



Statement of Michael W. Macleod-Ball, Acting Director

**American Civil Liberties Union
Washington Legislative Office**

On

**“Violent Extremism: How Are People Moved from Constitutionally-Protected
Thought to Acts of Terrorism?”**

**Before the Subcommittee on Intelligence, Information Sharing, and
Terrorism Risk Assessment**

House Committee on Homeland Security

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Good morning Chairwoman Harman, Ranking Member McCaul, and Members of the Subcommittee. Thank you for the opportunity to testify on behalf of the American Civil Liberties Union, its hundreds of thousands of members, countless additional supporters and activists, and fifty-three affiliates nationwide, about the importance of zealously safeguarding our constitutionally-protected freedoms while we strive to understand how individuals become violent extremists. The ACLU recognizes that government has an obligation to protect society from terrorists and other violent criminals, and that studying previous terrorist attacks and the people who committed them could provide clues useful to preventing future acts of violence. But Congress must tread carefully when attempting to examine people's thoughts or classify their beliefs as inside or outside the mainstream to avoid infringing on fundamental rights that are essential to the functioning of a healthy democracy. Sacrificing our civil liberties in the pursuit of security is unwise, unnecessary, and according to several recent studies, counterproductive to preventing extremist violence.

Barry Goldwater, accepting the Republican nomination for the Office of President of the United States in 1964 said that "Extremism in the defense of liberty is no vice!" This Subcommittee must keep in mind that extremism is nothing more than a chosen set of beliefs and, as such, is absolutely protected under the First Amendment. Asking whether extremist ideology is the precipitator of violence or not presumes that a connection exists between the belief system and the commission of violence. But recent empirical studies of terrorism downplay such a causal connection. To assume without evidence that everyone of a particular faith or ideology is a threat because of the actions of a few would betray American values and waste security resources. An extremist ideology, in and of itself, must not bring on government censure.

Violent action, on the other hand, whether in the name of ideology or otherwise, deserves the full-throated condemnation of the government and its people. As this committee carries on its work on this issue, it has the opportunity to set a sterling and courageous example for the nation by focusing on the root causes of violence, while fully respecting the rights of all individuals to hold views that may be different – or even abhorrent – to the great majority of the country. We will fully support this Subcommittee's examination of the historical events that may tend to explain why particular individuals choose to use violence as a means to effect social or political change in a manner that threatens the national security. We will steadfastly oppose any effort to examine, and thus cast official disapproval upon, any minority belief system. Any such effort would chill the First Amendment rights of those involved and be an unfair slap at untold numbers of wholly innocent Americans.

I. First Amendment Freedoms

The First Amendment to the United States Constitution guarantees freedom of religion, speech, press, petition and assembly.¹ These protections are based on the premise that open and unfettered public debate empowers democracy by enriching the marketplace with new ideas and enabling political and social change through lawful means.² These freedoms also enhance our security. Though "vehement, caustic and sometimes unpleasantly sharp attacks on government

and public officials” have to be endured under our constitutional system of government, the uninhibited debate these freedoms guarantee is recognized as “essential to the security of the Republic” because it ensures a government responsive to the will of the people.³ Moreover, as Justice Brandeis explained, our nation’s Founders realized that the greater threat to security lay not in protecting speech, but in attempting to suppress it:

Those who won our independence . . . knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies, and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law -- the argument of force in its worst form. Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed.⁴

II. Historical Abuse

Unfortunately, in times of national crisis we have often failed to recognize the strength of our democratic ideals. Indeed the ACLU was founded in 1920 to come to the defense of immigrants, trade unionists, and political activists who were illegally rounded up by the thousand in the infamous Palmer raids during America’s first “red scare,” a period of significant anarchist violence. Rather than focusing on finding the perpetrators of the violence, the government sought anyone who supported similar political views, associated with disfavored organizations or wrote or spoke in opposition to government policies. Lawyers who complained of the abuse, which included torture, coerced confessions, illegal searches and arrests, were subject to investigation themselves.⁵

