

INVENTING TERRORISTS

The Lawfare of Preemptive Prosecution



**COALITION FOR
CIVIL FREEDOMS**

Supporting Political Prisoners and Their Families Since 2010



**ICNA COUNCIL FOR
SOCIAL JUSTICE**
ADVOCATING JUSTICE FOR ALL

**An Updated Version of the 2014 Study by
Project SALAM and the Coalition for Civil Freedoms**

Co-sponsored by ICNA Council for Social Justice
Written by Stephen Downs, Esq. and Kathy Manley, Esq.
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Stephen Downs, Esq. graduated from Amherst College (1964) and Cornell Law School (1969) after serving in the U.S. Peace Corps in India (1964–66). He was chief attorney of the New York State Commission on Judicial Conduct from 1974–2003, part of the defense team in *U.S. v. Yassin Aref* (2006–2007), and a founder of

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About the Authors, Preparers, and Sponsors of This Study

the University of South Florida. She also founded Friends of Human Rights shortly after the arrest of Dr. Sami Al-Arian on terrorism charges in 2003, and organized dozens of educational events in college campuses, churches, mosques, libraries and community centers around the country. She went on to learn of the many other cases of innocent Mus-

lims who were being targeted by the U.S. government in its ongoing "war on terror," and has focused on calling attention to the current wave of preemptive prosecutions of these innocent people, as well as the erosion of civil freedom that has affected all Americans since 9/11.

Leena Al-Arian is a Palestinian American mother and activist living in Boston, MA. She is the associate director of the Coalition for Civil Freedoms, an organization co-founded by her father, Sami Al-Arian, a former political prisoner in the U.S. who was deported in 2015. Leena has worked at a number of human rights and justice nonprofits including American Muslims for Palestine, United Voices, and the Middle East Children's Alliance. She holds a master's degree in Middle Eastern Studies from the University of Chicago. She is a contributor to the volume, *Being Palestinian: Personal Reflections on Palestinian Identity in the Diaspora* (Edinburgh University Press, 2016).

Project SALAM (Support And Legal Advocacy for Muslims), www.projectsalam.org, was founded and incorporated in 2008 after a conference at Albany (New York) Law School that focused on preemptive prosecution. The conference was convened by groups and other interested people who supported Yassin Aref, Dr. Rafil Dhafir, and Fahad Hashmi, and included attorney Lynne Stewart as keynote speaker. Project SALAM's mission is to advocate for prisoners who have been preemptively prosecuted, assist their families, create and maintain a database to study the phenomenon of preemptive prosecution, and publish on the issue.

(Cover photo Left to Right: Dr. Aafia Siddiqui, Shahawar Matin Siraj, David Williams, Shukri Abu-Baker and Ahmed Abu Ali)

Coalition for Civil Freedoms (CCF), www.civilfreedoms.org, was founded and incorporated in 2010 as a coalition of Muslim, civil rights, and peace groups to oppose profiling, preemptive prosecution, and prisoner abuse. Current member organizations include: Islamic Circle of North America Council for Social Justice (ICNA-CSJ), Creating Law Enforcement Accountability and Responsibility (CLEAR), Committee to Stop FBI Repression (CSFR), Council on American Islamic Relations - FL (CAIR-FL), Desis Rising Up and Moving (DRUM), Friends of Human Rights (FHR), The Aafia Foundation (TAF), International Action Center (IAC), Muslim Legal Fund of America (MLFA), National Lawyers Guild (NLG), Project SALAM (Support And Legal Advocacy for Muslims), United National Antiwar Coalition (UNAC), and Love has No Borders.

To see specific details on any of the preemptive prosecution cases mentioned in this study and its appendices, readers can access the Project SALAM database at <http://www.projectsalam.org/database.html> and sign in as a guest account; search for each defendant by name.

CO-SPONSOR :

ICNA Council for Social Justice (CSJ) is a 501(c)(4) social justice/human rights organization that strives to systematically facilitate assertive Muslim involvement in the field of human struggle for the rights of the poor and oppressed in the United States. Established by the Islamic Circle of North America, CSJ enters the social justice/human rights arena in America to cooperate with existing social justice efforts, and organize new initiatives when appropriate, to eliminate barriers to full citizenship rights and privileges, work to restore civil liberties required for a democratic society, and raise public awareness and work to remove the gross inequities of the US criminal justice system. (www.icnacsj.org)



Lawfare:
the use of the law as a weapon of war.

"Law and Military Interventions: Preserving Humanitarian Values in 21st-Century Conflicts" by Brigadier General (S) Charles J. Dunlap, Jr., USAF. In Humanitarian Challenges for Military Intervention, Harvard University, John F. Kennedy School of Government, The Carr Center for Human Rights Policy, November 2001.

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B: Cases Sorted by 1) Preemptive Prosecution Used, 2) Elements of Preemptive Prosecution Present, or 3) No Preemptive Prosecution Used [based on U.S. Department of Justice list of International Terrorism and Terrorism-Related Convictions 3/18/10-12/31/15].

C: Preemptive Prosecution Cases Mentioned in the Study

D: Bibliography

• Appendix C and D are online at civilfreedoms.org, projectsalam.org and icnacsj.org

INTRODUCTION TO UPDATED REPORT

We first published this Report in 2014, using the list of DOJ “terrorism” convictions between 9/11/01 and 3/18/10. There have been many more cases since then, so we updated the Report. We used the most recent DOJ list, which included convictions between 3/18/10 and 12/31/15. We knew that the problem of preemptive prosecution was ongoing, but we weren’t sure how the statistics may have changed with the newer cases.

Our earlier analysis found that 72.4% of the cases were purely preemptive, and that 21.8% contained what we call elements of preemptive prosecution. The combined total of these two categories established that 94.2% of the DOJ case list prior to 3/18/10 involved preemptive prosecution in whole, or in elements. [Our new statistics, putting the 2010 and the 2015 lists together, found that 70% of the cases were purely preemptive, and 23% contained elements of preemptive prosecution. 93% of the DOJ case list involved preemptive prosecution in whole or in elements.](#) So there were slightly fewer preemptive cases, but the situation had changed very little. We also saw that certain types of cases/charges which had proven very successful for DOJ were found in higher percentages in the updated analysis. Taking purely preemptive and elements cases together, originally 33.1% contained material support to terrorism charges, but now we see 39.6%, an increase of over 6%. And originally, 21.1% of those cases were sting operations, but in the new analysis, 26.1% of the cases were stings, a 5% increase. There were also 2% more cases involving conspiracy charges (from 38% to 40%).

Many of the cases filed after 2011 involved material support to ISIS, and many of these cases were sting operations. This was most prevalent from 2014-2017, due to ISIS propaganda proclaiming a utopian Caliphate. Many people tried to travel there but few succeeded, as these were often naïve young men already under government surveillance. Several were recent converts with mental health problems, who seemed to be searching for an apocalyptic adventure.

One troubling development is that many of these young men who expressed interest in traveling to

Syria, either to fight or to peacefully support the “Caliphate,” were approached by government informants who instead convinced them to engage in an attack in this country. This increases the fear among the American population, and usually results in a much higher sentence for these defendants, often for attempted use of a weapon of mass destruction rather than just material support.

Another significant development (which had been happening to some extent before) is that sting operations, used so successfully in targeting Muslims, have been used to target other groups as well. Both left-wing and right-wing groups have been targeted in this manner. Any group of which the government is suspicious can be targeted this way, and it is not hard to find people, usually troubled young men, to take the bait. Because of the discriminatory nature of the targeting, this should be considered a violation of equal protection and due process, but the courts have not yet made that determination.¹

The updated Report also includes a couple of recent articles we wrote. One article describes the harshest and most unjust cases, where defendants received life sentences in purely preemptive cases. The other article describes some hopeful trends where judges have been less inclined to sentence people harshly in some recent preemptive cases, and have released or granted new trials to several people in old cases. We have also added more case examples, including photographs of the defendants, and have included graphs showing our statistics visually.

Finally, in the recommendations section, we added some proposed legislation which would require targets to be taking substantial steps to commit the offense before they can be convicted in a sting case; require proof of intent to support violence in a material support case; and require that classified information given to the judge must also be given to defense counsel with a security clearance. We also noted that one of our previous recommendations – that the FBI record interviews with targets – has been partially put into practice, but that this remains problematic.

EXECUTIVE SUMMARY

It is accurately said that a person has a [greater chance of dying of a dog bite or a lightning strike than from a terrorist attack](#).²

This study, sponsored by two national organizations, Project SALAM (Support And Legal Advocacy for Muslims) and the Coalition for Civil Freedoms (CCF), focuses on post-9/11 claims by the U.S. government that it keeps the country safe from terrorism by arresting hundreds of so-called “terrorists” who were about to strike the U.S. until the FBI foiled their plots. In fact, this study shows that there have been remarkably few actual terrorism threats to this country in the last decade. We found that over [90 percent of the cases posed no such threat](#). The vast majority of arrests in the war on terror have consisted of

- the FBI foiling its own entrapment plots, often after having targeted mentally ill defendants; or
- the government arresting people on material support for terrorism charges that effectively criminalize innocent conduct, such as charitable giving and management, free speech, free association, peace-making, and social hospitality; or
- inflation of minor or technical incidents into terrorism events, such as immigration application inaccuracies, old weapons charges, or inaccurate statements to governmental officials.

The study shows that the war on terror has been largely a charade designed to make the American public believe that a terrorist army is loose in the U.S., when the truth is that most of the people convicted of terrorism-related crimes posed no danger to the U.S. and were entrapped by a preventive strategy known as preemptive prosecution. The theme of the study links preemptive prosecution to the metaphor of “lawfare,” the use of the law as a weapon of war, in this case the war on terror.

Preemptive prosecution is a law enforcement strategy to target and prosecute individuals or organizations whose beliefs, ideology, or religious affiliations raise security concerns for the government.³

Statistically, the study asks how many of the individuals who appear on the Department of Justice (DOJ) 2001–2015 lists of “terrorism and terrorism-related convictions” (Appendices A [2001– March, 2010] and B [March, 2010–2015] respectively) represented real terrorism threats, and how many were cases of preemptive prosecutions. The study then categorizes the cases of the individuals on the DOJ list as one of three types of cases: preemptive prosecutions, cases that contained elements of preemptive prosecution, or cases that were not preemptive prosecutions/represented real terrorism threats.

The statistical analysis shows that, overall, 70% of convictions on the DOJ lists represent cases of preemptive prosecution that were based on suspicion of the defendant’s perceived ideology and not on his/her criminal activity. Another 23% of convictions on the DOJ list represent people who began on their own to engage in minor, non-terrorist criminal activity but whose cases were manipulated and inflated by the government to appear as though they were “terrorists”; these cases are referred to in the study as “elements of preemptive prosecution” or “elements.” In total, 93% of all the terrorism-related convictions on the DOJ list have been either preemptive prosecution cases or cases that involved elements of preemptive prosecution.

The study defines preemptive prosecution, gives background on the origin of the concept, discusses the tactical patterns that characterize its use by the government, and provides a methodology for determining the categorization of a case. The study then shows, for cases on the DOJ lists, the percentages for each categorization of a case, as well as percentages for the tactical patterns used in each categorization. The study concludes that the government has used preemptive prosecution to exaggerate the threat of Muslim extremism to the security of the country, and presents some hypotheses as to why the government has done this, without taking a position on which possibilities may be correct. The study also makes recommendations to change the present unfair terrorism laws.

The following appendices are included: Appendices A (2001-2010) & B (2010-2015) are the DOJ lists of terrorism/terrorism-related convictions with each individual's case designated as preemptive prosecution, elements of preemptive prosecution, or no preemptive prosecution used/real security threat. Appendix C contains descriptions of all preemptively prosecuted individuals and cases referenced in this study. Appendix D is a bibliography of sources. Appendix C and D are online at civilfreedoms.org, projectsalam.org and icnacsj.org

DEFINITION OF PREEMPTIVE PROSECUTION

Preemptive prosecution (also called preventive, predatory, proactive, pretextual, or manufactured prosecution) is a law enforcement strategy, adopted after 9/11, to target and prosecute individuals or organizations whose beliefs, ideology, or religious affiliations raise security concerns for the government. The actual criminal charges are pretexts, manufactured by the government to incarcerate the targets for their beliefs. These pretexts include:

- Using material support for terrorism laws to criminalize activities that are not otherwise considered criminal, such as speech, association, charity, peace-making and social hospitality.
- Using conspiracy laws to treat friendships and organizations as criminal conspiracies, and their members as guilty by association, even when most members of the group have not been involved in criminal activity and may not even be aware of it.
- Using agents provocateur to actively entrap targets in criminal plots manufactured and controlled by the government.
- Using minor "technical" crimes, which otherwise would not have been prosecuted or even discovered, in order to incarcerate individuals for their ideology (for example, making a minor error on an immigration form, which is technically a crime; lying to government officials about minor matters; gun possession based on a prior felony many years earlier; minor tax and business finance matters).

Journalist Chris Hedges has written that "the concept of pre-emptive prosecution mocks

domestic law as egregiously as pre-emptive war mocks the foundations of international law."⁴ Preemptive prosecution is similar to earlier methods of political repression in the U.S. whereby ideology, beliefs, and thoughts were targeted for prosecution: the Palmer Raids of the 1920s, the Japanese internments during World War II, the Communist witch hunts of the 1950s, and COINTELPRO during the 1960s and 1970s, which targeted progressives and particularly the Black Liberation movement for infiltration, disruption, frame-ups, and even assassination, i.e., Black Panthers Fred Hampton and Mark Clark.

The Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (known as the "Church Committee" because it was chaired by Senator Frank Church) issued a report in 1976 on the COINTELPRO program that stated in part:

Many of the techniques used would be intolerable in a democratic society even if all of the targets had been involved in violent activity, but COINTELPRO went far beyond that...the Bureau conducted a sophisticated vigilante operation aimed squarely at preventing the exercise of First Amendment rights of speech and association, on the theory that preventing the growth of dangerous groups and the propagation of dangerous ideas would protect the national security and deter violence...nonviolent organizations and individuals were targeted because the Bureau believed they represented a "potential" for violence.⁵

Targeting non-violent individuals because the government believes that they represent a potential for violence is precisely what preemptive prosecution is all about. In preemptive prosecution, the targets are prosecuted with fake, manufactured, or pretext charges to preempt them from developing their “potential for violence,” as the Church Committee report puts it.

METHODOLOGY

In 2010, the Department of Justice (DOJ) published a list of individuals that it claimed represented all of the terrorism and terrorism-related convictions in the U.S. from September 11, 2001 to March 18, 2010. A more recent list was later published which included the convictions between March 18, 2010 and December 31, 2015. Via the Project SALAM database, this study uses the DOJ lists as a basis to categorize and analyze cases of preemptive prosecution. (There are many recent cases which are not included in these lists because they were either not filed by the end of 2015, or were still pre-trial at that point.)

Project SALAM has built and maintained a more comprehensive database that contains significantly more cases than the DOJ lists. However, the statistical analysis of this study considers, in Appendices A & B, only those cases that appear on the respective DOJ lists. (Project SALAM’s database includes more complete information on each case than does the DOJ list, and thus Appendices A & B include this information.) This study will refer later on to other cases that are not on the DOJ lists, but which are found in the Project SALAM database, as examples of issues the study has identified, but these additional cases not on the DOJ lists are not included in the statistical analysis.

For purposes of terminology, this study refers interchangeably to the convicted individuals on the DOJ lists as both “individuals” and “cases,” the latter term encompassing all the charges and tactics used to bring the prosecution against

that individual, although a single case often had more than one defendant, especially those cases designated by their popular names, such as the Newburgh Four or the Virginia Paintball Network.

Appendices A & B list all of the convicted individuals included on the DOJ lists, and this study places each of those individuals’ cases in one of three categories: 1) preemptive prosecution, 2) “elements of preemptive prosecution” (a prosecution based on an initial decision by the defendants to engage in non-terrorism-related and often minor crime, but which the government then inflated into a terrorist charge), or 3) a terrorism-related charge that does not have the characteristics of preemptive prosecution. Using these categories, it is possible to quantify what percentage of the government’s terrorism and terrorism-related convictions represents preemptive prosecution cases, what percentage represents elements of preemptive prosecution cases, and what percentage represents cases that do not qualify as preemptive prosecution and thus were actual security threats.

Based on the above-mentioned classifications, the study made the following assumptions in designating cases.

Preemptive Prosecution: General Considerations

1. Preemptive prosecutions are generally characterized by the absence of a crime involving injury to people, damage to property, or disruption of public order. Rather, there is suspicion of what the defendant might do in the future based on the defendant’s religion or ideology.

2. Preemptive prosecutions are characterized most clearly by the disparity between how individuals of a certain religion or ideology are treated when compared with the general public. Actions that would be ignored or treated lightly when performed by a member of the general public are heavily prosecuted and sentenced when performed by a member of the targeted group.⁶

3. Preemptive prosecutions are also clearly characterized by the unreasonable severity with which cases are prosecuted and sentenced. For example, because of the terrorism enhancement that effectively quadruples normal sentences, prosecutors can force defendants to accept plea bargains as the only alternative to draconian prison terms, or can force defendants to cooperate or become informants.

Preemptive Prosecution: Specific Considerations

1. Cases involving Muslim charities or charitable donations are considered preemptive prosecutions unless there is evidence that the defendants intended the money to support violence.

2. Prosecutions based on what would normally be protected speech under the First Amendment are considered preemptive prosecutions even if the defendants advocated non-specific violence. Free speech includes the right to use violent and hate speech, and it is not charged as a crime when right-wing terrorists or domestic hate groups engage in it. Charging only Muslims or other targeted groups is discriminatory and preemptive.⁷ See, for example, the cases of Tarek Mehanna and Javed Iqbal in Appendix C.

3. All prosecutions based on “free association”⁸ are considered preemptive prosecutions unless there was evidence that the defendant intended to engage in violence. Simply being a member of a group, or being associated with certain individuals, should not be a crime unless there is evidence

of specific intent to become involved in a given criminal action or conspiracy. A number of material support and conspiracy cases included individuals who were friends of others who were charged, and this association was the main evidence against them, with little or no additional evidence. These include the cases of Ziyad Yaghi, Ehsanul “Shifa” Sadequee, the Fort Dix Five, and several others. As long as friends do not discuss specific plans for criminal activity, their general association should not be criminalized.

4. All prosecutions of defendants who expressed a desire to go to a training camp, or who unsuccessfully tried to find one, or who attended one and failed to act on the training, are considered preemptive prosecutions unless the circumstances indicated that the defendant actually intended to engage in violence against civilians or the United States. Many defendants were drawn to attend training camps out of a desire to defend Muslim communities in Bosnia, Kashmir, Chechnya, Sudan, or other countries where there was/is conflict. This study takes the position that it is inappropriate and preemptive to criminalize these attempts to defend Muslim communities in foreign lands from attack.⁹ However, cases in which the defendants actually intended to commit acts of violence against American soldiers or against civilians are not included as preemptive prosecutions.

5. Charges of making false statements to the FBI or immigration or other federal law enforcement authorities are considered preemptive prosecutions if the false statements were unconnected to any other violations and appeared to be simply devices to hold the defendant because of suspicions about his or her ideology.¹⁰

6. Immigration charges are considered preemptive prosecutions when there was no evidence of any terrorist activity or of any crime beyond a technical violation, such as an omission on a form. Many of these cases, often prosecuted soon after 9/11,

were based on initial suspicions that were proven false, or for which there was no evidence. See the cases of Ahmed Abdulla Elashmouny and Ashar Iqbal Butt in Appendix C.

7. Hawali (unlicensed money transfer) charges are considered preemptive prosecutions when there was no evidence that any of the money was being sent for criminal or terrorist activity. Hawali is an informal system of money transfer used mainly in the Middle East and Africa. It is often the only way that families in America can send money to impoverished families in the Middle East, but such unlicensed money transfers violate U.S. laws. The U.S. government generally does not prosecute (or shows great leniency to) those who send money to their relatives abroad—except for those about whom it is suspicious. Thus hawali prosecutions often are pretext charges based on suspicions about the defendant's ideology.

8. Sting operations are considered preemptive prosecutions when there was no evidence that the targets were already engaged in specific terrorist plots before being entrapped by the government. Entrapment is normally a defense in response to such a prosecution, but the government has successfully argued that in terrorism cases, the targeted defendants were ideologically “predisposed” to commit the crime, and so the entrapment defense required that the defendant must have affirmatively rejected the FBI's manufactured plot.¹¹ In this way, the government has essentially eliminated the entrapment defense for terrorism cases.¹² This is another example of how preemptive prosecutions have been prosecuted differently from normal prosecutions.¹³

Elements of Preemptive Prosecution

This category involves cases in which the defendants engaged in non-terrorist crimes, often involving some form of fraud or theft (i.e.,

stolen cereal or cigarette smuggling), and the government was suspicious that the defendants might be related to terrorism in some way. This often happened when the government initially thought that the defendants might have been financing terrorism with illegal activities, but did not have evidence of that. The government then either added terrorism-related charges, used the sentencing enhancement for terrorism, or simply sentenced these defendants more harshly than normal for the crime in question. (This category also includes cases where defendants were members of a designated “terrorist” group and were then targeted by the U.S. in a sting operation to sell drugs or commit other crimes. Many were members of the FARC in Colombia, which has now signed a peace treaty with the government.) All of these individuals were included on the DOJ lists by the government as having “terrorism or terrorism-related convictions,” even though many cases contained no terrorism-related charge

No Preemptive Prosecution

Forty-two individuals on the DOJ list (6.9%) were not considered by this study to have been preemptively prosecuted, nor did their cases contain elements of preemptive prosecution. However, this category includes some individuals who appear on the DOJ list who seem to have posed genuine threats to the nation's security. Because such real threats are of interest not only to the government but to all citizens, the study describes these cases more fully here by further breaking down the category into three groups, with brief details on each case: **1)** Individuals who were guilty but were not terrorists; **2)** Individuals who attacked other countries; and **3)** Individuals who were security threats inside the U.S.



1. Individuals Who Were Found Guilty but Were Not Terrorists

Nine of the people had nothing to do with terrorism at all. These include:

Amr I. Elgindy, Jeffrey Royer, Derrick Cleveland, Lynn Wingate, Robert Hansen, and Troy Melton Peters. All engaged in a clever stock fraud that had nothing to do with terrorism. First Royer, an FBI agent, stole confidential FBI information indicating that certain firms were under FBI or SEC investigation. Elgindy, the broker, then sold these stocks short so as to make a profit if the stock dropped in price. Then all of the defendants disseminated the stolen (and truthful) information about the FBI or SEC investigations to drive down the stock price so they could make a large profit.

Hasan Ali Ayesh. He was convicted of structuring currency transactions to avoid U.S. laws, wire fraud (creating a fake tax return that inflated his assets so he could obtain a loan), and naturalization fraud (signing a written statement that he was not violating any U.S. laws). Nothing in his plea or his actions indicated involvement in terrorism.

Zameer Nooralla Mohamed. In order to retaliate against his ex-girlfriend, Mohammed falsely claimed that she and her friends were planning to bomb a mall. There were no allegations of terrorism.

Vildirim Beyazit Tumer. He was a Turkish ship captain in Delaware who joked to the Coast Guard that there was a bomb aboard his vessel.

2. Those Who Attacked Targets in Other Countries or Tried to Do So

18 individuals on the DOJ lists attacked or attempted to attack targets in other countries:

Vinh Tan Nguyen. He tried to bomb the Communist Vietnamese embassy in the Philippines and was sentenced to only fourteen months.

Nancy Conde Rubio. She was the leader of FARC, a terrorist organization in Colombia.

Diego Alfonso Navarrete Beltran and Alexander Beltran Hererra. They were FARC members convicted of taking three Americans hostage when their plane crashed in Colombia in 2003.

David Coleman Headley. A former DEA informant, he organized various attacks, including the 2008 Mumbai attacks in India.

Christopher Paul. He trained Al-Qaeda members in Germany to attack tourists overseas.

Mohammed Mansour Jabarah. He planned embassy attacks in Singapore.

Bryant Neal Vinas. He fought for Al-Qaeda in Afghanistan.

Mohammed Junaid Babar. He gave support to Al-Qaeda fighters in Afghanistan.

Mohamed Suleiman Al-Nalfi. He was arrested after the 1998 embassy bombings in Kenya and Tanzania but pleaded guilty to only one conspiracy charge of planning to attack American defense utilities, saying he had formed a Sudanese branch of Al-Qaeda.

Yasith Chhun. He led a failed coup in Cambodia in 2000.

Colleen LaRose ("Jihad Jane"). Colleen LaRose was involved in online discussions of retaliation against Swedish cartoonist Lars Vilks for his offensive depiction of the Prophet Muhammad. LaRose travelled to Europe in August of 2009 with the alleged intention of killing Mr. Vilks, but

failed to meet with the people who encouraged the mission. She was arrested upon her return to the United States on October 2009, and sentenced to 10 years on four counts of terrorism-related conspiracy charges in January 2014.

Jamie Paulin Ramirez. Jamie Paulin Ramirez, along with her husband Ali Charaf Damache and 5 other individuals, were implicated as co-conspirators by Colleen LaRose in the alleged plot to kill Swedish cartoonist Lars Vilks. Ramirez was sentenced to 8 years for conspiracy to provide material support to terrorists in January 2014.

Ahmed Ghailani. He played a minor role in the 1998 U.S. Embassy bombings in Africa. He was tortured at Guantanamo and later brought to New York and convicted in public trial of only a few of the charges. He was sentenced to life.

Abel Abdul Bary. He was originally charged in the UK in 1998 in connection with the 1998 US Embassy bombings, but was acquitted. In 2012, after fighting extradition for years, he was brought to the U.S. where he was charged in connection with the same bombings. He eventually pled guilty to conspiring to kill Americans and related charges, and was sentenced to 25 years. (This may be a wrongful conviction.)

Khalid Al-Fawwaz. He was also convicted in connection with the 1998 US Embassy bombings after extradition to the U.S. in 2012, and was sentenced to life after being convicted at trial.

Ahmed Abdulkadir Warsame. He was convicted of fighting with Al Shabab in Somalia in 2009.

Abid Naseer. He was accused of plotting a bomb attack in a shopping center in Manchester England, but was released by British authorities for lack of evidence. He was later extradited to the U.S. in 2013, where he was found guilty of providing material support to a terrorist organization

and conspiracy to use a destructive device, and sentenced to 40 years. (This may be a wrongful conviction.)

3. Individuals Who Were Security Threats Inside the U.S.

Fifteen individuals on the DOJ list were real security threats inside the U.S.:

Zacarias Moussaoui. He admitted to being part of an Al-Qaeda plot in the U.S. (not 9/11, but he was suspected of being the “twentieth hijacker” on 9/11).

