

Testimony of Andrew C. McCarthy

Senate Judiciary Committee Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts

Hearing on: “Willful Blindness: Consequences of Agency Efforts to Deemphasize Radical Islam in Combating Terrorism”

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Chairman Cruz, members of the committee, my name is Andrew C. McCarthy. For over eighteen years, I was a federal prosecutor in the Southern District of New York, retiring from the Justice Department in 2003 as the chief assistant United States attorney in charge of the Southern District’s satellite office (which oversees federal law enforcement in six counties north of the Bronx).

During my tenure in the office, I investigated, tried and supervised the prosecution of numerous criminal cases, running the gamut from organized crime and narcotics trafficking through political corruption and national security. In addition, I held various executive staff positions in the office. I was twice awarded the Justice Department’s highest honors: the Attorney General’s Award for Distinguished Service in 1987 for the “Pizza Connection” organized crime and international narcotics trafficking case targeting the Sicilian mafia, and the Attorney General’s Award for Extraordinary Service in 1996 for the terrorism prosecution further described below.

I worked on terrorism investigations and trials in various capacities following the jihadist bombing of the World Trade Center on February 26, 1993, and continuing through the end of my Justice Department tenure. This included helping supervise our command post near Ground Zero in lower Manhattan in the aftermath of the jihadist atrocities of September 11, 2001, in which nearly 3,000 Americans were killed and the World Trade Center was destroyed (in addition to strikes against the Pentagon and at least one other iconic target here in Washington – the latter being unsuccessful thanks to the courage of the passengers and crew of Flight 93).

From 1993 through early 1996, I led the investigation and successful prosecution of the jihadist cell that carried out the World Trade Center bombing and subsequently plotted an even more ambitious attack: simultaneous bombings of the Lincoln and Holland Tunnels, the United Nations complex on Manhattan's East Side, and the headquarters of the FBI's New York Field Office in lower Manhattan. The latter plot was thwarted, principally thanks to the heroic work of a patriotic Muslim informant, who enabled the FBI's New York Joint Terrorism Task Force to infiltrate the cell led by Omar Abdel Rahman, better known to Americans and worldwide as "the Blind Sheikh."

In October 1995, after a nine-month trial before U.S. District Judge Michael B. Mukasey (who would later be named U.S. Attorney General by President George W. Bush), all twelve defendants (including all ten who went to verdict) were convicted of various offenses, principally including seditious conspiracy to wage a war of urban terrorism against the United States. In early 1996, the defendants were sentenced to severe incarceration terms ranging from life-imprisonment to 25 years' imprisonment. I subsequently wrote the government's 650-page appellate brief and defended the convictions in an extraordinary two-day argument before the U.S. Court of Appeals for the Second Circuit, which unanimously affirmed the convictions in 1999. In conclusion, the Second Circuit panel wrote:

The ten defendants were accorded a full and fair jury trial lasting nine months. They were vigorously defended by able counsel. The prosecutors conducted themselves in the best traditions of the high standards of the Office of the United States Attorney for the Southern District of New York. The trial judge, the Honorable Michael B. Mukasey, presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.

It is worth noting for today's purposes that our investigation and trial illuminated major weaknesses in the legal arsenal then available to investigators and prosecutors in responding to terrorist plots and attacks – weaknesses that existed because, prior to 1993, our country had not been the target of a systematic, sustained rampage of international terrorism. Consequently, Congress enacted the Antiterrorism and Effective Death Penalty Act, which President Bill Clinton signed into law on April 24, 1996. The Act dramatically improved counterterrorism,

particularly by prescribing terrorism offenses and penalties fit for the operations and mass-murder aspirations of modern jihadism. Significantly, such new offenses as providing material support to terrorists improved the capacity of American national-security agents to gather intelligence against terrorist cells, starving them of resources and disrupting them before they could strike.¹ Material support offenses became a staple of Justice Department prosecutions, particularly after the 9/11 attacks – although they have fallen off in recent years.

