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NYU Center for Human Rights and Global Justice Urges Review of U.K. “Shoot-to-Kill” Policy On Anniversary of de Menezes’ Death

On the eve of the one-year anniversary of the killing of Jean Charles de Menezes, a Brazilian electrician mistakenly identified as a suicide bomber, the Center for Human Rights and Global Justice (CHRGJ) at New York University School of Law called on the U.K. government to subject its national “shoot-to-kill” policy for suspected suicide bombers—Operation Kratos—to serious review.

On July 17 the Crown Prosecution Service (CPS) announced that it would not prosecute any individual officer involved in the shooting, but would prosecute the officers’ employer, the Office of the Commissioner of Police, for “failing to provide for the health, safety and welfare” of de Menezes. The CPS indicated that there were “errors in planning and communication” by a number of individuals and that “operational errors” warranted this prosecution under sections 3 and 33 of the Health and Safety at Work Act 1974.

Despite these conclusions, the Metropolitan Police Service reiterated its commitment to Operation Kratos, stating that “... it remains a legitimate policy and, in the absence of a viable alternative, we will continue to use it where necessary...”

“While protecting national security is of paramount importance, policies that empower law enforcement officials to disregard established standards on the use of lethal force and to substitute reliable intelligence with confusing and often stereotyped profiles of threatening individuals, must be made subject to public scrutiny,” said Professor Smita Narula, Faculty Director of CHRGJ and co-author of its report *Irreversible Consequences: Racial Profiling and the Use of Lethal Force in the “War on Terror.”* (www.chrgj.org).

Specifically, the Center called on the U.K. government to:

- Ensure that law enforcement officers do not substitute reliable intelligence with behavioral indicators that operate as proxies for racial, ethnic, and religious profiling.
- Ensure that strategies for responding to potential suicide bombers operate within the framework of existing international legal standards that include safeguards relating to necessity and imminence to check against arbitrary uses of lethal force.
- Publicly investigate allegations of racial profiling and illegal uses of force in all counter-terrorism measures and prosecute those found responsible for these violations.

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“Transparency and accountability are the only ways to ensure that fundamental rights do not become casualties to the ‘war on terror,’” said Jayne Huckerby, Research Director of CHRGJ and co-author of *Irreversible Consequences*.

Background

Operation Kratos is a national policy that was centrally adopted and ratified by the U.K. Association of Chief Police Officers (ACPO) in 2003. According to a review of leaked documents, legal advice on the Operation Kratos guidelines suggests that officers seeking to defend their uses of force will be able to avail themselves of the “much more liberal” defense that they “believed” they were acting reasonably, rather than having to prove that “they had acted reasonably in shooting dead an unarmed person.”

Officers are instructed to “...look for people who may be sweating or look ‘recently clean shaven (with short hair’.” According to the documents, suspicious behavior also includes ‘mumbling, possibly praying, looking anxious, wearing bulky clothing not in keeping with the weather, (and) holding something in the hand/clenched fist; wire or toggle protruding from bag.’ The Metropolitan Police Authority (MPA) has publicly stated that although there is no suicide bomber profile, there are particular groups that “may feel more vulnerable owing to public perceptions of suicide terrorists and their ethnic origins or religious beliefs.” For this reason, the Metropolitan Police Service (MPS) Diversity Directorate is to develop a “community communications strategy” to improve information flows and where appropriate involve vulnerable groups in review of Operation Kratos.

In May 2006 the Center for Human Rights and Global Justice released a 71-page report titled *Irreversible Consequences: Racial Profiling and Lethal Force in the “War on Terror,”* (www.chrgj.org). The report critiques the relaxation of standards related to the use of lethal force in “shoot-to-kill” policies that have emerged in the wake of September 11, 2001. It also analyzes the trend to use “behavioral indicators” to identify potential suicide bombers and concludes that these indicators operate as proxies for racial, ethnic, and religious profiling.

The Center for Human Rights and Global Justice (CHRGJ) at NYU School of Law focuses on issues related to "global justice," and aims to advance human rights and respect for the rule of law through cutting-edge advocacy and scholarship. The CHRGJ promotes human rights research, education, and training, and encourages interdisciplinary research on emerging issues in international human rights and humanitarian law. Philip Alston is the Center's Faculty Chair; Smita Narula and Meg Satterthwaite are Faculty Co-Directors; and Jayne Huckerby is Research Director.

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