Richard Reid (the “Shoe Bomber”). He tried to blow up a plane headed to the U.S. by exploding a bomb hidden in his shoe.

Najibullah Zazi (and co-defendants) (the “Peroxide Bomber”). He tried to make a bomb out of hydrogen peroxide to detonate in the New York City subway system.

Adis Medunjanin and Zarein Ahmedzay. They helped Najibullah Zazi in the plot to detonate explosives in the New York City subway system. Medunjanin, who went to trial, was sentenced to life plus 95 years. Ahmedzay entered a plea deal and cooperated with the government and was sentenced to 10 years.

Nuradin Mahamoud Abdi. He discussed blowing up a mall in Ohio but never did anything to advance the plot.

Major Nidal Hasan (the “Fort Hood Shooter”). An Army officer, he shot and killed thirteen soldiers and injured many others at Fort Hood in Texas.

Khalid Aldawsari. A Saudi student arrested in Texas in February 2011 and charged with trying to make a bomb (he had ordered chemicals and had allegedly e-mailed himself instructions). He pleaded guilty and was sentenced to life in 2012.

Naser Jason Abdo. He plotted to attack soldiers at Fort Hood and was sentenced to life plus 60 years in prison in August 2012.

Faisal Shahzad ("Times Square Bomber"). Faisal Shahzad unsuccessfully attempted to detonate a car bomb in Times Square, New York City on May 1st, 2010 and was charged with five terrorism-related crimes, including the attempted use of a weapon of mass destruction. Shahzad pleaded guilty and was sentenced to life imprisonment without possibility of parole.

Sulaiman Abu Ghayth. He was convicted of conspiracy to kill U.S. nationals and material support, and was sentenced to life in prison.

Dzhokhar Tsarnaev – Boston Marathon bomber (with his brother Tamerlan who died). Dzhokhar Tsarnaev has a death sentence.

Umar Farouk Abdulmutallab (the "Underwear Bomber"). He unsuccessfully tried to blow up a domestic flight with a bomb hidden in his underwear.

Yonathan Melaku. Melaku, a schizophrenic man, engaged in a series of shootings targeting the Pentagon, the National Museum of the Marine Corps, and two military recruiting centers in the fall of 2010. He was sentenced to 25 years.

Joseph Jeffrey Brice. He was convicted of making a bomb intended to be used to attack Americans. Instead, it exploded while he was working on it and nearly killed him. He was sentenced to twelve and a half years in 2013.

.....

It can be said that, since 9/11, there have been 12 potentially significant threats to the U.S., but only two resulted in deaths (the Tsarnaev brothers and Major Nidal Hasan), accounting for seventeen deaths and several hundred injuries. When considered with the 18 potential threats abroad, it is fair to say that there is indeed a continual background threat of violence to the U.S. that requires monitoring and good police work to prevent. However, this threat is a much lower magnitude of danger to the American public than other dangers, such as gun violence and driving while intoxicated. It is said that a person has a greater chance of dying of a dog bite or a lightning strike than from a terrorist attack.¹⁴

At the same time, it is fair to say that the amount of money and resources devoted to preventing terrorism threats is far greater than the resources devoted to other more common dangers. The budgets for the NSA and other intelligence agencies are classified, so they would be hard to even estimate. But considering the relatively low level of danger to the public from a terrorist attack, the amount of money being expended to prevent an attack is difficult to justify.

Significantly, in these actual cases the FBI and other agencies missed some important leads that should have alerted them to the danger. For example, Farouk Abdulmutallab's father called the FBI to warn them that his son was dangerous, but the warning was ignored; the Russian police warned the FBI that the Tsarnaev brothers were dangerous, but the warning was ignored; the Army ignored many signals that Major Nidal Hasan was unstable and dangerous. It has been suggested that one reason the FBI has been unsuccessful at stopping real threats is because it has become distracted by pursuing fake or pretext cases against individuals who are not dangerous.¹⁵

.....

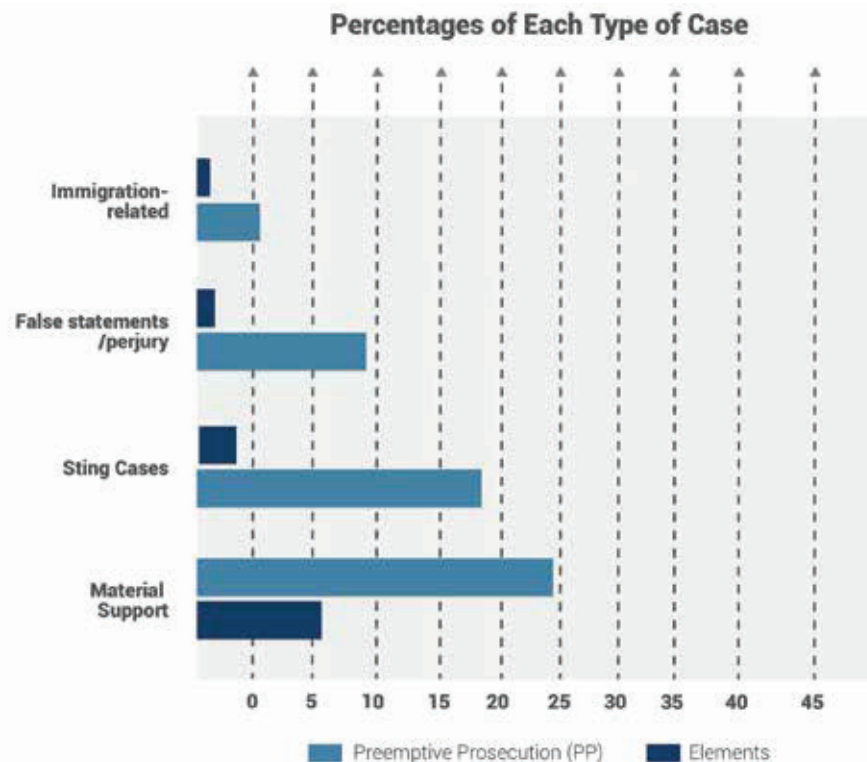
STATISTICAL ANALYSIS

Appendices A & B show the terrorism convictions listed by the Department of Justice in 2010 and 2015, respectively. The total number of individuals on the two lists is 608. According to this study's classification, the number of preemptive prosecution cases is 425 out of 608, or 70%. The number of elements of preemptive prosecution cases is 141 out of 608, or 23%. Combining preemptive prosecution cases and elements of preemptive prosecution cases, the total number of such cases on the DOJ list is 567, or 93%.

The following is a breakdown of those same cases from the DOJ lists, this time categorized by tactical pattern used, and then subcategorized by designation as either preemptive prosecution or elements of preemptive prosecution (herein called "elements").

Material support:

- Preemptive prosecution cases containing material support charges:
175 of 608, or 28.7% (an increase of 4 % over the percentage from the 2010 list)
- Elements cases containing material support charges:
66 of 608, or 10.8%, an increase of more than 2 % over the percentage from the 2010 list)
- Combination of both types of cases containing material support charges:
241 of 608, or 39.6% (an increase of more than 6 % over the percentage from the 2010 list)



Stings: (note that many sting cases also contained material support and/or conspiracy charges)

Preemptive prosecution cases that were stings: **140 of 608, or 23%** (an increase of more than 5% over the percentage from the 2010 list) (It is also noteworthy that for the 2015 list, 14.5% of the sting defendants had known serious mental health issues – there are probably many others with mental health issues which didn't appear in the court record. We didn't track this sufficiently for statistical purposes with the 2010 list.)

Elements cases that were stings: **19 of 608, or 3.1%**

Combination of both types of cases that were stings: **159 of 608, or 26.1%** (an increase of 5 % over the percentage from the 2010 list)

Conspiracy:

Preemptive prosecution cases with conspiracy charges: **176 of 608, or 29.3%**

Elements cases with conspiracy charges: **70 of 608, or 11.5%**

Combination of both types of cases with conspiracy charges: **246 of 608, or 40.4%**

False statement or perjury charges:

Preemptive prosecution cases with false statement/perjury charges: **82 of 608, or 13.5%**

Elements cases with false statement/perjury charges: **11 of 608, or 1.8%**

Combination of both types of cases with false statement/perjury charges: **93 of 608, or 15.3%**

Immigration-related charges:

Preemptive prosecution cases with immigration-related charges: **32 of 608, or 5.3%**

Elements cases with immigration-related charges: **1 of 608, or 0.2%**

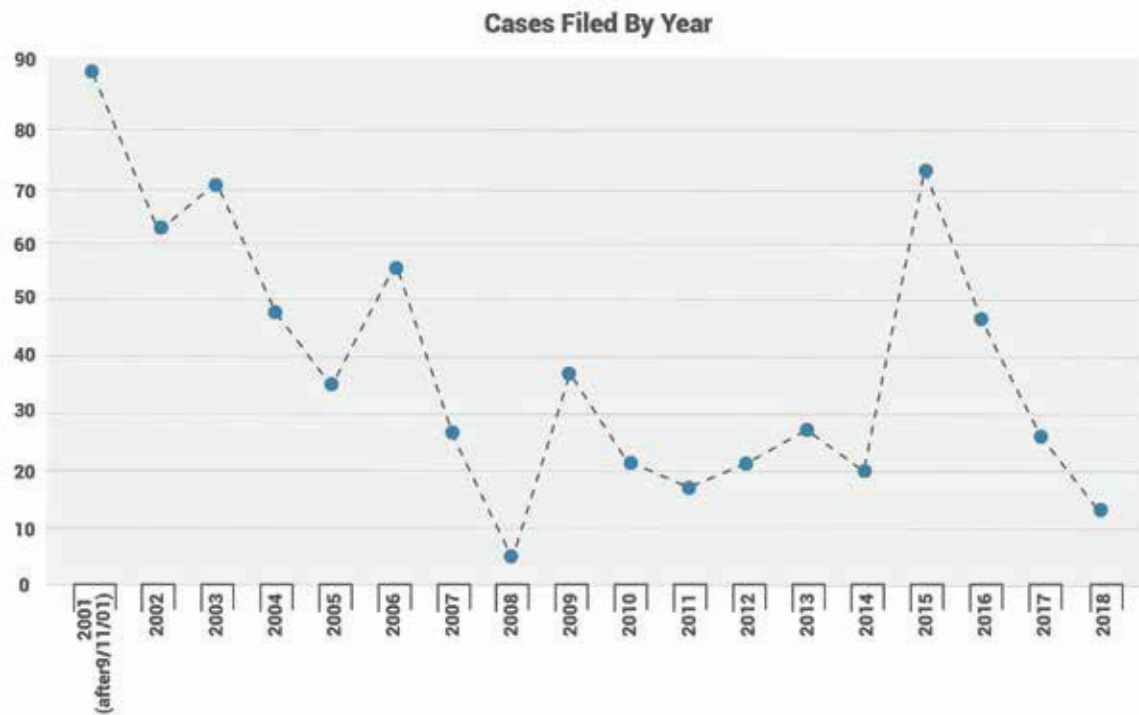
Combination of both types of cases with immigration-related charges: **33 of 608, or 5.4%**

CASES FILED BY YEAR 9/11/01-12/31/18

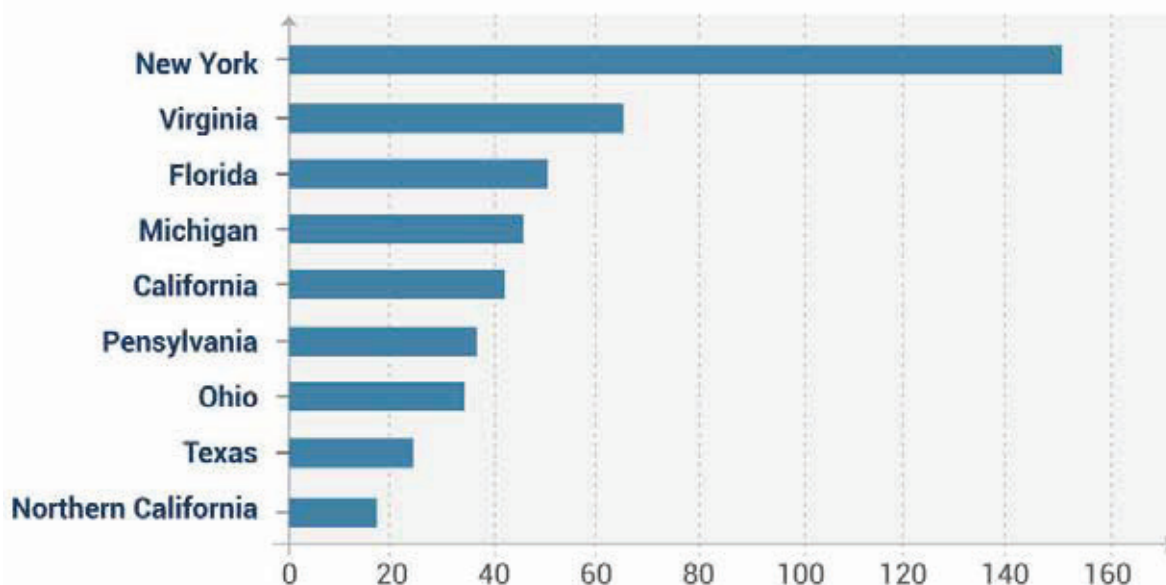
(Note: for 2015-2018 we used our database rather than the DOJ lists because the lists only went up to convictions obtained – rather than charges filed – by 12/31/15.

So this doesn't really reflect a larger number of cases filed in 2015-2018.

It does still appear that a rather large number of cases were filed in 2015 though – probably ISIS related. It is not clear why there were much fewer cases filed in 2008.)



CASES FILED BY DISTRICT: The graph below shows the districts where there were the most cases. (The Southern and Eastern districts of NY had by far the most cases – often this was due to capturing people overseas and bringing them to NY for trial.) Virginia and Florida also had a disproportionate number of cases, given their populations.



DISCUSSION

1. Background

After 9/11, the FBI was charged with preventing future terrorist attacks, and it focused in part on ideology as a way to predict who might engage in future terrorist attacks. If a defendant said or did things to indicate he or she held a particular religious or political view, the FBI could claim that the defendant's innocent actions or statements involving charitable giving or management, peace-making, free speech, free association, or other constitutionally protected activity were material support for terrorism. If pretext material support charges were not available, the FBI engaged paid agents provocateurs to entrap targets into saying or doing something illegal, or prosecuted targets for non-terrorism-related crimes that otherwise would not have been prosecuted. The trials were typically characterized by inclusion of secret evidence, excessive security to intimidate the jury, questionable governmental "experts," mistranslations and mischaracterizations of the defendant's words, and other unfair tactics that forced defendants to defend themselves on highly un-level playing fields. Many such defendants were sentenced to extraordinarily long prison sentences, often served at Communication Management Units or in solitary confinement (see under "Recommendations," #7).

Many people across the country spontaneously perceived these prosecutions and sentences to be unjust and formed grassroots support committees to protest the FBI's actions. In August 2008, members of a few such groups came together at a conference in Albany, New York and founded Project SALAM (Support And Legal Advocacy for Muslims). Project SALAM identified preemptive prosecution as the underlying similarity between these cases and began to build a database of cases that showed identifiable similarities. Other

groups arose throughout the United States to protest injustices that reflected the same basic preemptive prosecution profile. In 2010, several different groups came together to form the National Coalition to Protect Civil Freedoms (now known as the Coalition for Civil Freedoms or CCF), an organization that, among other endeavors, studies and documents preemptive prosecution, profiling, and prisoner abuse. Part of its activity included augmenting the Project SALAM database of cases that involved preemptive prosecution.

Thus an understanding of preemptive prosecution arose from the experiences of groups all over the country struggling to explain cases of injustice in their own communities that seemed irrational in a conventional sense. It was only after the preemptive pattern became clear that people realized the charges in these cases were only pretexts. It was their perception that the defendants were being incarcerated because the government, often for secret reasons based on classified surveillance, believed that the defendants posed some kind of security risk; or because government agents and prosecutors wanted terrorist convictions to advance their careers; or because agencies needed to justify the enormous budgets that were allocated for security and crime prevention.

2. Tactical Patterns of Preemptive Prosecutions

Preemptive prosecutions can be identified by the tactics of the pretext charges that the government uses. These include:

- **Material support for terrorism charges**

This study considers any charge brought against a target for material support of terrorism to be a preemptive prosecution unless the target intended

to actually support terrorism, i.e., politically motivated violence or intimidation aimed at civilians or at the U.S. or another government.

Perhaps the most unfair prosecution under the material support law has been that of the Holy Land Five,¹⁶ where leaders of what had been the largest Muslim charity in the US were singled out and eventually convicted (after a second trial – the jury was deadlocked the first time) and essentially given life sentences for providing completely nonviolent and desperately needed charity to civilians in Gaza. Incredibly, it was conceded that the HLF didn't even give anything to any designated terrorist group, but instead gave charity through "Zakat Committees" in Gaza, the same way the U.S. Agency for International Development (USAID) supports civilians in Gaza. However, an anonymous Israeli agent was allowed to testify in the HLF case that he could "smell Hamas" on the Zakat Committees, and in the second trial in 2008 a Texas jury convicted the five defendants, who have been locked up since 2004, their appeals long exhausted.

However, in practice the government has ignored this limitation and has repeatedly brought material support charges against targets simply for what they have said, even when the government has not suggested that the speech was coordinated with any DTO. The term "coordination" has never been defined legally, leaving journalists, NGOs, and other groups vulnerable to what speech might trigger a material support charge.¹⁸ The government has even suggested that a lawyer would be guilty of material support for terrorism for filing a brief on behalf of a DTO asking that the organization be removed from the terrorist list.¹⁹

Even worse, in some cases the government has brought charges without even suggesting that a DTO was involved; instead it has claimed that the speech was simply supportive of terrorism generally. For example, the government has claimed that simply putting translated documents on the Internet might allow Al-Qaeda to download the documents, without any proof that this actually happened.²⁰ (And even if the documents were downloaded, there would be no proof of any



Abdulrahman Odeh, Mohammad El-Mezain, Ghassan Elashi, Shukri Abu-Baker and Mufid Abdelqader

Here are some categories of material support cases:

Constitutionally protected free speech. Under *Holder v. Humanitarian Law Project*,¹⁷ the Supreme Court held that material support for terrorism cannot be used to prosecute free speech unless the speech is "coordinated" with a designated terrorist organization (DTO).

"coordination.") When Muslims work at a TV station, or make statements on Facebook that oppose U.S. wars in Afghanistan or Iraq or support Palestinian self-determination, they are construed by the government as support for terrorism, while the same statements by non-Muslims are looked at more innocently.²¹ Although such charges go well beyond the already-problematic holding in *Humanitarian Law Project* and do not give the

public fair notice as to what is illegal, they have resulted in convictions that have been upheld on appeal.²²

Free association. The government has repeatedly brought charges against individuals simply because they were friends of a target, or because they were innocently involved in an association with individuals whom the government wanted to target because of their ideology. The government often calls these associations and friendships “conspiracies,” but a conspiracy must be based on an agreement to engage in criminal conduct. The fact that one or more of the members of a group of friends happens to be engaged in criminal activity should not make all of his friends guilty by association. But in a preemptive prosecution, the government uses such guilt by association as a basis to bring conspiracy and material support charges. Because the line between friendship and conspiracy can be easily blurred by irrelevant but prejudicial allegations, especially when the individuals are Muslims, the government has been able to scare juries into conspiracy convictions, notwithstanding little evidence of any intent to engage in criminal conduct.²³

Charitable giving and management. The government has repeatedly brought charges (such as in the Holy Land case) for engaging in charitable activity even where there is clear proof that the target did not know he or she was benefiting a DTO and had no intention to do so. Absent proof that the target intended to promote violence against civilians, all charity cases that are prosecuted should be considered preemptive prosecutions.²⁴

Social hospitality. Providing someone with a meal, loaning him a cell phone, or allowing him to store a bag of clothes should not be considered terrorism. A person providing social hospitality is not aware that he or she may be engaging in criminal conduct, nor is he trying to promote violence. Unless the social hospitality is directly linked with

a plot to attack civilians, prosecutions of social hospitality should be considered preemptive prosecutions.²⁵ Although in these cases the government has to prove that the person giving the social hospitality intended to help a DTO by his actions, the government has typically discharged this obligation by claiming that the defendant had a “radical” ideology and so any social hospitality must have been intended to help a DTO. The implication is unfair, but juries are so willing to convict Muslim defendants that they often ignore the lack of evidence of any intent to support a DTO. The potential sentences are so draconian, and juries are so easily manipulated by the government in terrorism cases, that defendants have on occasion pleaded guilty in flimsy cases rather than face the prospect of many decades in prison.²⁶

Training camps. The U.S. has a long history of permitting young Americans to fight against dictators and tyrants, such as in the Spanish Civil War, where many Americans fought against Franco. There is also a long tradition in America of permitting groups like the Ku Klux Klan to hold training camps in rural areas to indoctrinate individuals and give them firearms training. Such activities are protected by the First Amendment right to free speech and association and by the Second Amendment right to bear arms. The law is clear that as long as these groups, and the individuals in them, do not discuss specific criminal plans, simply meeting to talk politics generally and to undergo general military or other training is not illegal. The line is crossed only when members engage in specific planning to engage in criminal activity.

By contrast, since 9/11 the FBI has consistently brought material support charges against Muslims simply for attending training camps involving a DTO, or for attempting to attend such training camps, or for even discussing attending a training camp at home or abroad, on the

theory that a publicly expressed desire to attend a training camp constitutes material support for terrorism. It is easy to see some of these situations as preemptive prosecutions. Groups of young men go into the woods to practice physical fitness and discuss their religious and political beliefs. The FBI has infiltrated the group and knows that no plans are being developed for any specific criminal activity. Thus prosecuting such a group for material support for terrorism is clearly preemptive prosecution—prosecuting the group before its “potential for violence” has been developed and before a crime has been committed or contemplated. Even worse, inserting an agent provocateur into such a group to try to steer the group into committing prosecutable crimes is clearly preemptive prosecution. Most of the prosecutions of domestic groups fit this pattern, and so we define them to be preemptive prosecutions.²⁷

In the same way, it should not be a crime for someone to attend a foreign training camp with the goal of protecting communities abroad from attack by terrorist organizations or tyrannical governments. For example, a number of people attended training camps abroad and then defended Muslim communities in places like Bosnia and Afghanistan at a time when they were fighting on the same side as the American government and were thus in accordance with American policy.²⁸ Prosecuting such people after the fact for material support for terrorism is clearly unfair and preemptive.

Prosecuting people for wanting to go abroad to get training is also clearly preemptive when the individuals do not actually obtain training, or do not act on the training once they understand what it is. Some people receive training and decide they do not want to become involved.²⁹ Some groups and individuals try to join training camps and are turned away. Some groups or individuals merely discuss the idea but never actually try to

join a training camp.³⁰ In each of these scenarios, individuals or groups are exploring their options through free speech and free association. Until they actually engage in violence against civilians or the U.S., or have made a specific plan to do so, they have not committed any crime and should not be prosecuted simply for their speech and associations.

The government argues that merely expressing interest in or visiting a training camp constitutes material support for terrorism, but without a specific plan to commit a crime, any prosecution for discussing or visiting a training camp would be preemptive.

• Stings (entrapment)

The government uses agents provocateurs to target individuals who express dissident ideologies and then provides those provocateurs with fake (harmless) missiles, bombs, guns, money, encouragement, friendship, and the technical and strategic planning necessary to see if the targeted individual can be manipulated into planning violent or criminal action. Ordinarily the law prohibits the government from entrapping innocent citizens into crime, but the law provides an exception when the target is “predisposed.” Although the term “predisposed” usually describes someone who was already involved in similar criminal activity, or where evidence shows he or she was inclined to do so without any government inducement, in preemptive prosecution cases the government has successfully claimed that the term can mean that the target “readily responded” to the inducement and did not subsequently withdraw from the plot.

In the Newburgh Four case, for example, the government provocateur offered one defendant \$250,000 when he wanted out of the government plot, and he was convicted because he did not again try to withdraw after being offered the money. Beyond general anti-Semitic statements

he made, there was absolutely no evidence of predisposition.³¹

So far, this “ready response” theory has been upheld by the courts, and so in all practical respects the entrapment defense no longer exists. Moreover, it appears that based on Islamophobia and ignorance about Islam, Muslims are often considered to be predisposed to terrorism simply due to their religion, especially if they are religiously conservative.³²

Stings are targeted at a particular person and play upon the particular weaknesses of that person. The targets are often mentally ill. Or the target may be very poor and is offered large sums of money to engage in criminal conduct; or the government may use the target’s ideology to pressure and shame him or her into doing something illegal; or it may bring other pressure to bear to force the target to engage in criminal conduct. The target is typically presented with a test of whether he or she can withstand the inducements of the government to engage in illegal acts, whereby the government applies as much pressure as possible and uses the vast resources at its disposal, based on the premise that the targets may be recruited by highly persuasive, manipulative terrorists. (In reality, true terrorists would never recruit most of these people because they are too vulnerable and therefore unreliable.)

One of the best signs of a preemptive prosecution by sting is that the targets were either uninterested in or unable to develop any plot without the government’s involvement. In many such cases, the government provided not only the resources but also the plans themselves.³³ In the Aref-Hossain case, the FBI included a (dummy) missile in the sting so that as a weapon of mass destruction, it would trigger enhancements in the sentencing. But the FBI failed to show the missile to Aref, because they were afraid that if Aref saw the missile it might “spook” him and he might refuse to continue

witnessing loans, thus ruining their frame-up.³⁴

Stings often set up the targets for the harshest sentences by inducing them to become involved in actual bomb plots rather than just provide material support to some group. This accomplishes two things: it ramps up fear on the part of the public,³⁵ and it often results in life sentences for these vulnerable young men.

Examples of Unfair Sting Convictions

Newburgh 4. The Newburgh 4³⁶ were men who had served sentences for low level crimes in the past and were jobless and living in poverty when the FBI came into their lives. There was absolutely no evidence that any of the four had any predisposition to terrorism, or any ideology whatsoever. They were just trying to survive in impoverished Newburgh, NY when they were targeted in an FBI sting operation by informant Shahed Hussain.³⁷ Hussain offered low-level con artist James Cromite money, cars and jobs if he would participate in a plot – the two men were trying to con each other. When Cromite backed out, Hussain offered him \$250,000³⁸ and that reeled him back in. Cromite then recruited 3 other men (including one who was schizophrenic³⁹, often homeless and who only wanted food) shortly before the 4 were arrested, offering them \$5,000 each to participate. Even though the judge called this the “Unterrorism Case⁴⁰,” the four were convicted and each sentenced to 25 years in prison in 2011.