The Department of Justice General Intelligence Division (GID), the precursor agency to the Federal Bureau of Investigation (FBI), collected 150,000 secret files “giving detailed data not only upon individual agitators connected with the radical movement, but also upon organizations, associations, societies, publications and social conditions existing in certain localities.”⁶ By the GID’s own account the warrantless searches, arrests, and deportations were not particularly useful in identifying suspected terrorists or other criminal activity. Rather, its claimed success was in “wrecking the communist parties in this country” and shutting down “the radical press.”⁷ The New York State Legislature also initiated a two-year investigation into the spread of radical ideas. The Joint Legislative Committee to Investigate Seditious Activities (commonly referred to as the Lusk Committee) ultimately produced a report, *Revolutionary Radicalism: Its History, Purpose and Tactics*, which “smeared liberals, pacifists, and civil libertarians as agents of international Communism.”⁸ Though thousands were arrested, few were prosecuted or deported and little incriminating information was obtained during the Committee’s investigation.⁹ Studying radicals was apparently of little help in finding actual terrorists.

In the years that followed, due in part to the public outcry over the red scare abuses, the Department of Justice would reform its policies to focus strictly on violations of law, but these

reforms would not hold.¹⁰ The Cold War brought about a second red scare characterized by congressional witch hunts orchestrated by Senator Joseph McCarthy's Permanent Subcommittee on Investigations and the House Un-American Activities Committee, which ruined the careers of many loyal Americans based purely on their associations. At the same time, and sometimes in support of these congressional investigations, the FBI ran a domestic counter-intelligence program (COINTELPRO) that quickly evolved from a legitimate effort to protect the national security from hostile foreign threats into an effort to suppress domestic political dissent through an array of illegal activities. The Senate Select Committee that investigated COINTELPRO (the "Church Committee") said the "unexpressed major premise of... COINTELPRO is that the Bureau has a role in maintaining the existing social order, and that its efforts should be aimed toward combating those who threaten that order."¹¹ Once again, instead of focusing on violations of law, these investigations targeted people based on their beliefs, political activities and associations. In his Church Committee testimony White House liaison Tom Charles Huston, author of the infamous "Huston Plan," explained the hazards of this shift in focus:

The risk was that you would get people who would be susceptible to political considerations as opposed to national security considerations, or would construe political considerations to be national security considerations, to move from the kid with a bomb to the kid with a picket sign, and from the kid with the picket sign to the kid with the bumper sticker of the opposing candidate.¹²

FBI headquarters opened over 500,000 domestic intelligence files between 1960 and 1974, and created a list of 26,000 individuals who would be "rounded up" in the event of a national emergency.¹³ The FBI used the information it gleaned from these improper investigations not for law enforcement purposes, but to "break up marriages, disrupt meetings, ostracize persons from their professions and provoke target groups into rivalries that might result in deaths."¹⁴

III. Reform

Fortunately this period also saw the Supreme Court begin to take a more principled stance in protecting First Amendment rights. In a number of cases addressing convictions under the Smith Act, which criminalized advocating the violent overthrow of the United States or membership in any organization that did, the Supreme Court began drawing a distinction between advocacy of violence as a tactic of political change and incitement to violence: "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."¹⁵ These cases culminated in *Brandenburg v. Ohio*, in which the Court established that advocacy of violence could be criminalized only where "such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."¹⁶

The Court also strengthened the concept of freedom of association during this time in a series of cases involving attempts to suppress the National Association for the Advancement of Colored People (NAACP):

Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this Court has

more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly.¹⁷

The Court repeatedly struck down state government attempts to compel disclosure of NAACP membership lists in these cases, citing “the vital relationship between freedom to associate and privacy in one’s association” and acknowledging the need to protect these rights from even subtle and unintentional government interference.¹⁸