Following my retirement from the Justice Department, I worked on a bipartisan task force of former government officials in connection with an effort to assist Congress in assessing amendments to the October 2001 USA PATRIOT Act. I also served for several months as a consultant to the Deputy Secretary of Defense, during the time frame when the Defense Department was both cooperating with the 9/11 Commission and attempting to structure a military justice system tailored to the detention and trial of alien enemy combatants captured in ongoing military operations.

Consequently, I have had the opportunity, and what I continue to regard as the honor, of participating in the front lines, as it were, of our government's responses to the enemy's declaration of jihadist war against the United States (which, in effect, is what the 1993 WTC bombing was), and the transformation of what had been a law-enforcement-centric response to a response more akin to war-footing (with critical law-enforcement and domestic-intelligence support missions). This transformation followed the 9/11 attacks, the Congress's swift passage of an authorization for the use of military force, and the commencement of U.S. combat operations.

I remain convinced that this war-footing response is the only sensible counterterrorism paradigm for our current threat environment – very much including its preference for the post-9/11 prevention-first approach that relies on intelligence-driven policing; as opposed to the pre-9/11 emphasis on prosecution that sees terrorism as a criminal-justice matter mainly to be addressed by investigations after attacks have occurred.

¹ The Material Support offenses were first introduced in the Violent Crime Control and Law Enforcement Act of 1994, Sec. 120005, codified at Title 18, U.S. Code, Sec. 2339A. It has been amended several times since.

I am currently a freelance writer, a senior fellow at National Review Institute, and a contributing editor at *National Review*. As a writer, I penned an account of my afore-described experiences in 2008, entitled *Willful Blindness: A Memoir of the Jihad*. The title is a double entendre: My principal defendant, Omar Abdel Rahman, is a blind and willful exponent of sharia-supremacist ideology; our government's response to the threat he represents has been, and continues to be, willfully blind to this ideology, which catalyzes the threat.

To grasp this dangerous phenomenon, we need only consider Sheikh Abdel Rahman.

After the World Trade Center bombing, our government represented to the American people, just as it does today (nearly a quarter century later), that the terrorist attack executed by Muslims in express reliance on Islamic scripture was a wanton act unrepresentative of any mainstream of Islamic thought. Now, put aside for a moment that sane people – and our defendants were surely sane – do not commit mass-murder attacks for no reason. Common sense tells us that there has to be a good reason that motivates them in a powerful way, overcoming basic humanitarian instincts. Let us just consider Omar Abdel Rahman.

He was not merely blind, he was beset by several other medical handicaps. Terrorism is hard work. Yet, here was a man who was the unquestioned leader of a terror cell who seemed utterly incapable of doing anything that would be useful to a terrorist organization: he couldn't build a bomb, hijack a plane, or carry out an assassination. How could that be?

The answer was straightforward, though it was plainly not one we wanted to hear. The Blind Sheikh is a doctor of Islamic jurisprudence graduated from al-Azhar University in Cairo, the seat of Sunni Islamic learning for over a millennium. His area of expertise is sharia – Islam's legal code and societal framework. The jihadists who listed to him did so because he is an internationally renowned scholar, a recognized authority in Islamic scripture – an authoritative exponent of a political ideology drawn from that scripture that inspires attacks against the West.

The centrality of ideology tells us why terrorists obeyed the Blind Sheikh. It tells us why terrorists act – something that we must grasp if we have any hope of defending ourselves and defeating them.

Yet, instead of focusing on this ideology, we have wasted much of the last two decades on a fool’s errand: attempting to define a “true Islam” in the futile hope of discrediting terrorists as purveyors of a false Islam.

The stubborn fact is that there may not be a “true Islam.” Islam has a rich and diverse history, and there are various interpretations of it, all vying for the mantle of “true Islam” and denying it to one another. Innumerable factions of Muslims have been debating one another, often violently fighting amongst each other, for fourteen centuries. They have not settled the question, “What is the true Islam?” The United States is not going to settle it, either.