**David Williams, Onta Williams, Laguerre Payen, and
James Cromitie of the Newburgh 4**

Kansas Sting Case (Patrick Stein, Gavin Wright and Curtis Allen). Patrick Stein, a Kansas militia member, believed reports that President Obama was allowing Muslims to take over America. He became afraid for his family and expressed the need to defend America. A man named Dan Day, who was unemployed and nearly homeless, found a flyer depicting what he thought was an ISIS flag (it was in fact a Palestinian flag), and gave it to the militia, who gave it to the FBI. The FBI then hired Day and assigned him⁴¹ to try to get Stein to agree to engage in violence against Muslims. Eventually,

after months of prodding them with false information about local Somalis,⁴² the informant talked Stein and two other militia members (Curtis Allen and Gavin Wright) into agreeing to be part of a (fake) FBI created bomb attack on a Muslim housing complex in Garden City, Kansas. The three men, comprising the “Kansas bomb plot,” were then convicted⁴³ of conspiring to use weapons of mass destruction. Wright and Allen were sentenced to 25 years, while Stein was sentenced to 30 years in January, 2019.



Gavin Wright, Curtis Allen and Patrick Stein

Rezwan Ferdaus. Ferdaus, a mentally ill young man from Boston, was entrapped in a sting operation by an FBI informant who was himself addicted to drugs.⁴⁴ Rezwan was suffering from hallucinations, and could not even control his bladder. He was very vulnerable to manipulation, and the informant convinced him to participate in an attack using a remote-controlled drone. Once Rezwan's parents convinced him to get psychiatric help, and he started taking medication, the government, realizing he may soon back out of the fake plot (as he had almost done before), moved in to arrest him. He was sentenced to 17 years for attempted material support to terrorism in 2012.

**Rezwan Ferdaus****Shahawar Matin Siraj**

Shahawar Matin Siraj. Siraj has a very low IQ and was extremely vulnerable to suggestion - he was entrapped in an FBI sting operation⁴⁵ by an NYPD informant who befriended him and became a mentor to him. The informant later complained to a Washington Post journalist that he should have been paid more because he was so good at "getting people to the point⁴⁶" where they would violate the law. The informant enflamed Siraj by showing him Abu Ghraib photos and told him it was Islamically permissible to "kill the killers." Even though he told the informant he couldn't do anything without permission from his mother⁴⁷, Siraj was arrested, convicted at trial of an attempted bomb plot, and sentenced to 30 years in 2007.

Adel Daoud. Daoud, a seriously mentally-ill man from Chicago, was entrapped in 2012 in an FBI sting operation into a fake car-bomb plot. He was so mentally ill and delusional that he was found not competent⁴⁸ for trial in 2016. After taking medication for close to two years, he was found to be competent, but then he, still apparently believing in reptilian overlords and the Illuminati, was allowed to enter a rare "Alford" plea in 2018⁴⁹, pleading guilty in the bomb plot without actually admitting guilt. He is due to be sentenced in April, 2019.

**Adel Daoud**

• Conspiracy charges

In preemptive prosecutions, conspiracy charges are often brought along with other charges because a conspiracy allows more use of hearsay evidence and has other evidentiary advantages. All associates are considered equally culpable, even if they do not know of the existence of a plan; thus such charges are also a good way for targets to be found guilty by association; they are part of the conspiracy whether or not they know anything about a particular crime. As described above, many conspiracy charges are simply violations of a defendant's right of free association. Merely because a defendant is a friend of someone who has violated material support laws is not a basis to charge the defendant with conspiracy, but such governmental overreach is routine in preemptive prosecution.

Conspiracy charges in preemptive prosecution cases tend to focus on ideology as a proxy for the "agreement to commit a crime," which is required by conspiracy law. But because two individuals share a Salafist or a Communist philosophy does not mean that they have agreed to do something illegal. Once there is a conspiracy, however, then "foreseeable" acts of co-conspirators can be charged against any member of that conspiracy. And once it is accepted that there is a conspiracy, it doesn't take much evidence to show that a particular person is a member of it.

For example, in the Ziyad Yaghi/Raleigh 7 case, the government claimed that some young men, including Yaghi and Omar Hasan, knew an older man, Daniel Boyd, and his sons, who advocated protecting Muslim communities in Bosnia that were under attack. Because all the people knew each other, the government claimed that they



Ziyad Yaghi

must have shared a common ideology. When Boyd helped buy tickets for Ziyad and Omar to visit the Middle East to see relatives and arrange for a wedding, the government claimed that they were actually looking for targets to attack, even though there was no evidence of this. Their "association" with Boyd implied a common ideology, and the common ideology allowed the jury to infer that innocent actions like visiting relatives in the Middle East were actually cover for illegal intentions in furtherance of the common ideology.

Similarly, in the Fort Dix Five case, the three Duka brothers were convicted of planning to attack Fort Dix even though the government's witness conceded that the three brothers knew nothing about a plan to attack Fort Dix. Their common "ideology" of defense for Muslim communities under attack supposedly permitted the inference of a conspiracy, even though the three brothers knew nothing about any actual criminal plan regarding Fort Dix.⁵⁰

• Use of Classified Evidence

In the case of Yassin Aref,⁵¹ highly incriminating classified evidence - which turned out to be false⁵² - was given to the judge, but not to security-cleared defense counsel, resulting in many significant rulings against the defense. This secret evidence was also provided to the appeal court⁵³, while everyone else was made to leave the courtroom. The legal standard, set forth in Aref's case, is that in order for the evidence to be provided to the defense, the judge must find that it is "helpful to the defense⁵⁴." False incriminating evidence would not be seen as helpful, yet in our adversary system the judge would not investigate to see if the evidence holds up - that task falls to the defense. Clearly, defense counsel cannot do his or her job when not allowed to see this material, or even have any idea what it is that is being given to the court.



**Yassin Aref and his co-defendant
Mohammed Hossain**

The FBI initiated a sting operation against Aref based on the false impression (derived from false and misleading classified evidence) that he supported terrorism. Aref was only brought in to witness a loan from the informant, Shahed Hussain, to his co-defendant, Mohammed Hossain. (The informant was a career con artist who was recently implicated in the worst transportation disaster in the U.S. since 2009⁵⁵.) While Aref never said or did anything indicating support for terrorism, he was still convicted based only on comments by the informant⁵⁶.

Aref, who was acquitted of most of the counts against him, would likely have been entirely acquitted but for the secret evidence, which let the judge to tell the jury that the FBI had "good and valid reasons" for targeting him. As to Mohammed Hossain, the judge recognized he had no intent to support terrorism but sentenced him to **15 years** anyway. The convictions, while not reversed, have been widely recognized as being unfair⁵⁷.

Rather than reversing the conviction, the courts have instead used the Aref case to justify withholding classified evidence from security-cleared defense counsel in all cases unless the judge thinks it is "helpful to the defense⁵⁸." As explained above, we have an adversary system where the defense needs to investigate evidence to see if it holds up under scrutiny. As it stands, CIPA doesn't allow that.

• Use of pressure to obtain information or cooperation

Often the goal of preemptive prosecution is to pressure a target into cooperating or giving information. The target may tell the FBI that he or she is not willing to wear a wire to record information or to otherwise cooperate as an informant⁵⁹. To increase the pressure, the government may then indict the target by using material support charges. In addition, the government often uses a target's immigration status, or the status of a loved one, as a way of getting leverage over the target; or it may use preemptive deportation as a way of forcing the target to cooperate.

Often the FBI charges a defendant with lying to agents, which is a federal offense. The FBI has an official policy of not recording formal interviews; instead oral interviews are typically conducted with two or more FBI agents present, so that if the target is charged with lying it will be the latter's word against two or more FBI agents. Under such

conditions, targets have little chance to defend themselves. The FBI can then threaten to accuse the target of lying to agents during a voluntary conversation unless the target cooperates⁶⁰. On other occasions, the FBI has investigated a target's past (as far back as decades) in an attempt to find something that was questionable, no matter how technical, and then has used that minor offense as a tool to obtain the target's cooperation⁶¹. All these attempts to unfairly pressure targets to cooperate represent preemptive prosecution.

- **Use of pre-trial solitary confinement and Special Administrative Measures (SAMs)**

The government often places targets in solitary confinement, or imposes Special Administrative Measures (SAMs) pre-trial, based on the claim that the defendants are too dangerous to be in the general prison population, as evidenced by the as-yet-untested charges themselves. This isolation of prisoners at a time when they are presumed innocent can be devastating psychologically and put enormous pressure on defendants to plead guilty. For example, Mohammed Warsame⁶² returned to the U.S. from Afghanistan after 9/11 and told the FBI what he knew about Islamic groups there. The FBI was so impressed with his information that they asked him to work for the agency. Warsame refused, and the FBI threatened to make his life hell if he didn't cooperate. Warsame still refused, so the government indicted him for material support and for lying to the FBI and kept him in solitary confinement for five and a half years pre-trial in order to break him, claiming that he was so dangerous that only by keeping him in solitary confinement could security be guaranteed. Finally Warsame was so worn down by the solitary confinement that he agreed to plead guilty in order to get out. He was sentenced to a few more months in jail and was released.

Once he pleaded guilty, apparently he was no longer dangerous. This situation is typical of many preemptive prosecution cases, whereby the defendant is forced to plead guilty because it is not possible to get a prompt and fair trial, and the lengthy pre-trial solitary confinement is equivalent to torture.⁶³

3. Tactical Patterns of Elements of Preemptive Prosecution

A second category of cases is described in this study as those that have "elements of preemptive prosecution." Preemptive prosecution begins with the government's decision to bring pretext charges to incarcerate a target for ideological reasons. In the "elements" category, the individual has already started to engage in criminal conduct on his or her own, but the government tries to inflate the seriousness of the crimes and the length of the sentence by adding terrorist elements. For example, a group may become involved in smuggling cigarettes on its own, but the government may try through agents provocateur to direct the money to a designated terrorist organization, or suggest purchase of weapons, or perform other actions toward the target to increase the number of crimes and the length of sentence. The government may also use the defendants' supposed ideologies to justify an increased sentence, or list the cases as "terrorism" cases in its statistics.

4. Not Preemptive Prosecution: Real Security Threats

The final category of cases represents defendants who apparently were ready on their own to engage in violent activity relating to terrorism. (For example, see above under the category "No Preemptive Prosecution," numbers 3 and 4.) They were not simply participating in crimes created by the FBI that were also solved by the FBI; thus this study does not consider them preemptive prosecutions.

It should be noted again that not all preemptive prosecution cases are included in this study, which surveys only the individuals on the DOJ's list of terrorism cases. A number of other terrorism cases that were prosecuted after the time frame of the DOJ list are also preemptive prosecution cases and are included in Project SALAM's database, but they have not been included in this study for statistical reasons. The study's intent is to focus only on the government's self-proclaimed terrorist prosecutions, to illustrate how arbitrary and inconsistent its approach to these cases has been. Why the government has not regularly updated its own list, and why it omitted those other cases, is a mystery.

UNFAIR LIFE SENTENCES

Many convicted Muslims were sentenced to long years in prison for doing essentially nothing. But in a few cases, courts imposed life sentences (and effective life sentences - sentences longer than the defendant's life expectancy) on Muslims where either no crime was committed, or the crime would normally require minimal or no jail time. These cruel life sentences expose the vicious racial and political bias that underlies lawfare prosecutions. Here are nine of the worst cases of injustice in the War on Terror when the severity of the sentence is considered:

1. The Holy Land Foundation Case (Ghassan Elashi; Shukri Abu-Baker)⁶⁴

On 9/11, the Holy Land Foundation was the largest Islamic charity in the U.S., focusing much of its charitable efforts on building schools and hospitals in Palestine, and distributing food and medicine to the impoverished people there. The directors of the Holy Land Foundation asked the U.S. government for guidance on avoiding any violation of terrorism funding laws, and were told not to give money to organizations that were on the U.S. list of designated terrorist organizations.

The directors scrupulously followed this advice, and distributed charity through local "zakat" committees which were not on the U.S. list, and which were the same organizations used by the U.S. government itself to give aid. Nonetheless, the directors were arrested and charged with material support for terrorism. (For an extensive description of the case, see the 2018 book *Injustice: The Story of the Holy Land Five* by Miko Peled.)



Ghassan Elashi



Shukri Abu Baker

At trial, the prosecution claimed that some of the zakat committees were “controlled by” Hamas (which is on the U.S. Designated Terrorist Organization [DTO] list.) This claim relied in large part on the testimony of an anonymous and disguised Israeli agent who could not be effectively cross-examined because nobody was allowed to know who he was. He actually claimed he could “smell Hamas.” The unfairness of this is obvious. Moreover, since the zakat committees were not on the DTO list, and were used by the U.S. government, how were the directors of the charity to know not to use them? The U.S. government conceded that no Foundation money had actually gone to Hamas but argued that simply building schools and hospitals in Palestine for the impoverished people supported terrorism. How? It “raised the prestige” of Hamas and so constituted material support for terrorism. Two of the directors, Ghassan Elashi and Shukri Abu-Baker, were sentenced to 65 years - effectively life sentences for two middle-aged defendants - for trying to ease the suffering of innocent civilians under Israeli occupation.

After 9/11, the Bush Administration illegally closed most Islamic charities operating in the U.S. as a pretext to prevent the possible transfer of charitable funds overseas to finance terrorism. A number of their directors were charged with pretext crimes including Dr. Rafil Dhafir and Kifah Jayyousi. Although Dhafir and Jayyousi received unfair sentences of 22 and 12 years, respectively, no other charity directors were given effective life sentences like Elashi and Abu-Baker. The sentences appear to be extra punishment for being Palestinian, and as support for Israeli repression of Palestine.

2. Dr. Aafia Siddiqui

In March 2003, Pakistani citizen Aafia Siddiqui (a graduate of MIT, and a PhD in neuroscience from Brandeis University) and her three young

children were kidnapped off the streets of Karachi, Pakistan by Pakistani Intelligence (ISI), apparently at the request of the U.S. government. They were “disappeared” for 5 years. We now believe they were held at one or more American black sites, likely near Bagram Air Force base in Afghanistan, and that Aafia was tortured there.

Five years later, in 2008, Aafia and possibly her oldest son Ahmed were found wandering in Ghazni, Afghanistan, and were detained by Ghazni police. **(The U.S. government has since refused to release its classified information about where Aafia and her children were imprisoned, under what conditions, and how they were released.)**

U.S. soldiers were given permission by the Afghan government to interview Aafia at the Ghazni police station, but they were denied permission to take her into US custody. When the U.S. soldiers arrived at police station, they confronted Aafia, and then shot her twice in the stomach, almost killing her. Then, against orders, they forcibly took Aafia to the US where she was charged with the attempted murder of the soldiers who shot her.

At her 2010 federal trial in New York City, six U.S. soldiers testified that Aafia picked up a rifle that a soldier had inexplicably placed next to her, and fired two bullets at the American soldiers, which missed the soldiers and went into the wall behind them. The prosecution identified two holes in the wall behind the soldiers as being made by the bullets. However, an FBI team who made a complete forensic examination of the room after the shooting, did not find any bullets in the holes. Aafia’s fingerprints were not on any rifle, and no shells, rifle bullets, or powder residue from the rifle were found anywhere in the room. Moreover, a photograph, taken before the incident, showed the same two holes in the wall behind the soldiers.



Dr. Aafia Siddiqui

The testimony of the soldiers was completely refuted by the forensic evidence which proved that Aafia never shot the gun. Yet, given the fear of terrorism surrounding the case, Aafia was convicted anyway. She was sentenced to 86 years – effectively a life sentence - for a crime she could not have committed, and in which nobody was injured except Aafia.⁶⁵

After 9/11, many Pakistani citizens were forcibly “disappeared” by the Pakistani government and many were either killed or sold to the Americans as “terrorists” – often ending up at Guantanamo. Enforced disappearances facilitate torture and murder because no accountability is required of the participating governments. Dr. Siddiqui and her children were victims of enforced disappearance, and should have received assistance and protection, not phony charges to cover up the government’s own crimes.

**For more
information see:
the Aafia Movement⁶⁶**

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3. The Fort Dix Case (Mohamad Shnewer; Dritan Duka; Eljvir Duka; and Shain Duka⁶⁷)

After 9/11, the FBI began an investigation as to whether a young man, Mohamad Shnewer, might be interested in violent jihad. An FBI informant spent months trying to persuade Shnewer to plan an attack on Ft. Dix in New Jersey, but finally concluded that Shnewer would not act. It was all just talk.

About the same time, the Duka brothers, took a family vacation in the Poconos, with their friend Mohamad Shnewer. They made a video of their pillow fights, horseback riding and shooting guns at a public shooting range and later took the video to a store to be copied. The clerk saw images of young Muslims with guns, and reported the Dukas to the FBI. Another FBI informant was assigned to entrap the Duka brothers into planning a violent jihad attack. After months of trying, the informant concluded that the Dukas were not going to do anything either – they were just young men peacefully engaged in their family roofing business, with wives and young children to raise.

Instead of dropping the two failed entrapments, the government decided to combine them into one conspiracy. The FBI informant convinced the Duka brothers that he could arrange for them to buy guns very cheaply so they would not have to wait in line at the shooting range to rent guns. When the guns arrived, the FBI arrested both Shnewer and the Dukas and charged them with plotting an attack on Ft. Dix with the guns. Shnewer was astonished, and said correctly that he knew nothing about the guns. The Dukas, also astonished, said they knew nothing about an attack on Ft. Dix. (Even the FBI informant acknowledged that the Duka brothers knew nothing about an attack on Ft. Dix.) But Shnewer and the Dukas were convicted of a conspiracy that never happened, and were sentenced to life in prison for a criminal plot they had never heard of and thus had no intention to commit.⁶⁸



(inset: Mohamad Shnewer; from left: Serdar Tatar, Eljvir, Dritan and Shain Duka)

4. Ahmed Abu Ali

While Ahmed Abu Ali, a brilliant young man from Virginia, was attending the Islamic University of Medina in Saudi Arabia on a scholarship, the U.S. government asked the Saudis to question him.

The Saudis complied, arresting him while he was in the middle of taking his final exam. Abu Ali, who was just 22 years old at the time, was held indefinitely without charges and tortured for approximately twenty months. Saudi authorities beat him until he confessed to a bizarre plot to assassinate President Bush and other offenses. Abu Ali was then returned to the U.S. and charged, based entirely on his tortured confession. A medical expert on torture physically examined Abu Ali and reported on the extensive evidence showing that he had been tortured, but the judge sided with the prosecution's "expert," a dermatologist who did not examine Abu Ali, but nonetheless concluded that the scars on his back from the beatings could just be normal "skin discolorations." Abu Ali was

convicted based on his own tortured evidence and was sentenced to life imprisonment. (He was originally sentenced to 30 years, but when he appealed his conviction, the 4th Circuit Court of Appeals held that 30 years was not enough, and he was then resentenced to life!)

It has long been a bedrock principle of American jurisprudence that tortured evidence can never be used in a criminal prosecution. Official reports from the American government listed Saudi Arabia as a country that engages in torture, but because Saudi Arabia was an ally of the U.S., it was a convenient place for the FBI to have suspects tortured when the FBI wanted information. The conviction of Abu Ali, based on evidence that was clearly obtained by torture in Saudi Arabia, is a remarkably cruel, cynical, shameful deceit. That someone could be sentenced to life for such a manufactured crime compounds the shocking nature of the case. The conviction underscores America's ambiguous relationship with torture. In public, the U.S. government piously declares

that it does not torture, while in case after case it instigates torture in private and then looks away, pretending that it just doesn't see.

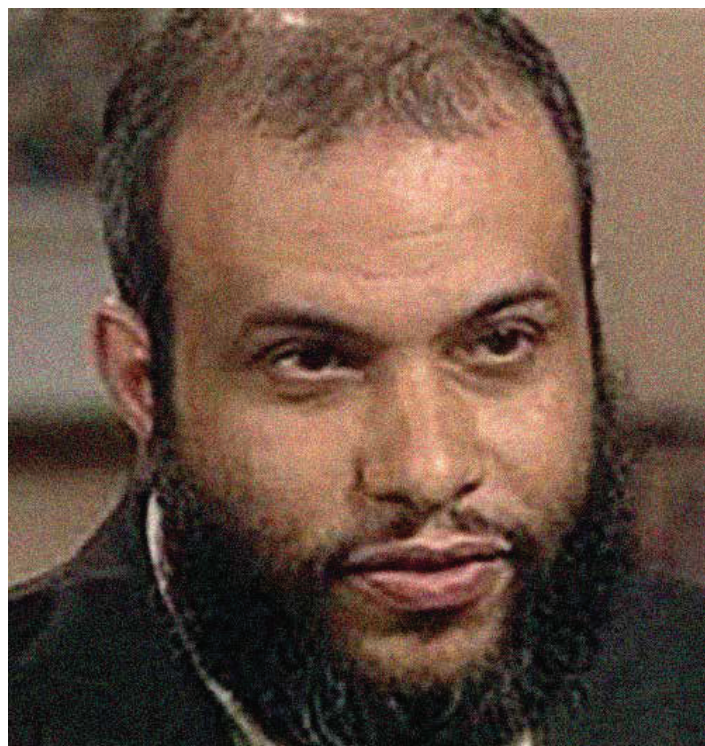


Ahmed Abu Ali

5. Ali Al-Timimi

Ali Al-Timimi was a young religious instructor at a mosque in Virginia. On September 16, 2001, a few weeks after 9/11, a mosque group that engaged in paintball games and paramilitary exercise, met to discuss the current political situation. No recording was made of the meeting, but several participants later remembered Al-Timimi stating that in his opinion it was permissible for Muslims to fight abroad in Afghanistan to oppose a possible U.S. invasion in response to the 9/11 attack. The group decided to continue their training without any plan to do anything specific, but some members later went to Afghanistan to support the Taliban. Al-Timimi did not participate in these trainings with the paintball group and did not travel abroad. His participation was essentially limited to responding to religious questions during a single conversation after 9/11, giving his opinion that under Islamic law, jihad in support of the Taliban was permitted. (A non-Islamic analogy would be activists asking a lawyer if it were permissible for them to carry weapons to a demonstration, and the lawyer responding that since it was an open-ca-

rry state, firearms would be permitted. Would the lawyer be guilty of supporting terrorism for giving that advice?) Al-Timimi was arrested and charged with Material Support for Terrorism. The government argued that as a religious instructor, Al-Timimi's opinion amounted to a fatwa (an Islamic decree), notwithstanding that as a simple religious instructor Al-Timimi had no power to issue a fatwa. He was convicted and sentenced to life imprisonment. Receiving a sentence of life in prison simply for giving a religious/legal opinion, seems grossly excessive in a country like America that guarantees free speech. The life sentence is clearly a punishment for Al-Timimi's political/religious beliefs⁶⁹ rather than for any crime he committed. Many other targets in the War on Terror have been sentenced to jail for their political beliefs, including Yassin Aref, Sami Al-Arian, Tarek Mehanna, and Ehsanul "Shifa" Sadequee. But Al-Timimi is one of the few to be given a life sentence solely because of his expressed political/religious beliefs.



Ali Al-Timimi

What do these life sentences tell us about ourselves? In none of these so-called “crimes” was anyone killed or injured (except Aafia who was shot), nor was any property damaged, nor was any other injury inflicted. Most defendants had no prior history of violence, nor did any of them have a specific plan to injure anyone before the FBI got involved. Every day rapists, murderers, bank robbers, and other criminals, are sentenced to far less than life, even though victims were murdered or maimed, property was destroyed and communities terrorized. Why then were these Muslim defendants given life sentences when they injured no one?

SOME RECENT HOPEFUL TRENDS

Although the situation has been very bleak for a long time, there have been some recent glimmers of hope. Recently, a few judges - and one jury - have started to look at some of these cases differently, for some reason no longer under the spell of the “preemptive” model which was based essentially on irrational fear. This has happened in three newer cases and in a few of the old ones which ended up before the courts again. In four cases, Muslim “terrorism” defendants have been recently released from prison because the judges sentenced them to time already served, something which never used to happen in these cases. A fifth defendant was granted a new trial, something else which never happened before in one of these cases. And most recently, in January, 2019, a magistrate recommended that another conviction be vacated.

Virginia Paintball Case – Seifullah Chapman and Masoud Khan Were Sentenced to Life in Prison – They Have Now Been Released

In 2001, there was a group of Virginia Muslims who played paintball and engaged in some military-like training, with the idea that fighting might be necessary at some point in order to defend fellow Muslims. A few of them⁷⁰ traveled to Pakistan to receive training with Lashkar-i-Taiba (LeT) - a group fighting for Kashmiri independence.⁷¹ Seifullah Chapman went just before 9/11 and Masoud Khan just after. On October 20, 2001, after Chapman had returned to the U.S. and while Khan was still overseas, American forces invaded Afghanistan and the Taliban’s control of that country rapidly collapsed, inducing Khan to return home.

Both Chapman and Khan were convicted of material support to LeT and some firearms charges – the most serious being the firing of weapons while training with LeT. Both Chapman and Khan had returned home without having fired a shot at anyone, and without having done anything to fight in Kashmir, Afghanistan or anywhere else.

The firearms law they were convicted under (18 USC 924[c]) said that if the firearms were used “in connection with a crime of violence” the sentence was much harsher. At the time of the sentencing the judge found that the material support to LeT constituted a “crime of violence.” This was based on a definition of “crime of violence” that included a finding that there was a “substantial risk that physical force against a person or property may be used in the course of committing the offense.” At the time the law required that this definition apply. They were both sentenced to life in prison based on having fired weapons while at the training camp.

In April 2018, the Supreme Court decided the case of *Sessions v. Dimaya*⁷² which involved the same definition of “crime of violence.” The Supreme Court ruled that wherever a court used this definition, and applied it based on an “ordinary case” without regard to the specific facts, it was unconstitutional because it was too vague—too

hard for the judge to know whether it applied or not. Both this definition and the “ordinary case” standard were used in the cases of Chapman and Khan and resulted in their life sentences, so they filed motions to be resentenced as a result of Dimaya.

Judge Leonie Brinkema then decided that based on Dimaya she would not use the “ordinary case” standard (this had formerly been required) and instead looked at the particular facts of Chapman’s and Khan’s case. Very significantly, she found that there was no “substantial risk” of their use of force with respect to the material support charge. She vacated the firearms counts and resentenced both of them to 10 years. Since they had already served much longer than that, the two men were released.

To the prosecution’s great surprise, the judge wasn’t blinded by the specter of “terrorism” – instead she looked carefully at the facts and found that there was not a substantial risk that they would have actually ended up using force against anyone. This shows a weakening of the preemptive model, which is entirely based on the idea that there is a “substantial risk” that the defendant will become violent in the future.

While there are only a handful of Muslim preemptive prosecution cases where the Dimaya case applies directly, the broader concept of not allowing Islamophobic fear to supplant the law will hopefully spread.