This recognition that the official investigation of an organization or its membership could impermissibly discourage or “chill” the exercise of constitutionally protected political rights is critically important to the present discussion regarding the study of violent extremism. Indeed the Court’s co-temporal decision in a case reviewing a conviction for contempt of Congress following a witness’s refusal to “name names” before the House Un-American Activities Committee makes the point more explicitly.¹⁹ While the Court recognized Congress’s broad investigative powers inherent to its legislative function, and its unquestioned authority to hold recalcitrant witnesses in contempt, it also held that abuse of the investigative process could lead to an unconstitutional abridgment of protected rights. Moreover, the Court detailed the severe harms that can result even from mere investigation:

The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference. And when those forced revelations concern matters that are unorthodox, unpopular, or even hateful to the general public, the reaction in the life of the witness may be disastrous. This effect is even more harsh when it is past beliefs, expressions or associations that are disclosed and judged by current standards, rather than those contemporary with the matter exposed. Nor does the witness alone suffer the consequences. Those who are identified by witnesses, and thereby placed in the same glare of publicity, are equally subject to public stigma, scorn and obloquy. Beyond that, there is the more subtle and immeasurable effect upon those who tend to adhere to the most orthodox and uncontroversial views and associations in order to avoid a similar fate at some future time. That this impact is partly the result of nongovernmental activity by private persons cannot relieve the investigators or their responsibility for initiating the reaction.²⁰

IV. Contemporary Investigations of Terrorism

We do not provide this history to argue that Congress cannot or should not investigate terrorism - far from it. The danger posed by modern terrorists is real and Congress must understand the scope and nature of the threat and exercise its authorities to the utmost in overseeing the government’s response, holding our military, law enforcement and intelligence agencies accountable, and crafting sensible legislation that enhances security while protecting the rights of innocent persons. But the security threat was no less real during the first red scare and during the Cold War. The question is not whether Congress should respond but how it should respond. History tells us that conflating the expression of unorthodox or even hostile beliefs with threats to security only misdirects resources, unnecessarily violates the rights of the

innocent, and unjustly alienates communities unfairly targeted as suspicious. Justice Brandeis argued that “[f]ear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears.”²¹

Unfortunately the government has recently produced ill-conceived and methodologically flawed reports that claim not only that terrorist acts are linked to the adoption of certain beliefs but that there is a uniform process of “radicalization” in which one progresses from belief to association to terrorism. The New York Police Department report, *Radicalization in the West: The Homegrown Threat*, published in 2007, purports to identify a four-step “radicalization process” that terrorists go through, but even the authors of the study admit crucial limitations to the application of their theory, namely:

- that not all individuals who begin the process pass through all the stages;
- that many “stop or abandon this process at different points;” and finally,
- that “individuals do not always follow a perfectly linear progression” through the four steps.²²

So these are not consecutive steps along a path at all, but rather four stones scattered in the woods which a terrorist or anyone else wandering through may or may not touch.

What is dangerous is that the each of the four steps the NYPD describes involve constitutionally-protected religious and associational conduct, and the authors ignore the fact that millions of people may progress through one, several or all of these “stages” and never commit an act of violence. Moreover these conclusions are based on just five terrorism cases, clearly a statistically insignificant sample from which to draw such sweeping conclusions. Yet the Virginia Fusion Center has cited the NYPD report, as well as Department of Homeland Security (DHS) and FBI reports, in designating the state’s universities and colleges as “nodes of radicalization” requiring law enforcement attention and characterized the “diversity” surrounding a Virginia military base and the state’s “historically black” colleges as possible threats.²³

The NYPD report drew quick condemnation from the civil liberties and Muslim communities. The Brennan Center for Justice issued a memo complaining of the report’s “foreseeable stigmatizing effect, and its inferential but unavoidable advocacy of racial and religious profiling.”²⁴ New York City Muslim and Arab community leaders formed a coalition in response to the NYPD report and issued a detailed analysis criticizing the NYPD for wrongfully “positing a direct causal relation between Islam and terrorism such that expressions of faith are equated with signs of danger,” and potentially putting millions of Muslims at risk.²⁵