From the standpoint of American national security, it is irrelevant whether there is a true Islam. What matters is that there is a sharia-supremacist construction of Islam to which millions of Muslims have adhered for centuries. It is virulently anti-Western, misogynist, anti-Semitic, and homophobic. It rejects basic tenets of Western liberalism, including the power of people to chart their own destiny and make their own laws in contravention of sharia. It rejects individual liberty and equality. It brooks no separation between spiritual life and civil society. It is a comprehensive framework for human life, dictating high public matters of government, economy and combat, as well as such intimate personal matters as hygiene and relations between the sexes. It endorses violent jihad to implement and spread sharia. And it regards the United States, closely trailed by Israel and Europe, as the principal enemies of Islam that must be defeated.

This is the Islam that Sheikh Abdel Rahman taught, and our government’s claims that he concocted it by lying about or perverting Islamic doctrine proved to be a gross exaggeration on our part. One might be able to argue that he took scripture out of context or gave an incomplete account of it. In my subsequent years of studying Islam, I’ve learned that this is not a particularly persuasive argument. But even if one concedes for the purposes of discussion that it’s a colorable claim, the inconvenient fact remains: Abdel Rahman was not lying about Islam.

When he said the scriptures command that Muslims strike terror into the hearts of Islam's enemies, the scriptures backed him up.

When he said Allah enjoined all Muslims to wage jihad until Islamic law was established throughout the world, the scriptures backed him up.

When he said Islam directed Muslims not to take Jews and Christians as their friends, the scriptures backed him up.

We could and should counter that there are other ways of construing Islamic doctrine. We could contest the translation of some scriptures, as is done by Dr. M. Zuhdi Jasser, a courageous Muslim reformer and American patriot, in his excellent book, *A Battle for the Soul of Islam*. We could contend that clear, incontestable scriptural exhortations to violence and hatred should be “contextualized” – i.e., that they were only meant for their time and place in the seventh century.

I would caution that there are very colorable counterarguments against such claims. Even if there were not, though, the point is that we would still be in the business of competing interpretations, not authoritative judgment based on dispositive fact. That there are multiple ways of construing Islam hardly makes the Blind Sheikh's construction wrong.

The blunt fact of the matter is that, in this contest of competing interpretations, it is the jihadists who seem to be making sense because they have the words of scripture on their side – it is often authentic moderates and Muslim reformers who seem to be dancing on the head of a pin, however much we want their scriptural constructions to prevail. For our present purposes, however, the fact is that the Blind Sheikh's summons to jihad was rooted in a coherent interpretation of Islamic doctrine. He was not perverting Islam – he was, if anything, shining a light on the need to reform it.

That is something we desperately need to understand and highlight, not obscure and avoid.

Regardless of how authentic is the sharia-supremacist ideology of our jihadist enemies – political radicalism with a religious veneer – there are millions of Muslims who believe it is the true Islam. They are supported by centuries of scholarship and scriptural literalism. We are not going to convince them that they are wrong. They do not care what we think. They have their own civilization and culture principles, which they believe to be superior to Western rationalism, Judeo-Christian culture, and American constitutional republicanism. These Muslims do not judge themselves and, in general, are not affected by the language we use to speak about them or our stated beliefs about Islam. Indeed, because they regard us as the enemy, our uninformed lecturing about “the true Islam” is laughable to them – if anything, they are more apt to disregard what we say precisely because it is we who are saying it.

This should make our task simple – not easy, but at least straightforward: We should internalize and acknowledge the fact that our enemy is not all believers in Islam; indeed, millions of Muslims reject sharia supremacism – such as the first Muslims I met in 1993, patriots who provided the key assistance without which our government could not have infiltrated the jihadist cell, thwarted an unspeakable attack, and provided the translation and doctrinal guidance that enabled us to build a compelling prosecutorial narrative, based on which the jury convicted the terrorists. We should build our counterterrorism around the reality of radical Islam – to be more precise, sharia supremacism – and the inescapable fact that there are commands to violence in Islamic scripture, that they are exploited by influential Muslim scholars and jihadists to “radicalize” young Muslims, and that some percentage of these young Muslims become active jihadists while an even larger percentage creates sharia enclaves that are favorable environments for recruitment, incitement, plotting, fundraising, and paramilitary training.

