



Balancing Security and Justice

The American Exception

Terrorism Prosecutions in the United States: The ISIS Cases

March 2014 – August 2017

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March 2014 – August 2017

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About the Center on National Security

The Center on National Security at Fordham Law (CNS) was established at Fordham University School of Law in September 2011. As a non-partisan, educational think tank, CNS is dedicated to providing thought leaders, policy makers, practitioners and the public with the tools to better understand national and global security issues, including terrorism trends and counterterrorism efforts. Over the years, CNS has hosted a wide spectrum of opinion makers and officials and focused their joint attention on complex national security issues, leading to publications and policy recommendations. In addition to educational programming, CNS reaches a wide public audience and contributes to an informed citizenry through our policy research.

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From the Editor

The American Exception: Terrorism Prosecutions in the United States – The ISIS Cases is the third in a series of reports issued by the Center on National Security at Fordham Law School on federal prosecutions of individuals accused of ISIS-related crimes. Notably, this report reveals several new trends since the Center's last report was published. 2016 was a year of growing concern about the threat ISIS posed within the United States. In addition to a record number of terrorism arrests carried out since 9/11, there had been several attacks that resulted in deaths, including the attacks in San Bernardino and Orlando—the latter particularly noteworthy because it doubled the casualties resulting from jihadist-inspired terrorist attacks that had occurred cumulatively between 9/11 and 2015. By contrast, 2017 has shown a decline in incidents of ISIS-related terrorist attacks and attempted attacks. At the same time, there has been a significant decrease in the number of federal indictments for ISIS-related crimes.

The 2017 edition of *Terrorism Prosecutions in the United States* examines these and other trends in an effort to glean insight concerning both the individual defendants accused of ISIS-related crimes and the dispositions of the criminal cases against them in federal court. This report has several new features meant to illustrate these developments. First, the charts include illustrations of changes over time. In addition, this edition of our ongoing study on terrorism includes, where possible, comparisons between terrorism prosecutions and U.S. criminal justice prosecutions overall.

The findings contained in this year's report are summarized as follows:

Finding No. 1: Although the federal courts have shown a capacity to handle these cases, the dispositions of these cases differ markedly from those of U.S. criminal justice prosecutions overall. ISIS cases are more likely to go to trial than federal cases generally. Those terrorism prosecutions that have been resolved have proceeded more quickly through the courts than the average case. ISIS defendants are granted pre-trial release with much less frequency than criminal defendants overall. Every case that has been resolved has resulted in conviction, in contrast to the national average conviction rate of 92.5%¹. Sentences are comparatively higher in these cases, exceeding the national average by 10 years. In fact, the average ISIS sentence of 14.5 years more than triples the average federal sentence of 3.75 years.²

Finding No. 2: ISIS-related prosecutions rely increasingly on the use of FBI undercover agents or informants. The use of informants, a controversial strategy challenged by civil liberties groups, has continued to rise in ISIS prosecutions. In 2014, 33% of the ISIS-related cases involved government informants or undercover agents. However, the share of ISIS prosecutions involving FBI undercover

¹ United States Attorneys' Statistical Report, FY 2016, Table 2A, available at <https://www.justice.gov/usao/page/file/988896/download>.

² Approximately 30% of federal offenders are convicted on immigration charges carrying an average sentence of just over 1 year. Even subtracting those offenders from the dataset yields an average federal prison sentence of a little over 4.5 years; about 1/3 the average ISIS-related sentence.

agents or informants has since increased to 65%. For the new cases in 2017, it is even higher—83%.

Finding No. 3: The personal details of the individual defendants differ from those of non-terrorism defendants generally. Terrorism defendants are significantly younger than typical criminal defendants. They are more frequently American citizens. They are less likely to have spent prior time in prison than their criminal justice counterparts overall.

Finding No. 4: ISIS-related defendants are increasingly more likely to be converts to Islam than Muslim by birth. This year’s findings show Muslim defendants in ISIS-related cases are increasingly more likely to be converts to Islam. In addition, there were fewer allegations of interfamilial co-conspirators, and fewer incidences of romantic ties among and between co-conspirators.

In sum, federal terrorism prosecutions in the 16 years since 9/11 are still not normalized in terms of their disposition. The use of material support statutes that are relied upon in the majority of these cases, as well as the terrorism enhancements available in sentencing guidelines, have provided the legal framework for this trend, while the details of investigation, prosecution, and litigation have, as this report shows, solidified the harsh practices evident for terrorism cases.

Nor are terrorism prosecutions trending towards normalization. Instead, it seems, the federal courts have made an exception—one that maximizes the punitive aspect of criminal justice—for these cases, and continue to do so.

More than a decade and a half since the Sept. 11 attacks, this report suggests that it’s time to acknowledge that terrorism cases have evolved from the prosecutions of complex, sophisticated, trained networks of individuals towards individual actors in search of purpose and attention.³ As such, normalization of these criminal proceedings might appropriately lie on the horizon.

³ See, e.g., Center on Law and Security, NYU Law School, Terrorist Trial Report Card: September 11, 2001 – September 11, 2011, available at <http://www.lawandsecurity.org/wp-content/uploads/2011/09/TTRC-Ten-Year-Issue.pdf>.

Overall Trends

In March 2014, the federal government secured its first ISIS-related indictment. This report provides a comprehensive snapshot of ISIS prosecutions and pending ISIS-related cases in the United States between March 1, 2014 and August 1, 2017. The dataset that the Center on National Security has accumulated during this period—on prosecutions and on the individual defendants—offers a wealth of information, both about the ways in which the criminal justice system is processing these investigations and about the accused themselves.

Overview:

- Federal sources have reported 144 ISIS-related cases in the United States. 135 defendants have been formally charged in federal courts. Another 9 were killed by law enforcement.
- ISIS-related cases in the U.S. peaked in 2015 and have been in decline ever since.
- 55% of the ISIS-related cases to August 1, 2017, involved foreign targets or suspects who sought to facilitate overseas terror operations. 45% involved plotting for attacks on U.S. domestic targets.
- ISIS-related activity in the United States between March 2014 and August 2017 has yielded 2 mass-fatality attacks.
 - 14 victims were killed in the December 2015 attack on the Inland Regional Center in San Bernardino, California.
 - 49 victims were killed in the June 2016 attack on Pulse Nightclub in Orlando, Florida.

Selected Demographics:

- Nearly all ISIS-related cases in the United States have involved Muslim suspects.
- The vast majority of the defendants are male, and the proportion has increased over time.
 - About 89% of the individuals are men.
 - Of the cases filed in 2014, 73% of the individuals charged were men.
 - Of the cases filed in 2017, 94% were men.
- Approximately 78% of individuals in ISIS-related cases are U.S. citizens.
 - This proportion has remained fairly consistent over time.
 - By contrast, 58% of all federal criminal defendants are U.S. citizens.
- Approximately 60% of individuals in ISIS cases were born in the United States.
 - This rate has increased slightly over time.
- The average age of individuals in ISIS-related cases has increased over time.
 - From March 2014 to August 2017, 67% were below the age of 30 when charged.
 - Of the cases filed in 2014, 80% were below the age of 30.
 - Of the cases filed in 2017, 47% were below the age of 30.
- The prevalence of Muslim converts in ISIS-related cases has increased over time.
 - Overall, about 40% of the individuals in ISIS-related cases converted to Islam.
 - Of the cases filed in 2014 and 2015, 35% of individuals were converts.
 - Of the cases filed in 2016 and 2017, 47% of individuals were converts.

Case Statistics:

- Of the 135 ISIS defendants prosecuted in federal courts, more than half of the cases have been resolved. No one has been acquitted.
- Of the 77 ISIS-related convictions to date, 12 were found guilty by trial and the remaining 65 pleaded guilty.
- 61% of U.S. ISIS cases involved disclosed undercover agents or informants.
- Most of the convicted individuals have been sentenced, resulting in an overall average prison sentence of 14.5 years. The sentences range from probation to life in prison.
- The average sentence for those who went to trial is 32.2 years, while the average sentence for those who pleaded guilty is 11.2 years.

Methodology

This report presents the findings of the Center on National Security at Fordham Law School (CNS) following its comprehensive analysis of ISIS cases in the United States from March 1, 2014 to August 1, 2017. The report examines a multitude of factors in these cases in order to further our understanding of how crimes of terrorism are prosecuted in federal district courts. The goal of our study has been to query as many aspects of the dataset as possible—to observe trends over time and to analyze these findings side by side with comparable statistics from the federal criminal justice system overall. This study provides a broader sense of these cases than that which has previously existed, in an effort to facilitate a better understanding of how ISIS-related terrorism cases differ from ‘normal’ federal prosecutions, creating a critical baseline for conversations about the nature and treatment of these cases.

The report is based on information available in publicly disclosed documents about federal prosecutions, investigations, and ISIS-related violent incidents that occurred in the United States between March 1, 2014 and August 1, 2017. The data was coded, organized, and analyzed by the CNS research team in consultation with terrorism trial experts. As categorical and methodological questions arose, the research team drew upon the experience and knowledge of these advisers to ensure that the most objective and stringent standards were incorporated into the research and analytical process.

CNS’s ISIS Database includes two primary types of cases: (1) individuals charged in federal court with terrorism-related offenses; and (2) individuals who were killed by law enforcement while attempting an ISIS-related attack inside the United States. ISIS-related cases prosecuted only outside the federal system in state, county, or juvenile courts are outside the scope of this report.

The federal criminal charges in the CNS ISIS dataset fall into two basic categories: (1) Federal Crimes of Terrorism; and (2) General Crimes. Federal Crimes of Terrorism involve statutes that are traditionally associated with international terrorism. Such statutes prohibit, for example, the use of weapons of mass destruction, conspiracy to commit murder overseas, providing material support to terrorists or terrorist organizations, receiving military-style training from terrorist organizations, and bombing public places or government facilities. These are crimes that have been designated as Federal Crimes of Terrorism according to the statutory definition codified at 18 U.S.C. 2332b(g)(5).

With respect to the General Crimes category, the CNS dataset includes individuals accused of violating other statutes that are not inherently associated with terrorism, but only where the investigation alleges a link to a designated foreign terrorist organization such as ISIS. These cases include statutory violations related to firearms, drugs, false statements, perjury, and obstruction of justice. While a minority of cases involve only General Crimes, ISIS cases often involve charges in both basic categories.