A subsequent report by the Senate Homeland Security and Governmental Affairs Committee (HSGAC) entitled *Violent Islamist Extremism, The Internet, and the Homegrown Terrorism Threat* ignored this criticism and simply re-stated the NYPD’s flawed radicalization theories in arguing for a national strategy “to counter the influence of the Ideology.”²⁶ Again, Muslim and Arab civil liberties organizations united to issue a joint letter complaining that the

HSGAC report “undermines fundamental American values” and “exacerbates the current climate of fear, suspicion and hatemongering of Islam and American Muslims.”²⁷

It is important to recognize the impact these dubious reports have on the Muslim and Arab community, as explained in their thoughtful responses, because the HSGAC heard testimony from several witnesses who cited the growth of Islamophobia and the polarization of the Muslim community as risk factors that could raise the potential for extremist violence.²⁸ Unfairly focusing suspicion on a vulnerable community tends to create the very alienation these witnesses claimed could lead to homegrown terrorism.

Indeed a more recent United Kingdom analysis based on hundreds of case studies of individuals involved in terrorism reportedly concluded that, contrary to the NYPD study, there is no single identifiable pathway to extremism and “a large number of those involved in terrorism do not practice their faith regularly.”²⁹ Moreover, the study reportedly identified “facing marginalization and racism” as a key vulnerability that could tend to make an individual receptive to extremist ideology.³⁰ The conclusion supporting tolerance of diversity and protection of civil liberties was echoed in a National Counterterrorism Center (NCTC) paper published in August 2008. In exploring why there was less violent homegrown extremism in the U.S. than the U.K., the authors cited the diversity of American communities and the greater protection of civil rights as key factors.³¹

It is also important to remember that Muslim and Arab groups aren’t the only ones affected by the government’s inappropriate reliance on an unsubstantiated theory of radicalization. Non-violent protest groups have repeatedly been targeted for surveillance and infiltration by law enforcement over the last several years based on their opposition to government policies from both sides of the political spectrum. An assessment published by DHS last year warned that right-wing extremists might recruit and radicalize “disgruntled military veterans.”³² An intelligence report produced for DHS by a private contractor smeared environmental organizations like the Sierra Club, the Humane Society and the Audubon Society as “mainstream organizations with known or possible links to eco-terrorism.”³³ Similarly, a Missouri Fusion Center released an intelligence report on “the modern militia movement” that claimed militia members are “usually supporters” of presidential candidates Ron Paul and Bob Barr.³⁴ Slanderizing upstanding and respectable organizations does not just violate the rights of these groups and those who associate with them, it wastes security resources and undermines public confidence in the government.

V. Distinguish Extremism from Violence

By its title, this hearing focuses on “Violent Extremism”. The phrase presents two distinct concepts as if they were one. Extremism is defined in somewhat circular fashion by one dictionary as the “advocacy of extreme measures or views”³⁵. Extremism is a state of mind or a set of beliefs. There is nothing about the notion of extremism that necessarily denotes violence. And, as Goldwater suggested, some forms of extremism are to be admired. But all forms of extremism are entitled to protection under our Constitution.

Violence on the other hand is entitled to no such deference. The same source defines ‘violence’ as the “exertion of physical force so as to injure or abuse”³⁶ It is an invasive force intended to do harm and, as such, qualifies for no constitutional protection. By linking the two, there is an implicit suggestion that an extremist viewpoint necessarily leads to violent action. There is the further suggestion that violence associated with extremism is somehow worse – or more worthy of examination - than other forms of violence.

Reliable evidence to support these suggestions, however, is not readily available despite popular belief to the contrary. Violence having no discernible tie to ideology occurs far more frequently and has far wider impact than violence assumed to arise out of extremist views. It would be a mistake to dismiss “regular crime” as not causing the same broad and lasting damage to society that terrorism does. Consider the societal impact of student shootings at Virginia Tech and Columbine, the anthrax attacks and the sniper shootings in Washington, DC, and elsewhere in the country – not to mention gang violence, and violence against women, children and the elderly. . The FBI reported there were 1,382,012 violent crimes committed in the U.S. in 2008, including 16,272 murders and 89,000 rapes.³⁷ The question that confounds us is always what possible motives could move these individuals from a life of non-violence to the commission of such acts.