Bakhtiyor Jumaev – Colorado – Sentenced to Time Served in July, 2018

A similar hopeful sign is the July 2018 sentencing of Bakhtiyor Jumaev in federal court in Colorado. Jumaev was convicted of material support for sending a single check for \$300 to a co-defendant,

knowing it was to go to a designated terrorist group (the Islamic Jihad Union or IJU.) The government was asking for fifteen years, which would have been fairly typical in such a case. However, Judge John Kane sentenced him to time served (unfortunately, this amounted to just over 6 years, since the case had been pending for a long time due to wrangling over illegal wiretapping.) A well-known legal blogger discussed this, titling the post, “Terrorism isn’t what it used to be.”⁷³



Judge Kane called the government request for fifteen years “absurd,” and stated that the defendant should not receive a harsher sentence because he went to trial, stating⁷⁴:

“In over forty years of judging I have never imposed a harsher sentence because a defendant asserted his right to trial by jury or to testify at that trial. I am not about to do so now or in the future. I consider any trial “tax” or penalty to be contrary to the ages-long values and standards of our legal system. It is more closely associated with the jurisprudence of Russia, as described by Dostoyevsky, than our own tradition as described by Benjamin Cardozo.

A just sentence is an act for which a judge is morally responsible. That responsibility can neither be shunned nor relinquished based on the nature of the crime. We must recognize that a human being is the focal point of the sentencing process and should not be ignored or dismissed because of the inflamed rhetoric of the war on terror. I am reminded of Judge Learned Hand’s wise comment: —If we are to keep our democracy, there must be but one commandment: Thou Shalt Not Ration Justice.”

While sentiments like that are not unheard of in federal courts, they have been rare for many years, and they had never before been uttered in a Muslim “terrorism” case. We can only hope this is part of a trend toward treating applying the law equally in these cases, which would result in much fewer convictions and much lower sentences.

United States v. John Doe – New York - Sentenced to Time Served in August, 2018

In this case, 93 year-old Judge Jack Weinstein issued one of his lengthy, very thoughtful decisions in the case of a young man who, deluded by ISIS propaganda proclaiming an Islamic paradise, had traveled to Syria in 2014 and spent several months working for that group before managing to escape. Judge Weinstein even went so far as to redact the defendant’s name, in order to protect him, and while I know the name, I will not state it here.

The opinion⁷⁵ began like this, situating current events within a historical context:

“Terrorism in support of ideology is not unknown in American history. See, e.g., David S. Reynolds, John Brown, Abolitionist 11 (Alfred A. Knopf 2005)... Nor is the history of export of American volunteer fighters to foreign wars unusual: we need only recall American individuals’ aid to civil wars in Greece, Israel, Italy, Spain, Sri Lanka, the Soviets, and Nazi Germany.”

Judge Weinstein noted that the “terrorism enhancement⁷⁶” applied as a matter of law in the case, making the Sentencing Guidelines range 30 years to life, but also noting that the maximum sentence for the statute under which the defendant was convicted was 25 years, so that became the maximum possible sentence. The judge also noted that the defendant had been cooperating extensively⁷⁷ with the government since his return, and took that into consideration, even though the government did not recommend a particular sentence.

The judge also looked at other cases where people joined ISIS and then returned to the U.S., noting that the average sentence in such cases was 10 years. (Ironically, this is much shorter than sentences have tended to be in purely preemptive cases, such as sting operations.) He also looked at how European countries have treated their citizens when they return home after spending time with ISIS, and noted that those sentences have been much shorter than in the U.S. (See Opinion, at 31-34⁷⁸)

When explaining the reason for his sentence of 21 months (time served – the defendant had been incarcerated for 21 months before being released on bond prior to sentencing) Judge Weinstein said something which could be said of hundreds of Muslim terrorism defendants, especially those entrapped in sting operations:

“At a particularly vulnerable time, he immersed himself in the internet, falling prey to terrorist propaganda and eventually finding himself drifting towards radicalization....Doe’s decision to travel to Syria was primarily motivated by a desire to live in a utopian Islamic environment, rather than a desire to commit violence on the group’s behalf” (Opinion, at 36-37⁷⁹)

Likewise, he stated, in what could be termed a rebuke of the preemptive prosecution model,

“While no one can ever be sure, the court believes that defendant has recognized the severity of his crimes and is not likely to move towards violent extremist behavior.” (Opinion, at 39⁸⁰)

Uzair Paracha – New York - New Trial Granted in July, 2018

In 2003, Uzair Paracha was charged with several counts of material support to Al Qaeda, all based on his having helped Guantanamo detainee Majid Khan⁸¹ fraudulently obtain legal status in the U.S. The question was whether he did so believing that Khan was a member of Al Qaeda. If not, he could have only faced minor immigration fraud charges, or would not have prosecuted at all. He was found guilty at trial of knowingly having supported Al Qaeda by helping Khan, and was sentenced to 30 years in prison in 2006.

In 2008, Paracha filed a motion for a new trial, based on new evidence, which consisted of statements by Majid Khan and two other Guantanamo detainees, indicating that Paracha did not knowingly aid Al Qaeda. (Apparently, some previous unclassified summaries of alleged statements from them, likely obtained under torture, had provided the chief evidence against Paracha at trial.) This motion was never decided until 2018. It is not clear why the motion was pending for 10 years with no decision. In February, 2018, Paracha filed a handwritten “mandamus” motion from prison, requesting that the court issue a decision on the motion for a new trial.

In July, 2018, the court granted this motion⁸², stating that the new statements go to the heart of the case against Paracha, and set the case down for a new trial. Again, we see a judge reexamining old fear-filled assumptions and granting relief to a defendant who was unfairly treated. (As with the cases of Chapman and Khan, the government

is appealing this decision, so we will have to see what the appeal court says and, if the decision is upheld, what happens with the new trial.)

Adam Shafi – Granted Bail in October, 2018 After Mistrial – Jury Voted 8-4 to Acquit

On October 4, 2018, Adam Shafi, who is charged with attempted material support based on allegations he was seeking to join the Al Nusra Front in Syria, was released on bail⁸³ after spending three years in pre-trial detention. After a trial in September, the jury had been deadlocked, voting 8-4 to acquit him. The defense argued he did not actually take steps to travel to Syria, and was suffering from depression. In the past, defendants in similar situations have been convicted, but this jury didn't do that, and the judge then granted bail pending a retrial, something else which almost never happened in the past.

Hamid Hayat – In January, 2019, Judge Recommends 2005 Conviction be Vacated

In 2005 Hamid Hayat was convicted of material support and false statements and sentenced to 24 years in prison based on what appears to have been a false confession⁸⁴. After many hours of intense interrogation, the young man finally told the FBI what they wanted to hear – that he had attended training camps in Pakistan with the intent to support terrorism. In fact, there are many credible witnesses – not called to testify at trial – who show that this was not possible, because one of them was with him the whole time. The prosecution withheld evidence showing that the alleged training camp was not even in operation at the time Hayat was there. His trial attorney, while well-meaning, was very inexperienced, and had

never picked a jury or tried a federal criminal case before. Hayat, with new attorneys, filed a habeas petition in 2014, and after an evidentiary hearing in 2018, the magistrate who heard the case has recommended that his conviction be vacated⁸⁵ based on ineffective assistance of counsel.

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CONCLUSIONS

This report demonstrates that the government has manufactured most of the terrorism convictions in the country and has greatly overstated the threat of terrorism, especially from Muslim extremism. The government is not being truthful with the American public about national security. It is beyond the scope of this report as to why the government is exaggerating a Muslim threat, but it is relevant here to state several hypotheses.

1. After 9/11, the FBI began a hunt for domestic terrorists on the assumption that terrorists had already established a network within the country and could be identified primarily by their extreme Muslim ideology. When such extreme Muslim networks could not be found, the FBI targeted "ideologies" by means of preemptive prosecution to demonstrate that it was aggressively protecting the country and to justify its expanded new budgets and enhanced police powers.⁸⁶ To be fair, most FBI agents sincerely believe in the need to protect the country from another attack. The problem is that locking up people because of suspicions about what they

might do results in many innocent people being incarcerated, with little gain in protection of the country.

2. Although preemptive prosecution may be unjustified in its application to individual cases, it sends a message to the Muslim population in particular that the government will prosecute them vigorously and unfairly for any indications of lack of loyalty (“suspicious ideology”) to the U.S. Thus preemptive prosecution is designed to scare—terrorize—the American Muslim population into silence over U.S. policy abroad. This allows the U.S. to aggressively pursue wars and drone attacks in the Middle East without fear of a political backlash from American Muslims over the killing of civilians in foreign lands.

3. Preemptive prosecution represents a new attempt to prosecute ideology, on the discredited theory that ideology predicts crime. Attempts at prosecuting ideology have a long history in the U.S. and have produced hundreds of political prisoners, many of whom are still in prison.⁸⁷ In the present version of this process, Muslims are the first victims of political repression, and will likely be followed by repression against other groups, such as immigrants and the political left. This is already starting⁸⁸.

4. Over the last few decades, the U.S. has developed a mass surveillance capacity that gives it a competitive advantage in commercial spying, trade negotiations, repression of dissident groups, and the manipulation of political dialogue. Such surveillance, combined with the powers

of indefinite detention, drone assassinations, and the classified nature of these policies, can potentially give a government almost dictatorial power. Of course, such powers would violate the Constitution. For example, during World War II, in *Korematsu v. U.S.* the Supreme Court allowed the U.S. government to indefinitely detain 110,000 Americans of Japanese ancestry in violation of the Constitution, but only because the Court was told, based on false⁸⁹ secret evidence, that there was an extreme threat to national security. It may be that in order to bypass constitutional prohibitions against mass surveillance, the government has preemptively prosecuted hundreds of (mostly) Muslims in the two decades in order to create the illusion of a terrorist threat to the U.S.—which would justify the secret mass surveillance spy network⁹⁰.

This report takes no overall position on the reasons for the government’s pursuit of preemptive prosecutions except to note that it has used these prosecutions to claim (incorrectly) that there is a greater security threat to the U.S. than in fact exists⁹¹. The government has further used this exaggerated threat to justify large security budgets, repression of the Muslim population, persecution of ideology, and mass surveillance, none of which have been shown to have any significant impact on the (exaggerated) terrorist threat. This in turn suggests that there may be other reasons (perhaps commercial spying, advancing a corporate agenda, repression of legitimate dissent, world control) for the government’s pursuit of preemptive prosecution.

RECOMMENDATIONS

It is the position of this study that the laws and procedures surrounding terrorism prosecutions need to be reformed. Preemptive prosecutions create political prisoners without any gain in security and increase perceptions of injustice to levels that are simply not sustainable. Widespread injustice within the criminal justice system, tolerated and promoted deliberately at the highest levels, is a toxic, corrosive force that is far more dangerous to the security of this country than bombs or guns.

We are working to promote legislation which would go a long way toward fixing the problems we identify in this study. Our proposed legislation is as follows:

The Entrapment and Governmental Overreach Relief Act (EGO Relief Act) Summary

Liberty today is threatened by political encroachment and governmental overreach, in the name of National Security. At present there is no codified defense against entrapment, no check on the arbitrary expansion of security laws to include Constitutionally protected activities, and no prohibition against showing secret evidence to judges (but not the defense) in criminal trials. The government uses these legal loop holes to incarcerate political enemies rather than people who actually intended to commit crimes. The EGO Relief Act limits these abuses by:

- A.** Codifying (for the first time) an Entrapment defense to limit prosecutions of targets induced by the FBI to commit crimes created by the government;
- B.** Limiting material support to terrorism prosecutions to cases where there is proof that the target intends to support violence;
- C.** Providing that any classified evidence shown to the judge by the prosecution must also be disclosed to security-cleared defense counsel.

Language of the EGO Relief Act and an Explanation of its Purpose

1. AMEND USC Title 18 TO CODIFY AN ENTRAPMENT DEFENSE

Title 18 of the United States Code is hereby amended to add Section 28 as follows:

§ 28. Entrapment defense

(a) Affirmative defense. Entrapment is an affirmative defense to a prosecution under any Federal statute. A person may not be held criminally liable for acts which they were induced

to commit – without predisposition to engage in such activity – by law enforcement agents.

(1) The inducement must be made by a law enforcement agent, including a private person who is working on behalf of law enforcement.

(2) Burden of proof. The defendant must make a prima facie showing of government inducement to commit the offense. If this burden is met, the defendant is entitled to a jury instruction that

the government induced and encouraged the defendant to commit the offense. In order for the defendant to be convicted, the government must prove beyond a reasonable doubt that the defendant was predisposed to commit the offense before the inducement.

(3) Predisposition. Predisposition must be proven by a showing that before the inducement, the defendant had already taken substantial steps toward committing the offense in question, which must be more than simply speech or expressions of religious belief protected by the First Amendment.

(4) This amendment shall be retroactive in all respects.

Under this amendment, before being targeted for a sting operation, the target must have been taking “substantial steps” toward committing such a crime. This means more than just making vague statements on the internet. “Substantial steps” could mean recruiting others to make specific plans to carry out a particular attack. It could mean starting to make bombs in order to carry out an attack. It could mean one individual with specific plans to carry out an attack.

The legal analysis would be similar to that utilized by courts to determine whether a threat is considered a “true threat⁹²” which can be prosecuted, or whether it is protected speech under the First Amendment. Seeking to prove that individuals are “predisposed” to criminal activity solely because they discuss general religious concepts like “jihad”, or are strongly critical of governmental policy, without a “true threat” of violence, violates the First Amendment.

Legal Standard

There is an existing entrapment defense, and it was discussed in several Supreme Court cases, such as *Jacobson v. US.*, 503 US 540 (1992), where

the Court stated, “Government agents may not originate a criminal design, implant in an innocent person’s mind the disposition to commit a criminal act, and then induce the commission of the crime so that the Government may prosecute”. The Supreme Court’s holding was in accord with the law of most Western democracies where the use of entrapment by the government is considered illegal and immoral. There was an exception to the general rule against entrapment (see, i.e. *Mathews v. US*, 485 US 56 [1988]) which held that entrapment would be permissible if the target was “predisposed” to engage in the crime.

However, even in cases where there was clearly classic entrapment, such as the Newburgh 4, the entrapment defense has never succeeded in a “terrorism” sting case. This is due to the post-911 development of the “ready response” standard, a legal doctrine not codified in any statute, which has essentially destroyed the entrapment defense by re-defining predisposition.

Under the ‘ready response’ standard, the jury is told that if the target does not back out of the government-induced plot, that shows he or she was predisposed to engage in terrorism. This definition of predisposition must be changed – it is not predisposition at all, but only measures the defendant’s actions and state of mind after the informant has been manipulating them, often for many months.

Predisposition must instead be measured only by looking at the target’s actions before contact with a government agent. That is what this amendment seeks to do.



2. AMEND 18 USC 2339B TO REQUIRE VIOLENT INTENT IN MATERIAL SUPPORT FOR TERRORISM CHARGES.

The Amended Statutory Language under the EGO Relief Act

Section **2339B(a)(1)** of title 18, United States Code, is amended by inserting “intending to support violent terrorist activity (as defined in section **212(a)(3)(B)(iii)** of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii)), of the group” before “shall be fined”. This amendment shall be retroactive in all respects.

The amended portion of the statute would read as follows:

§ 2339B. Providing material support or resources to designated foreign terrorist organizations

(a) Prohibited activities.

(1) Unlawful conduct. Whoever knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, **intending to support violent terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii)) of the group**, shall be fined under this title or imprisoned not more than 20 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life. To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g) (6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act [8 USCS § 1182(a)(3)(B)]), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 [22 USCS § 2656f(d)(2)]).

(b) This amendment will be retroactive in all respects.

3. AMEND Title 18 U.S.C. APPX SECTION 4 (Classified Information Procedures Act) TO PROVIDE THAT ALL CLASSIFIED EVIDENCE SHOWN TO THE COURT MUST ALSO BE PROVIDED TO SECURITY CLEARED DEFENSE COUNSEL

The Amended Statutory Language under the EGO Relief Act

Title 18 U.S.C. Appx Section 4 (Classified Information Procedures Act) is hereby amended by adding a subdivision (a) stating:

(a) Whenever the prosecution provides the court with classified information pertaining to a particular case, that same information shall also be provided to defense counsel, if said defense counsel has the requisite security clearance.”

AND

By re-designating the previous section 4 as subdivision (b) of section 4 and amending it to read as follows (additions in bold text and deleted material struck as shown):

“(b) The court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be made available to the defendant through discovery under the Federal Rules of Criminal Procedure, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. **Nothing stated in this subsection shall alter the requirement that defense counsel with the requisite security clearance must be provided with the classified documents in question. Defense counsel will not divulge any such classified information to his or her client unless said client also possesses the requisite security clearance.**

The court may permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone along with security-cleared defense counsel. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

This amendment will be retroactive in all respects.

OTHER RECOMMENDATIONS

1. Immediately Provide Defendants with Notice of Any Warrantless NSA Surveillance and Allow Related Court Challenges to Go Forward:

Although material derived from NSA warrantless surveillance is routinely shown in secret to the court in many terrorism cases, the government has often refused to acknowledge that the defendants were in fact subjected to warrantless surveillance, and has successfully blocked defendants who asked to see the material.

In 2012, during an argument before the Supreme Court in *Amnesty International v. Clapper* about whether various groups had standing to challenge the legality of the government's mass surveillance policy, the government argued that the plaintiffs could not prove that they had been subjected to surveillance and thus had no standing. When the Court asked Solicitor General Donald Verrilli, representing the U.S. government, whether anybody then had standing to challenge the secret surveillance program, he erroneously stated that all criminal defendants were notified if evidence against them had been derived from warrantless surveillance, and that they would have standing. On the basis of Verrilli's incorrect statement, the Supreme Court dismissed the *Amnesty* case.

However, when Verrilli discovered that his statement to the Supreme Court was incorrect, he insisted that the Department of Justice's policy be changed. In September 2013, DOJ announced that it would begin to notify defendants whose trials included evidence derived from warrantless surveillance (both past and present cases), and that such notification should give defendants the standing necessary to challenge the legality of the surveillance. To date, however, very few cases have received such notification.

It is important to make sure that DOJ actually does notify appropriate defendants and that their defense attorneys are allowed to go forward with court challenges to the constitutionality of NSA evidence. Token notification in just a few cases would be completely unacceptable⁹³.

2. Stop False Statements Prosecutions Based on Unrecorded Interviews

The FBI and other federal agencies used to always refuse to record interviews with targets, notwithstanding that it is a felony to lie to a federal agent. In 2014 they changed their policy and began recording certain interviews⁹⁴. However, this only occurs when they already have enough evidence to arrest the target, and when they are legally already considered to be in custody. There is an exception for "national security intelligence-gathering interviews" which may be interpreted to apply in many of the types of cases discussed herein. Also, in many if not most of the interviews which later form the basis for False Statements charges, the target is not already under arrest or considered to be in custody, so the interview would not be recorded. Thus, while we applaud the new policy, the practice of basing charges on unrecorded interviews is ongoing and still very problematic.

What occurs is that two agents are present so they can testify with regard to what the target said. This practice is highly unfair because it gives the FBI the power to decide, based only on agent notes and recollections, precisely what a target said during an interview, and thus gives agents the power to bring charges against the target for lying if the target says anything different from what the agents claim. The practice also makes it difficult or impossible to view the alleged lie in the context of the questioning to determine if the target was confused by vague or trick questions, or in other respects was trying to tell the truth. **(The FBI frequently brings such charges against targets in order to pressure them into becoming informants, or to testify against other defendants.)**

If all interviews were recorded, defendants' statements could be evaluated within the context of the questioning to determine if misstatements were the result of confusion or miscommunication, and fewer prosecutions would result. But because the present system of questioning unfairly stacks the deck against a target, **most lawyers advise their clients not to appear voluntarily for an interview with the FBI.**

All interviews that could result in false statements charges should be recorded. An even better reform would be to follow the practice followed in most states, which is not to charge individuals for lying at all unless they are under oath.

3. Abolish the Terrorism Sentencing Enhancement

Punishments for terrorism-related offenses are grossly disproportional to the seriousness of the underlying offense. In the Holy Land Foundation case, for example—**in which the government acknowledged that no foundation money went to support any violence or any terrorist organization**—two of the directors received sentences of sixty-five years. In the Fort Dix Five case, in which the government informant

acknowledged that the three Duka brothers had never been told about a plot to attack Fort Dix—the charge on which they were convicted—the three brothers were each sentenced to life in prison⁹⁵.

One reason for these excessive sentences is the “terrorism enhancement,” which, as part of the federal sentencing guidelines, is applied to most terrorism-related convictions. It essentially quadruples the length of a normal sentence: a ten-year sentence may become a forty-year sentence. The system of preemptive prosecution is unjust enough without quadrupling the injustice of the sentence. The application of the terrorism enhancement is also essentially arbitrary, since even minor actions like donating to charity, witnessing a loan, visiting a foreign country, storing a bag of clothes, or posting information on the internet have all been considered terrorism. And the enhancement has been applied in sting cases based on the contours of the plot that the government created. There is simply no reason to apply a terrorism enhancement that is so arbitrary and so punitive.

Wielding the power of the enhancement, prosecutors are able to bully defendants into pleading guilty and cooperating with the FBI. They can offer a “cooperative” defendant a recommended sentence of, say, five years in prison (below the maximum normal sentence of, say, twenty years). But if the defendant insists on a trial, the prosecution will demand the full penalty, including the draconian terrorism enhancement, if the defendant is found guilty: five years for a plea, eighty years if convicted. Given all the tools that the prosecution has to obtain convictions, few defendants—even those who believe they are not guilty—are likely to resist the pressure to plead guilty when the disparity between the potential sentences is so great. This pressure is unjust; our justice system is fundamentally compromised when the right to a jury trial carries with it a penalty

potentially so severe that virtually all defendants in such a situation would rather plead guilty than face the possibility of conviction.⁹⁶ The terrorism enhancement should be eliminated.

4. Reduce the Use of Solitary Confinement and other Punitive Conditions of Incarceration

In terrorism cases, many if not most defendants are kept in solitary confinement for months, and in some cases years, before trial. Under the Geneva Conventions, it is illegal to hold a prisoner in solitary confinement for more than thirty days⁹⁷ because solitary confinement is so painful and debilitating that it has been equated with torture. Prisoners lose their ability to think and speak clearly and can become paranoid and delusional.

In some instances, prosecutors or prison authorities insist on holding the prisoner under Special Administrative Measures (SAMs), which further restrict the prisoner's interactions with others; often visitors (including lawyers) are forbidden by SAMs from repeating to others what the prisoner has said. Lawyer Lynne Stewart was convicted of violating SAMs (and material support for terrorism) for stating at a press conference what her client said, and many years later she was sentenced to ten years in prison⁹⁸.

Holding a prisoner in solitary confinement before trial, especially under SAMs, destroys the prisoner's ability to work with his lawyers, as well as his own ability to testify on his own behalf. It can become another powerful inducement to plead guilty⁹⁹.

At present, the conditions under which a defendant is held pre-trial depend legally on the Bureau of Prisons' (BOP's) or other detention authorities' assessment of the prisoner's "dangerousness" and potential for violence; the courts have little role to play except under the most extreme conditions. However, in terrorism cases, BOP bases its assessment of dangerousness on the charges

themselves (even when there is no indication that the defendant was involved with anything violent), rather than on any objective facts that might indicate either dangerousness or capacity for violence. The result is that terrorism defendants are treated much more harshly pre-trial than other defendants, which has made it very difficult for them to assist in mounting an effective defense or work with their lawyers. The rules should be changed to require that the courts¹⁰⁰, not BOP, determine whether solitary confinement or other punitive conditions of confinement are warranted, based not on the charges alone (of which the defendant is presumed innocent) but on objective facts proving that the defendant poses some unusual threat¹⁰¹.

Post-conviction terrorism defendants are often held under conditions much more restrictive than other prisoners'. In addition to the ADX (Administrative Maximum Facility) super-maximum security prison in Florence, Colorado, where many of these defendants are sent, the BOP created two Communication Management Units (CMUs) in the Midwest that hold mostly Muslim prisoners under conditions designed to isolate them from the outside world. Their phone calls and communications are greatly restricted, and they can see family and loved ones only from behind a Plexiglas window while talking on a monitored telephone. These **"Muslim" prisons** serve no purpose and should be abolished. The Center for Constitutional Rights filed the *Aref. v. Holder* case to try to obtain due process right to challenge placement in the CMUs – the case has now been pending for many years and is awaiting a decision¹⁰².

.....

ENDNOTES

¹ In another context, courts have begun to find that targeting alleged drug dealers in sting operations where they are set up to rob fake “stash houses,” is racially discriminatory because it is generally African Americans who are targeted this way. See

https://sentencing.typepad.com/sentencing_law_and_policy/2018/10/guest-post-series-on-chicago-stash-house-sting-litigation-part-2-on-legal-victories.html

²<http://thinkprogress.org/security/2011/08/25/304113/chart-only-15-americans-died-from-terrorism-last-year-less-than-from-dog-bites-or-lightning-strikes/#>

³ It can be argued that the preventive strategy of preemptive prosecution, under one name or another, has been part of American law enforcement for most of our history. This study focuses on the particular period after 9/11, but recognizes that preemptive prosecution has long played a role in perpetuating injustice in America.

⁴ Chris Hedges, “First They Come for the Muslims,” Truthdig, April 16, 2012, http://www.truthdig.com/report/item/first_they_come_for_the_muslims_20120416/

⁵ See <http://en.wikipedia.org/wiki/COINTELPRO>

⁶ See Trevor Aaronson, “Trump Administration Skews Data to Justify Anti-Muslim Travel Ban; The Intercept, January 16, 2018, <https://theintercept.com/2018/01/16/trump-administration-skews-terror-data-to-justify-anti-muslim-travel-ban/?eType=EmailBlastContent&eld=04cdbc7d-6752-4e39-a802-585b48df22af>; Diala Shamas, “Where’s the Outrage When the FBI Targets Muslims?”, The Nation, October 31, 2013, <http://www.thenation.com/article/176911/wheres-outrage-when-fbi-targets-muslims#>; and Andrew Rosenthal, “Liberty and Justice for Non-Muslims,” New York Times, Taking Note blog, March 30, 2012, <http://takingnote.blogs.nytimes.com/2012/03/30/liberty-and-justice-for-non-muslims/>.

⁷ The MEK (Mujahadeen-e-Khalq) case is relevant here. A number of prominent U.S. politicians accepted money from MEK in exchange for lobbying to have MEK removed from the State Department’s list of designated terrorist organizations (DTOs). Although their actions clearly constituted material support for terrorism under the strained definition in the Holder v. Humanitarian Law Project decision, none of the politicians were ever prosecuted for their coordinated speech and advocacy for MEK. This study

does not suggest that they should have been prosecuted, but only notes the disparity between Muslims who are prosecuted for speech not specific to any designated terrorist group, and prominent politicians who are not prosecuted for paid advocacy on behalf of a specific designated terrorist organization, MEK. See Scott Shane, "For Obscure Iranian Exile Group, Broad Support in U.S.," New York Times, November 27, 2011, <http://www.nytimes.com/2011/11/27/us/politics/lobbying-support-for-iranian-exile-group-crosses-party-lines.html>

⁸ Free association charges involve guilt by association--charges based on the target's association with others.

