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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 pre

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

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 pe

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

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 commu6.86125(a)-045789-2156

AND THE RIGHTS OF AMERICANS (BOOK III), S. Rep. No. 94-755, at 385 (1976), *i e t*:

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] *i e t*:

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.

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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), *i e t* <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), *i e t* <http://wikileaks.org/leak/dhs-ecoterrorism->