Part I. Overview

An analysis of the monthly rate of new ISIS-related cases indicates that the rate of ISIS-related activity in the U.S. peaked in 2015, and has been on the decline, at least as far as prosecutions indicate, since then. Throughout the 2014-2017 period, some striking consistencies across cases are apparent. As of July 2017, the majority of ISIS prosecutions have been resolved, yet no individual in ISIS-related cases has been acquitted. This 100 percent conviction rate, both by trial and by plea, is one of the major differences between these cases and the general category of criminal prosecutions in which the conviction rate is approximately 90%.⁴

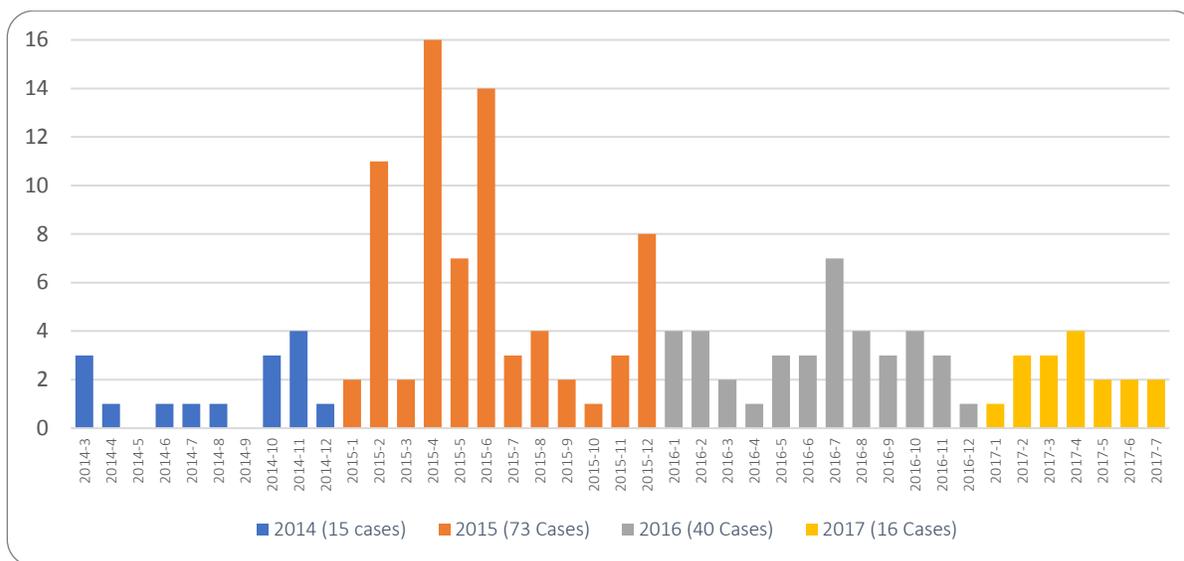


Figure 1. New ISIS Cases per Month

Geographical Distribution of Indictments: Mapping the physical locations of ISIS-related cases confirms a broad geographic dispersion; although in numerous states, there have been no indictments. The highest caseloads have been in New York (23), Minnesota (17), Virginia (16), California (11), and Florida (10).

Biographical Information: According to the public record, those indicted for ISIS-related terrorism crimes are nearly all Muslims, either by birth or by conversion. The gender distinction is pronounced. Nearly 90% of the defendants are men. Citizenship is also strikingly consistent. Approximately 80% are U.S. citizens; 60% were born in the United States; and 40% converted to Islam.

Complete information on some aspects of defendants' personal histories, including familial, educational, criminal, and professional background, was not always available. But these smaller datasets are nonetheless revealing. For instance, of the 76 cases with available educational details, 41% of individuals had enrolled in a college or university at some point.

⁴ Department of Justice, United States Attorney's Annual Statistical Report FY 2016, Table 2A, <https://www.justice.gov/usao/page/file/988896/download>.

Classification of Criminal Conduct

ISIS cases generally involve a limited menu of goals and tactics. The criminal enterprises are intended generally to benefit either Foreign Operations or Domestic Operations. These are overlapping categories; individuals may be accused of pursuing both Foreign and Domestic Operations.

Notably, most federal ISIS cases were either Foreign Fighters or Facilitators and did not involve plots to attack U.S. domestic targets.

Domestic Operations (45% of the Cases):

- An *Assailant* (7% of the cases) is an individual who commits violence during a domestic terrorist attack.
- A *Domestic Plotter* (45% of the cases) is an individual who was involved in preparations for a domestic terrorist attack, but who did not commit an act of violence. This includes individuals who planned to commit violence but failed to accomplish their plan; for example, a bomber whose bomb does not detonate.
- *Cyber* cases (5% of the cases) are domestic plotters involved in cybercrimes connected to a terrorist operation. Domestic Plotters who benefit from the fruits of cybercrimes are considered Cyber cases as well.

Foreign Operations (68% of the Cases):

- A *Foreign Fighter* (49% of the cases) is an individual who attempts or conspires to depart the United States and join a designated Foreign Terrorist Organization (FTO) such as ISIS, in territory outside the United States. This includes individuals who may not intend to fill violent roles themselves, but who intend to support those who do commit violence in the name of the Islamic State.
- A *Facilitator* (19% of the cases) is an individual who attempts or conspires to support ISIS by aiding or recruiting Foreign Fighters.

Other (5% of the Cases):

- The category *Other* refers to cases where the conduct does not fit any of the primary classifications.
- Examples:
 - One individual was indicted for her role in the Islamic State's sex slave practices—a role that ultimately resulted in the death of a U.S. prisoner, Kayla Mueller, and does not fit the primary classifications of criminal conduct.
 - Two individuals were indicted on federal charges for posting threats on social media against federal agents or officials following the arrest of his ISIS-supporting associates.
 - Four individuals were indicted for making false statements to federal officers regarding their associations or prior statements relating to ISIS, but were not accused of involvement in any ISIS-related plots.

Prosecutions

To date, of the 135 ISIS-related cases prosecuted in federal courts, more than half the individuals charged have been convicted. No one has been acquitted. Of the 77 ISIS-related convictions to date, 12 individuals were found guilty by trial and the remaining 65 individuals pleaded guilty.

Most of the convicted cases have been sentenced, resulting in an overall average prison sentence of 14.5 years. The sentences range from probation to life in prison.

The average sentence for those who went to trial is 32.2 years, while the average sentence for those who pleaded guilty is 11.2 years. The median sentence for those who pleaded guilty is 10 years.

Table 1. Overview of Prosecutions and Incidents

ISIS CASES IN THE U.S.	144
FEDERAL PROSECUTIONS	135
CASES PENDING	58 (43% OF PROSECUTIONS)
CONVICTIONS	77 (57% OF PROSECUTIONS)
SENTENCED	55 (41% OF PROSECUTIONS)
AVERAGE SENTENCE	14.5 YEARS
DECEASED ⁵	9

Attacks

Eight violent attacks with alleged ideological or operational links to ISIS have been perpetrated across the U.S. Most failed to inflict fatalities against their targets, and all but one of the assailants died at the hands of law enforcement: Ahmad Rahimi, who planted improvised explosive devices in New York and New Jersey, survived a shootout with New Jersey police officers.

A 2014 speech by the Islamic State's official spokesperson, Abu Mohammad al-Adnani, provides perhaps the most prominent example of the Islamic State's concerted efforts at incitement to violence via broadcast messages propagated through social media:

If you can kill a disbelieving American or European – especially the spiteful and filthy French – or an Australian, or a Canadian, or any other disbeliever from the disbelievers waging war, including the citizens of the countries that entered into a coalition against the Islamic State, then rely upon Allah, and kill him in any manner or way however it may be. Smash his head with a rock, or slaughter him with a knife, or run him over with your car, or throw him down from a high place, or choke him, or poison him.⁶

⁵ Killed by law enforcement during attack.

⁶ Abu Mohammad Al-Adnani, *Indeed, Your Lord is Ever Watchful*, September 22, 2014.

Lower-level ISIS members have continued these efforts not only through broadcast messages, but also through more personalized social media campaigns. These efforts have been largely ineffective, but not completely.

All of the U.S. attacks were executed by solitary or paired assailants with relatively minimal planning or preparation. While all of the assailants left behind strong indications that they had acted on behalf of ISIS, none is known to have acted under the direct command and control of the Islamic State.

However, at least two assailants allegedly engaged in direct online communication with foreign ISIS members who may have solicited the attacks in those cases: Elton Simpson (Texas) and Usaamah Rahim (Massachusetts).

Table 2. ISIS-linked Attacks in the United States

DATE	FATALITIES	STATE	CITY	DESCRIPTION
5/3/15	0	TEXAS	GARLAND	DISRUPTED FIREARMS ASSAULT ON "DRAW MOHAMMED CONTEST"
5/26/15	0	MASSACHUSETTS	ROSLINDALE	KNIFE ATTACK ON LAW ENFORCEMENT
11/4/15	0	CALIFORNIA	MERCED	KNIFE ATTACK ON CLASSMATES AT UNIVERSITY OF CALIFORNIA
12/2/15	14	CALIFORNIA	SAN BERNARDINO	MASS SHOOTING AT THE INLAND REGIONAL CENTER
6/11/16	49	FLORIDA	ORLANDO	MASS SHOOTING AT PULSE NIGHT CLUB
9/17/16	0	MINNESOTA	ST. CLOUD	KNIFE ATTACK AT A SHOPPING MALL
9/17/16	0	NEW JERSEY	SEASIDE PARK	BOMBING ALONG A RACE COURSE
9/17/16		NEW YORK	NEW YORK CITY	BOMBING IN CHELSEA
9/19/16		NEW JERSEY	ELIZABETH	ATTEMPTED BOMBING AT ELIZABETH TRAIN STATION
11/28/16	0	OHIO	COLUMBUS	CAR AND KNIFE ATTACK AT OHIO STATE UNIVERSITY

Geography

Federal ISIS prosecutions have been filed in 27 states and the District of Columbia. Assailants have attacked U.S. targets in 8 different states. California and Florida are the only states to have suffered mass fatalities.

In a June 6, 2016, meeting with business leaders in Minneapolis, Minn., former FBI Director James Comey stated, "The bureau has close to 1,000 open cases in all 50 states...."⁷ Nevertheless, of the roughly 1,000 open FBI cases investigating ISIS-related conduct across the United States, just 135 have been prosecuted in federal courts, with an unknown number of additional sealed cases in the federal justice system.