In testimony before the HSGAC, Dr. Marc Sageman, who conducted empirical studies of actual terrorists, downplayed the role of religious belief as a driver of violence: “...there has been far too much focus on ideology in trying to understand radicalization. In my observations of Islamist terrorists, I came to the conclusion that there were not Islamic scholars”³⁸ (emphasis in original). Instead, Sageman cited moral outrage at the Iraq war, abuses of U.S. detainees in Abu Ghraib and “GITMO,” and the perception of a western “War against Islam” as causal factors, and warned against taking any counterterrorism measures that would tend to “alienate the Muslim community.”³⁹

It is possible that an impartial panel to study terrorism will find that in some instances, an individual’s adoption of a certain belief system influenced a decision to commit a violent act. However, it is also just as possible that such a panel will find that in other instances, other factors wholly unrelated to ideology or extremism will be the key factors motivating the violent actions. The important element, however, is to examine the violence – not the belief system held by the violent actor. The Subcommittee must ensure that the examination does not single out violent actions committed by adherents to any particular faith or ideology for scrutiny. To do so would pre-determine an outcome and cast a chilling net over all those non-violent individuals who happen to share all or some of the characteristics or beliefs of those studied. Moreover, to do so would tend to perpetuate the perception of alienation that, according to some, fuels the violence. Significantly, in this regard, one can infer that a renewed dedication to the protection of civil liberties, including associational, speech, and religious rights, is our best defense. As Dr. Sageman suggested, “we must continue to promote core American values of justice and fairness and fight those elements in our society that try to single out and antagonize part of our nation.”⁴⁰

VI. Inappropriate focus on the Internet

The HSGAC report also places inordinate and inappropriate significance regarding the role of the Internet in the radicalization process. The Internet is simply a tool for communication and the expression of ideas. The concern is that identifying ideas and the tools that transmit them as a key part of our security problem increases the likelihood that censorship on the Internet will be part of a proposed solution. Indeed, shortly after the publication of the HSGAC report Senator Lieberman sent a letter to Google calling on them to take down “terrorist content.”⁴¹

Government censorship violates the First Amendment and undermines democracy. Moreover, any attempt to censor the Internet would be futile and counterproductive. Electronic content is ubiquitous and easily transferable. Media removed from one source is often duplicated elsewhere, and a closed website can soon reopen in another guise and at another location. Lt. Col. Joseph Felter, Ph D., Director of the Combating Terrorism Center at West Point, told the HSGAC that “[a]ttempts to shut down websites have proven as fruitless as a game of whack-a-mole.”⁴² Such attempts at censorship would only bring greater attention to the objectionable content.

VII. Conclusion

The ACLU recommends that Congress treat unsubstantiated theories about radicalization with skepticism and focus the government’s anti-terrorism research efforts on actual terrorist acts and those who commit them rather than on the adoption of beliefs or the expression of dissent. Such efforts will likely be more successful at providing a clear picture of the threats we face and the appropriate methods we need to employ to address them without violating the constitutional rights of innocent persons. Fear should not drive our government policies. As Justice Brandeis reminds us,

To courageous, self-reliant men, with confidence in the power of free and fearless reasoning applied through the processes of popular government, no danger flowing from speech can be deemed clear and present unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion... Only an emergency can justify repression. Such must be the rule if authority is to be reconciled with freedom.⁴³

Protecting our First Amendment freedoms will both honor our values and keep us safe.

¹ The Constitution of the United States, Amendment 1: “*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.*”

² See, *United States v. Associated Press*, 52 F.Supp. 362, 372 (D.C.S.D.N.Y.1943); *Roth v. United States*, 354 U.S. 476, 484 (1957).

³ See, *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964), quoting *Stromberg v. California*, 283 U.S. 359, 369 (1931).