⁹ Many defendants to whom the authors spoke, who were convicted of trying to defend Muslim communities abroad from attack, were shocked that the U.S. considered their conduct criminal rather than laudatory, especially when (as in the case of Bosnia) the U.S. was fighting on the same side. See the cases of Kifah Jayyousi and Enaam Arnaout in Appendix C.

¹⁰ These cases typically arise when the government is initially suspicious of the defendant for some reason and the suspicion is eventually proven to be unfounded. The government then often brings minor technical charges to justify the prosecution, or holds the defendant in prison until a more substantive charge can be manufactured. These charges are also brought to pressure defendants into becoming informants.

¹¹ See Trevor Aaronson, *The Terror Factory, Inside the FBI's Manufactured War on Terrorism* (Brooklyn: Ig Publishing, 2013).

¹² If the defendant affirmatively rejects the FBI's inducement, then there is no crime to prosecute and no reason to even have an entrapment defense, which can logically apply only if the crime is first committed.

¹³ This study recognizes that sting cases can be legitimate under some circumstances. If, for example, the government had evidence that a terrorist cell was planning an attack in six months, but didn't have enough evidence to arrest all the members, it would be legitimate to introduce a government informant into the cell, or to have the informant pretend to be an Al-Qaeda agent offering assistance to the cell. However, targeting a sting at a particular individual solely because of his perceived ideology is unfair, especially given that many of the targets in these cases had mental issues or other conditions that made them particularly vulnerable to the government agent's coaxing and inducement.

¹⁴ Zaid Jilani, "CHART: Only 15 Americans Died from Terrorism Last Year--Fewer Than From Dog Bites or Lightning Strikes," Thinkprogress, August 25, 2011, <http://thinkprogress.org/security/2011/08/25/304113/chart-only-15-americans-died-from-terrorism-last-year-less-than-from-dog-bites-or-lightning-strikes/#>

¹⁵ Democracy Now!, “Did FBI Focus on Controversial Stings Distract from Pursuit of Tsarnaev Before Boston Attacks?”, website, April 26, 2013, http://www.democracynow.org/2013/4/26/did_fbi_focus_on_controversial_stings

¹⁶ See, Charles Glass, The Unjust Prosecution of the Holy Land Foundation Five, The Intercept, August 5, 2018, <https://theintercept.com/2018/08/05/holy-land-foundation-trial-palestine-israel/?eType=EmailBlastContent&eld=ae09a952-3fde-47f4-b4bc-4039147b100d>

¹⁷ Holder v. Humanitarian Law Project, 130 S. Ct. 2705 (2010). For the Supreme Court decision, see <https://ccrjustice.org/holder-v-humanitarian-law-project>. See also Michael Deutsch, “Justice Department Prepares for Expansion of Law Prohibiting ‘Material Support’ for Terrorism,” Information Clearing House, November 14, 2010, <http://www.informationclearinghouse.info/article26815.htm>.

¹⁸ See Hedges v. Obama, http://en.wikipedia.org/wiki/Hedges_v._Obama. Journalist Chris Hedges and others sued the Obama Administration and Congress in January 2012 over the provisions of the National Defense Authorization Act (NDAA) of 2012, claiming that, among other issues, “...the vagueness of critical terms in the NDAA could be interpreted by the federal government in a way that authorizes [it] to label journalists and political activists who interview or support outspoken critics of the Obama administration’s policies as ‘covered persons,’ meaning that they have given ‘substantial support’ to terrorists or other ‘associated groups.’” In July 2013, the Second Circuit Court of Appeals overturned a district court ruling for the plaintiffs, saying that the plaintiffs lacked standing to challenge the NDAA.

¹⁹ The government has even suggested that a lawyer would be guilty of material support for terrorism for filing a brief on behalf of a DTO asking that the organization be removed from the terrorist list. During oral argument in Holder v. Humanitarian Law Project in February 2010, then Solicitor General Kagan “...talked herself into some trouble in arguing that the law might make it a criminal act for a blacklisted group even to hire a lawyer to put its views before a U.S. court...” See Lyle Denniston, “Analysis: Anti-terrorism case not an easy one,” SCOTUSblog, February 23, 2010, <http://www.scotusblog.com/2010/02/analysis-anti-terrorism-case-not-an-easy-one/>

²⁰ See the Tarek Mehanna case in Appendix C.

²¹ See, for example, Ehsanul “Shifa” Sadequee, Ziyad Yaghi, and Javed Iqbal in Appendix B. See also Karin Friedemann, “CMU Prisoner Shifa Sadequee’s Sister Speaks to TMO,” The Muslim Observer, June 27, 2013, <http://muslimmedianetwork.com/mmn/?p=13450>. Regarding Javed Iqbal, see “US jails man over Hezbollah channel,” Aljazeera, April 29, 2009, <http://english.aljazeera.net/news/americas/2009/04/2009423233919457969.html>

²² Cases in which defendants were convicted (or charged) primarily on free speech charges include Tarek Mehanna, the Holy Land Foundation, Ali Al-Timimi, Ehsanul “Shifa” Sadequee, Javed Iqbal, and Sami Al-Arian. The latter was acquitted of the charges but was later charged with refusing to testify

before a grand jury in an unrelated case. A motion to dismiss this obvious perjury trap remained pending for years. After five years in prison, and five years under house arrest, prosecutors dropped all charges against Dr. Al-Arian and he was deported in 2015.

²³ Cases involving conspiracy convictions include Ziyad Yaghi, Aref-Hossain, and the Fort Dix Five.

²⁴ Cases involving the criminalization of charitable intentions include the Holy Land Foundation, Dr. Rafil Dhafir, and Kifah Jayyousi. See Katherine Hughes, “Anatomy of a ‘Terrorism’ Prosecution: Dr. Rafil Dhafir and the Help the Needy Muslim Charity Case,” Truthout, January 31, 2012, <https://truthout.org/articles/anatomy-of-a-terrorism-prosecution-dr-rafil-dhafir-and-the-help-the-needy-muslim-charity-case/>, and Allison Deger, Adam Horowitz, and Annie Robbins, “‘This is travesty of American criminal justice’: Supreme Court denies Holy Land Five appeal,” Mondoweiss, October 29, 2012, <http://mondoweiss.net/2012/10/breaking-supreme-court-denies-holy-land-five-appeal.html>

²⁵ Cases involving social hospitality include Ali Asad Chandia and Fahad Hashmi. See “Fahad Hashmi,” No Separate Justice website, <http://no-separate-justice.org/cases/fahad-hashmi>.

²⁶ For example, Fahad Hashmi and Tarik Shah pleaded guilty; each was sentenced to fifteen years. See their entries in Appendix C.

²⁷ For example, the Virginia Paintball Network and the Houston Taliban. See Elaine Cassel, “Is Playing Paintball and Firing Legal Guns Terrorism?,” Findlaw, March 24, 2004, <https://supreme.findlaw.com/legal-commentary/is-playing-paintball-and-firing-legal-guns-terrorism.html>

²⁸ For example, Kifah Jayyousi, José Padilla, and Enaam Arnaout.

²⁹ The Lackawanna Six, for example, received training in Afghanistan before 9/11, but realized after 9/11 that the U.S. would be a target of the training and did nothing more with it. See Dina Temple-Raston, *The Jihad Next Door, The Lackawanna Six and Rough Justice in the Age of Terror* (Philadelphia: Public Affairs Books [Perseus Books Group], 2007).

³⁰ For example, Ehsanul “Shifa” Sadequee.

³¹ See the Newburgh Four, Appendix C, and Gordon Corera, “Have U.S. anti-terror tactics strayed into entrapment?,” BBC, September 2011, <http://news.bbc.co.uk/2/hi/programmes/newsnight/9584637.stm>

³² For example, in the Holy Land Foundation case, the prosecution tried to argue that the standard Muslim greeting, “As salam aleikum” (“Peace be with you”), was a terrorist phrase. In the Dr. Rafil Dhafir case, the prosecutor told the Bureau of Prisons that Dhafir needed extra monitoring as a security threat because he was a “sheikh” and a “Salafist” (purely religious terms with no connection to terrorism).

³³ For example, the Newburgh Four.

³⁴ Brendan J. Lyons, "It took patience to set the trap in terror sting," Albany Times Union, October 12, 2006.

³⁵ For example, the "Christmas tree bomb plot" in 2010 in Portland, Oregon, an FBI-initiated and -scripted sting whereby the target, Mohamed Osman Mohamud, was supposed to explode a car bomb during a crowded public Christmas tree lighting ceremony.

³⁶ See Mike Hale, "Revisiting the Facts After the Convictions" New York Times, July 20, 2014 (regarding the HBO documentary "The Newburgh Sting," <https://www.nytimes.com/2014/07/21/arts/television/the-newburgh-sting-on-hbo-about-bronx-bomb-plot.html>)

³⁷ See Larry Rulison, "Records Reveal Mysterious Life of FBI Informant Shahed Hussain," Times Union, November, 2018, <https://www.timesunion.com/news/article/Who-is-FBI-informant-Shahed-Hussain-13351511.php>

³⁸ See Paul Harris, "Newburgh 4: Poor, Black and Jailed Under FBI 'Entrapment' Tactics," Guardian, December 12, 2011, <https://www.theguardian.com/world/2011/dec/12/newburgh-four-fbi-entrapment-terror>

³⁹ See Doyle Murphy, "Terror Plotter Gets 25 Years," Record, September 8, 2011, <https://www.recordonline.com/article/20110908/NEWS/109080321>

⁴⁰ See Doyle Murphy, "Terror Plotter Gets 25 Years," Record, September 8, 2011, <https://www.recordonline.com/article/20110908/NEWS/109080321>

⁴¹ See Dole Murphy, "Three Face Sentencing in Terror Case," Record, June 29, 2011, <https://www.recordonline.com/article/20110629/NEWS/106290344>

⁴² See Human Yassin, "For or Against: Is the FBI foiling terrorist plots or creating them?" Medium.com, April 30, 2018, <https://medium.com/@humayasin/for-or-against-is-the-fbi-foiling-terrorist-plots-or-creating-them-f79b9ab522f6>

⁴³ See Melinda Henneberger, "In Garden City Muslim Bombing Case, It's the FBI on Trial," Kansas City Star, March 22, 2018, <https://www.kansascity.com/opinion/opn-columns-blogs/melinda-henneberger/article206484234.html>

⁴⁴ See Editorial Board, "FBI found not guilty in Kansas Muslim bombing case, but did law enforcement go too far?" Kansas City Star, October 17, 2018, <https://www.kansascity.com/opinion/opn-columns-blogs/melinda-henneberger/article206484234.html>

⁴⁵ See Commutation Petition for Rezwan Ferdaus, <http://www.civilfreedoms.org/wp-content/uploads/2016/05/Rezwan-Matin-Ferdaus.pdf>

⁴⁶ See Spencer Ackerman, "Shahawar Matin Siraj: 'Impressionable' young man caught in NYPD sting," *Guardian*, July 24, 2014, <https://www.theguardian.com/world/2014/jul/21/shahawar-matin-siraj-impressionable-nypd-sting>.

⁴⁷ See Robin Shulman, "The Informer: Behind the Scenes or Setting the Stage?" *Washington Post*, May 28, 2007, Page 3, http://www.washingtonpost.com/wp-dyn/content/article/2007/05/28/AR2007052801401_3.html?noredirect=on

⁴⁸ See Commutation Petition for Shahawar Matin Siraj, <http://www.civilfreedoms.org/wp-content/uploads/2016/05/Shahawar-Siraj.pdf>

⁴⁹ See Jon Seidel, "Judge rules terrorism suspect finally fit to stand trial," *Chicago Sun Times*, March 14, 2018, <https://chicago.suntimes.com/news/judge-rules-terrorism-suspect-finally-fit-to-stand-trial/>
See Chuck Goudie and Barb Markoff, "Judge accepts novel plea deal for Chicago terrorist Adel Daoud," *Chicago Sun Times*, November 26, 2018, <https://abc7chicago.com/judge-accepts-novel-plea-deal-for-chicago-terrorist-adel-daoud-/4768303/>

⁵⁰ See Murtaza Hussain, "The Real Story Behind the Fort Dix Five Terror Plot," *The Intercept*, June 25, 2015, <https://theintercept.com/2015/06/25/fort-dix-five-terror-plot-the-real-story/>; Paul Harris, "Fort Dix Five: 'They don't want our side, our view, our words,'" *The Guardian*, February 13, 2012, <http://www.guardian.co.uk/world/2012/feb/13/fort-dix-five-fbi-terrorism-case>. "Omar [informant] was the first to be sent into the field and he rapidly befriended Shnewer, eventually persuading him to go on trips to scout out Fort Dix. The Duka brothers never did so, nor was any evidence presented that showed them as aware of the base as a target." And, "Omar actually confessed that two Duka brothers--Dritan and Shain--did not know of any Fort Dix plot. '[They] had nothing to do with this matter,' Omar said during the trial."

⁵¹ See Yassin Aref's Wikipedia page https://en.wikipedia.org/wiki/Yassin_M._Aref

⁵² See Sparrow Media, "Yassin Aref's Journey for Justice: New Evidence Triggers Emergency 2255 Motion to Rehear FBI Entrapment Case," July, 2013, <https://www.sparrowmedia.net/2013/07/yassin-arefs-journey-to-justice-2255-motion/>

⁵³ See Terror Talk podcast, Episode 12, <https://poddtoppen.se/podcast/1200268941/terror-talk/episode-12-the-appeal-part-2-oral-arguments>

⁵⁴ See *Harvard Law Review*, Vol. 122, No. 2 (Dec., 2008), pp. 819-826, (Description of Aref Case) "Second Circuit Holds that Government May Withhold Classified Information Unless Information Would be 'Relevant and Helpful' to Defense," https://www.jstor.org/stable/40042756?seq=1#page_scan_tab_contents

⁵⁵ See Larry Rulison, "Records Reveal Mysterious Life of FBI Informant Shahed Hussain," *Times*

Union, November, 2018, <https://www.timesunion.com/news/article/Who-is-FBI-informant-Shahed-Hussain-13351511.php>

⁵⁶ See Stephen Downs, "From Sting to Frame-Up: the Case of Yassin Aref, Washington Report on Middle East Affairs, September-October, 2007, <https://www.wrmea.org/007-september-october/from-sting-to-frame-up-the-case-of-yassin-aref.html>

⁵⁷ The book, "Terrorism Since 911: The American Cases," edited by John Mueller, a professor at Ohio State University, is a good example of reactions to the case. While Mr. Mueller is sympathetic to the government in many ways, he believes that this case was unfair, stating, "Aref was brought into the fold of the operation as a witness to the loan exchange between Hossain and the informant... Aref, like Hossain, had no intention of fighting for this cause, or seeking glory. He was not trying to socialize himself into a group. He merely wanted to help a friend with a transaction. Neither Hossain nor Aref conveyed any hatred for, or the will to act against, American values or United States' policy." (2015 edition, Albany case section, at 3.) Mueller also said, "... Unlike other cases where entrapment has been alleged, the defendants in this case never expressed any intent of engaging in terrorist activities. On multiple occasions, Aref and Hossain criticized involvement with terrorist groups and in terrorist plots..." (2015 edition, Albany case section, at 10)

⁵⁸ See Harvard Law Review, Vol. 122, No. 2 (Dec., 2008), pp. 819-826, (Description of Aref Case) "Second Circuit Holds that Government May Withhold Classified Information Unless Information Would be 'Relevant and Helpful' to Defense," https://www.jstor.org/stable/40042756?seq=1#page_scan_tab_contents

⁵⁹ For example, Ahmadullah Niazi, and see Salvador Hernandez, "FBI tactics against Muslims questioned," Orange County Register, October 7, 2010, <https://www.ocregister.com/2010/10/07/fbi-tactics-against-muslims-questioned/>, and Ibrahim Hirsi, "CAIR charges that FBI agents intimidated a Minneapolis man who refused to become an informant," Twin Cities Daily Planet, February 5, 2013, <http://www.tcdailyplanet.net/news/2013/02/05/fbi-agents-allegedly-intimidate-minneapolis-man-after-refusing-become-informant>

⁶⁰ For example, Ahmadullah Niazi was charged with making false statements after he refused to become an informant (charges were later dropped).

⁶¹ For example, Carlos Montes (see Los Angeles Committee to Stop FBI Repression, "Victory Against Repression: Carlos Montes Court Case Ends in Victory!", June 5, 2012, <http://www.stopfbi.net/2012/6/5/victory-against-repression-carlos-montes-court-case-ends-victory>) and Warith Deen Umar (see Imam Umar Defense Committee, Bethlehem Neighbors for Peace, no title, n.d., <http://nepajac.org/ImamUmar.htm>).

⁶² David Thomas, "How Mohammed Warsame Became an Accidental 'Terrorist,'" The Nation, November 27, 2013, <http://www.thenation.com/article/177397/how-mohammed-warsame-became-accidental-terrorist>

⁶³ For example, Fahad Hashmi, and see Sally Eberhardt and Jeanne Theoharis, “Guantanamo’s Here at Home,” *The Nation*, January 20, 2011, <http://www.thenation.com/article/157896/guant%C3%A1namos-here-home?page=full>

⁶⁴ Three other defendants in this case were sentenced to 15 and 20 years.

⁶⁵ Two of Aafia’s young children, both born in the U.S., were later returned to her sister who is raising them in Pakistan. The third child, Suliman, aged 6 months at the time of the abduction, is presumed to have died during the kidnapping.

⁶⁶ <http://aafiamovement.com/>

⁶⁷ A fifth defendant, Serdar Tatar, was sentenced to 33 years.

⁶⁸ Other such sting “conspiracies” where the targets received life sentences although nothing happened include the “JFK Plot” where 3 Muslim men (Abdul Kadir, Russell DeFreitas and Kareem Ibrahim) were sentenced to life, when they were entrapped by an informant into a plot to blow up fuel lines at the JFK airport in 2007. Mohanad Hammadi received life in prison for a similar sting operation in Kentucky.

⁶⁹ Another life sentence, similar to Al-Timimi, was the “Landmarks Sting”, a pre-9/11 FBI sting targeting the “Blind Sheikh”, Omar Abdel Rahman who died in 2017. An FBI informant created a sting- conspiracy with members of the Sheikh’s mosque to blow up specific NYC landmarks. The government claimed that Rahman’s fiery public speeches supporting jihad in general, amounted to Rahman directing the conspiracy, although Rahman was told almost nothing specific about the actual plot.

⁷⁰ Several others were also charged but got shorter sentences except for one, **Ali Al-Timimi**, who is still serving a life sentence even though all he did was advise the group that under Islamic law, jihad in support of the Taliban was permitted.

⁷¹ LeT at that time was training fighters to liberate Kashmir from India and was not directly involved in the Afghan civil war. However, because of its activities in Kashmir, LeT had been designated a terrorist organization by the U.S. in order to support its ally, India. In Muslim countries, LeT fighters were often regarded as freedom fighters trying to liberate a mostly Muslim Kashmiri population from rule by Hindu India.

⁷² *Sessions v. Dimaya*, <https://supreme.justia.com/cases/federal/us/584/15-1498/>

⁷³ Scott Greenfield, “Terrorism isn’t what it used to be,” *Simple Justice* blog, July 23, 2018, <https://blog.simplejustice.us/2018/07/23/terrorist-isnt-what-it-used-to-be/>

⁷⁴ *United States v. Jumaev*, <https://blog.simplejustice.us/wp-content/uploads/2018/07/Jumaev-Sentencing-Order.pdf>

⁷⁵ *United States v. Doe*, <https://images.law.com/contrib/content/uploads/documents/389/39981/>

Aug.-6-2018-Weinstein-John-Doe.pdf

⁷⁶ See Wadie E. Said, “Sentencing Terrorist Crimes,” Ohio State Law Journal, June 10, 2014, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2448361

⁷⁷ While the defendant did provide information about what he learned while in Syria, and did a lot of work trying to dissuade others from following in his footsteps, it does not appear that he did any undercover work in any domestic case (he does appear to have had undercover conversations with some ISIS members in Syria), or that he testified against any other defendants.

⁷⁸ United States v. Doe, at 31-34, <https://images.law.com/contrib/content/uploads/documents/389/39981/Aug.-6-2018-Weinstein-John-Doe.pdf>

⁷⁹ See United States v. Doe, at 36-37, <https://images.law.com/contrib/content/uploads/documents/389/39981/Aug.-6-2018-Weinstein-John-Doe.pdf>

⁸⁰ United States v. Doe, at 39, <https://images.law.com/contrib/content/uploads/documents/389/39981/Aug.-6-2018-Weinstein-John-Doe.pdf>

⁸¹ See Majid Khan, Wikipedia page, [https://en.wikipedia.org/wiki/Majid_Khan_\(detainee\)](https://en.wikipedia.org/wiki/Majid_Khan_(detainee))

⁸² United States v. Paracha, <https://www.documentcloud.org/documents/4577656-Uzair-Paracha-Order-Granting-New-Trial-July-3.html>

⁸³ See Darwin BondGraham, “Accused of Terrorism and Jail for Three Years, Adam Shafi is Released Following a Mistrial,” East Bay Express, October 8, 2018, https://www.eastbayexpress.com/SevenDays/archives/2018/10/08/accused-of-terrorism-and-jailed-for-three-years-adam-shafi-is-released-following-a-mistrial?utm_source=NSHR+Rapid+Response&utm_campaign=180b50d9c5-EMAIL_CAMPAIGN_2018_08_15_02_10_COPY_01&utm_medium=email&utm_term=0_3a915757be-180b50d9c5-391722642&mc_cid=743d4d55bc&mc_eid=359043a94c

⁸⁴ See Sam Stanton, “Judge: Lodi man’s terrorism convictions should be vacated,” Sacramento Bee, January 11, 2019, https://www.sacbee.com/news/local/crime/article224315150.html?fbclid=IwAR2EhGopNkW1quFqjohx4cgXHvv49uu6t57sn2UcbOb_LjPijZqMOWSvN_g

⁸⁵ See note 84

⁸⁶ See Amy Goldstein, “A Deliberate Strategy of Disruption,” Washington Post, November 4, 2001, <http://www.washingtonpost.com/wp-dyn/content/article/2007/11/18/AR2007111800673.html>

⁸⁷ Dozens of members of the Black Panthers or other revolutionary groups are still imprisoned in the U.S. as a result of the government’s illegal repression in the 1960s and 70s under COINTELPRO. See the website of the National Jericho Movement, <http://www.thejerichomovement.com>

⁸⁸ See Arun Gupta, “Cleveland anarchist plot aided and abetted by the FBI,” *The Guardian*, November 28, 2012, <https://www.theguardian.com/commentisfree/2012/nov/28/cleveland-anarchist-bomb-plot-fbi>

⁸⁹ See Mark Sherman, “U.S. lawyer cites WWII-era mistakes on internment,” *Associated Press*, May 25, 2011, http://archive.boston.com/news/nation/washington/articles/2011/05/25/top_us_lawyer_cites_wwii_era_mistakes_by_predecessor_on_internment_of_japanese_americans/

⁹⁰ Mass surveillance contributes little, if anything, to detecting terrorism (see Jenna McLaughlin, “Mass Surveillance has No Record of Thwarting Large Terror Attacks, Regardless of Snowden Leaks,” *The Intercept*, November 15, 2015, <https://theintercept.com/2015/11/17/u-s-mass-surveillance-has-no-record-of-thwarting-large-terror-attacks-regardless-of-snowden-leaks/>), and in fact it has not been mentioned as a significant factor in detecting any of the few real threats against the U.S. since 9/11. However, the legality of mass surveillance in violation of the Constitution depends entirely on the argument taken from the *Korematsu* case—that mass surveillance is necessary to fight the war on terror.

⁹¹ Mention must be made here of the January 2014 report from the New America Foundation (Peter Bergen et al., *Do NSA’s Bulk Surveillance Programs Stop Terrorists?*, <https://www.newamerica.org/international-security/policy-papers/do-nsas-bulk-surveillance-programs-stop-terrorists/>), which, after a review of 225 individual “terrorist” cases, concludes that “...the contribution of NSA’s bulk surveillance programs to these cases was minimal” and that “...[s]urveillance of American phone metadata has had no discernible impact on preventing acts of terrorism and only the most marginal of impacts on preventing terrorist-related activity...” While the authors of this study agree with these conclusions, they in no way support the underlying assumptions of the foundation’s report, from its across-the-board application of the term “terrorist,” to its choice of cases (the majority of which this study also surveys and categorizes as preemptive prosecutions), to its lack of awareness of the differences between real terrorist activity and preemptive prosecution. There are also many inaccuracies in presentation of the facts of certain cases. Indeed, this study has been undertaken to counter such underlying assumptions by thoroughly examining preemptive prosecution and its tactical patterns (stings, conspiracy charges, etc.), which pass unexamined in the foundation’s report.

⁹² See David L. Hudson, Jr., “When do rants exceed First Amendment boundaries and become true threats?” *ABA Journal*, August, 2018, http://www.abajournal.com/magazine/article/threatening_words_courts_protected_speech

⁹³ In a 2009 report, the Inspectors General of several federal agencies recommended that the DOJ review prior terrorism cases to determine whether defendants had been given exculpatory evidence derived from secret surveillance. (Offices of the Inspectors General: Department of Defense, Department of Justice, Central Intelligence Agency, National Security Agency, Office of the Director of National Intelligence), (U) Unclassified Report on the President’s Surveillance Program, Report No. 2009-0013-AS, July 10, 2009, <https://fas.org/irp/eprint/psp.pdf>. The Verrilli initiative could have helped in this regard, but instead, nothing substantive appears to have been accomplished.

⁹⁴ See Dennis Wagner, “DOJ reverses no-recording policy for interrogations,” AZ Central, May 21, 2014, <https://www.azcentral.com/story/news/politics/2014/05/21/fbi-reverses-recording-policy-interrogations/9379211/>

⁹⁵ See Harris, “Fort Dix Five: ‘They don’t want our side...’”, note 35.

⁹⁶ This study recognizes that such unfair pressure exists in many non-terrorism federal prosecutions as well, but the problem is amplified in terrorism cases.

