NYU Today
NEWS FROM NEW YORK UNIVERSITY

Law Report Says 'Shoot-to-Kill' Policy Endangers the Innocent

By Elizabeth Fasolino

Is behavior profiling a valuable tool for identifying potential terrorists or does it replace accurate intelligence with broad stereotypes? Is a "shoot-to-kill" policy for suspected suicide bombers the best way to save lives or does it set the stage for fatal errors of judgment?

A new report from the School of Law's Center for Human Rights and Global Justice charges that these practices—which are becoming widespread—discriminate against minorities and violate legal norms on the use of lethal force.

The 71-page report, "Irreversible Consequences: Racial Profiling and Lethal Force in the 'War on Terror,'" was jointly authored by the center's faculty co-director, professor Smita Narula, and its research director, Jayne Huckerby, with researchers Vrinda Grover and Adrian Friedman. It examines guidelines for the detection and prevention of suicide bombings, set forth in 2005 by the International Association of Chiefs of Police (IACP), that instruct officers on how to identify suspects by behavior and appearance and encourage them to aim for the suspect's head and "shoot-to-kill."

With almost 20,000 members in 101 countries, the Virginia-based IACP facilitates the training and cooperation of police officers in the U.S. and abroad, and it has the potential, the report asserts, to shape the counter-terrorism practices of police departments around the world. The U.K. already has a national "shoot-to-kill" policy. In 2004, the U.S. Capitol Police Chief Terrance Gainer told his officers to shoot to kill if a suspected suicide bomber refused to be searched, making his department the first in the country to adopt these guidelines.

"The power to deploy lethal force is an immense responsibility for any officer," Narula says. "Instead of giving them sufficient guidance in the exercise of this responsibility, behavioral indicators substitute reliable intelligence with stereotyped profiles that encourage officers to treat innocent behavior as threatening."

Among the behavior patterns that the IACP guidelines instruct officers to watch for are wearing bulky clothing in the summer, pacing back and forth, fidgeting with clothing, failing to make eye contact, and wearing too much cologne. The report contends that such broad identifiers are easily misinterpreted and leave too wide a margin for error when making life-or-death decisions in the heat of the moment. It points to the examples of Jean Charles de Menezes, a Brazilian national, who was shot and killed in London, on July 22, 2005, by police officers claiming that his bulky jacket might be concealing a bomb, and of Rigoberto Alpizar, an airline passenger with bi-polar disorder, who was shot and killed in Miami on December 7, 2005, by U.S. federal air marshals alarmed by his erratic behavior. Neither man was armed or connected to a terrorist organization.

Both Alpizar and de Menezes were also dark-skinned men who superficially matched what has become the generally accepted profile of the "terrorist"; namely, young Muslim, Arab, or South Asian men. The report contends that the behavioral indicators found in the IACP guidelines, which make both explicit and implicit references to Muslims, are in fact proxies for racial, ethnic, and religious profiling.

"Profiling in the context of a 'shoot-to-kill' policy threatens the ultimate sanction—death by extrajudicial execution," Huckerby says. "The irreversible consequences require that police officers use lethal force only when necessary and only based on reliable intelligence."

"Fundamental rights must not become casualties of the politics of fear," Narula adds. "Only a faithful adherence to accepted standards of human rights will help ensure that all persons are truly secure and protected."