Several ISIS cases have aggregated in certain regions. Minneapolis has the largest cluster of interrelated cases, where a dozen individuals conspired with each other in a large plot that developed in 2014 and 2015. The plot involved travel and attempts to travel to Syria, but did not involve plans to commit violence in the United States.

⁷ Matt Sepic, "Comey: FBI pursuing 1,000 ISIS cases across U.S.," *MRP News* (Minneapolis), June 7, 2016, <https://www.mprnews.org/story/2016/06/07/fbi-comey-isis-activity>.

Florida, by contrast, has experienced only small groups of 1-3 people, with 60 percent of these cases involved in domestic terror plots or violent attacks. Virginia has seen a high volume of ISIS cases as well. The New York metropolitan area has the most ISIS cases, with the greatest share of ISIS cases located in the Eastern District of New York. The New York cases range from large interconnected conspiracies to solitary actors. They also feature a diverse mix of case types, including foreign fighters, facilitators, domestic plotters, assailants, and hybrid cases combining foreign and domestic objectives.

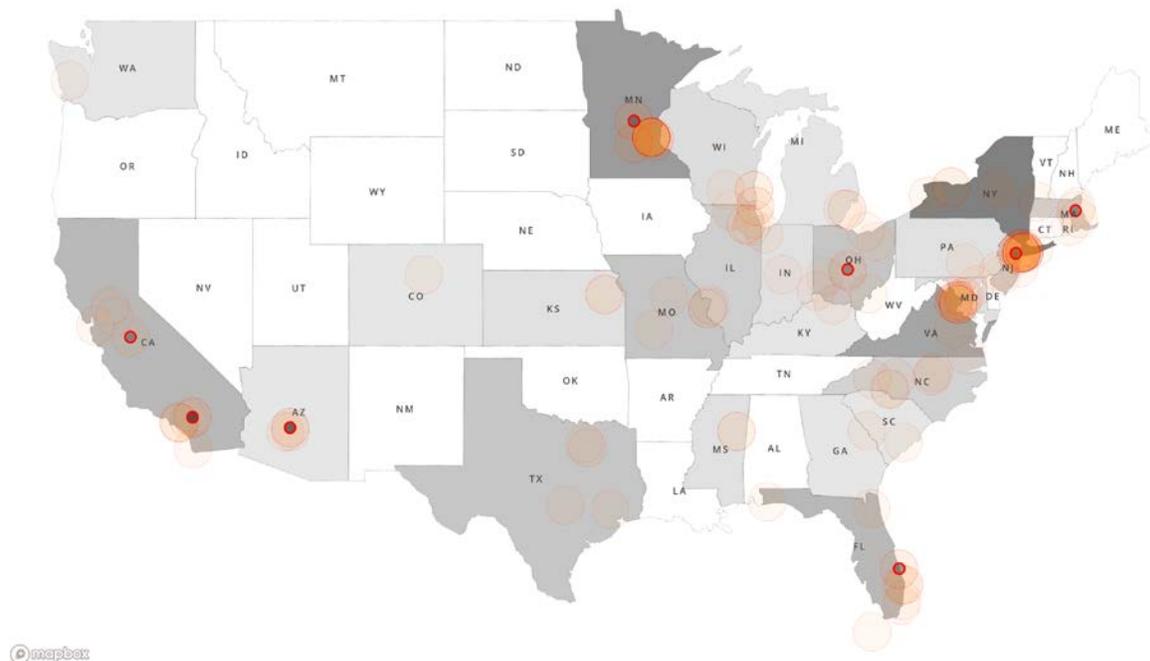


Figure 2. Case Locations and Case Volume

The map (Figure 2) depicts the locations of ISIS cases as translucent orange discs. The more cases in the same location, the more saturated the color. The map shows that the broad dispersion of cases is punctuated by dense case clusters in the New York City area, the Minneapolis area, and the Washington, D.C., area. Assailants are indicated by a red and black dot. The states are shaded in proportion to the volume of ISIS-related prosecutions within that state’s federal district courts and ISIS-related attacks.

Individuals in ISIS-related cases are much less likely to live in rural areas than the general U.S. population, and they are much more likely to live in cities. They are equally as likely to live in the suburbs as the general population, including exurbs.

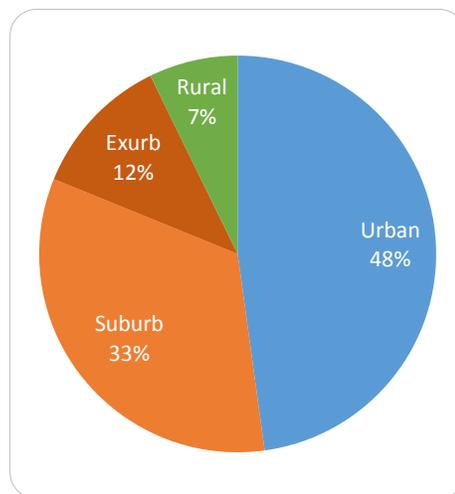


Figure 3. Residential Categories

Demographics: Who Are They?

The individual attributes and histories of each ISIS defendant illustrate the way in which these cases compare to non-terror-related prosecutions.

Table 3. Demographics

AVERAGE AGE	27.2 YEARS OLD
GENDER	88.7% MALE 11.3 % FEMALE
RELIGIOUS CONVERTS	38.2% OF CASES

Demographic Trends

- *Most individuals in ISIS cases are male; women constitute 11% of the cases. The involvement of women in these cases has diminished since peaking at 25% of the cases in 2015.*
- *Most of the cases involve individuals in early adulthood. Two-thirds are younger than 30 years old, and more than half are 25 years old or younger. The most prevalent age is 20.*
- *More than three quarters of individuals in ISIS cases are U.S. citizens, and more than half were born in the United States.*
- *Most have no known prior criminal record. They appear to be less likely to have a criminal history than the general population.*

Age

While the average age for all ISIS-related cases is 27.2, the most prevalent age is much lower, at 20. The median age is 25.5 years old. In the aggregate, the ISIS cases skew heavily toward the earlier stages of adulthood, with more than half the cases involving individuals who are 25 or younger at the time of arrest. Nevertheless, 47% of the individuals are older than 25, and the most destructive domestic attacks were perpetrated by assailants near 30 years of age. Only a third of individuals in U.S. ISIS cases are 30 years of age or older.

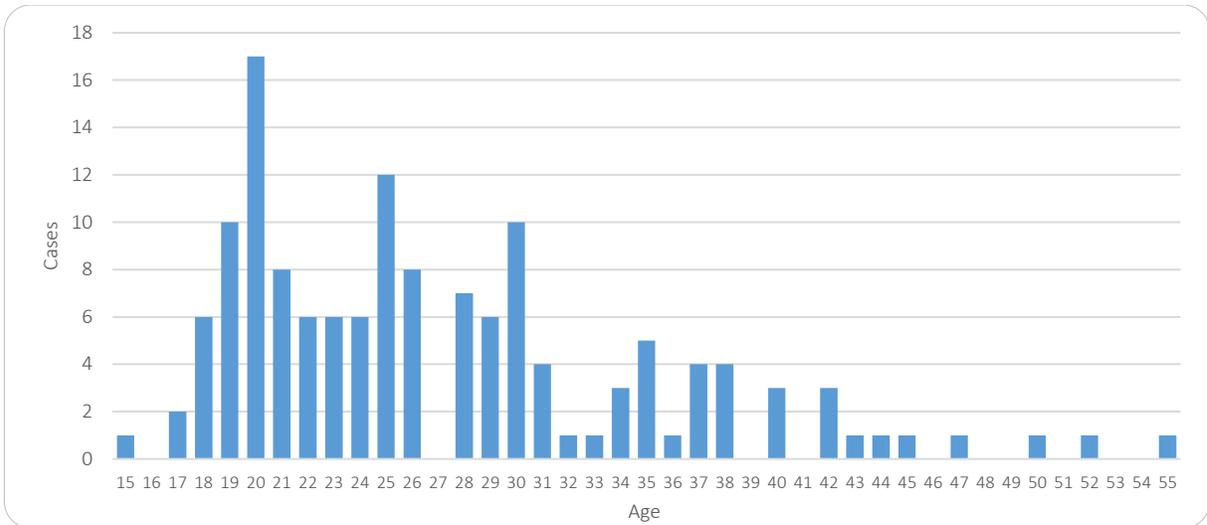


Figure 4. Cases Grouped by Age

The criminal justice system treats the youngest suspects differently from the older suspects. More often than not, minors who commit ISIS-related crimes have been transferred to state juvenile systems, non-custodial counseling programs, and the care of their families in order to remove them from the federal system. Accordingly, the average age of federal ISIS cases omits almost all of the minors. It also omits a number of unindicted foreign fighters, many of whom were young adults.

For instance, Santos Colon was arrested at the age of 15 following his efforts to execute a plot to assassinate Pope Francis in Philadelphia, and then consented to enter into a plea agreement once he reached the age of 18.

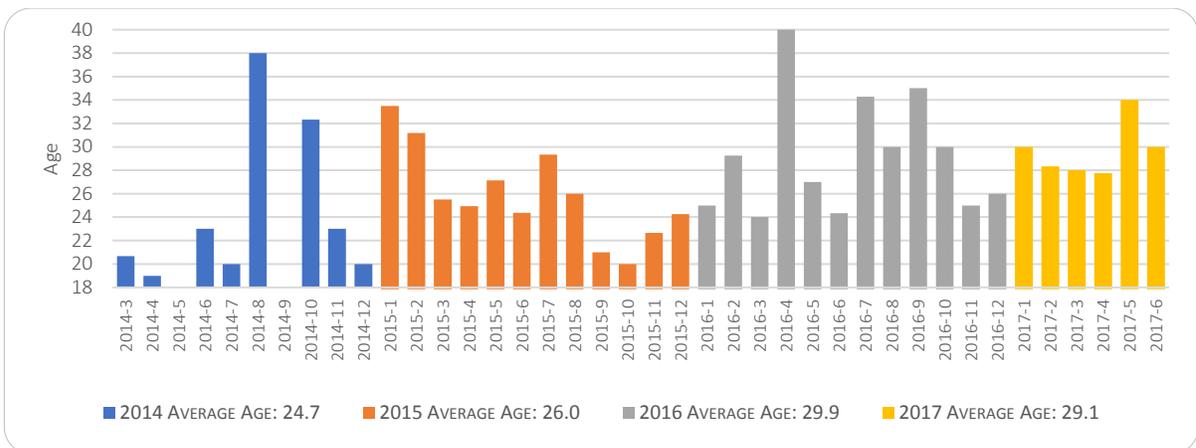


Figure 5. Average Age by Month and Year

Year by year, the average age of ISIS-related defendants has increased gradually—from about 25 years old in 2014-2015, to about 30 years old in 2016-2017.