⁹⁷ Geneva Convention (III), Article 90, Relative to the Treatment of Prisoners of War, 1949, http://avalon.law.yale.edu/20th_century/geneva03.asp#art90. UN Special Rapporteur Juan Méndez stated in 2011 that solitary confinement in excess of fifteen days should be banned, “citing scientific studies that have established that some lasting mental damage is caused after a few days of social isolation.” (“Solitary confinement should be banned in most cases, UN expert says,” UN News Centre, October 18, 2011, <https://www.un.org/apps/news/story.asp?NewsID=40097#.UyelXSjbwyE>

⁹⁸ See National Lawyers Guild, “The Case of Lynne Stewart,” 2005 (ebook), <https://www.nlg.org/wp-content/uploads/2017/03/The-Case-of-Lynne-Stewart-2005.pdf>. On December 31, 2013, Stewart was granted compassionate release based on terminal cancer by the same district judge who had resented her; she passed away in March, 2017.

⁹⁹ Mohammed Warsame was kept in solitary confinement for five and a half years until he was so mentally abused that he agreed to plead guilty in order to be relieved of his suffering. He was released after six more months. See Thomas, “How Mohammed Warsame Became...”, note 40.

¹⁰⁰ For example, Viktor Bout, a Russian arms smuggler, was placed in solitary confinement pre-trial for fifteen months in the Special Housing Unit (SHU) at the Metropolitan Correctional Center in New York City. However, Bout’s request to a district judge (not to BOP) for a transfer to general population was granted, with the judge stating that “... I ‘cannot simply defer to the Warden and abandon my duty to uphold the Constitution...” (<http://www.jdsupra.com/legalnews/order-granting-viktor-bouts-request-for-86008/>). However, this is all too rare, as most judges feel they have to defer to the BOP. Thus there is a need for reform in placing detention conditions under judicial review.

¹⁰¹ SAMs were originally developed because of the dangers posed by some organized crime figures who were able to have witnesses murdered from inside prison.

¹⁰² See “Aref, et al. v. Sessions, et al,” Center for Constitutional Rights, n.d., <http://ccrjustice.org/ourcases/current-cases/aref-et-al-v-holderet-al>

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Preemptive Prosecution Used - 289 - 72.4%							
Ahmad Wais Afzali	3		Eastern District of New York	Yes	Yes	False statements,	deported because he was an informant but got in trouble in Zazi case because was friends with Zazi's father
Aafia Siddiqui	5	86 years	Southern District of New York	Yes	Yes	Tortured confessions, Mental health issues,	
Adarus Abdulle Ali	7	24 mo.	District of Minnesota	Yes	Yes	False statements,	Al Shabab case but only charged with (and pled to) false statements
Abdul Tawala Ibn Ali Alishdari	8	10 years and one month, 3 years supervised release	Southern District of New York	Yes	Yes	Sting Operation, Material Support, Training camp, Conspiracy,	helped to supply training camp
Ehsanul Islam Sadequee	9	17 yrs	Nothern District of Georgia	Yes	Yes	Material Support, Conspiracy,	vague conspiracy and convicted based on first amendment activity
Mohammed Ali Hasan Al-Moayad	10	Time Served	Eastern District of New York	Yes	Yes	Sting Operation, Material Support,	sting case - won his appeal and was deported
Mohammed Mohsen Yahya Zayed	11		Eastern District of New York	Yes	Yes	Sting Operation, Material Support,	co-def of Al-Moayad - mat support sting w/ informant Alannsi - won his appeal and was deported to Yemen
Syed Haris Ahmed	13	13 years	Nothern District of Georgia	Yes	Yes	Material Support, Conspiracy,	co-def of Ehsanul Sadequee -vague mat support conspiracy
Murugesu Vinayagamoorthy	17	time served	Eastern District of New York	Yes	Yes	Material Support, Conspiracy,	mat support to Tamil Tigers
Mohammed Abdullah Warsame	18	92 months, 3 years SR; ordered deported back to Canada at conclusion of sentence	District of Minnesota	Yes	Yes	Material Support, False statements,	charged with material support and held in solitary under harsh conditions for 5 years, then released soon after
Patrick Abraham	19	112.5 months; 15 years SR	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Liberty City sting
Burson Augustin	20	72 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Liberty City sting
Rothschild Augustine	21	84 months; 10 years SR	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Liberty City sting

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Narseal Batiste	22	162 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Liberty City sting
Stanley Grant Phanor	23	96 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Liberty City sting
Akram Musa Abdallah	25		District of Arizona	Yes	Yes	Charity financing, False statements,	HLF case
Ali Saleh Kahlah Al-Marri	26	8 yrs	Central District of Illinois	Yes	Yes	Material Support, Tortured confessions, Training camp,	arrested in Peoria, declared enemy combatant, tortured, eventually pled to attending training camp
Imdad Ullah Ranjha	32	Time Served	District of Maryland	Yes	Yes	Sting Operation,	sting
Sahilal Sabaratnam	34	25 yrs	Eastern District of New York	Yes	Yes	Sting Operation, Material Support,	Tamil Tigers mat support sting – got 25 years when some others convicted in non-sting material support to Tamil Tigers got time served.
Nadarasa Yogarasa	37	14 years	Eastern District of New York	Yes	Yes	Sting Operation, Material Support,	mat support to Tamil Tigers sting
Parvez Mehmood Sandhu	38	21 months	District of Maryland	Yes	Yes	Sting Operation, Material Support, Conspiracy,	\$ laundering and mat support sting
Khaleel Ahmed	39	100 months	Notern District of Ohio	Yes	Yes	Sting Operation, Material Support,	mat support sting
Zubair A. Ahmed	40	120 months	Notern District of Ohio	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Ohio material support sting
Saleh Abdel Elahwal	41	17 months	Southern District of New York	Yes	Yes	Material Support,	helped television station alleged to be connected to Hezbollah
Javed Iqbal	42	6 years	Southern District of New York	Yes	Yes	Material Support, Conspiracy,	convicted mat support for enabling satellite broadcasts in the U.S. by Al Manar, a television station controlled by Hizballah.
Dritan Duka	43	Life	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Ft. Dix sting
Eljvir Duka	44	LIFE	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Ft. Dix sting
Shain Duka	45	Life plus 30 years	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Ft Dix sting
Mohamad Ibrahim Shnewer	46	Life plus 30 years	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Ft. Dix sting

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Serdar Tatar	47	33 years	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Ft Dix sting
Derrick Shareef	48	35 years	Notern District of Illinois	Yes	Yes	Sting Operation, Material Support,	sting
Mufid Abdel Abdulqader	49	20 years	Notern District of Texas	Yes	Yes	Material Support, Charity financing, Conspiracy,	Holy Land Foundation charity case
Shukri Abu-Baker	50	65 years	Notern District of Texas	Yes	Yes	Material Support, Charity financing, Conspiracy,	Holy Land Foundation Charity case
Ghassan Elashi	51	65 years	Notern District of Texas	Yes	Yes	Material Support, Charity financing,	charity case - Holy Land Foundation - unjust use of material support statute
Mohammad El-Mezain	52	15 years	Notern District of Texas	Yes	Yes	Material Support, Conspiracy,	Holy Land Foundation charity case
Abdulrahman Odeh	53	15 years	Notern District of Texas	Yes	Yes	Material Support, Charity financing,	HLF case
Luis Felipe Moreno Godoy	55	25 years	Southern District of New York	Yes	Yes	Sting Operation, Material Support,	arms dealer caught in FARC mat support sting
Mazhar Iqbal Chughtai	56	51 months	District of Maryland	Yes	Yes	Sting Operation, Conspiracy,	money transfer sting
Saifullah Anjum Ranjha	57	110 months, forfeit \$2,208,000	District of Maryland	Yes	Yes	Sting Operation, Material Support, Conspiracy,	unlicensed money transfer material support sting
Mohammad Zaki Amawi	59	20 yrs	Notern District of Ohio	Yes	Yes	Sting Operation, Material Support, Conspiracy,	sting
Marwan Othman El-Hindi	60	13 years (includes sentence for sep. fraud conviction)	Notern District of Ohio	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	sting
Wassim Ibrahim Mazloum	61	100 months (8.3 years); Life on supervised release	Notern District of Ohio	Yes	Yes	Sting Operation, Material Support,	Ohio mat support sting case
Richard David Hupper	63	46 months; 2 years SR; \$15,000 fine	Southern District of Florida	Yes	Yes	Material Support, Charity financing,	material support to Hamas – worked with International Solidarity Movement and gave \$ to help civilians

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Hassan Abujilhaad	65	120 months	District of Connecticut	Yes	Yes	Material Support, Mishandling classified information,	was in Navy – charged w/ mat sup & espionage for putting info on ship movements on online forum – Azzam.com (re Babar Ahmed) - was acquitted of material support
Mohammad Doudzai	66	8 months	District of Maryland	Yes	Yes	Conspiracy, False statements,	immigration fraud & false statements
Nadia Naeem	67	364 days	District of Maryland	Yes	Yes	Conspiracy, False statements,	marriage fraud and false stms
Muhammad Mubayyid	68	11 months; 3 years SR; \$500 SA; \$1000 fine	District of Massachusetts	Yes	Yes	Charity financing, Conspiracy, False statements,	Care International charity case
Emadeddin Muntasser	69	12 months	District of Massachusetts	Yes	Yes	Charity financing, Conspiracy, False statements,	CARE International charity case
Carmen Maria Ponton Caro	71	70 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	FARC sting case
Victor Daniel Salamanca	72	70 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	alien smuggling mat support sting
Edizon Ramirez Gamboa	73	36 months	Southern District of Florida	Yes	Yes	Sting Operation, Conspiracy, False statements,	FARC alien-smuggling sting
Zuhair Hamed El-Shwehdi	74	3 years probation; \$138,098.12 restitution	Southern District of Ohio	Yes	Yes	Charity financing, False statements,	charity case
Nabi Nabil	75	22 months	District of Maryland	Yes	Yes	Conspiracy, False statements,	immigration and marriage fraud
Jalal Sadat Moheisen	77	70 months, 3 years. SR, \$100 assessment & removal	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	alien smuggling mat support sting case
Nicolas Ricardo Tapasco Romero	78	36 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	alien smuggling sting re FARC
Agron Abdullahu	79	20 months	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Ft Dix sting

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Jorge De Los Reyes Bautista Martinez	80	3 years	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	alien smuggling mat support sting case
Jose Tito Libio Ulloa Melo	81	30 mo	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	FARC-related alien smuggling sting
Bernardo Valdes Londono	82	30 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	mat support to FARC - STING via immigration fraud
Julio Cesar Lopez	83	Time Served	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	alien smuggling sting re FARC
Luis Alfredo Daza Morales	84	30 months	Southern District of Florida	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	alien-smuggling sting related to FARC
Jose Padilla	86	208 months	Southern District of Florida	Yes	Yes	Material Support, Tortured confessions, Training camp, Conspiracy,	suspected of dirty bomb but never charged with that, held as enemy combatant, tortured, and then convicted in minor training camp case
Kifah Wael Jayyousi	87	152 months	Southern District of Florida	Yes	Yes	Material Support, Conspiracy,	mat support for aiding Bosnians in the '90's - on the same side as the US
Adham Amin Hassoun	88	188 months	Southern District of Florida	Yes	Yes	Material Support, Conspiracy, False statements,	co-Def of Kifah Jayyousi and Jose Padilla
Mohammed Kamel Elzahabi	90	Time Served	District of Minnesota	Yes	Yes	Sting Operation,	had fought Soviets in Afghanistan and Chechnya but did nothing against US – but was convicted of false stms and deported
Michael Curtis Reynolds	92	360 months	Middle District of Pennsylvania	Yes	Yes	Sting Operation, Material Support, Conspiracy, Mental health issues,	sting - & has mental problems
Juvenal Ovidio Pineda	93	60 years	District of District Of Columbia	Yes			
Rafiq Abdus Sabir	94	300 months; 2 years SR	Southern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Tarik Shah sting
Haniiffa Bin Osman	97	37 months	District of Maryland	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Tamil Tigers sting

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Tarik Ibn Osmah Shah	98	15 years	Southern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy,	material support sting
Mahmud Faruq Brent	99	15 years	Southern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Sting (co-defendant of Tariq Shah and others)
Haji Subandi	101	37 months	District of Maryland	Yes	Yes	Sting Operation, Material Support,	Tamil Tigers sting
Erick Wotulo	102	30 months	District of Maryland	Yes	Yes	Sting Operation, Material Support, Conspiracy,	mat support sting for Tamil Tigers
Sabri Benkahla	103	121 months	Eastern District of Virginia	Yes	Yes	Material Support, Training camp, Conspiracy, False statements,	VA paintball case
Abdelhaleem Hasan Abdelrazizq Ashqar	104	135 months	Nothern District of Illinois	Yes	Yes	Contempt,	
Muhammad Hamid Khalil Salah	105	21 months	Nothern District of Illinois	Yes	Yes	Material Support, Tortured confessions, Charity financing, Conspiracy,	Palestinian acquitted on spurious terrorism charges (& was tortured confession) and convicted of single count of obstruction
Reinhard Rusli	106	12 months & 1 day for each count (to run concurrently)	District of Maryland	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Tamil Tigers sting
Helmi Soedirdja	107	12 months & 1 day for each count (to run concurrently)	District of Maryland	Yes	Yes	Sting Operation, Conspiracy,	Tamil Tigers sting
Shiraz Syed Qazi	108	10 months	Southern District of Texas	Yes	Yes	Sting Operation, Training camp,	Houston Taliban sting
Mohammed Subeh	109	1 yr probation; fine of \$250 and a SA of \$100	Western District of New York	Yes	Yes	False statements,	false stms for denying seeing a letter his brother wrote
Irfan Kamran	111	Time Served	District of Colorado	Yes	Yes	Conspiracy, False statements, False statements,	false statements and immigration charges
Abdul Qayyum	112	1 yr probation	District of Colorado	Yes	Yes	Conspiracy, False statements,	false statement
Kobie Diallo Williams	113	54 months	Southern District of Texas	Yes	Yes	Sting Operation, Conspiracy,	'Houston Taliban' sting

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Abdulrahman Farhane	114	13 years (156 months); 2 years SR	Southern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	Tank Shah sting case
Mohamed Shorbagi	115	92 mo	Notern District of Georgia	Yes	Yes	Material Support, Charity financing,	mat support to Hamas – by giving \$ to Holy Land Foundation
Yassin Muhiddin Aref	116	15 years	Notern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy, False statements,	ridiculous material support sting - and Yassin Aref was the victim of mistaken identity.
Mohammed Mosharref Hossain	117	15 years	Notern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy,	Aref/Hossain sting
Ronald Allen Grecula	118	5 years, 3 years SR	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	material support sting
Lina Rena	119	1 year probation	Eastern District of Michigan	Yes	Yes	Conspiracy, False statements,	false statements
Noura Berro	120	8 months; \$124,549 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	minor player in Berro fraud case
Zeinab Berro	123	15 months, restitution \$554,878	Eastern District of Michigan	Yes	Yes		bankruptcy fraud
Almire Ali-Sadek Berro	124	1 day with Time Served	Eastern District of Michigan	Yes	Yes	Conspiracy,	minor fraud
Bilal El-Sablani	128	1 day; \$ 489,174.25 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	minor player in Berro fraud case
Abdul Karim Akram Berro	129	10 months	Eastern District of Michigan	Yes	Yes	False statements,	false statements
Ahmed Murshed	132	Time Served; deportation proceedings pursuant to Title 18/ 3583(d).	Western District of New York	Yes	Yes	Conspiracy,	
Mohamed Albanna	136	5 years	Western District of New York	Yes	Yes	False statements,	unlicensed money transfer (targeted because he was the uncle and supporter of one of Lakawanna Defendants)
Hatem Naji Fariz	137	37 months	Middle District of Florida	Yes	Yes	Material Support, Conspiracy,	Sami Al-Arian co-defendant

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Arwah Jaber	138	15 months, 3 years SR, \$2,000 fine.	Western District of Arkansas	Yes	Yes	Material Support,	mat support (wanted to join PLU)
Ali Asad Chandia	139	180 months.	Eastern District of Virginia	Yes	Yes	Sting Operation, Training camp,	VA paintball case
Umer Hayat	140	Time Served and a \$3600 fine	Eastern District of California	Yes	Yes	False statements,	Lodi case - false confession
Shahawar Matin Siraj	141	30 years	Eastern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy,	sting targeting vulnerable young man
Saleh Alli Nasser	142	3 years probation; deportation	Eastern District of Michigan	Yes	Yes	Conspiracy,	unlicensed money transfer case – co-def of Sadik Omian
Monasser Omian	143	30 months in custody, 2 years SR, a \$200 SA, & forfeiture approx. \$200K cash & \$9,693,669 in substitute assets	Eastern District of Michigan	Yes	Yes	Conspiracy, False statements,	unlicensed money transfer
Sadik Monasser Omian	144	12 months & 1 day in custody, 2 years SR, \$300 SA, forfeit \$200,000cash & \$5,391,000 sub assets	Eastern District of Michigan	Yes	Yes	Conspiracy, False statements,	unlicensed money transfer case
Jarallah Wasil	145	57 months in custody; forfeiture of approx \$200K cash & \$9,693,669 in substitute assets; possibility of deportation	Eastern District of Michigan	Yes	Yes	Conspiracy,	unlicensed money transfers
Hamid Hayat	146	24 years	Eastern District of California	Yes	Yes	Sting Operation, Material Support, Training camp, False statements,	sting
Chao Tung Wu	147		Central District of California	Yes	Yes	Sting Operation, Material Support, Conspiracy,	material support sting - all charges dismissed

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Sami Amin Al-Arian	148	57 months; 3 years. SR	Middle District of Florida and Eastern District of Virginia	Yes	Yes	Material Support, Conspiracy, Contempt,	Was acquitted of all serious charges, then put in solitary for years and then house arrest for more years
Monir Awada	150		Central District of California	Yes	Yes		cash smuggling
Noureddine Malki	154	108 mo	Eastern District of New York	Yes	Yes	Mishandling classified information, False statements,	translator charged with false stms and mishandling classified information
Uzair Paracha	155	360 months	Southern District of New York	Yes	Yes	Material Support,	material support for checking on immigration status of Majid Khan
Ahmed Omar Abu Ali	156	Life	Eastern District of Virginia	Yes	Yes	Material Support, Tortured confessions,	tortured into confession
Omar Abdi Mohamed	157	18 months, 3 years. SR	Southern District of California	Yes	Yes		suspected of involvement in terror financing, convicted of immigration violations
Tariq Gujar	158	3 years probation, \$5000	Notern District of New York	Yes	Yes		soon after 911, this Pakistani man was charged with minor tax offenses and deported
Abad Elfgeeh	161	188 months & 5 years SR	Eastern District of New York	Yes	Yes	Conspiracy,	money transfers – gov’t tried unsuccessfully to connect him to terrorism but still sentenced him to 188 months
Aref Elfgeeh	162	51 months	Eastern District of New York	Yes	Yes	Conspiracy,	money transfers
Ali Maatouk	163	24 months probation	Middle District of Florida	Yes	Yes	Conspiracy,	immigration violations – got prosecuted for it
Naji Antoine Abi Khalil	164	57 months on Arkansas charges; 57, 60 & 60 months on SDNY charges (all will run concurrently); 3 years SR; \$100,000 rest.	Southern District of New York	Yes	Yes	Sting Operation, Material Support, Conspiracy,	material support sting
Tomer Grinberg	165	6 months; 2 years SR	Southern District of New York	Yes	Yes	Sting Operation, Conspiracy,	Israeli caught, with Naji Antoine Abi Khalil, in Hezbollah mat support sting
Ahmed Hassan Al-Uqaily	167	57 months	Middle District of Tennessee	Yes	Yes	Sting Operation,	sting case against Iraqi peace activist

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Herbert Villalobos	168	4 months, 2 years SR	Eastern District of Virginia	Yes	Yes		911 hijackers pd him \$50 to drive them to get ID but he didn't know what they were doing
Mark Robert Walker	170	24 months	Western District of Texas	Yes	Yes	Material Support,	attempted mat support to a Somali group, and violating sanctions
Hemant Lakhani	171	47 years	District of New Jersey	Yes	Yes	Sting Operation, Material Support,	
Ali al-Timimi	173	Life	Eastern District of Virginia	Yes	Yes	Material Support, Training camp, Conspiracy,	VA paintball case
Akram Abodayah	178	Time Served (6 months)	District of New Jersey	Yes	Yes		feds suspected him for some reason and convicted him of simple drug possession (which they generally never bother with)
Mahmoud Youssef Kourani	179	54 months	Eastern District of Michigan	Yes	Yes	Material Support, Conspiracy,	mat support for Hezbollah
Cedric Carpenter	180	68 months for 18/2339A ; 3 yr SR; each w/ \$2000 fine & \$100 SA	Southern District of Mississippi	Yes	Yes	Sting Operation, Material Support, Conspiracy,	material support sting
Lamont Ranson	181	29 months; 3 years SR; \$2000 fine; \$100 SA	Southern District of Mississippi	Yes	Yes	Sting Operation, Material Support, Conspiracy,	mat support sting
Mohammad Salman Farooq Qureshi	183	48 months. w/ credit Time Served, 3 years SR (to be suspended if return to Pakistan)	Western District of Louisiana	Yes	Yes	Charity financing, False statements,	false stms re financial donations to charity connected to Wadlih El-Hage
Rafil A. Dhafir	184	264 months	Nothern District of New York	Yes	Yes	Charity financing, Conspiracy,	Dr. Dhafir charity case
Ahmed Abdel Sattar	185		Southern District of New York	Yes	Yes	Material Support, Conspiracy, False statements,	Lynne Stewart case
Lynne Stewart	186	10 years	Southern District of New York	Yes	Yes	Material Support, Conspiracy, False statements,	attorney convicted of material support for non-violent advocacy for her imprisoned client
Mohammed Yousry	187	20 mo.	Southern District of New York	Yes	Yes	Material Support, False statements,	minor player in Lynne Stewart case
Ali Mohammed Al Mosaleh	190	Time Served	District of Minnesota	Yes	Yes	False statements,	false statements

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Ali Khaled Steitiye	192	60 months	District of Oregon	Yes	Yes	Training camp,	Portland 7
Saleh Eldin Ali El Hage	193	6 months	Southern District of Texas	Yes	Yes	False statements,	immigration-related charges
Elmeliani Benmoumen	195	Time Served	Western District of Pennsylvania	Yes	Yes	Conspiracy,	license bribe case
Kamran Shaikh	197	Time Served	Western District of North Carolina	Yes	Yes	False statements,	immigration and false stm charges -- suspected because had tourist photos of landmarks
Farida Ahmed	199	Time Served	Southern District of Texas	Yes	Yes	False statements, False statements,	immigration and false statements
Manthana Raja	200	24 months	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	sting - co-defendant of Hemant Lakhani
Imran Khan	201	Time Served	District of Colorado	Yes	Yes	Conspiracy, False statements,	fake ID case
James Elshafay	202	RELEASED - 5 years	Eastern District of New York	Yes	Yes	Sting Operation, Conspiracy, Mental health issues,	sting - serious mental problems
Abdurahman Muhammad al-Amoudi	205	23 years	Eastern District of Virginia	Yes	Yes	Material Support, False statements,	false statements
Basman Elashi	206	84 months	Nothern District of Texas	Yes	Yes	Charity financing, Conspiracy, False statements,	charity case - violating economic sanctions on Libya and Syria - is related to Holy Land case
Bayan Elashi	207	7 years (84 months) incarceration, 3 years SR (for INFOCOM I and INFOCOM II trials)	Nothern District of Texas	Yes			
Hazim Elashi	209	60 months	Nothern District of Texas	Yes	Yes	Charity financing, Conspiracy, False statements,	related to Holy Land Foundation charity case
Fawaz Mohammed Damrah	210	2 months + 4 months house arrest, denaturalization	Nothern District of Ohio	Yes	Yes	False statements,	immigration violations
Osama Musa Alferahin	211	Time Served + denaturalization & deport	District of Arizona	Yes	Yes		failed to state on citizenship application that he had been married and divorced in the past

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Abdulghfur Abdul Hassan	214	36 months,, 3 years SR	Eastern District of New York	Yes	Yes	Conspiracy,	money transfers
Moinuddeen Ahmed Hameed	215	Time Served	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	sting - in Hemant Lakhani case
Yehuda Abraham	216	2 years probation; \$10,000 fine	District of New Jersey	Yes	Yes	Sting Operation, Conspiracy,	Lakhani sting - Israeli-Afghan co-def of Hemant Lakhani
Hammad Abdur-Raheem	219	60 months	Eastern District of Virginia	Yes	Yes	Material Support, Conspiracy,	VA paintball case
Seifullah Chapman	220	780 months	Eastern District of Virginia	Yes	Yes	Material Support, Training camp, Conspiracy, False statements,	VA paintball case
Masoud Ahmad Khan	221	Life	Eastern District of Virginia	Yes	Yes	Sting Operation, Material Support, Training camp, Conspiracy,	VA paintball case
Muhammed Abid Afridi	222	7 months custody and 5 years SR	Southern District of California	Yes			
Numan Mafiahi	226	60 months	Eastern District of New York	Yes	Yes	Charity financing, False statements,	false stms for supposedly denying helping someone else (Sheikh Sattar) in '99 -- was charged in 2003
Sayed Abdul Malike	229	37 months	Eastern District of New York	Yes	Yes	Sting Operation, False statements, Mental health issues,	Afghan, NYC cab driver, seemed somewhat unstable, was sting but only convicted of false stms
Ibrahim Ahmed al-Hamdi	230	120 months	Eastern District of Virginia	Yes	Yes	Material Support, Training camp, Conspiracy,	VA paintball case
Randall Todd Royer	231	20 years	Eastern District of Virginia	Yes	Yes	Material Support, Training camp, Conspiracy,	VA paintball case
Jamil Salem Sarsour	234	2 yrs probation; 25K restitution	Eastern District of Wisconsin	Yes	Yes		was previously convicted in Israel of aiding Hamas, and later convicted here just of structuring financial transactions
Jeffrey Leon Battle	237	18 years	District of Oregon	Yes	Yes	Material Support, Training camp, Conspiracy,	Portland 7 training camp case
Patrice Lumumba Ford	238	18 years	District of Oregon	Yes	Yes	Material Support, Training camp, Conspiracy,	Portland 7 training camp case