That is exactly the progression we proved in court in the mid-nineties, and that the Justice Department has proved repeatedly ever since. Alas, what was regarded as *evidence* twenty years ago (for the presentation of which high government honors were bestowed upon lawyers like me), is today regarded as “*Islamophobia*” (a term concocted by the sharia-supremacist Muslim Brotherhood precisely to demagogue those who insist on the commonsense premise that we must know the enemy in order to defeat the enemy).

Stubbornly unwilling to deal with the complex reality of Islamic diversity, our leaders have constructed an Islam of their very own. Regardless of the abundance of evidence to the contrary, the government holds that Islam is a religion of peace, *case closed*. (Such a weak case has to be closed because it cannot withstand even slight examination). This triumph of willful blindness and political correctness over common sense was well illustrated by former British Home Secretary Jacqui Smith when she described terrorism as “anti-Islamic activity.” In other words, the savagery is not merely *unrelated to Islam*; it becomes, by dint of its being inconsistent with a “religion of peace,” *contrary to Islam*.

Therefore, to the government, terrorism committed by people who happen to be Muslim is not in any way a reflection of any legitimate interpretation of Islam – even if sharia-supremacist ideology, which endorses jihadist violence, is so mainstream that tens of millions of Muslims adhere to it. Hence: the label “violent extremism,” the term our government has attempted to substitute for “terrorism” in its official statements and in the public consciousness. “Terrorism,” after all, is a word with roots in scripture (in which, as the Blind Sheikh pointed out, Allah commands Muslims to “strike terror” into the hearts of Islam’s enemies); “violent extremism,” by contrast, intimates that mass-murders can be caused by “extremism” of any kind – there is nothing in Islam, we are to believe, that makes Muslims more likely to commit them. To the contrary, again, violence is not just unrelated to Islam but officially deemed *anti-Islamic*. That is what has been dictated to our law-enforcement agents by their superiors.

Consider some of the policy implications of this. It means that Islamic doctrine can never be cited as the cause of terrorism. This leads, for example, to the preposterous government handwringing over “radicalization”: We are apparently supposed to believe young people, all of whom just happen to be Muslim, spontaneously become violent radicals – as if there were no doctrine or body of thought that was inducing the radicalization. We are only to say they have been “radicalized” – never mention *by what*.

Fantasy Islam also leads inexorably to the irrational governmental decrees that terrorist organizations like ISIS and al Qaeda *are not Islamic*. We are to conclude that they are either wanton killers, or that they have “hijacked” and “perverted” Islam into something that it is not –

something that cannot be dignified with the name “Islam” because Islam, after all, is a religion of peace.

The most ludicrous fallout of this line of thinking is the apparent inability of government officials to call a mass-murder attack by Muslims a *terrorist* attack. But again, if we grasp the government’s official party line, we understand the reluctance of these officials.

The only terrorists the government acknowledges as terrorists are formally designated terrorist groups – ISIS, al Qaeda, Hamas, Hezbollah, etc. As we’ve seen, the government has pronounced these groups to be *anti-Islamic*. Thus, even if law-enforcement comes upon a mass-murder attack that is clearly instigated by Islamic doctrine, agents are not permitted to conclude that the attack is an instance of *terrorism* because they’ve been directed to maintain that Islam is *against* terrorism. Consequently, the agents believe they cannot call terrorism *terrorism* unless and until they uncover evidence proving that the Muslim mass-murderers have some tie to a designated “non-Islamic” terrorist group, such as ISIS or al-Qaeda.