Gender

Of the 144 individuals charged in ISIS-related prosecutions or killed in connection with attacks in the United States, 16 of them are women. The women charged range in age from 20 to 55. Their alleged criminal conduct spans all of the ISIS-related conduct classes. However, the aggregate data, when grouped by gender, reveals some clear distinctions. Domestic plots are significantly more prevalent among female defendants than among male defendants, whereas Foreign Fighters are far less prevalent among female defendants. Facilitators are also more prevalent among female defendants than among male defendants.

In the criminal justice system overall, 87% of all federal criminal cases involved male defendants. From 2014-2015, the prevalence of women in ISIS prosecutions was 25%, nearly doubling the overall prevalence of women defendants in federal prosecutions. As of August 1, 2017, the prevalence of women in ISIS prosecutions has fallen to 11%, which is below the overall rate of federal prosecutions against women, at 13%. In the past two years, there have been just two new ISIS prosecutions against women. Notably, 56% of female ISIS-related defendants and assailants are mothers.

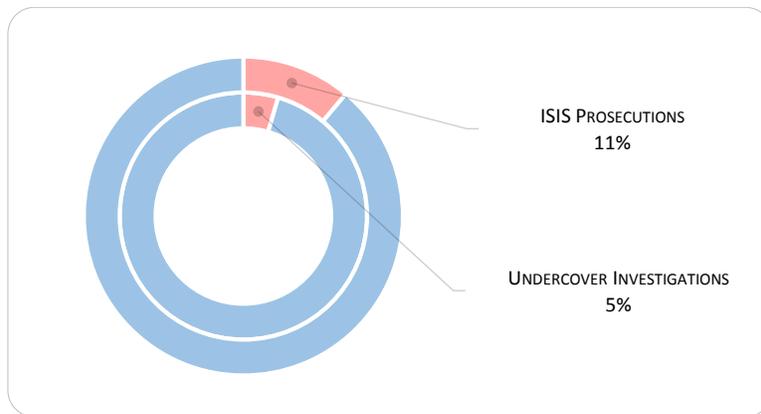


Figure 6. Female Defendants in ISIS Cases and Undercover Investigations

Notably, only 5% of the cases involving undercover agents or informants also involved a female suspect. By contrast, 95% of the cases involving undercover agents or informants involved a male suspect.

Table 4. Federal Prosecutions and Undercover Investigations by Gender

	WOMEN	MEN	COMBINED
UNDERCOVER INVESTIGATIONS	4	84	88
FEDERAL PROSECUTIONS	15	120	135
AVERAGE SENTENCE	5.1 YEARS	15.4 YEARS	14.5 YEARS

Table 5. Gender & Conduct

CLASS OF CONDUCT	FEMALE	TOTAL
FOREIGN FIGHTER	5	70
FACILITATOR	4	28
PLOTTER	6	66
CYBER	2	6
OTHER	1	9

Another area of distinction lies in the nature of alleged criminal conduct in the female cases compared to the male cases. While the charges against women were just as varied as the charges against men, women routinely received the lightest prison sentences. In some cases, women who participated with men in criminal conduct were not charged with any crimes at all.

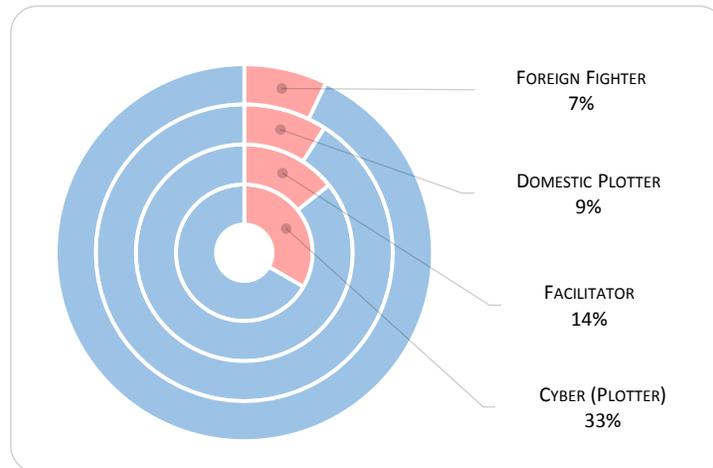


Figure 7. Prevalence of Women by Type of Conduct

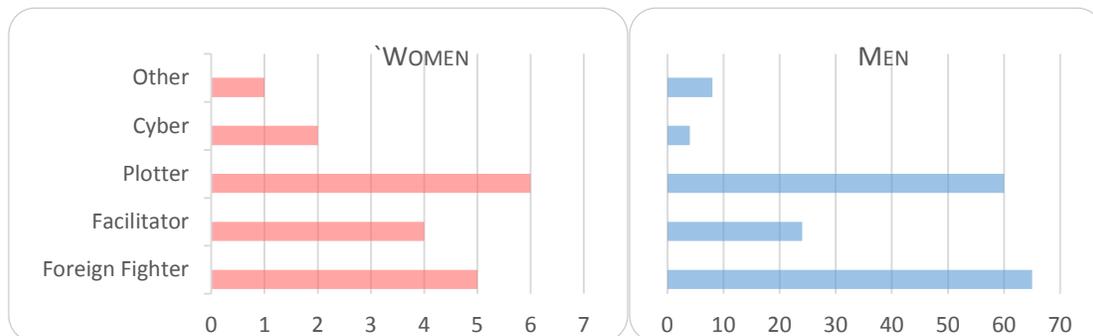


Figure 8. Comparison of Female versus Male Conduct Patterns

Married Co-conspirators

Of the women charged in ISIS cases, 56% allegedly collaborated with a partner or a spouse in the commission of their crime.

Nisreen Bahar, better known as *Umm Sayyaf*, has never set foot in the United States. On May 16, 2015, U.S. Delta Force commandos executed a raid on her home in eastern Syria with the goal of capturing Bahar's husband, the Islamic State's oil minister known as Abu Sayyaf.⁸ Abu Sayyaf was killed during the raid; Bahar was captured. Bahar was last reported to be in Iraqi custody; however, she was later charged in the Eastern District of Virginia for her role in the death of Kayla Mueller, a U.S. citizen who had been captured by ISIS and subsequently transferred to Bahar's custody. According to the Yazidi slave who was freed during the Delta Force raid, Mueller was wedded during her captivity to ISIS leader Abu Bakr al-Baghdadi. The Islamic State announced that Mueller died as a result of a Jordanian airstrike launched in response to a widely circulated ISIS video depicting the live immolation of a caged Jordanian pilot.⁹ The circumstances of Mueller's death may be impossible to verify. The federal charge against Bahar is based on her role in keeping Mueller captive, where doing so resulted in Mueller's death.

Heather Coffman pleaded guilty to making false statements to the FBI when she denied her role in arranging for her online "fiancée" to join ISIS as a foreign fighter. She had actively recruited her foreign fiancée, providing funding as well as logistical support as she arranged contacts with ISIS members who would get him to ISIS-held territory. She was sentenced to 4.5 years in prison.

Daniela Greene, the only FBI employee among the indicted, was working as an FBI linguist when she conspired with German ISIS member Denis Cuspert, the person whose communications Greene was assigned to translate for the FBI. Greene traveled to ISIS-held territory, married Cuspert, and lived with him for weeks before having a change of heart and returning to the United States to face charges. During her time with Cuspert, she revealed to him that he was the subject of an FBI investigation, as well as her role as an FBI employee. Upon her return to the United States, Greene pleaded guilty to making false statements on an FBI form regarding her travel plans and received a 2-year prison sentence.

Sedina Hodzic was indicted in Missouri with her husband and several other co-conspirators. The indictment alleged that Hodzic and her husband, Ramiz Hodzic, had provided material support to Abdulla Ramo Pazara and other foreign fighters in Syria and Iraq. Sedina Hodzic was spared the more serious charge leveled against her husband: conspiracy to commit murder in a foreign country. According to the indictment, the Hodzics collected funds and purchased military surplus goods, knowing that they were supporting Pazara's conduct, which they knew included unlawful killings and related atrocities.

Tashfeen Malik and Syed Rizwan Farook perpetrated their attack in San Bernardino as a pair. Both were killed in a shoot-out with law enforcement hours after their deadly attack. The couple worked in secret for months building pipe bombs in their living-room and amassing rifles and ammunition

⁸ Helene Cooper and Eric Schmitt, "ISIS Official Killed in U.S. Raid in Syria, Pentagon Says," *The New York Times* (New York City), May 16, 2015.

⁹ Rukmini Callimachi and Rick Gladstone, "ISIS Declares Airstrike Killed a U.S. Hostage," *The New York Times*, (New York City), February 6, 2015.

to be used in the attack. Reports indicated that the couple met through a website catering to extremists.

Noor Salman was arrested months after her husband, Omar Mateen, was killed by law enforcement following his brutal attack on Pulse Nightclub in Orlando, Florida, with an automatic assault rifle. According to the criminal complaint, Noor provided material support to her husband, traveling with Mateen to a number of potential target sites shortly before the attack. She then lied about her involvement when interviewed by FBI agents.

Keonna Thomas pleaded guilty to attempted material support in Philadelphia following her attempt to join an ISIS fighter in Syria whom she had married over the internet. Thomas, a native of North Philadelphia and a convert to Islam, did not have a high school diploma, specialized training of any kind, or experience traveling domestically or internationally. For the two years prior to her arrest, Thomas spent much of her time absorbing online ISIS propaganda, and expressing her support for ISIS on Twitter and other social media platforms. Thomas eventually befriended and courted a member of ISIS in Raqqa, Syria. She then arranged to marry him, join ISIS, and live in Raqqa. Thomas never even made it to Philadelphia International Airport. She was arrested in her home on April 3, 2015, after having missed her initial flight to Spain.

Jaelyn Young planned a life for herself in the nascent Islamic State caliphate when she posted publicly on Twitter about her intent to join ISIS with Muhammad Dakhlalla, the boyfriend she married under Islamic law as part of her plan to join the terror group. Female foreign fighters are uncommon in the United States. An adult woman arriving alone in the Islamic State would be expected to marry an ISIS fighter, and would not likely serve in a combat role. While a female aspiring foreign fighter's search for a mate could indicate a romantic motivation for joining ISIS, it may also be a practical step in meeting basic requirements imposed on women who join ISIS. If they do not bring a male partner, single women may find themselves paired with ISIS fighters they hardly know. Young has the longest prison sentence to date for women in ISIS-related cases: 12 years. Dakhlalla pleaded guilty before Young did and received an 8-year sentence.