⁴ *Whitney v. California*, 274 U.S. 357, 375-376, (1927), (Brandeis, J., Concurring).

⁵ SELECT COMM. TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES, U.S. SENATE, 94TH CONG., FINAL REPORT ON SUPPLEMENTAL DETAILED STAFF REPORTS ON INTELLIGENCE ACTIVITIES

AND THE RIGHTS OF AMERICANS (BOOK III), S. Rep. No. 94-755, at 385 (1976), *available at:*
http://www.aarclibrary.org/publib/church/reports/book3/html/ChurchB3_0196b.htm

⁶ SELECT COMM. TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES, U.S. SENATE, 94TH CONG., FINAL REPORT ON SUPPLEMENTAL DETAILED STAFF REPORTS ON INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS (BOOK III), S. Rep. No. 94-755, at 386 (1976), [CHURCH REPORT] *available at:*
http://www.aarclibrary.org/publib/church/reports/book3/html/ChurchB3_0196b.htm

⁷ *Id.* at 387.

⁸ Samuel Walker, In Defense of American Liberties: A History of the ACLU, Oxford, (1990) p. 16.

⁹ The Lusk Committee: A Guide to the Records of the Joint Committee to Investigate Seditious Activities: A Guide to the Records Held in the New York State Archives, *available at:*
http://www.archives.nysed.gov/a/research/res_topics_bus_lusk.shtml

¹⁰ CHURCH REPORT, at 388.

¹¹ *Id.*, at 7.

¹² *Id.*, at 27.

¹³ *Id.*, at 6-7.

¹⁴ *Id.*, at 5.

¹⁵ *Noto v. United States*, 367 U.S. 290, 297-298 (1961). See also, *Dennis v. United States*, 341 U.S. 494 (1951); and *Yates v. United States*, 354 U.S. 298 (1957).

¹⁶ 395 U.S. 444, 447 (1969).

¹⁷ *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958).

¹⁸ *Id.*, at 462. See also, *Bates v. City of Little Rock*, 361 U.S. 516 (1960); *Shelton v. Tucker*, 364 U.S. 479 (1960); and, *Louisiana ex rel. Gremillion v. NAACP*, 366 U.S. 293 (1961).

¹⁹ *Watkins v. United States*, 354 U.S. 178 (1957).

²⁰ *Id.*, at 197-198.

²¹ *Whitney v. California*, 274 U.S. 357, 376, (1927), (Brandeis, J., Concurring).

²² Mitchell Silber and Arvin Bhatt, New York Police Department, *Radicalization in the West: The Homegrown Threat*, p. 6, (2007). This report seems to draw heavily from an earlier FBI Intelligence Assessment, “The Radicalization Process: From Conversion to Jihad,” (May 10, 2006), though it is not cited.

²³ See, ACLU press release, “Fusion Center Declares Nation’s Oldest Universities Possible Terrorist Threat,” (Apr. 6, 2009), *at:* <http://www.aclu.org/technology-and-liberty/fusion-center-declares-nation%E2%80%99s-oldest-universities-possible-terrorist-threat>

²⁴ Aziz Huq, “Concerns with Mitchell D. Silber and Arvin Bhatt, N.Y. Police Dep’t, Radicalization in the West: The Homegrown Threat,” New York University School of Law, Brennan Center for Justice, (Aug. 30, 2007), *at:* http://brennan.3cdn.net/436ea44aae969ab3c5_sbm6vtxgi.pdf. See also, Coalition Memo to the Senate Committee on Homeland Security and Governmental Affairs Regarding “Homegrown Terrorism,” American Civil Liberties Union et al. (May 7, 2008) *available at* <http://www.aclu.org/safefree/general/35209leg20080507.html>.

²⁵ Muslim American Civil Liberties Coalition, CounterERRORism Policy: MACLC’s Critique of the NYPD’s Report on Homegrown Terrorism, (2008), *at:*

²⁶ United States Senate Committee on Homeland Security and Governmental Affairs Majority and Minority Staff Report, “Violent Islamist Extremism, The Internet, and the Homegrown Terrorist Threat,” (May 8, 2008).