It is rare for such evidence to be uncovered early in an investigation. And the fact of the matter is: such evidence will often never be uncovered because it does not exist. It will frequently turn out that the Muslims who’ve committed the atrocity have been “radicalized” *by Islamic doctrine*, straightforwardly construed as sharia supremacism by their fellow Islamists at the local mosque and Islamic center. They don’t need mediation, help, or instruction from ISIS or al Qaeda. They already share the ideological goal as these groups, to wit: the imposition of Allah’s law, sharia. All they really need in order to execute terrorist attacks is paramilitary training. That is readily available throughout the world, including in the West; there is no need to trek to ISIS and al Qaeda strongholds in Syria to get it.

One concrete example of the analytic waywardness of bleaching the Islam out of radical Islam was seen in the aftermath of the recent jihadist mass-murder in Orlando. The *Washington Post* tellingly reported that the Orlando jihadist, Omar Mateen, and Moner Mohammed Abusalha, an American Muslim who carried out a suicide attack on behalf of the ISIS in Syria, both “*prayed at the same Fort Pierce, Fla., mosque*” (emphasis added). This description of what the two men

must have been doing in the mosque is consistent with a quarter-century of government-, media-, academic-, and other opinion-elite sculpting of public perception: Islam, we are to believe, is a religion just like any other; a mosque, therefore, must be a house of worship like any church, temple or synagogue in the West – nothing more than a sanctuary where believers gather for communal prayer.

Of course, to the student of fundamentalist Islam and its sharia-supremacist teachings, this is sheer nonsense. There is a reason why much of the jihadist violence in the Middle East and its environs occurs on Fridays – *Juma*, the Muslim Sabbath on which believers pour out of mosques after being treated to the imam’s political diatribes and incitements to jihad against the West.

Sharia supremacism does not recognize a division between mosque and state, between spiritual and political or civic spheres of life. In this aggressive, fundamentalist construction of Islam, the mosque is not a mere “house of worship” where believers gather strictly “to pray.” Far from it. The mosque is the political and ideological center of what, in the West, is an anti-assimilationist movement bent on conquest, not prayerful pluralism.

Hassan al-Bannah, founder of the Muslim Brotherhood, the world’s most influential, most sophisticated sharia-supremacist movement, taught a farsighted form of ground-up revolution. The movement would plant its flag and grow outward in enclaves, small towns, and – eventually – big cities, districts, counties, states, provinces and countries across the globe. And where would it plant its flag in every place it sought conquest? Bannah instructed that the mosque and its companion Islamic community center would be “the axis of the movement” everywhere where the movement took root.

Nor need an American investigator be steeped in Muslim Brotherhood doctrine to grasp this – however much those of us with eyes to see might wish every American counterterrorism agent were better acquainted with Brotherhood doctrine. In the 23 years since I prosecuted the jihadist cell that bombed the World Trade Center, the Justice Department has indicted and tried numerous terrorism cases. In these prosecutions, the hub is invariably the mosque. To take my case back in the mid-nineties as a typical example, we proved that the mosque was used for

jihadist radicalization, recruitment, fundraising, training, and plotting, in addition to serving as a safe-space for the storage and transfer of firearms.

Why were jihadists so brazen in this regard? Because while our government consciously avoids the straightforward tenets of sharia supremacism, Muslim militants go to school on the West. They know that, heedless of what courtroom proof shows and what common sense says, our opinion elites stubbornly cling to the depiction of Islam as a monolithic “Religion of Peace,” in which the mosque is merely and unvaryingly a place of prayer.

There is, moreover, a dangerous flipside to our government’s insistence on making up its own content-free, obsessively peaceful version of Islam: Anyone whom the government publicly associates with Islam is perforce deemed moderate and peaceful. This is how we fall into the trap of allowing the Muslim Brotherhood, the world’s most influential sharia-supremacist organization, to infiltrate policy-making organs of the U.S. government, not to mention our schools, our prisons, and other institutions.