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Soliman S. Biheiri	239	13 months., 1 day w/ credit for Time Served	Eastern District of Virginia	Yes	Yes	Charity financing, False statements,	false strm and immigration fraud, charity case
October Martinique Lewis	241	36 months	District of Oregon	Yes	Yes	Material Support, Training camp, Conspiracy,	Portland 7 training camp case
Muhammed Aatique	242	126 months	Eastern District of Virginia	Yes	Yes	False statements, False statements,	VA paintball case
Ahmed Ibrahim Bilal	245	10 years	District of Oregon	Yes	Yes	Material Support, Old charges as pretext, Training camp,	
Muhammad Ibrahim Bilal	246	8 years	District of Oregon	Yes	Yes	Material Support, Training camp,	Portland 7
Bassem Kamal Khafagi	249	Time Served (10 Months), 1 yr SR	Eastern District of Michigan	Yes	Yes		innmigration fraud
Yong Ki Kwon	250	138 months	Eastern District of Virginia	Yes	Yes	Training camp, Conspiracy,	VA paintball case
Donald Thomas Surratt	251	46 months	Eastern District of Virginia	Yes	Yes	Training camp, Conspiracy,	VA paintball case
Khawaja Mahmood Hasan	252	135 months	Eastern District of Virginia	Yes	Yes	Training camp, Conspiracy, False statements,	VA paintball case
Hosam Yousef Jubara	253	5 months	Middle District of Florida	Yes	Yes		connected to Sami Al-Arian – Jubara was a professor suspected of connections to Palestinian Islamic Jihad who was convicted of minor immigration charges, served 5 months and then was deported.
Maher Mofeid Hawash	254	7 years	District of Oregon	Yes	Yes	Material Support,	Portland 7 training camp case
G. William Hatfield	257	2 years probation, \$15K fine	Nothern District of New York	Yes	Yes		Dr. Dhafir case
Priscilla Dhafir	258	2 years probation, \$10K fine & restitution	Nothern District of New York	Yes	Yes	False statements,	Dr. Dhafir charity case
Hussin Abuali	261	Time Served (5 months), 3 years. SR	District of New Jersey	Yes	Yes		was wrong tip he was connected to terrorism but then was convicted of stolen cereal

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Husam Addelhafiz Samhan	262	112 days	Central District of California	Yes	Yes	False statements,	suspected of connections to AQ and convicted of misusing SSN
Mukhtar al-Bakri	263	10 years	Western District of New York	Yes	Yes	Material Support, Training camp,	Lakawanna training camp case
Ahmed Ali	264	2 years probation, \$15K fine	Notern District of New York	Yes	Yes	Charity financing,	co-Def of Dr. Dhafir
Yasein Taher	265	8 years	Western District of New York	Yes	Yes	Material Support, Training camp, Conspiracy,	Lakawanna training camp case
Ayman Jarwan	267	18 months.	Notern District of New York	Yes	Yes	Conspiracy,	Dr. Dhafir case
Osameh Al-Wahaidy	269	2 years probation, \$5K fine	Notern District of New York	Yes	Yes		co-defendant of Dr. Dhafir
Earnest James Ujaama	275		Southern District of New York	Yes	Yes	Material Support, Training camp, Conspiracy,	training camp case
Sahim Alwan	276	114 months	Western District of New York	Yes	Yes	Material Support, Training camp,	Lakawanna training camp case
Youssef Hmimssa	277	78 months	Eastern District of Michigan	Yes	Yes	Material Support, Conspiracy,	Moroccan who pled to ID fraud in Detroit Sleeper Cell case and then testified against the others, whose convictions were reversed.
Libardo Florez-Gomez	278	18 months	Southern District of Florida	Yes	Yes		unlicensed money transfer
Yahya Goba	280	10 years	Western District of New York	Yes	Yes	Material Support, Training camp, Conspiracy,	Lakawanna training camp case
Shafel Mosed	281	96 months	Western District of New York	Yes	Yes	Material Support, Training camp, Conspiracy,	Lakawanna training camp case
Jose Guillermo Alvarez-Duenas	287	Time Served	Southern District of California	Yes	Yes		alien smuggling mat support case but pled to immigration violations
Enaam M. Arnaout	288	120 months	Notern District of Illinois	Yes	Yes	Material Support, Conspiracy,	mat support to Bosnians in '90's - on same side as US
Faysal Galab	291	84 months	Western District of New York	Yes	Yes	Material Support, Training camp,	Lakawanna training camp case

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Mohamed Ahmed Issa	292	6 months	Eastern District of Michigan	Yes	Yes	False statements,	immigration-related and false stm charges soon after 911
Yasir Khatib	293	Time Served (14 months)	District of South Carolina	Yes	Yes	False statements,	fake ID case in 2002 – was convicted of ID fraud and deported
Nageeb Abdul Jabar Mohamed Al-Hadi	294	Time Served (15 Months)	Nothern District of Illinois	Yes	Yes		arrested on 911 b-c on a plane, later convicted of immigration fraud
Rabi Ahmed	295	Time Served (4 months), 2 years. SR	District of New Jersey	Yes	Yes	Conspiracy,	was wrong tip he was connected to terrorism but then was convicted of stolen cereal
Majeda Dweikat	296	Time Served/Deported	Southern District of California	Yes	Yes		immigration fraud soon after 911
Osama Yousef Basnan	297	Time Served/Deported	Southern District of California	Yes	Yes		immigration fraud soon after 911
Ahmad Abeed Ahmad Ahmad	299	Time Served	Eastern District of Virginia	Yes	Yes	False statements,	false travel docs
Nabil Sarama	300	Time Served (10 Months)	Nothern District of California	Yes	Yes	False statements,	immigration charges soon after 911
Jean-Tony Antoine Oulai	303	Time Served	Middle District of Florida	Yes	Yes	False statements,	soon after 911 he was suspected but cleared of any connection to terrorism - eventually convicted of false stms and deported.
Saleh Ali Almari	305	4 Months	Eastern District of Virginia	Yes	Yes	Conspiracy,	convicted in “test-taking scandal” but suspected of connections to terrorism
Hussein Al Attas	306	Time Served	Southern District of New York	Yes	Yes		He was unlucky enough to be Zacarias Moussaoui's roommate and was convicted of false stms re Moussaoui (though he had no knowledge of 911)
Ahmed Abdulla Elashmouny	309	35 months-, 3 years probation, restitution & \$600	Eastern District of New York	Yes	Yes	False statements, False statements,	Egyptian flight instructor investigated soon after 911 – found some little fraud– got 3 years
Mohadar Mohamed Abdoulah	310	Time Served (335 days), 3years SR	Southern District of California	Yes	Yes	False statements,	suspected after 911 because he knew 2 of the hijackers, he was convicted of false statements and deported
Ayub Ali Khan	313	1 Year, 1 day; \$15,000	Southern District of New York	Yes	Yes		box cutters on train case

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Ihsan Elashyi	314	48 months	Nothorn District of Texas	Yes	Yes	Charity financing,	related to HLF case
Kamel Mohamed Trabelsi	315	Time Served	Central District of California	Yes	Yes		immigration violations soon after 911
Nabil Al-Marabh	316	8 months	Western District of New York	Yes	Yes	Conspiracy, False statements,	suspected of links to hijackers and convicted of marriage fraud
Ashar Iqbal Butt	317	6 months	Eastern District of Pennsylvania	Yes	Yes	False statements,	false passport (suspected for having photos of WTC right after 911)
Mohammed Azmath	318	Time Served (9 Months)	Southern District of New York	Yes	Yes		box cutters on train soon after 911
Kumeit Al-Saraf	319	3 Years Probation	Western District of Pennsylvania	Yes	Yes	Conspiracy,	license bribe case – fake ID soon after 911
Mohamed M. Hussein	320	18 mo.	District of Massachusetts	Yes	Yes		unlicensed money transfer soon after 911
Javaid Iqbal	321	16 Months	Eastern District of New York	Yes	Yes		He was picked up, basically for being Pakistani, soon after 911. There were absolutely no connection to terrorism but he was convicted on immigration charges and deported, after being held in terrible conditions. He sued about his post -911 detention but the case was dismissed by the Supreme Court.
Eyad M. Alrababah	322	6 Months, 3 years. SR	Eastern District of Virginia	Yes	Yes		license bribe case
Kamel Albred	324	3 Months Probation, \$250	Western District of Pennsylvania	Yes	Yes		license bribe case
Haider Alshomary	325	1 Year Probation, \$250	Western District of Pennsylvania	Yes	Yes		fake ID soon after 911
Moeen Islam Butt	326	Time Served, 3 years SR	Eastern District of Pennsylvania	Yes	Yes		marriage fraud and immigration charges after 911
Mohammed Ibrahim Refai	327	Time Served	Nothorn District of Ohio	Yes	Yes	False statements,	immigration fraud soon after 911
Wathek Al-Atabi	328	3 Months Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Omer Salmain Saleh Bakarbashat	329	Time Served	Southern District of California	Yes	Yes		immigration fraud soon after 911

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Name	DOJ #	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Raad Al-Maleky	330	3 Years Probation	Western District of Pennsylvania	Yes	Yes		fake ID soon after 911
Samir Almazaal	331	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case - fake ID soon after 911
Ahmad Kilfat	333	3 years. SR, restitution	District of New Jersey	Yes	Yes		
Akeel Al Aboudy	334	36 Months Probation	Western District of Pennsylvania	Yes	Yes		wrong ID document
Ali F. Alazawi	335	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Mohammed Maddy	336	Time Served	Eastern District of New York	Yes	Yes		alien smuggling soon after 911
Hatef Al-Atabi	337	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case (fake ID soon after 911)
Mustafa Al-Aboody	338	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Hisham Al-Shiblawy	339	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Iftikhar Ahmed Sahi	340	Time Served	Eastern District of North Carolina	Yes	Yes		immigration charges soon after 911
Sabah Al-Hachami	341	1 Year Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Fadhil Al-Khaledy	342	3 Years Probation	Western District of Pennsylvania	Yes	Yes	False statements,	fake ID soon after 911
Hussain Al-Obaidi	343	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Hussain Sudani	344	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Agus Budiman	345	7 Months, 1 yr. SR	Eastern District of Virginia	Yes	Yes	False statements,	only immigration charges

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Zuhaier Ben Mohammed Rouissi	346	6 Months	Nothern District of Ohio	Yes	Yes		marriage fraud soon after 911
Malek Mohamad Abdulah	348	Time Served, 3 years SR	District of Arizona	Yes	Yes	False statements,	false stms soon after 911
Nadim Dawe	349	Time Served	Southern District of New York	Yes	Yes	False statements,	false statements soon after 911
Sofiane Laimeche	350	36 months	District of Arizona	Yes	Yes	False statements,	fake ID case soon after 911
Montaser Hamdan Al Hamdan	351	Time Served	Middle District of Florida	Yes	Yes		marriage fraud soon after 911
Raza Nasir Khan	352	177 days	District of Delaware	Yes	Yes		was arrested very soon after 911 only b-c had a GPS device while hunting - was charged w/gun possession since he's an immigrant and wasn't supposed to be hunting.
Mohammed Alibrahimi	353	5 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case – fake ID soon after 911
Assam Abdall	354	6 Months	Eastern District of New York	Yes	Yes	False statements,	false statements
Faisal M. Al Salmi	355	6 Months	District of Arizona	Yes	Yes	False statements,	false stms just after 911
Mohammad Aslam Pervez	356	Probation 1 year	Southern District of New York	Yes	Yes	False statements,	false stms soon after 911
Mustafa Kilfat	357	Time Served (6 Months) 2 years. SR	District of New Jersey	Yes	Yes		immigration violations soon after 911
Armoghhan Absar Rizvi	359	Time Served	District of Colorado	Yes	Yes	False statements,	immigration charges
Arkan Alandon	360	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case
Robert A. Ferrari	361	18 months, 3 years. SR	Western District of Pennsylvania	Yes	Yes		license bribe case
Haider Al Tamimi	362	3 Years Probation	Western District of Pennsylvania	Yes	Yes		fake ID soon after 911
Arsalan Absar Rizvi	363	Time Served	District of Colorado	Yes	Yes	False statements,	immigration charges
Nasri Al Hamdan	364	Time Served (5 months)	Middle District of Florida	Yes	Yes		marriage fraud soon after 911

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Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Muhammed Nasir Bin Hasher Alghamdi	365	6 months; \$10,000	Southern District of Florida	Yes	Yes		fake ID & immigration fraud soon after 911
Wael Kishk	366	Time Served (6 Months)	Eastern District of New York	Yes	Yes	False statements,	false stm case right after 911
Ali Alubeidy	367	3 Years Probation	Western District of Pennsylvania	Yes	Yes		license bribe case – they were prosecuted because of unfounded suspicions of connections to 911 hijackers – but were found guilty of fraud related to trucking licenses for hazardous waste.
Salman Hyder	368	4 months	Central District of California	Yes	Yes		fake ID & immigration fraud right after 911
Mohammed Basheer Al Qaryuti	369	Time Served	Middle District of Florida	Yes	Yes		phony marriage soon after 911
Ahmed Nawaz Atta	371	Time Served	Central District of California	Yes	Yes	False statements,	false statements to immigration
Saber Hassan Abassi	372	63 Days, 2 years probation, \$500	Eastern District of Virginia	Yes	Yes	False statements,	false statements soon after 911
Maher Yousef Abu-Zbaida	373	10 Months	District of Montana	Yes	Yes		faced gun charges (for being immigrant) and was then deported
Roxanne Laura Kopke	374	50 Days	Eastern District of Virginia	Yes	Yes		immigration fraud soon after 911
Mujahid Abdulqaadir Menepta	375	15 Months	Western District of Oklahoma	Yes	Yes		suspected soon after 911 and then arrested for guns found in house
Hadir Awad	376	2 Years	Eastern District of Virginia	Yes	Yes		immigration fraud shortly after 911
Alawi Hussain Al-Baraa	378	6 months, Three years probation	Western District of Pennsylvania	Yes	Yes		license bribe case – just after 911
Salam Ibrahim El Zaatari	379	Time Served	Western District of Pennsylvania	Yes	Yes		art student had utility knife on plane soon after 911 – was deported
Hafiz Khalil Ahmad	380	12/20/2001	Southern District of Florida	Yes	Yes	False statements,	immigration fraud shortly after 911
Nermine Hani Ayoub Al Khammash	381	Time Served (3 Months)	Middle District of Florida	Yes	Yes		marriage fraud soon after 911
Abdul Farid	382	Time Served (6 Months)	Middle District of North Carolina	Yes	Yes	False statements,	he was arrested on a false tip that he was sending money to the Taliban and was deported after admitting he lied on a loan application.
Sherif Khamis	383	Time Served + 7 days	Middle District of Florida	Yes	Yes	False statements,	false stms soon after 911

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Imtiaz Ahmad Siddiqui	384	Time Served (5 months), 1 yr. SR	Middle District of North Carolina	Yes	Yes		immigration charges
Luis A. Martinez-Flores	385	21 Months, 2 years SR	Eastern District of Virginia	Yes	Yes		fake ID case soon after 911
Ben Sami Fathi Hafaiedh	386	6 Months	Central District of California	Yes	Yes	False statements,	immigration fraud
Vincente Rafael Pierre	387	24 Months	Western District of Virginia	Yes	Yes	Sting Operation, Conspiracy,	lived in a black Muslim compound in VA, and were charged in a weapons sting in 9/11
Traci Elaine Upshur	388	15 Months	Western District of Virginia	Yes	Yes	Sting Operation, Conspiracy,	wife of Vicente Rafael Pierre, they lived in a black Muslim compound in VA, and were charged in a weapons sting in 9/11
Jamshed Iqbal	389	5 Years Probation	Notern District of New York	Yes	Yes		He and his brother were considered suspicious because they took flying lessons. But there was no evidence of terrorism so he was charged with immigration-related marriage fraud.
Jawaid Iqbal	390	1.5 Years Probation, \$3000 Fine	Notern District of New York	Yes	Yes		He and his brother were considered suspicious because they took flying lessons. But there was no evidence of terrorism so he was charged with immigration-related marriage fraud.
Victor M. Lopez-Flores	391	27 Months, 3 years SR	Eastern District of Virginia	Yes	Yes		helped 911 hijacker get ID but without knowing what he was doing
Khalid S.S. Al Draibi	392	4 Months, 3 years SR	Eastern District of Virginia	Yes	Yes		immigration fraud case right after 911
Atif Raza	393	Time Served (140 days), restitution	Southern District of Alabama	Yes	Yes		minor fraud (access device fraud)
Hossain El Ouariachi	394	Time Served	Western District of Pennsylvania	Yes	Yes	False statements,	false statements case
Kenys Aleyda Galicia	395	1 Year	Eastern District of Virginia	Yes	Yes	False statements,	fake ID soon after 911 in EDVA
Manel Fall	396	3 Months	Western District of Pennsylvania	Yes	Yes		immigration-related charges soon after 911
Hafiz Tauseef	397	5 Years Probation	Notern District of New York	Yes	Yes		immigration violations after Ansar Mahmood took innocent photo of reservoir

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Aisha Younes	398	5 Years Probation	Nothern District of New York	Yes	Yes		Ansar Mahmoud case (Anwar took innocent photo of reservoir)
Arshad Hussain	399	3 mo Time Served	Western District of New York	Yes	Yes	False statements,	immigration charges soon after 911
Faycal Ahmed Haddoumi	400	30 Days	Nothern District of Indiana	Yes	Yes		minor immigration violation just after 911
Kamal Rahmani	401	30 Days	Nothern District of Indiana	Yes	Yes		immigration violations soon after 911
Ansar Mahmood	402	5 Yrs Probation	Nothern District of New York	Yes	Yes		deported after photographing reservoir – deported for letting undocumented friends stay with him
Francois Guagni	403	20 Months	District of Maine	Yes	Yes		convicted and deported for immigration violations shortly after 911

Preemptive Prosecution Used - 289 - 72.4%

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Elements of Preemptive Prosecution Present - 87 - 21.8%							
Zeinab Taleb-Jedi	6	time served	Eastern District of New York	Yes	Yes	Material Support,	
Nachimuthu Socrates	12	1 yr and 1 day	Eastern District of New York	Yes	Yes	Material Support, Conspiracy,	
Karunakaran Kandasamy	14	Time Served(5 yrs)	Eastern District of New York	Yes	Yes	Material Support, Conspiracy,	
Vijayshanthar Patpanathan	15	time served	Eastern District of New York	Yes	Yes	Material Support,	
Pratheepan Thavaraja	16		Eastern District of New York	Yes	Yes	Material Support, Conspiracy,	
Oussama Abdullah Kassir	24	Life	Southern District of New York	Yes	Yes	Material Support, Training camp, Conspiracy, Mental health issues,	
Abdifatah Yusuf Isse	27	36 mo.	District of Minnesota	Yes	Yes	Material Support, Training camp,	
Rahmat Abdhith	28	10 years	Nothern District of California	Yes	Yes	Material Support, False statements,	
Tareq Mousa Al Ghazi	29	25 years	Southern District of New York	Yes	Yes	Sting Operation, Material Support,	
Wesam Al-Delaema	30	300 mo	District of District Of Columbia	Yes	Yes	Material Support,	
Kamal Said Hassan	31	120 Mo	District of Minnesota	Yes	Yes	Material Support, False statements,	
Thiruthanikan Thanigasalam	35	25 years	Eastern District of New York	Yes	Yes	Material Support,	
Sathajhan Sarachandran	36	26 years	Eastern District of New York	Yes	Yes	Material Support, Conspiracy,	
Monzer Al Kassar	54	30 years	Southern District of New York	Yes	Yes	Sting Operation, Material Support,	
Ahmed Abdellatif Sherif Mohamed	58	180 months; 3 years SR; \$100 SA	Middle District of Florida	Yes	Yes	Material Support,	

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Eyad Suleiman	70	108 Months ; Restitution \$1,243,162.04	Western District of Kentucky	Yes	Yes	Conspiracy,	
Abdulla Kasem Ahmed Muthana	76	30 months, Supervised Release 36 months	Eastern District of California	Yes	Yes		
Thirunavukarasu Varatharasa	95	57 months	District of Maryland	Yes	Yes	Sting Operation, Material Support,	
Daniel Joseph Maldonado	96	10 years, \$1000 fine, & 3 years SR	Southern District of Texas	Yes	Yes	Material Support, Training camp,	
Hector Rodriguez-Acevedo	100	50 months	Southern District of Florida	Yes	Yes	Material Support, Conspiracy,	
Khalid Awan	110	14 years	Eastern District of New York	Yes	Yes	Material Support,	
Sami Ahmad Berro	121	27 months; \$124,549 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Sadek Berro	122	78 months; restitution \$1,224,003	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Houda Mohamad Berro	125	12 months and 1 day	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Abdul Halim Berro	126	35 months, \$421,120 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Abdulamir Berro	127	70 months. \$669,125 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy, False statements,	
Amira Ali Farhat	130	12 months; \$4000 fine, forfeiture \$72,611	Eastern District of Michigan	Yes	Yes	Conspiracy, False statements,	
Ali Abdul Karim Farhat	131	6 years, \$669,125 restitution, forfeiture of business & residential property	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Akram Abdul Karim Berro	133	44 months each of the 9 counts (concurrent) & restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Jamal Saadalla Berro	134	46 months each of the 9 counts (concurrent) & restitution	Eastern District of Michigan	Yes	Yes		
Syed Saadet Ali Fara Shah	149	225 months	Southern District of California	Yes	Yes	Sting Operation, Material Support,	
Nemr Ali Rahal	151	33 months; \$416,783 restitution	Eastern District of Michigan	Yes	Yes	Charity financing, Conspiracy,	
Fadl Mohammed Maatouk	152	60 months; \$58K forfeiture	Middle District of Florida	Yes	Yes	Conspiracy, False statements,	
Rania M. Fawaz Rahal	153	1 yr probation	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Ali Mohamed-Nameh Makki	159	2 years probation; \$10,190 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Tarek Makki	160	24 months, \$879, 056 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy, False statements,	
Michael Wagner	169	Time Served	Southern District of Iowa	Yes	Yes	False statements,	
Hussein A. Berro	172	14.5 months	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Samih Fadl Jamal	174	120 months, 3years SR	District of Arizona	Yes	Yes	Conspiracy, False statements,	
Fanny Cecilia Barrera-De Amaris	176	61 months/ 3 years probation	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	
Issam Abdul Berjaoui	177	17 months	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Carlos Gamarra-Murillo	182		Middle District of Florida	Yes	Yes	Sting Operation, Material Support,	
Edgar Fernando Blanco Puerta	196	Life	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	
Hassan Nasrallah	204	1 day; \$35K restitution	Eastern District of Michigan	Yes	Yes		
Carlos Adolfo Romero-Panchano	212	36 months	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Mohamad Daher	217	3 years probation; \$60K restitution; \$100 SA	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Issam Hassan Fawaz	218	15 months; 2 years SR; \$100 SA; \$5000 Fine	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Ilyas Ali	223	57 months	Southern District of California	Yes	Yes	Sting Operation, Material Support, Conspiracy,	
Aref Ahmed	224		Western District of New York	Yes	Yes		
Ali Abdulamir Daher	225	5 months for each count; 2 years SR ; \$200 SA; \$175,500 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Yaudat Mustafa Talyi	227	5 mo and fine	Eastern District of Louisiana	Yes	Yes		
Adriana Gladys Mora	228	120 months	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	
Tarek Abdelhamid Sallam	232	18 months	Central District of California	Yes	Yes		
Lori Foley	233	15 months	Central District of California	Yes	Yes		
Elkin Alberto Arroyave Ruiz	235	180 months	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	
Fadi Haydous	236	27 months to run concurrently w/ 99-CR-00131-14 in Western District NY, Plus 1 day consecutive; credited with time in WDNY; 2	Eastern District of Michigan	Yes	Yes		
Amna A. Mahmoud	240	3 years probation \$67,306.00	Eastern District of New York	Yes	Yes		
Hassan Abdallah	243	5 years probation	Eastern District of Texas	Yes	Yes	Conspiracy,	
Hassan Moussa Makki	244	57 months	Eastern District of Michigan	Yes	Yes	Material Support, Conspiracy,	

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Ali Mohamad Akhdar	247	12 months, 1 day	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Elias Mohamad Akhdar	255	70 months	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Uwe Jensen	259	168 months	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	
Marlon Rodriguez	260	12 months	Eastern District of Texas	Yes	Yes	Conspiracy,	
Iyman Faris	266	20 years	Eastern District of Virginia	Yes	Yes	Material Support, Mental health issues,	
Carlos Ali Romero Varela	268	120 months , 5 years SR, \$200 special assessment	Southern District of Texas	Yes	Yes	Sting Operation, Material Support,	
Omar Shishani	270	57 months, 2 years SR, \$200SA	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Salim Nemir Awde	271	Time Served (14 months), 3 years SR, \$100	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Nabil Mohamad Ismail	272	Time Served (12 months concurrent w/ sent. for 18/1029); 3 years SR; \$100 SA; \$37500 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Brandy Jo Bowman	273	4 months, 3 years SR in WDNV, \$45,750 restitution, \$100 SA	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Carole Gordon	274	7 months; 3 years SR; \$202,500 restitution; \$100 SA	Eastern District of Michigan	Yes	Yes	Conspiracy,	
Mohamad Ahmad Hariri	279	Time Served (6 months); 3 years SR; \$100 SA; \$2062,500 restitution	Eastern District of Michigan	Yes	Yes	Conspiracy,	

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Salim Boughader-Mucharrafille	282	12 months + 1 day	Southern District of California	Yes	Yes		
Choudhry Hussain	284	21 Months, 3 years SR	Eastern District of New York	Yes	Yes		
Suhail Sarwer	285	55 months 3 years SR	Eastern District of New York	Yes	Yes		
Patricia Serrano-Valdez	286	10 months, 2years SR	Southern District of California	Yes	Yes		
John Earl Johnson	290	46 months	Notern District of New York	Yes	Yes		
Abdurahman Khahil Koshak	301		Western District of Pennsylvania	Yes	Yes		
Karim Tebbakh	302	6 mo Time Served	Eastern District of New York	Yes	Yes		
John Walker Lindh	308	20 Years	Eastern District of Virginia	Yes	Yes	Material Support,	
Mohamad Youssef Hammoud	311	30 years	Western District of North Carolina	Yes	Yes	Conspiracy,	
Chawki Youssef Hammoud	312	51 Months, 3years SR, \$700SA	Western District of North Carolina	Yes	Yes	Conspiracy,	
Mubarek Almutari	323	21 Months	Notern District of Indiana	Yes	Yes	False statements,	
Nasser Abuali	332	Time Served (5 months), 3 years. SR	District of New Jersey	Yes	Yes	Conspiracy,	
Said Mohamad Harb	347	41 Months	Western District of North Carolina	Yes	Yes	Material Support, Conspiracy,	
Ehab Elmaghraby	358	24 Months, 3 years SR	Eastern District of New York	Yes	Yes		
Adel F. Badri	370	Time Served, 3 years SR, \$1,000	Western District of Missouri	Yes	Yes		
Mohamed Abdi	377	4 Months, 3 years SR	Eastern District of Virginia	Yes	Yes		

Elements of Preemptive Prosecution Present - 87 - 21.8%

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
No Preemptive Prosecution Used - 23 - 5.8%							
David Coleman Headley	1	35 years	Nothern District of Illinois	Yes	No		
Nancy Conde Rubio	2		District of District Of Columbia	Yes	No		
Najibullah Zazi	4	life	Eastern District of New York	Yes	No		
Bryant Neal Vinas	33		Eastern District of New York	Yes	No		
Christopher Paul	62	20 years	Southern District of Ohio	Yes	No		
Yasith Chhun	64	Life	Central District of California	Yes	No		
Vinh Tan Nguyen	85	14 months	Central District of California	Yes	No		
Nuradin Mahamoud Abdi	91	10 years	Southern District of Ohio	Yes	No		
Troy Melton Peters	135	Time Served; special assessment \$200; \$706,300 restitution	Eastern District of New York	Yes	No		
Lynn Wingate	166	3 years probation, \$2500 fine	Eastern District of New York	Yes	No		
Zacarias Moussaoui	175	Life	Eastern District of Virginia	Yes	No	Material Support, Conspiracy, Mental health issues,	
Amr I. Elgindy	188	135 months; forfeiture of \$1,568,000	Eastern District of New York	Yes	No		
Jeffrey A. Royer	189	72 months	Eastern District of New York	Yes	No		
Zameer Nooralla Mohamed	191	60 months	Central District of California	Yes	No		
Hasan Ali Ayesb	194	5 years probation	Eastern District of Arkansas	Yes	Yes		
Yildirim Beyozit Tumer	203	Immediate Deportation to Turkey	District of Delaware	Yes	No		
Mohammed Junaib Babar	213		Southern District of New York	Yes	No		

Appendix A - Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	DOJ #	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Artur Tchibassa	248	293 months; restitution	District of District Of Columbia	Yes	No		
Robert Hansen	256	3 years probation; \$2,500 fine	Eastern District of New York	Yes	No		
Mohamed Suleiman Al-Nalfi	289	121 months	Southern District of New York	Yes	No		
Richard Colvin Reid	298	Life	District of Massachusetts	Yes	No		
Mohammed Mansour Jabarah	304	Life	Southern District of New York	Yes	No		
Derrick Cleveland	307	4 years probation; \$5000 fine	Eastern District of New York	Yes	No		

No Preemptive Prosecution Used - 23 - 5.8%

Total Number of Records 399

Note: The DOJ Lists 403 people; however four are duplicated on the list, Earnest James Ujaama (80, 275), Ghassan Elashi (51, 208); Khalid Awan, (110, 283), and Soliman Biheiri (198, 239) - bringing the total list to 399.