Religious Conversion

There are statistically significant distinctions between converts and non-converts in federal ISIS cases.

Converts to Islam are more prevalent in U.S. ISIS cases than in the general U.S. population. The percentage of Muslim converts in ISIS-related cases is about 38%. According to a 2007 Pew survey, 20% of the U.S. Muslim population converted to Islam.¹⁰ Notably, of the 10 individuals who committed acts of violence, only 1 was a convert.

While the majority of ISIS defendants are 25 or younger, the converts among the defendants and assailants overall are older than those who are Muslim by birth. The average age for converts at the time of their ISIS-related arrest is 30 years old, whereas the average age at the time of ISIS-related arrest for those who are Muslim born is 25 years old.

Table 6. Class of Conduct by Conversion

CLASS OF CONDUCT	% CONVERTED TO ISLAM	% BORN MUSLIM
OF 70 FOREIGN FIGHTERS	36%	64%
OF 28 FACILITATORS	21%	79%
OF 66 DOMESTIC PLOTTERS	50%	50%

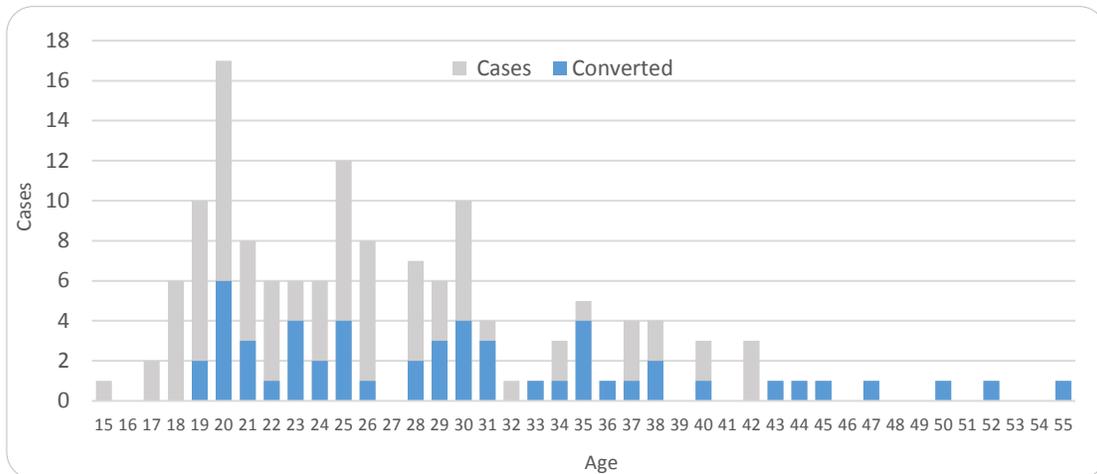


Figure 9. Religious Converts Grouped by Age

¹⁰ Muslim Americans: No Signs of Growth in Alienation or Support for Extremism, August 30, 2011, accessed September 11, 2017, <http://www.people-press.org/2011/08/30/section-2-religious-beliefs-and-practices/>.

U.S. Residency & Countries of Origin

ISIS cases in the United States continue to consist overwhelmingly of U.S. citizens. About 78% of U.S. ISIS cases are U.S. citizens. By contrast, 58% of all individuals convicted of federal offenses generally in 2016 are U.S. citizens.¹¹

Approximately 42% of the cases involved individuals born outside the United States, most of whom were brought to the U.S. with their families as young children.

Table 7. U.S. Residency Status

UNITED STATES CITIZEN	78%
LAWFUL PERMANENT RESIDENT	8%
OVERSTAYED VISA	< 1%
NO PRESENCE IN THE UNITED STATES	2%
RESIDENCY STATUS UNKNOWN	7%

Although 78% of U.S. ISIS cases are U.S. citizens, many have family and cultural ties that transcend U.S. borders. According to court documents and media reports, 20% are naturalized U.S. citizens who were born outside the United States. Many of the naturalized U.S. citizens arrived as young children along with their parents. In addition, 21% have at least one parent who was born outside the United States.

Table 8. Immigrants and Natural Born Citizens

BORN IN THE UNITED STATES	58%
NOT BORN IN THE UNITED STATES	42%

The national and ethnic background of ISIS defendants and assailants are strikingly diverse.

Individuals in U.S. ISIS cases who were not born in the United States came from countries of origin in Europe, South Asia, Africa, and Middle East. After the United States, the most prevalent countries of origin are Somalia, Bosnia, Uzbekistan, and Iraq.

U.S. BORN CHILDREN OF IMMIGRANTS 21%

¹¹ U.S. Sentencing Commission's Interactive Sourcebook (isb.uscc.gov), USSCFY2016.

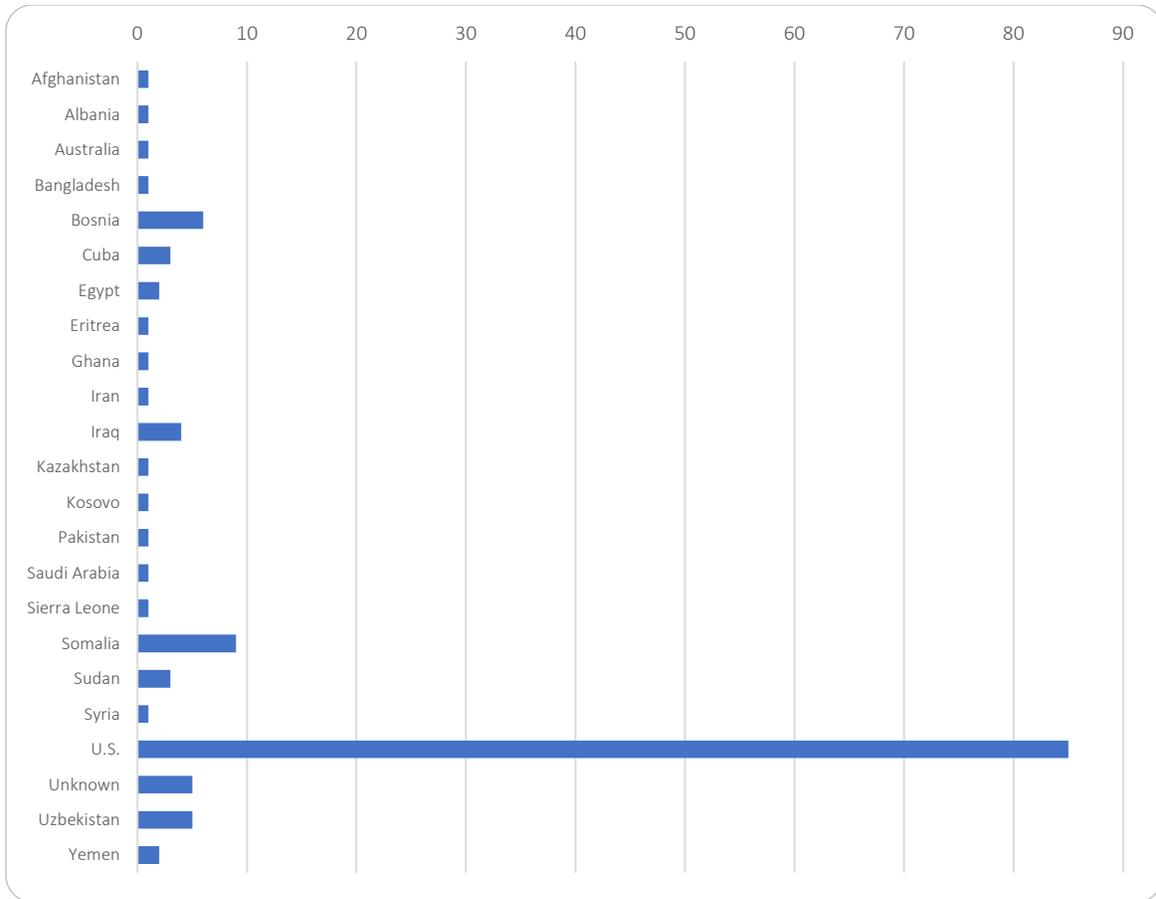


Figure 10. Countries of Origin

Personal History

Family & Relationships

At least 28 individuals are married, including: 7 of 28 facilitators (25%), 11 of 70 foreign fighters (16%), and 12 of 66 domestic plotters (18%). (Two of the cases appear in more than one category.)

Furthermore, at least 28 individuals are known to have had children. They include 21% of the facilitators (6 of 28), 17% of the foreign fighters (12 of 70), and 23% of the domestic plotters (15 of 66). Domestic plotters are most likely to have children; foreign fighters are least likely to have children.

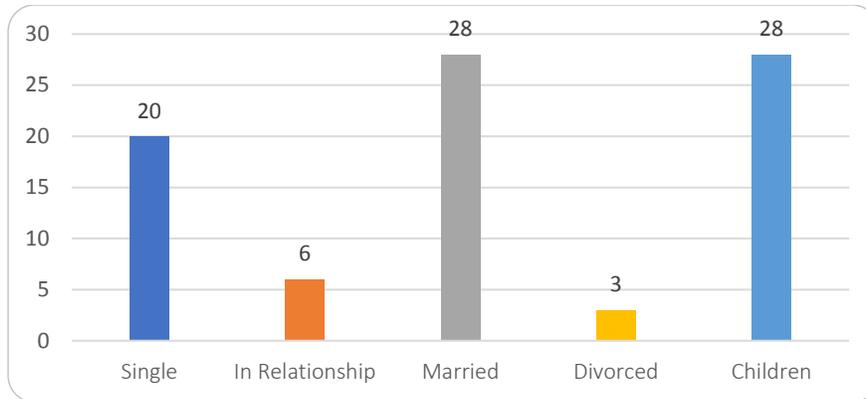


Figure 11. Family and Relationship Status

Individuals charged in U.S. ISIS cases show a lower rate of college enrollment than the general population; however, they are more educated than the general federal correctional population.¹² One explanation for the lower rate of college attendance may be their relative youth.