The federal government, particularly under the Obama administration, acknowledges the Brotherhood as an Islamic organization, notwithstanding the ham-handed attempt by the intelligence community a few years back to rebrand the Brotherhood as a “largely secular” organization. This effectively confers on the Brotherhood the government’s “moderate” “religion of peace” seal of approval, despite the facts that (a) Hamas (a formally designated terrorist organization) self-identifies as the Brotherhood’s Palestinian branch; (b) the support of Hamas has been the Brotherhood’s priority in the West since Hamas’s inception in the late-eighties; (c) the Brotherhood has a long history of terrorist violence, firmly rooted in the doctrine and writings of its two most revered figures – founder, Hassan al-Banna, and chief theorist, Sayyid Qutb; and (d) major Brotherhood figures have gone on to play leading roles in terrorist organizations such as al Qaeda.

We should be extremely troubled that jihadist atrocities are now a more common homeland occurrence than they have ever been – more common even than in the pre-9/11 years, when terrorists bombed the World Trade Center and plotted against other targets but usually struck

American facilities overseas (our air force dormitory in Saudi Arabia, our embassies in East Africa, our naval destroyer in Yemen). I believe this deterioration of national security is directly attributable to the incumbent administration's determination to move gradually away from our post-9/11 war-footing, coupled with the impediments to familiarity with our enemies' ideology that the administration has imposed on our military, intelligence and law-enforcement investigators.

While government officials and media analysts spout on about the phenomenon of "lone wolf" attacks by "homegrown" terrorists, it is more myth than fact. Repeatedly, we find out that the wolves in question were not "lone" and hidden, but *known* and in plain sight. And though they may strike at home, the ideology that fuels them is foreign and hostile to the West.

All that said, we should stipulate that the FBI is overwhelmed. There is a natural tendency, after an atrocity occurs, to focus myopically on the lead-up to the attack – as if any relevant investigation must have been the only investigation in the world. But that is a gross distortion of reality.

Of the nearly 36,000 people who work for the FBI, less than 14,000 are investigative agents. National security is a crucial part of the Bureau's portfolio, but the FBI is statutorily the lead investigative agency in virtually every category of criminal offense in federal law. At most, there are a couple of thousand agents assigned full-time to counterterrorism. Those numbers are multiplied somewhat by joint federal-state efforts – the Joint Terrorism Task Forces in several metropolitan areas across the nation. Even so, because the Bureau is an intelligence as well as a law-enforcement agency, there are over a thousand terrorism investigations ongoing at any one time. The FBI director indicates that there is activity that must be monitored in all fifty states. Unless there are flashing neon signs of imminent attack, the small number of investigators can only spend so much time on any one suspect.

Of course, that time can be maximized, or wasted, depending on whether investigators know what they're looking for ... and whether they are permitted to look for it.

Clearly, the FBI spent a lot of time on Omar Mateen, the jihadist who murdered 49 people and wounded dozens of others at a gay nightclub in Orlando. The Bureau sent confidential informants to interact with him, conducted physical surveillance, covertly monitored some of his phone calls, and interviewed him face-to-face three separate times. It concluded his bark was bad, but his bite was non-existent. Honoring guidelines imposed on terrorism investigations, the FBI closed its case. That is, in addition to concluding that no charges should be filed, the Bureau further decided that additional monitoring of Mateen was not warranted.

In retrospect, this seems reckless. But the FBI is not incompetent, far from it. The agency knew Mateen was worth a heavy investigative investment. The problem is that the FBI answers to the Washington political class. The bipartisan Beltway has long ruled that advocacy of radical Islam is protected by the Constitution. It has long instructed its investigators, preposterously, that seditious beliefs and agitation are immune, not just from prosecution but even from *mere inquiry*.

What passes for the Obama national security strategy, known as “Countering Violent Extremism” exacerbates this problem. CVE delusionally discourages the conclusion that radical Islamic ideology has any causative effect on terrorist plotting. The FBI is in the impossible position of trying to conduct investigations that follow the facts wherever they lead while fearing that such investigations – by illuminating the logical progression from Islamic scripture to sharia supremacism to jihadist terror – will enrage its political masters.

