OFFICE OF THE COUNTY ATTORNEY

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County Executive

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April 8, 2003

To: Odessa Shannon, Director
Office of Human Rights

Fr: Diane R. Schwartz Jones
Associate County Attorney

Re: Community Dialogue on Faith and Understanding with a screening and discussion of *Muhammad: Legacy of a Prophet*

The Office of Human Rights, the Montgomery County Human Rights Commission, and Montgomery College are sponsoring on May 4, 2003, a "community dialogue on faith and understanding." As part of that program, the film *Muhammad: Legacy of a Prophet* will be shown with a follow-up discussion led by a panel comprised of religious and community leaders and educators. A question has been raised about whether the showing of the film implicates the Establishment Clause of the First Amendment to the United States Constitution. The program, as described in a flyer publicizing it, does not run afoul of the Establishment Clause.

The duties of the Human Relations Commission include conducting educational and other programs to promote equal rights and opportunities, promoting goodwill, cooperation, understanding and human relations among all persons, as well as working to eliminate discrimination, prejudice, intolerance, and bigotry. *See,* Montgomery County Code 1994 as amended, Section 27-5. The Community Dialogue programmed for May 4th is simply the carrying out of these duties.

The Establishment Clause is intended to protect against the "sponsorship, financial support, and active involvement of the sovereign in religious activity." *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971); *Walz v. Tax Commission*, 397 U.S. 664, 668 (1970). The *Lemon v. Kurtzman* Court established three tests to determine when a government is impermissibly involved in the "establishment" of religion. First, the government action must have a secular purpose. Second, the primary effect of the government action must neither advance, nor inhibit religion, and third, the action must not involve "an excessive government entanglement with religion." *Lemon v. Kurtzman*, 403 U.S. at pps. 612-13.

Here, unquestionably, OHR's and the Commission's purpose is secular. It is in furtherance of the mission of both to eliminate discrimination and promote tolerance

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among people. The legislative purpose behind the creation of the Commission and the Office of Human Rights is to address the ill effect of discrimination on the health, welfare, peace and safety of the community. *See*, Montgomery County Code 1994 as amended, Section 27-1. The aftermath of the horrific killing of thousands of innocent people on September 11, 2001 and the claim by the perpetrators of these murders that they (and other terrorist acts) were done in the name of a radical sect of Islam has created a backlash of religious intolerance against many adherents to mainstream Islam. There is much confusion, fear and misunderstanding about Islam following September 11 and a high level of religious tension and intolerance as a consequence of the acts of a perverse, radical few claiming to have acted in the name of religion. The perversity of the few cannot be attributed to the many. To address the ensuing intolerance, OHR and the Commission, with Montgomery College, are seeking to educate and promote tolerance.

The film *Muhammad: Legacy of a Prophet* does not proselytize. It neither advances nor inhibits religion. The film disavows acts of terrorism. It attempts to explain in a straightforward manner the basic beliefs of Islam and to point out that the acts of terror done by a few are NOT done in the name of Islam and are contrary to the teachings of Muhammad. Rather, the point of the film is to promote peaceful coexistence of all of humanity.

Sponsorship of the film does not foster "excessive government entanglement" with religion. The program is aimed at promoting religious tolerance and advances the health, safety, welfare and peace of the community.

In summary, the May 4th program does not violate the Establishment Clause of the Constitution. The program must be considered in light of the events and the evil that it is seeking to eliminate. Lest there be any remaining doubt, it may be helpful to include in the program a statement that the purpose of the program is to promote tolerance, understanding and respect among religions and the community, and that the sponsors are not advocating adherence to any religious belief. If you have any further questions, please call me.

Cc: Marc Hansen, Chief, General Counsel Division
David Weaver, Director, Public Information Office
Ronald Clarkson, Office of the County Executive