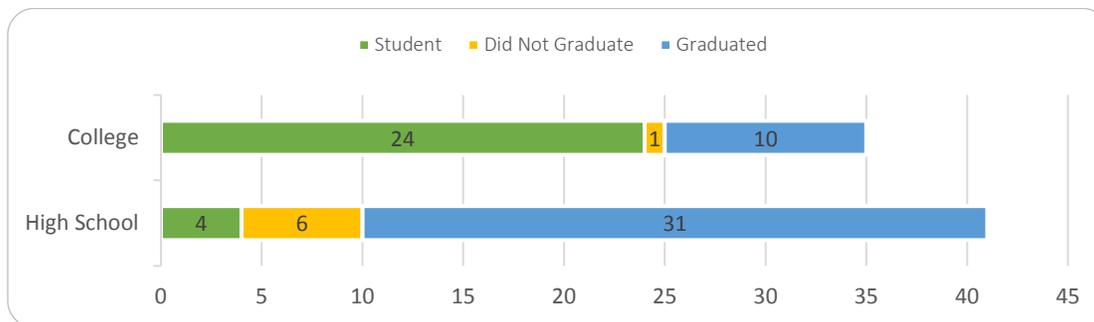


Figure 12. Education Level Attained

Of the 76 ISIS cases with reported information regarding educational attainment, 46% are known to have enrolled in colleges or universities. By contrast, 70% of U.S. high school graduates in 2016 went on to enroll in a college or university.¹³ Of the 41 individuals who are known not to have attended college, 4 were still in high school, 6 had stopped attending high school without having graduated, and 31 had graduated high school but did not attend college.

¹² <https://www.bjs.gov/content/pub/pdf/ecp.pdf>

¹³ <https://www.bls.gov/news.release/hsgec.nr0.htm>

Military Experience

The available data indicates that **11% of the individuals had some experience in military or law enforcement training.**

Of the 17 individuals who joined the armed services either at home or abroad, 14 individuals were associated with the U.S. military, including the Army, Air Force, Marine Corps, and the National Guard. Five of these individuals did not complete basic training, or otherwise failed to meet basic requirements.¹⁴ Eight of them had served in the armed forces for years but had been discharged prior to their ISIS-related conduct.¹⁵ One was an active duty serviceman during the time of his ISIS-related conduct.¹⁶

Three individuals received foreign military training; one served in the Cuban military, one was trained by a rebel group in the Middle East, and one was a Bosnian war hero.

Prior Criminal Record

Prior criminal history is infrequent among the individuals included in the 144 ISIS cases.

- Of the 144 cases, 26% are known to have prior criminal record.
- Of the 10 assailants in ISIS-related attacks, only 2 are known to have had a criminal record.
- By contrast, more than 57% of all federal offenders in 2016 had a criminal history involving prior time in prison.

¹⁴ Teasant, Booker, Blair, Hester, and Morgan all had tried and failed to join the armed services.

¹⁵ Jalloh, Edmonds, Coffman, Marquez, Franey, Hubbard, Calloway, and Pugh served substantial time in the armed services.

¹⁶ Kang was active duty at the time of his arrest.

Part II. Investigations & Prosecutions

Part II provides a comprehensive analysis of ISIS-related conduct, operations, federal investigations, and federal prosecutions in the United States.

Trends in Criminal Conduct (Convicted, Admitted, or Alleged)

ISIS cases involve a variety of categories of criminal conduct directed toward **Foreign Operations** or **Domestic Operations**. **Foreign Fighters, Facilitators, and Domestic Plotters** are the most common categories.

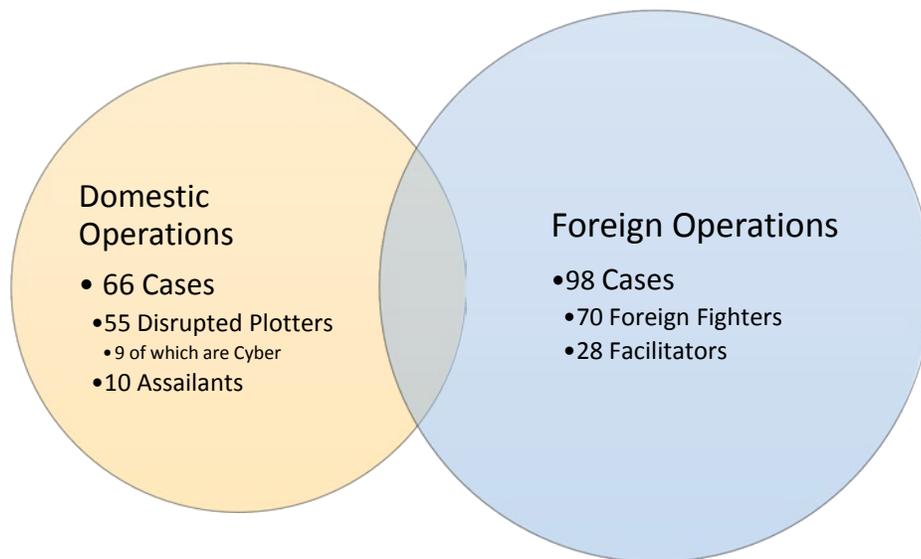


Figure 13. Domestic and Foreign Operations

Some ISIS cases involve more than one category of conduct. Most often, these are failed or frustrated Foreign Fighters who then become Domestic Plotters. The Foreign Fighter & Domestic Plotter combination is frequent enough to warrant its own analysis and has been included in the following chart.

Another overlapping group that fits this description is Returnees. Returnees are foreign fighters who return to their homelands after having fought for ISIS. The widespread concern has been that returnees can pose a particularly potent danger, including weapons training. **Notably, the U.S. ISIS cases feature not a single returnee.**

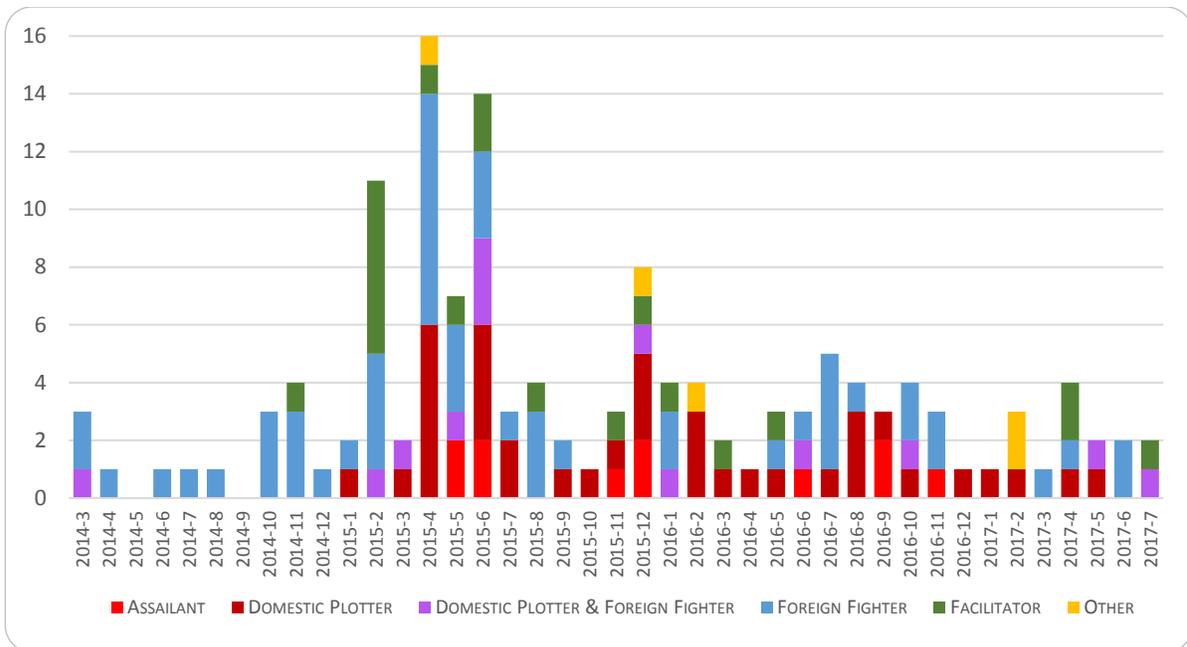


Figure 14. Chronology of Conduct Types

The chart above provides a color-coded chronological representation of the types of conduct involved in new cases each month. Almost all the cases in 2014 were Foreign Fighter cases. The first Facilitator case was charged at the end of 2014. Domestic Plotter arrests first emerged in 2015. The overall volume of new cases spiked in the first half of 2015. The rise in ISIS-related indictments abated in the summer of 2015, following the first reported ISIS-linked terrorist attacks in the United States.

Since the spring of 2015, small-scale attacks have occurred in the U.S. every several months; however, the volume of ISIS-related indictments has continued to diminish.

Federal Investigations.

Federal investigations into ISIS cases share some basic attributes. Most of the ISIS cases involved preventive law enforcement operations, including: surveillance of public posts on social media; undercover infiltration of internet chat groups and mobile messaging platforms; responses to tips from community members; deployment of undercover agents and informants; and the gathering of intelligence regarding ISIS members abroad who communicated with people in the United States.

In several cases involving teens and young adults, court documents have referred to attempts to arrange interventions involving family members, schools, or religious leaders, with the goal of redirecting nascent extremists away from terrorist groups.¹⁷ Law enforcement has at times

¹⁷ See, e.g., John T. Booker, Shannon Conley, and Akram Musleh.

appeared to have encouraged such interventions before deciding to proceed with criminal investigations and arrests.

One of the unique attributes of terrorism investigations and prosecutions is the establishment of ideological motivation as an element of criminal conduct. Communications and conduct indicating an alignment with ISIS often involve religious and political speech, coupled with conduct that is prohibited if undertaken in order to provide support to ISIS. The FBI affidavits filed with the criminal complaints often draw upon contextual evidence to support claims of ideological alignment and engagement with ISIS, including expressions of admiration for Abu Bakr al-Baghdadi, Anwar al-Awlaki, or Osama bin Laden, as well as expressions of approval regarding past acts of terrorism. The affidavits also highlight signature activities that are often interpreted by law enforcement to signal one's status as an ISIS supporter, including the habitual consumption of ISIS-generated media, online contact with foreign ISIS members, and the recording of religious oaths of allegiance to Abu Bakr al-Baghdadi.¹⁸

Undercover Operations

Undercover operations have been a controversial resource in the FBI toolkit,¹⁹ and they are used more often than not in ISIS-related investigations and prosecutions. Sixty-two percent of the cases are known to have involved the use of undercover agents or informants.