²⁷ Coalition Letter to the Honorable Joseph I. Lieberman and the Honorable Susan M. Collins, May 14, 2008, *available at:* http://www.muslimadvocates.org/documents/temporary_HSGAC_report-Allied_response_FINAL.pdf

²⁸ See for example, Hearing of the Senate Homeland Security and Governmental Affairs Committee, *Violent Islamist Extremism: The European Experience*, (June 27, 2007), particularly the testimony of Lidewijde Ongering and Marc Sageman, *available at:* http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=9c8ef805-75c8-48c2-810d-d778af31cca6.

²⁹ Alan Travis, “M15 Report Challenges Views on Terrorism in Britain,” The Guardian, (August 20, 2008) *at:* <http://www.guardian.co.uk/uk/2008/aug/20/uksecurity.terrorism1> and; Alan Travis, “The Making of an Extremist,” The Guardian (Aug. 20, 2008) *at:* <http://www.guardian.co.uk/uk/2008/aug/20/uksecurity.terrorism>

³⁰ *Id.*

³¹ National Counterterrorism Center Conference Report, Towards a Domestic Counterradicalization Strategy, (August 2008). Notwithstanding the conclusion, the paper inexplicably went on to examine how the U.S. could better adopt U.K. counterterrorism strategies.

³² See, U.S. Dep’t of Homeland Security, Assessment: Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment (Apr. 7, 2009), available at <http://wnd.com/images/dhs-rightwing-extremism.pdf>.

³³ UNIVERSAL ADVERSARY DYNAMIC THREAT ASSESSMENT, ECO-TERRORISM: ENVIRONMENTAL AND ANIMAL RIGHTS MILITANTS IN THE UNITED STATES, (May 7, 2008), available at <http://wikileaks.org/leak/dhs-ecoterrorism-in-us-2008.pdf>.

³⁴ T.J. Greaney, ‘*Fusion Center’ Data Draws Fire over Assertions*, COLOMBIA DAILY TRIBUNE, (March 14, 2009), available at <http://www.columbiatribune.com/news/2009/mar/14/fusion-center-data-draws-fire-over-assertions/>.

³⁵ Merriam Webster’s Online Dictionary, available at <http://www.merriam-webster.com/dictionary/Extremism>.

³⁶ *Id.* at <http://www.merriam-webster.com/dictionary/violence>.

³⁷ Uniform Crime Reports, Crime in the United States, 2008, U.S. Dep’t. of Justice, Federal Bureau of Investigation, Table 1 (2009), at: http://www.fbi.gov/ucr/cius2008/data/table_01.html

³⁸ Marc Sageman, testimony before the Hearing of the Senate Homeland Security and Governmental Affairs Committee, *Violent Islamist Extremism: The European Experience*, p. 2, (June 27, 2007), available at: http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=9c8ef805-75c8-48c2-810d-d778af31cca6.

³⁹ *Id.*, at 5.

⁴⁰ Marc Sageman, testimony before the Hearing of the Senate Homeland Security and Governmental Affairs Committee, *Violent Islamist Extremism: The European Experience*, p. 5, (June 27, 2007), available at: http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=9c8ef805-75c8-48c2-810d-d778af31cca6.

⁴¹ Letter from Senator Joseph Lieberman to Dr. Eric Schmidt, Chairman of the Board and Chief Executive Officer, Google, Inc., (May 19, 2008) at: <http://lieberman.senate.gov/newsroom/release.cfm?id=298006>.

⁴² Statement of Lt. Col. Joseph Felter, Hearing before the Senate Committee on Homeland Security and Governmental Affairs, “*The Internet: A Portal to Violent Islamist Extremism*,” (May 3, 2007), at: <http://www.investigativeproject.org/documents/testimony/224.pdf>.

⁴³ *Whitney v. California*, 274 U.S. 357, 376, (1927), (Brandeis, J., Concurring).