Understand: nothing in the Constitution mandates this suicidal betrayal of national security. It flows from Washington’s lunatic concoction of an imaginary Islam. The administration and the Islamist organizations it consults, many of which are connected in one way or another to the Muslim Brotherhood, insist this “anti-terrorist” “Religion of Peace” is the *only* viable interpretation of Islam. We are not just to believe, we are pressured to endorse, the fantasy that sharia supremacism is a “false Islam.” Its palpable mainstream status in the Middle East and elsewhere is not to be spoken of.

The FBI is bound by guidelines promulgated by the Justice Department, most of which have been in place since the administration of President George W. Bush. They impose a caveat on every investigation:

These Guidelines do not authorize investigating or collecting or maintaining information on United States persons solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or laws of the United States.

On its face, this admonition should not be problematic. It instructs that agents may not investigate for the *sole* purpose of monitoring activities protected by federal law. Consequently, if agents have *other legitimate purposes* for investigating – such as preventing terrorist attacks or probing terrorism conspiracies – the Justice Department guidance is no bar to conducting an investigation in which a mosque or a protest rally may foreseeably come under scrutiny.

Political dissent and the exercise of religion are protected by the First Amendment. But this is a protection against being *prosecuted* merely for one's words or religious observance. It is not a shield against investigation for criminal activities that are motivated by religious or political belief.

Not only may one be investigated and prosecuted for criminal offenses that are motivated by one's beliefs or speech. It has long been the law that evidence of one's beliefs and speech, which is often highly relevant to proving criminal intent, may be admitted in a prosecution for such offenses.

Simply stated, if a Muslim believes sharia law must be imposed on society, and he tells people that Allah commands the commission of violent jihad to impose sharia, that belief and statement are admissible evidence if the Muslim in question is charged with bombing or terrorism conspiracy crimes. He is not being prosecuted for what he believes or has said; *he is being prosecuted for the crimes*. The beliefs and statements are evidence of his state of mind – just as they are in all kinds of criminal cases beyond terrorism.

That being the case, there is nothing inherently wrong with, much less constitutionally offensive about, the concept that radical religious or political beliefs should trigger investigations. That is especially the case if those beliefs are conveyed by aggressive language, or by association with other radicals or mosques known to endorse jihadism.

Here's an important principle we must get right: **It cannot be that evidence an investigator may use to prove *guilt* of terrorism offenses is somehow insulated from an investigator's suspicions about potential terrorism offenses.** The goal of counterterrorism is supposed to be the *prevention* of jihadist attacks, not the hope that there may be a living terrorist or two still around to be indicted and tried only after Americans have been murdered.

There is thus more to say about "Countering Violent Extremism." In essence, CVE holds that terrorism has nothing to do with Islam or even with Islamist ideology that reviles the United States. President Obama has conclusively proclaimed: "Muslim American communities have categorically condemned terrorism" – end of discussion ... as if that were an incontestable proposition or one that told the whole story.

Thus, the administration narrative continues, the real threat to our security is not Muslim terrorist plots against us *but our provocation of Muslims*. By the Obama administration's lights, our national defense measures following the 9/11 attacks have conveyed the misimpression that America is at war with Islam. We are supposed to suspend disbelief, to refrain from asking: *What, then, prompted the 9/11 attacks in the first place? What prompted the increasingly audacious series of attacks from the 1993 bombing of the World Trade Center to the 2000 bombing of the U.S.S. Cole?*

Instead of asking such impertinent questions, we are simply to accept the president's say-so that the key to our security is to "partner" with the leadership in Muslim communities – much of which just happens to be tied to or heavily influenced by the Muslim Brotherhood.

In a major 2007-08 prosecution (the *Holy Land Foundation* case), the Justice Department proved that the Brotherhood financed the Hamas terrorist organization to the tune of millions of dollars.

That same Muslim Brotherhood is the main subject of my 2010 book, *The Grand Jihad*. The title is lifted from an internal Brotherhood memo seized by the FBI and presented at the *Holy Land* trial – a memo in which Brotherhood honchos stationed in the United States explained that their mission here is a “grand jihad” to “eliminate and destroy Western Civilization from within” – by “sabotage.”