Undercover Domestic Plotter Investigations

Every ISIS-related domestic plot that failed to reach fruition appears to have involved an undercover agent or informant. For example, the cases of John Booker and James Medina each involved the use of inert explosives provided by undercover FBI agents. The FBI permitted Booker and Medina to go through with their attempts to detonate the inert explosives before finally arresting them. However, most operations do not end quite so dramatically. The undercover agent in the case of Asia Siddiqui and Noel Valentzas, for example, found herself frozen out of the plot, but only after having discovered that Siddiqui had allegedly independently procured explosive materials. The exclusion of the undercover agent from the final phase of the plot precipitated arrests at an earlier stage of the undercover operation. Similarly, in the case of Alexander Ciccolo, the target of the undercover operation allegedly constructed augmented Molotov cocktails and allegedly took other significant steps in preparing to attack domestic targets without involving the undercover agent in that case. Ciccolo was then arrested in a firearms-related sting operation.

¹⁸ These are religious rituals often referred to as bayat or bay'ah.

¹⁹ See, e.g., Human Rights Watch and Columbia's Human Rights Institute, *Illusion of Justice* (2014), <https://www.hrw.org/report/2014/07/21/illusion-justice/human-rights-abuses-us-terrorism-prosecutions> ("...the [FBI] may have created terrorists out of law-abiding individuals by conducting sting operations that facilitated or invented the target's willingness to act."); Jesse J. Norris, *Why the FBI and the Courts are Wrong about Entrapment and Terrorism*, 84 Miss. L.J. 1257 (2015) ("[T]he FBI's practice of inducing otherwise law-abiding individuals to commit terrorist offenses is virtually incapable of preventing real terrorist attacks.")

Undercover WMD Operations

Seven of the nine cases involving the use or attempted use of explosives involved undercover FBI agents or informants. The San Bernardino attack involved explosive devices that were not detonated. Ahmad Rahimi's case presents the one prosecution involving explosives that is not known to have involved undercover agents or informants. It is also the only ISIS-related attack that involved the alleged detonation of functional explosive devices. Rahimi succeeded in detonating explosives in two different states—New York and New Jersey—within the same day, though no one was killed in either of those bombings. A third bomb discovered in New Jersey two days later detonated when a bomb disposal robot attempted to disarm it. No one was injured.

Undercover Operations Involving General Crimes

Several of the ISIS-related undercover operations centered on general crimes rather than federal crimes of terrorism. A few cases involved undercover operations resulting in a weapons violations but nothing more. In the case of Daniel Seth Franey, an Army deserter against whom a court had issued a Protection Order on behalf of Franey's children and their mother, Franey had alarmed associates and neighbors with his violent pro-ISIS rants. He also drew attention to himself by naming his newborn daughter Dawla Islamiya—Arabic for Islamic State. An undercover FBI agent eventually made contact with Franey and invited him to help traffic illegal firearms. Franey agreed, ultimately participating in five staged gun trafficking trips, during which he repeatedly asked to buy guns for himself. He also handled the firearms repeatedly. Federal law prohibits the subject of an Order of Protection issued by a court from possessing a firearm. Franey was not accused of participating in any ISIS-related plot.

Undercover Online Personas (Social Media)

Many ISIS cases feature FBI undercover online personas who pose as co-conspirators. Investigators rely on a variety of tactics in these cases. They surveil public postings such as Facebook and Twitter. They interact with individuals without disclosing their identities. At times, they have issued grand jury subpoenas and national security letters to service providers to obtain private communications, contacts, and locations.

In the case of Jaelyn Young and Mohamed Dakhallah, investigators followed public tweets to initiate a sting. Young had openly advertised the couple's intent to join ISIS, indicating that their only hurdle to traveling to Syria was financial. In response to Young's claims, an FBI informant made contact with her, posing as an ISIS Facilitator who could arrange travel for the pair.

Some cases are hard to interpret given available evidence. In the case of Khalil Abu-Rayyan, two different undercover online personas interacted with him following his arrest on drug and weapons violations. After an abortive internet relationship with one FBI informant who posed as a potential wife, Abu-Rayyan succumbed to the overtures of a second online persona also posing as a romantic interest. They shared suicidal thoughts with one another, as well as their extremist views, and their interest in martyrdom.

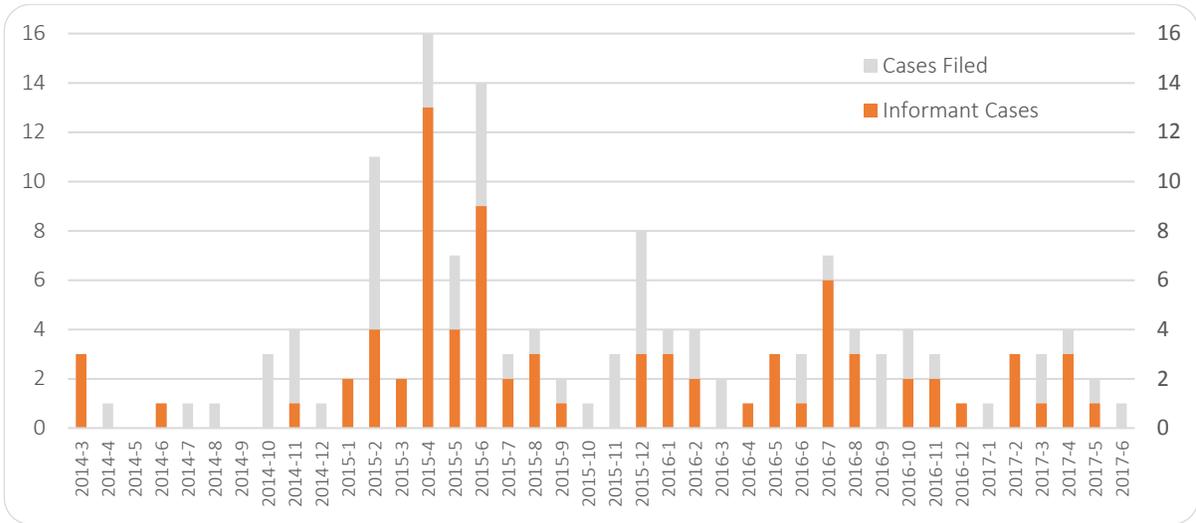


Figure 15. Informants and Undercover Agents by Month

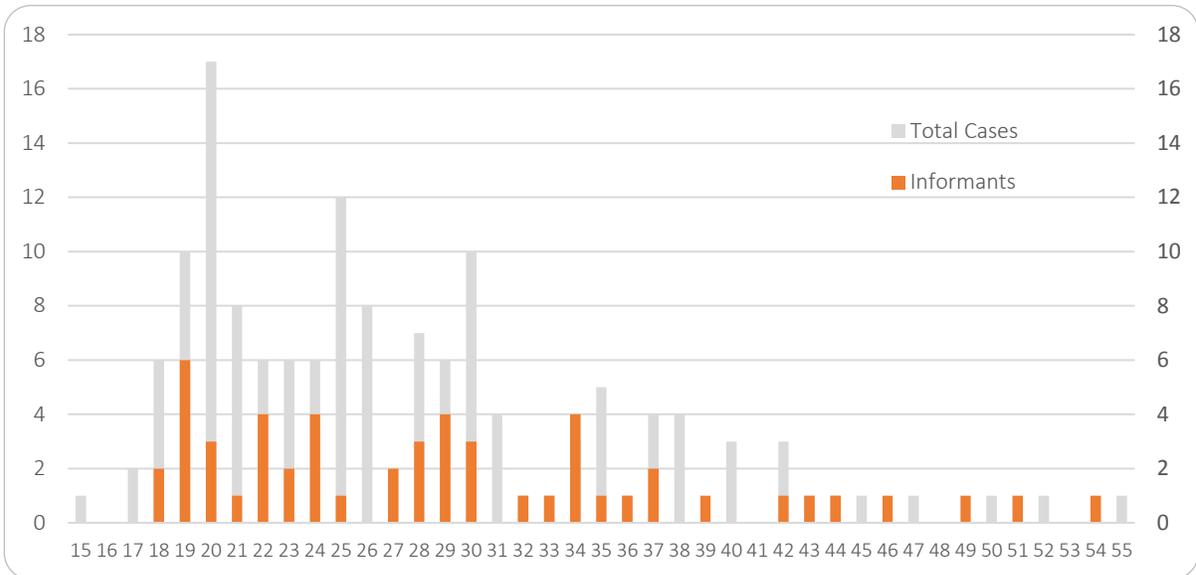


Figure 16. Cases Involving Informants and Undercover Agents - Grouped by Age

Federal Prosecutions

Of the 144 ISIS-related cases, 135 have been charged in federal courts. About half of the cases have been convicted to date, and none of the individuals charged have been acquitted.

In addition to the threat of additional charges, prosecutors may agree to drop certain charges and may recommend reductions to prison sentences in exchange for admissions of guilt or cooperation that can benefit other ongoing investigations. To date, approximately 10% of individuals in ISIS cases have refused to enter plea agreements and have proceeded to trial. Most, but not all, of the admissions of guilt were offered in conjunction with a plea agreement.

Of the 12 ISIS-related cases that have gone to trial, all have resulted in convictions. The average post-trial sentence is 32.5 years—triple the average sentence for defendants convicted pursuant to a guilty-plea agreement. Ten of the trials were jury trials and two of the trials were bench trials.

The average duration for ISIS prosecutions from initial charges to sentencing is 463 days. The ISIS prosecutions as a whole have proceeded at a faster clip than the al-Qaeda cases of a decade ago. As of August 1, 2017, the share of ISIS prosecutions resolved within two years is higher than the overall rate for federal prosecutions.

The oldest unresolved prosecution is the case of Mohimanul Bhuiya, a former New York college student who became an ISIS fighter in Syria in 2014, and after four months, found his way to Turkey and returned to the U.S. in the custody of law enforcement. He pleaded guilty to material support charges on November 11, 2014, and as of August 1, 2017, has not yet been sentenced. In the meantime, Bhuiya has made himself available, in cooperation with the U.S. government, for media interviews about his negative experiences with ISIS in Syria.

Multi-defendant cases involving foreign nationals also appear to involve longer prosecutions than other cases. Only one of six individuals indicted in 2015 as part of a group of Bosnians accused of providing support to a foreign fighter has been convicted. Similarly, in a February 2015 case that had grown to involve eight individuals, two have pleaded guilty and are awaiting sentence. The remaining six have not yet gone to trial or pleaded guilty.