Appendix B - DOJ List of Convictions Between 3/18/10 and 12/31/15

Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Preemptive Prosecution Used - 136 - 65.1%						
Ahmed Abassi	15 mo.	Southern District of New York	Yes	Sting Operation, False statements, False statements,		
Idriss Abdelrahman	46 mo	Southern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	sting	
Abdow Munya Abdow	4 mo	District of Minnesota	Yes	False statements,		
Abu Khalid Abdul-Latif	18 years		Yes	Sting Operation, Conspiracy, Mental health issues,	sting case	
Zacharia Yusuf Abdurahman	120 mo	District of Minnesota				
Mohammad Abdul Rahman Abukhdair	180 mo.	Southern District of Alabama	Yes	Sting Operation, Material Support, Conspiracy,	sting	
Babar Ahmad	144 mo	District of Connecticut	Yes	Material Support, Conspiracy,	extradited from London to CT for running a website	
Farooque Ahmed	23 years followed by 50 years supervised release	Eastern District of Virginia	Yes	Sting Operation, Material Support,	sting	
Jubair Ahmed	144 mo	Eastern District of Virginia	Yes	Material Support, Training camp,	pled to mat support for putting video on internet, supposedly in support of LeT	
Mohamed Ibrahim Ahmed	111 mo	Southern District of New York	Yes	Material Support,	mat support to Al-Shabab	
Syed Talha Ahsan	96 mo.	District of Connecticut	Yes	Material Support, Conspiracy,	charged with mat support for working on a website – extradited from London to CT in 10/12	
Amera Akl	40 months	Nothern District of Ohio	Yes	Sting Operation, Material Support,	material support sting	
Hor Akl	75 mo.	Nothern District of Ohio	Yes	Sting Operation, Material Support,	sting	
Cetin Aksu	36 mo	Southern District of New York				
Yousef Mohamid al-Khattab	30 mo.	Eastern District of Virginia	Yes			
Mohamed Mahmood Alessa	22 years	District of New Jersey	Yes	Sting Operation, Training camp, Conspiracy, Mental health issues,	sting - has mental issues	

Appendix B - DOJ List of Convictions Between 3/18/10 and 12/31/15

Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Aftab Ali	time served (5 mo)	District of Massachusetts	Yes	False statements,		From Trevor Aaronson: Aftab Ali, a Pakistani citizen who worked at a Massachusetts gas station, transferred \$4,900 to Faisal Shahzad, who placed a bomb in Times Square that failed to detonate. https://trial-and-terror.theintercept.com/people/
Amina Farah Ali	240 mo.	District of Minnesota	Yes	Material Support, Conspiracy,	Al Shabab case - gave old clothes	
Qasim Ali	40 months	District of District Of Columbia	Yes	Sting Operation, Material Support, Conspiracy,	material support sting	
Soloman Zaid Alkadhi	60 mo	Southern District of Florida	Yes	False statements,		
Carlos Eduardo Almonte	20 years	District of New Jersey	Yes	Sting Operation, Conspiracy, Mental health issues,	sting - has mental issues	
Waad Ramadan Alwan	40 years	Western District of Kentucky	Yes	Sting Operation, Conspiracy,	sting	
Ali Shukri Amin	136 mo	Eastern District of Virginia	Yes	Material Support,		
Manssor Arbabsiar	300 mo.	Southern District of New York	Yes	Sting Operation, Conspiracy,	sting	
Carlos Alberto Arteaga-Tapia	135 mo	Southern District of Florida	Yes	Sting Operation, Material Support, Conspiracy,		
Haroon Aswat	240 mo	Southern District of New York	Yes	Material Support, Training camp, Conspiracy, Mental health issues,		
Ali Mohamed Bagegni	probation	Western District of Missouri	Yes	Charity financing, Conspiracy,	IARA charity case	
Craig Baxam	84 mo.	District of Maryland	Yes	Material Support,	attempted mat support to Al-Shabab	
Emerson Begolly	102 mo.	Western District of Pennsylvania	Yes	Mental health issues,	posted information on a website	
Shelton Thomas Bell	240 mo	Middle District of Florida	Yes	Training camp, Conspiracy,	charged with training to go overseas to fight	
Avin Marsalis Brown	92 mo.		Yes	Sting Operation, Material Support, Conspiracy,		
Barry Bujol	240 mo	Southern District of Texas				
Zachary Adam Chesser	25 years	Eastern District of Virginia	Yes	Material Support,	prosecuted for online unspecific threats – 1st Amendment case	

Appendix B - DOJ List of Convictions Between 3/18/10 and 12/31/15

Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Heather Elizabeth Coffman	54 mo.	Eastern District of Virginia	Yes	Sting Operation, Material Support, False statements,		
James Cromitie	25 yrs	Southern District of New York	Yes	Sting Operation, Conspiracy,	Newburgh 4 sting	
Adam Dandach	180 mo.	Central District of California	Yes	False statements, False statements, Mental health issues,		
Leon Nathan Davis	180 mo.		Yes	Material Support,		
Olajuwon Davis	84 mo		Yes	Sting Operation, False statements,	Members of New Black Panther Party targeted in FBI sting operation and charged with false statements in connection with a firearm purchase	
Russell Defreitas	life	Eastern District of New York	Yes	Sting Operation,	JFK sting	
Ralph Deleon	300 mo	Central District of California	Yes	Sting Operation, Material Support, Conspiracy,		
Issa Doreh	120 mo.	Southern District of California	Yes	Material Support,	Al Shabab case	
Hasan R. Edmonds	360 mo.	Notern District of Illinois	Yes	Sting Operation, Material Support, Conspiracy,		
Jonas M. Edmonds	252 mo.	Notern District of Illinois	Yes	Sting Operation, Material Support, Conspiracy,		
Amine El Khalifi	30 years	Eastern District of Virginia	Yes	Sting Operation, Material Support,	sting	
Wesam El-Hanafi	180 Mo	Southern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	NYC mat support sting – co-def is Sabirhan Hasanoff	
Hamze El-Najjar	12 mo.	Eastern District of Pennsylvania	Yes	Sting Operation, Material Support,	mat support for Hezbollah sting	
Abdel Azim El-Siddig	2 yrs probation	Western District of Missouri	Yes	Charity financing, Conspiracy,	charity case	
Rezwan Ferdaus	17 years	District of Massachusetts	Yes	Sting Operation, Material Support, Mental health issues,	sting	
Michael Finton	336 mo.	Central District of Illinois	Yes	Sting Operation,		
Mahdi Hussein Furreh	24 mo	District of Minnesota		False statements,		

Appendix B - DOJ List of Convictions Between 3/18/10 and 12/31/15

Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Emilio Jacinto Gonzalez-Neira	1 year probation	Southern District of Florida				
Moussa Ali Hamdan			Yes	Sting Operation, Material Support, Conspiracy,		mat support sting - extradited from Paraguay
Mubarak Hamed	58 months	Western District of Missouri	Yes	Material Support, Charity financing,		IARA charity case – co-def of Mark Siljander, etc
Mohanad Shareef Hammadi	life	Western District of Kentucky	Yes	Sting Operation, Conspiracy,		sting re sending weapons to Iraq
Eric Harroun	time served	Eastern District of Virginia	Yes	Material Support, Conspiracy,		convicted of mat support for fighting in Syria - released when agreed to cooperate
Sabirhan Hasanoff	216 mo	Southern District of New York	Yes	Sting Operation, Material Support, Conspiracy,		material support sting
Agron Hasbajrami	192 mo.	Southern District of New York	Yes	Material Support,		attempted material support - tried to fly to Turkey
Hawo Mohamed Hassan	120 mo.	District of Minnesota	Yes	Material Support,		mat support to Al Shabab
Mohammad Omar Aly Hassan	15 years	Eastern District of North Carolina	Yes	Material Support, Conspiracy,		vague conspiracy and guilt by association - co-defendant of Ziyad Yaghi
Sami Samir Hassoun	276 Mo	Nothern District of Illinois	Yes	Sting Operation,		sting
Latif Kamel Hazime		Eastern District of Pennsylvania	Yes	Sting Operation, Material Support, Conspiracy,		mat support to Hezbollah sting
Muhammad Abid Hussain	31 months	District of District Of Columbia	Yes	Sting Operation, Material Support, Conspiracy, False statements,		From Trevor Aaronson: Muhammad Abid Hussain and a co-conspirator in Quito, Ecuador, were approached by FBI informants who claimed to be associated with the Pakistani Taliban. They wanted Hussain's help in smuggling Taliban members and explosives into the United States. Hussain accepted \$2,000 from the informants as part of his fee for helping to smuggle people and explosives. U.S. authorities arrested Hussain in Miami, before he had smuggled anyone or anything into the country. A jury found him guilty of conspiring to smuggle people into the United States but acquitted him of the material support charge. https://trial-and-terror.theintercept.com/people/
Abdinassir Mohamud Ibrahim	180 mo	Western District of Texas				
Kareem Ibrahim	life	Eastern District of New York	Yes	Sting Operation, Conspiracy,		JFK sting

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Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Oumar Issa	57 months	Southern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	narco-terrorism mat support sting	
Akba Jihad Jordan	108 mo.		Yes	Sting Operation, Material Support, Conspiracy,		
Abdurasul Hasanovich Juraboev	180 mo	Eastern District of New York	Yes	Sting Operation, Material Support,		
Sohiel Omar Kabir	300 mo.	Central District of California	Yes	Sting Operation, Conspiracy,		
Abdul Kadir	life	Eastern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	JFK sting	
Dias Kadyrbayev	72 mo	District of Massachusetts	Yes	Conspiracy,	friend of Dzhokhar Tsarnaev	
Justin Kaliebe	156 mo	Eastern District of New York	Yes	Sting Operation, Material Support, Mental health issues,	sting	
Betim Kaziu	27 years	Eastern District of New York	Yes	Material Support, Conspiracy,	material support, conspiracy to destroy property	
Mohammed Hamzah Khan	36 mo.	Nothern District of Illinois	Yes	Material Support,		
Rahatul Ashikim Khan	120 mo	Western District of Texas	Yes	Sting Operation,		
Raja Lahrasib Khan	90 mo.	Nothern District of Illinois	Yes	Material Support, Conspiracy,	material support case	
Mohamad Saeed Kodaimati	96 mo.	Southern District of California	Yes	False statements,		
Ulugbek Kodirov	188 mo.		Yes	Sting Operation, Material Support,		
Matthew Aaron Llaneza	180 mo.	Nothern District of California	Yes	Sting Operation, Material Support, Mental health issues,	sting targeting man with severe mental issues	
Terry Lee Loewen	240 mo		Yes	Sting Operation, Material Support,		
Antonio Benjamin Martinez	25 years	District of Maryland	Yes	Sting Operation,	sting	
Mohamed Mustapha Ali Masfaka	12 months	Nothern District of Texas	Yes	False statements, False statements,	was connected to HLF	
Shaker Masri	118 mo	Nothern District of Illinois	Yes	Sting Operation, Material Support,	mat support sting – Al Shabab	

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Tactics used in prosecution sorted by Preemptive Prosecution Used, Elements of Preemptive Prosecution Present or No Preemptive Prosecution Used

Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Khairullozhon Matanov	30 mo	District of Massachusetts				
Tarek Mehanna	210 months	District of Massachusetts	Yes	Material Support,	convicted of material support for First Amendment protected speech	
Gufran Ahmed Kauser Mohammed	180 mo	Southern District of Florida	Yes	Sting Operation, Material Support, Conspiracy,	material support sting	
Ahmed Nasir Taalil Mohamud	72 mo.	Southern District of California	Yes	Material Support,		
Mohamed Osman Mohamud	360 mo.	District of Oregon	Yes	Sting Operation,	Portland sting	
Mohamed Mohamed Mohamud	156 Mo.	Southern District of California	Yes	Material Support, Conspiracy,	mat support to Al-Shabab	
Joseph Charles Moore	3 mo probation	Eastern District of North Carolina	Yes	False statements,		
Donald Ray Morgan	63 mo.	Middle District of North Carolina	Yes	Material Support,		
Jesse Curtis Morton	127 mo.	Eastern District of Virginia	Yes	Conspiracy,	convicted for posting pseudo "threats" online that should have been protected speech	
Walli Mujahidh	17 years		Yes	Sting Operation, Conspiracy, Mental health issues,	sting case re attack on Seattle recruiting center – seems like plot already existed before CI got involved though – but CI got involved around the same time as Walli...	
Hanad Mustafe Musse	120 mo.	District of Minnesota				
Ramanan Mylvaganam	time served	Eastern District of New York	Yes	Material Support, Conspiracy,	material support to Tamil Tigers	
Piratheepan Nadarajah	24 mo					
Quazi Mohammad Nafis	360 mo.	Eastern District of New York	Yes	Sting Operation, Material Support,	sting	
Balraj Naidu	57 months and 2yrs supervised release	District of Maryland	Yes	Sting Operation, Material Support,	mat support sting (Tamil Tigers)	
Patrick Nayyar	180 mo		Yes	Sting Operation, Material Support,		
Sinh Vinh Ngo Nguyen	156 Mo.	Central District of California	Yes	Sting Operation, Material Support, False statements,	tried to fight with rebels in Syria	
Abdel Nur	15 years	Eastern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	JFK sting	

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Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Rasmieh Yousef Odeh	18 mo.	Eastern District of Michigan	Yes	False statements,		Well-known Chicago Palestinian activist charged with felony for failing to report a 1969 conviction in Israel based on a tortured confession.
Sami Osmakac	480 mo	Middle District of Florida	Yes	Sting Operation, Mental health issues,	2012 Tampa sting	
Laguerre Payen	25 yrs	Southern District of New York	Yes	Sting Operation, Conspiracy, Mental health issues,	Newburgh 4 sting	
Robel Kidane Phillipos	36 mo	District of Massachusetts	Yes	False statements,	friend of Dzhokhar Tsarnaev	
German Dario Brand Piedrahita	144 mo	Eastern District of Virginia				
Sonia Cruz Quicano	168 mo	Eastern District of Virginia				
Tahawwur Hussain Rana	14 years	Notern District of Illinois	Yes	Material Support, Conspiracy,	material support case with sleazy informant	
Nadia Rockwood	5 pro		Yes	False statements,	false statements	
Paul Gene Rockwood, Jr.	8 yrs		Yes	False statements,	false statements	
Alaa Saadeh	180 mo.	District of New Jersey	Yes	Material Support,		
Khaled T. Safadi	6 months probation	Southern District of Florida				
Mohamed Hussein Said	180 mo.	Southern District of Florida	Yes	Sting Operation, Material Support, Conspiracy,		
Miguel Alejandro Santana Vidriales	120 mo	Central District of California	Yes	Sting Operation, Material Support, Conspiracy,		
Pete Seda	33 mo	District of Oregon	Yes	Charity financing, Conspiracy,	charity case -- related to Al Haramain - won his appeal	
Keyona Tenea Shears	18 mo		Yes	False statements,		
Abdel Hameed Shehadeh	156 mo	Eastern District of New York	Yes	False statements,	false statements and secret evidence	
Hosam Maher Husein Smadi	24 yrs	Notern District of Texas	Yes	Sting Operation,	sting	
Anes Subasic	30 years	Eastern District of North Carolina	Yes	Material Support, Conspiracy,	NC Boyd case - vague conspiracy	
Ulises Talavera	1 year probation	Southern District of Florida	Yes	Material Support, Conspiracy,		
Azamat Tazhayakov	42 mo	District of Massachusetts	Yes	Conspiracy,	friend of Dzhokhar Tsarnaev	

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Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Nicholas Teasant	144 mo	Eastern District of California	Yes	Sting Operation, Material Support, Mental health issues,	Sting case - WAS ACTUALLY FOUND MENTALLY INCOMPETENT FOR TRIAL (very rare) on 12/2/14	
Osman Jose Tobias-Rodriguez	135 mo	Southern District of Florida				
Abdella Ahmad Tounisi	180 mo.	Nothern District of Illinois	Yes	Sting Operation, Material Support,		
Harouna Toure	63 mo	Southern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	sting	
Luz Mery Gutierrez Vergara	31 mo	District of District Of Columbia				
Ioannis Vigiakis	120 mo	Southern District of New York	Yes	Sting Operation, Material Support,	From Trevor Aaronson: Ioannis Vigiakis [a Greek citizen] was arrested in Panama for attempting to sell rocket-propelled grenade launchers and other weapons to the FARC. As part of a sting operation, a DEA informant posed as a FARC representative and discussed providing cash and drugs in exchange for the weapons. https://trial-and-terror.theintercept.com/people/	
David Williams	25 years	Southern District of New York	Yes	Sting Operation, Conspiracy,	Newburgh 4 sting	
Onta Williams	25 yrs	Southern District of New York	Yes	Sting Operation, Conspiracy,	Newburgh 4 sting	
Randy Wilson	180 mo	Southern District of Alabama	Yes	Sting Operation, Material Support, Conspiracy,	material support sting	
Michael Todd Wolfe	82 mo	Western District of Texas	Yes	Sting Operation, Material Support,		
Ziyad Yaghi	32 years	Eastern District of North Carolina	Yes	Material Support, Conspiracy,	vague conspiracy and guilt by association	
Mohammad Younis	3 years probation	Southern District of New York	Yes			
Zahid Yousaf	36 months	District of District Of Columbia	Yes	Sting Operation, Material Support, Conspiracy,	material support sting	
Jamal Yousef	12 years	Southern District of New York	Yes	Sting Operation, Material Support, Conspiracy,	DEA narco-terrorism sting re mat support to FARC	
Abdullahi Yusuf	time served & 20 years supervised release	District of Minnesota	Yes	Material Support, Conspiracy,		

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Name	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Mohammed Wali Zazi	54 mo	Eastern District of New York		Yes	False statements,	
Preemptive Prosecution Used - 136 - 65.1%						

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Name	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
Elements of Preemptive Prosecution Present - 54 - 25.8%						
Bilal Abood	48 mo	Nothern District of Texas			Sing Operation, False statements,	
Ali Yasin Ahmed	132 mo.	Eastern District of New York	Yes	Yes	Material Support, Tortured confessions,	
Saddiq Al-Abbadi	108 mo	Eastern District of New York				
Ana Isabel Pena Arevalo	31 months	District of District Of Columbia				
Lawal Olaniyi Babafemi	264 mo.	Eastern District of New York	Yes	Yes	Material Support, Training camp,	
Yarlei Banol-Ramos	180 mo	Southern District of New York				
Reed Stanley Berry	92 mo					
Viktor Bout	25 years	Southern District of New York	Yes	Yes	Sing Operation, Material Support,	
Dylan Boyd	96 months	Eastern District of North Carolina	Yes	Yes	Material Support, Conspiracy,	
Daniel Patrick Boyd	18 years	Eastern District of North Carolina	Yes	Yes	Material Support, Conspiracy, False statements,	
Zakariya Boyd	108 months		Yes	Yes	Material Support, Conspiracy,	
Yi Qing Chen	25yrs	Central District of California	Yes	Yes	Sing Operation,	
Shannon Maureen Conley	48 mo	District of Colorado			Material Support, Conspiracy,	
Juanito Cordoba-Bermudez	180 mo		Yes	Yes	Material Support,	
Anderson Chamapuro Dogirama	120 mo	Southern District of New York				
Mufid Elfgeeh	270 mo.	Western District of New York	Yes	Yes	Sing Operation,	
Arifeen David Gojali	60 mo.	Central District of California	Yes	Yes	Sing Operation, Material Support, Conspiracy,	
Irek Ilgiz Hamidullin	life	Eastern District of Virginia				

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Name	Sentence	Court	On DOJ Targeted Terrorist List	beliefs	Charges	Description of Case
Mahdi Hashi	108 mo.	Eastern District of New York	Yes	Material Support, Tortured confessions, Training camp,		
Siavosh Henareh	210 mo	Southern District of New York				
Oswaldo Jose Lopez Herrera	156 mo	Eastern District of Virginia				
Jorge Abel Ibarguen-Palacio	130 mo	Southern District of New York				
Mohammad Hassan Khalid	60 mo	Eastern District of Pennsylvania	Yes	Material Support, Conspiracy,		
Reaz Qadir Khan	87	District of Oregon	Yes	Material Support,		
Hafiz Muhammed Sher Ali Khan	300 mo	Southern District of Florida	Yes	Material Support, Conspiracy, Mental health issues,		
Fazliddin Kurbanov	300 mo		Yes	Material Support, Conspiracy,		
Roque Orobio Lobon	60 mo					
Ahmed Hussein Mahamud	36 mo	District of Minnesota	Yes			Al Shabab case
Julian Manuel Moreno Martinez	144 mo	Eastern District of Virginia				
Oytun Ayse Mihalik	5 years	Central District of California	Yes	Material Support, False statements,		
Basaaly Saeed Moalin	216 mo.	Southern District of California	Yes	Material Support,		
Omer Abdi Mohamed	144 mo	District of Minnesota	Yes	Material Support, Conspiracy,		
Mustafa Kamel Mustafa	life	Southern District of New York	Yes	Material Support, Training camp, Conspiracy,		
Mahamud Said Omar	240 mo	District of Minnesota	Yes	Material Support,		
Mahamud Said Omar	240 mo.	District of Minnesota	Yes	Material Support, Conspiracy,		
Edilberto Barrio Ortiz	204 mo	Southern District of New York				
Jose Nolber Zuluaga Otalvaro	108 mo	Eastern District of Virginia				
Khalid Ouazzani	168 mo.	Western District of Missouri	Yes	Material Support, Conspiracy,		
Raees Alam Qazi	420 mo.	Southern District of Florida	Yes	Material Support, Conspiracy,		

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Sheheryar Alam Qazi	240 mo.	Southern District of Florida	Yes	Material Support, Conspiracy,		
Hermes Andrade Quiniero	154 mo	Eastern District of Virginia				
Jasminka Ramic	36 mo					
Alejandro Palacios Rengifo	180 mo					
Nader Saadeh	120 mo.	District of New Jersey				
Hysen Sherifi	life	Eastern District of North Carolina	Yes	Material Support,		
Suresh Sriskandarajah	24 mo.	Eastern District of New York	Yes	Material Support,		
Samuel Rahamin Topaz	96 mo.	District of New Jersey	Yes	Material Support,		
Irfan Ul Haq	50 months	District of District Of Columbia	Yes	Sting Operation, Material Support,		
Mauricio Santoyo Velasco	156 mo	Eastern District of Virginia				
Bachar Wehbe	60 mo					
Mohamed Yusuf	132 mo	Eastern District of New York	Yes	Material Support, Tortured confessions,		
Nima Ali Yusuf	8 years	Southern District of California	Yes	Material Support, Conspiracy,		
Mohamud Abdi Yusuf	140 mo		Yes			
Marcos Alonzo Zea	300 mo.	Eastern District of New York		Material Support,		
Elements of Preemptive Prosecution Present - 54 - 25.8%						

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Name	Sentence	Court	On DOJ Terrorist List	Targeted for beliefs	Charges	Description of Case
No Preemptive Prosecution Used - 19 - 9.1%						
Naser Jason Abdo	life	Western District of Texas	No	No		
Umar Farouk Abdulmutallab	life	Eastern District of Michigan				
Zarein Ahmedzay	10 years	Eastern District of New York	No	No	Material Support,	
Khaled Al-Fawwaz	life	Southern District of New York	No	No		
Khalid Aldawsari	life	Nothern District of Texas	No	No		
Adel Abdul Bary	300 mo	Southern District of New York	No	No		
Joseph Jeffrey Brice	150 mo.					
Ahmed Khalfan Ghailani	LIFE		No	No		
Sulaiman Abu Ghayth	life		No	No		
Alexander Beltran Herrera	324 mo	District of District Of Columbia				
Colleen Renee Larose	120 mo.	Eastern District of Pennsylvania	No	No		
Adis Medunjanin	life	Eastern District of New York	No	No	Material Support,	
Yonathan Melaku	300 mo	Eastern District of Virginia	No	No		
Abid Naseer	480 mo	Eastern District of New York	No	No		
Diego Alfonso Navarrete Beltran	324 mo	District of District Of Columbia				
Jamie Paulin Ramirez	96 mo	Eastern District of Pennsylvania	No	No	Material Support,	
Faisal Shahzad	life	Southern District of New York	No	No		
Dzhokhar Tsarnaev	death	District of Massachusetts	No	No		
Ahmed Abdulkadir Warsame						

No Preemptive Prosecution Used - 19 - 9.1%

Total Number of Records 209

INVENTING **TERRORISTS**

The Lawfare of Preemptive Prosecution