Under CVE, we are to let our Islamist “partners” train the police, and let them be our eyes and ears in Muslim communities. The theory is that we all share the same interests, so we should rest assured that these Islamist leaders will alert us if there is any cause for concern. But of course, Islamists who promote a sharia agenda and who support jihadists in many instances (even as they claim to condemn terrorism), do not have the same national security interests and duties as our government’s investigative and intelligence agencies.

If it is possible, the practice of CVE is even more of a national-security disaster than the theory. This is probably best documented by Stephen Coughlin in a recent and essential book: *Catastrophic Failure: Blindfolding America in the Face of Jihad*.

Apart from being an exceptional lawyer, Coughlin is a trained military-intelligence officer who has studied sharia supremacism closely. *Catatstrophic Failure* is about how the United States government has systematically stifled the study of this doctrine since before 9/11. CVE is the paragon illustration of how the Obama administration has exacerbated this catastrophic failure that referred to a “Willful Blindness” in my memoir.

As Coughlin demonstrates, CVE is no secret. For example, the Department of Homeland Security’s Office for Civil Rights and Civil Liberties – which is every bit as radical as the infamous Civil Rights Division in the Obama Justice Department has – has worked with the National Counterterrorism Center to develop government-agency training programs that “bring together best [CVE] practices.”

One product of this effort is a handy two-page instruction document of CVE “Do’s and Don’ts” [*sic*]. The “Don’ts” tell agents to avoid, among other things, “ventur[ing] too deep into the weeds

of religious doctrine and history,” or examining the “role of Islam in majority Muslim nations.”

The guidance further admonishes:

Don't use training that equates radical thought, religious expression, freedom to protest, or other constitutionally protected activity, with criminal activity. One can have radical thoughts/ideas, including disliking the U.S. government, without being violent; for example, trainers who equate the desire for Sharia law with criminal activity violate basic tenets of the First Amendment.

As we've already observed, this interpretation of the First Amendment is patent rubbish. Again, there is no free-speech protection against having one's words examined for intelligence or investigative purposes. Free-expression principles protect Americans against laws that subject speech to penalty or prosecution – a protection, by the way, that the Obama administration seeks to deny to speech unflattering to Islam, under UN Human Rights Council Resolution 16-18, which it jointly sponsored with several Islamic nations).

In sum, Obama's CVE strategy expressly instructs our investigators to consider only violent or criminal *conduct*. They are told to ignore radical ideology, particularly if it has the patina of “religious expression.” They are directed to turn a deaf ear to anti-Americanism and the desire to impose sharia, which just happens to be the principal objective of all violent jihadists, and of the Muslim Brotherhood.

Our agents, furthermore, are cautioned to avoid doing anything that smacks of subjecting particular groups to heightened scrutiny. After all, that might imply that terrorism committed by Muslims has some connection to Islam — specifically, to the undeniable, unambiguous commands to violent jihad found in Muslim scripture.

Obviously, this CVE guidance is exactly what our investigators follow when, for example, they consciously avoid scrutinizing jihadist social-media postings by visa applicants from Muslim-majority countries – such as Tashfeen Malik. She was the Pakistani immigrant who joined her jihadist husband, Syed Farook, in carrying out last December's mass-murder attack in San Bernardino (in which fourteen people were killed and dozens wounded).

There is nothing secret about CVE. It is right there in black-and-white. Willful blindness, furthermore, is the same rationale the Obama administration, at the urging of Islamist organizations, has used to justify purging instruction about the Islamic doctrinal roots of violent jihadism from materials used to train our law-enforcement, military, and intelligence agents.

The doctrinal roots of violent jihadism are exactly what I, as a federal prosecutor, proved in court in 1995 in order to convict jihadists. Now, illustrating the nexus between scripture, doctrine and violence is more apt to end in accusations of hate speech than in accolades for a job well done.