Develop real partnerships with community organizations and groups to work more extensively on specific shared neighborhood concerns outside of national security issues in order to improve relations with police and youth.<sup>76</sup>
- Establish regular public dialogue about policing strategies and their impact on communities.

## 3) **Educate the NYPD about the Muslim community.**

- Consult with Muslim scholars and diverse, but well-grounded, academics about improving existing curriculum on Islam and Muslims for NYPD cadets, officers and high ranking officials.
- Develop programs for NYPD cadets, officers, and high ranking officials on Islam and the Muslim American community in consultation with Muslim scholars and experts who are respected by the community. Involve Muslim community spokespersons in such trainings. Avoid relying on analysis or resources that are biased or have a political agenda.
- Incorporate religiously and culturally sensitive policing trainings at the precinct level for all religious traditions, as well as focusing specifically on Muslims and Islam in America and Islamophobia.

## 4) **Educate leaders and community members about the NYPD Community Affairs Program.**

- Continue to hold interactive community forums and leadership roundtables to educate community leaders and community members about its community affairs and participation programs, and the various opportunities there are to partner with the NYPD. These meetings would help alleviate the discontent with the NYPD and the perception

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<sup>74</sup> “BRIDGES is a forum of constructive dialogue between federal and local government representatives and leaders of the Arab American community, which enhances understanding and the concept of trust. BRIDGES is currently co-chaired by Imad Hamad, ADC Sr. National Advisor and Regional Director, and Daniel Sutherland, Officer for Civil Rights and Civil Liberties, Department of Homeland Security.” *Building Respect in Diverse Groups to Enhance Sensitivity Meeting Addresses Key Issues*, available at, [http://www.us4arabs.com/index2.php?option=com\\_content&do\\_pdf=1&id=823](http://www.us4arabs.com/index2.php?option=com_content&do_pdf=1&id=823) (last visited Oct. 3, 2008).

<sup>75</sup> Jack R. Greene, *Community Policing in America: Changing the Nature, Structure, and Function of the Police. Criminal Justice 2000*. Vol. 3, (2003), available at [http://www.ncjrs.gov/criminal\\_justice2000/vol\\_3/03g.pdf](http://www.ncjrs.gov/criminal_justice2000/vol_3/03g.pdf) (last visited Sept. 3, 2008).

<sup>76</sup> Community organizations can work together with the NYPD Community Affairs Department to ensure participation from Muslim youth in programs such as the Law Enforcement Explorers and Police Athletic League. NYPD Community Affairs, Youth Programs available at [http://www.nyc.gov/html/nypd/html/community\\_affairs/youth\\_programs.shtml](http://www.nyc.gov/html/nypd/html/community_affairs/youth_programs.shtml) (last visited Sept. 3, 2008).

that the community has been excluded from discussions that have a direct bearing on our community.

- Continue to hold community forums to provide information about NYPD's efforts related to terrorism, gang-related crime, racial/religious hate crimes and backlash, with specific outreach to youth through college campuses and high schools; each community session should include an evaluation form.

In closing, MACLC requests that the NYPD take seriously our input as it fulfills its mission to safeguard New York's communities. More specifically, we urge the NYPD to incorporate our recommendations into an official addendum or an updated and revised version of the 2007 NYPD Report. Finally, we request the NYPD's official and public endorsement of MACLC's proposed measures aimed to secure civil liberties and better partnerships between the police and our community. If implemented, the recommendations to the NYPD Report will be a monumental first step in facilitating a more open relationship between the NYPD and the Muslim community, as well as with minority communities around the country. Through a more cooperative strategy, we can be safe while free.