Violations of Terrorism-Related Federal Statutes

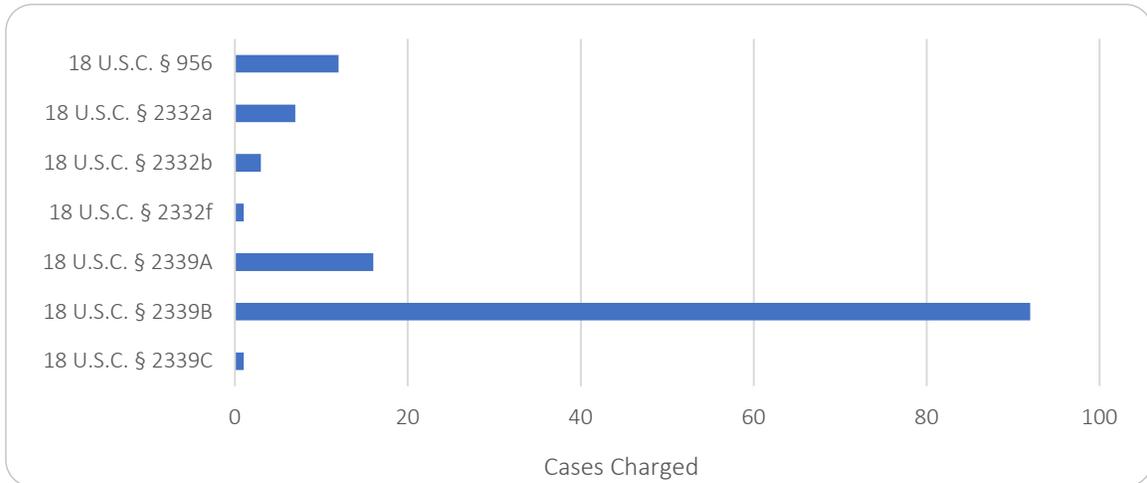


Figure 17. Terrorism-Related Federal Statutes

Material Support: 18 U.S.C. § 2339A - D

The material support statutes are the primary prosecutorial tool for federal terrorism prosecutions. The most commonly used statute is 18 U.S.C. § 2339B, which broadly targets those who conspire or attempt to provide material support to a designated foreign terrorist organization.

The term *material support* is defined in 18 U.S.C. § 2339A as any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and transportation. However, medicine and religious materials are expressly exempt from this definition. The sentences for material support violations range from time served to the maximum of 20 years.

The material support statutes are applied to a wide variety of situations.

Example 1: Jaelyn Young was sentenced to 12 years in prison for attempting to depart the U.S. and join ISIS in Syria. Although she envisioned a nonviolent role for herself, she understood that ISIS was a designated terrorist organization when she attempted to board a flight to leave the United States with the express goal of providing her services to ISIS.

Example 2: On the other end of the spectrum, Abdul Maleek Abdul Kareem was convicted by a jury for violating the material support statute when he helped Elton Simpson and Nadir Soofi prepare for their attack in Garland, Texas, on behalf of ISIS.

Weapons of Mass Destruction, Explosives: 18 U.S.C. § 2332a

It is a federal crime to attempt, conspire, or threaten to use a weapon of mass destruction against U.S. persons or property used in interstate commerce. The statute defines a weapon of mass destruction (WMD) broadly to include any explosive, incendiary, or poison gas in the form of bomb, grenade, rocket, missile, mine, or radioactive device. A violation of this statute carries a maximum sentence of life in prison.

Example 1: Ahmad Rahimi was charged in November 2016 in the Southern District of New York and the District of New Jersey for the use of multiple homemade explosive devices in the Chelsea neighborhood of New York; Seaside Park, New Jersey; and the NJ Transit station in Elizabeth, New Jersey. He is currently awaiting trial.

Example 2: In Kansas, John T. Booker was charged for violating 18 U.S.C. § 2332a when he conspired with undercover agents and informants in a plot to construct a car bomb and detonate it in a suicide bombing at Fort Riley. His arrest followed his attempt to detonate what turned out to be inert explosives. Even where the explosives are fake or inert as part of an undercover operation, the violation occurred the moment Booker joined the conspiracy.

Terrorism Transcending National Borders: 18 U.S.C. § 2332b

It is a federal crime to commit acts of terrorism inside the United State that involved conduct transcending national boundaries; i.e. from outside the United States. Most domestic plotters may be in violation of this statute. However, charges under this statute are exceedingly rare. Only three domestic plotters have been charged for attempting to commit acts of terrorism transcending national borders.

Example 1: David Daoud Wright was charged in Massachusetts under 18 U.S.C. § 2332b. Wright was a member of a small New England group of domestic plotters, along with Nicholas Rovinski, and Usaamah Rahim. Rahim maintained online contact with ISIS operative Junaid Hussain, a tech-savvy British citizen who operated from ISIS-held territory in Syria. Following the failed attack in Garland, Texas, Hussain tasked Rahim with a follow-up attack on a specific target in New York City. In furtherance of Hussain's solicited attack against the New York City target, Rahim recruited Wright and Rovinski, and the trio set about preparing for the attack, including the procurement of weapons on Amazon.com. Shortly thereafter, Rahim abandoned the plot and attempted to attack law enforcement with a knife. Rahim was killed during the confrontation. Wright and Rovinski were then arrested and initially charged with providing material support to ISIS. The charge of Terrorism Transcending National Borders was added later in a superseding indictment. Following the superseding indictment, Rovinski entered a plea agreement that dropped the newest charge. Wright has not entered any plea agreements, and his trial is scheduled to commence on Monday, September 18, 2017. He faces up to life in prison if convicted.

Conspiracy to Kidnap, Kill, or Maim in Foreign Country: 18 U.S.C. § 956

This statute prohibits individuals within U.S. jurisdiction from conspiring with others to commit murder or kidnapping anywhere outside the United States. Thus, anyone who conspired while in the U.S. to travel abroad to become a foreign fighter for an FTO²⁰ has violated this statute. Any co-conspirators who did not travel abroad are also in violation of the statute if they knew the goal was to commit murder outside the United States. Killing on behalf of a designated terrorist organization would be considered murder inside the United States. However, prosecutors reserve this charge for rare occasions, such as cases where evidence establishes that people were killed in a foreign country in connection with the underlying criminal enterprise.

Example 1: Ramiz Hodzic is an accused ISIS facilitator charged under 18 U.S.C. § 956 in Missouri. Prosecutors allege that Hodzic conspired with his associate, Abullah Ramo Pazara, to help Pazara join a group of foreign fighters in Syria, first under the banner of al-Nusra, then under the banner of ISIS. Hodzic provided ongoing material support and encouragement as Pazara sent images of his exploits back home via social media, including images of murder committed under Pazara's command. Pazara also indicated to his supporters that he had killed people himself. After Pazara died in ISIS-held territory, Hodzic was charged for both providing material support to terrorists, and for his involvement in the conspiracy for Pazara to commit the crime of murder in a foreign country.

²⁰ Foreign Terrorist Organizations (FTOs) are foreign organizations that are designated by the Secretary of State to be involved in what US authorities define as terrorist activities. The designation is significant because 18 U.S.C. 2339B--the statute proscribing material support to terrorists--requires a showing that the defendant has "knowledge" that the organization he or she ostensibly supports is a "designated terrorist organization" or engages in terrorism/terrorist activity.

Violations of General Criminal Statutes

About 15% of the ISIS prosecutions did not involve charges under any of the statutes designated as federal crimes of terrorism.²¹ ISIS cases charged solely under more general criminal statutes most often involved firearms violations (such as 18 U.S.C. § 922), transmitting threats in interstate communications (18 U.S.C. § 373), and making false statements in a federal matter (18 U.S.C. § 1001).

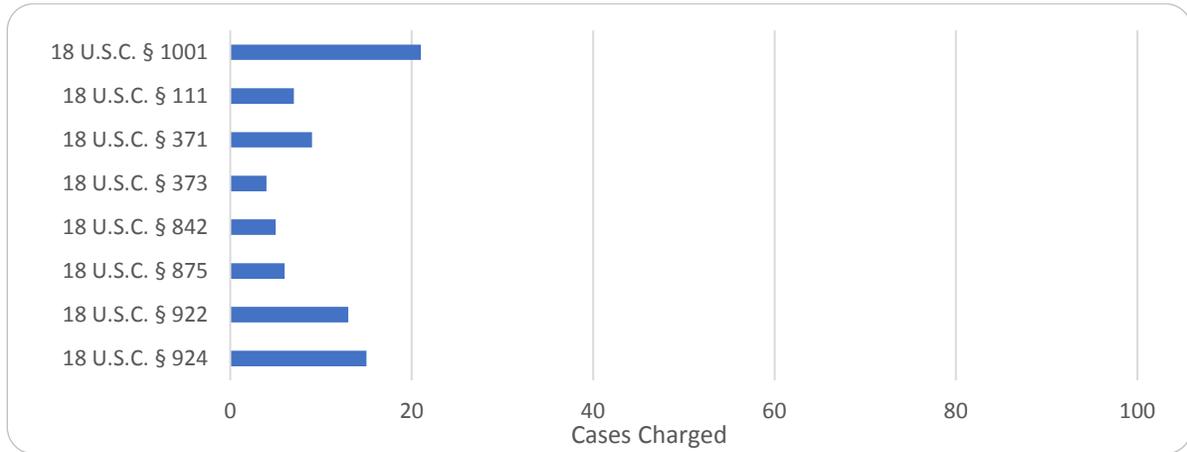


Figure 18. Federal Statutes - General Crimes

Making False Statements: 18 U.S.C. § 1001

The False Statements statute prohibits knowingly and willfully making false statements in any matter within federal jurisdiction. Although many individuals in ISIS cases are surprisingly open and forthright regarding their conduct and their motives once they are caught, the most common scenario involves a potential subject of an investigation lying to FBI agents when questioned about possible ISIS-related activity, such as online activity or travel plans.

Example 1: Robert Blake Jackson lied when questioned by FBI agents about his ISIS-related online statements and associations. Jackson’s employer had notified the FBI after observing that Jackson was spending much of his time at work posting pro-ISIS propaganda from his corporate computer. When questioned by an FBI agent about it, Jackson denied the employer’s accusations; however, the employer possessed electronic evidence to corroborate its claims. Jackson was charged under 18 U.S.C. § 1001 for making false statements to federal agents, and he was sentenced to 3 years in prison, even though the underlying online conduct he denied was not necessarily illegal, and may have been protected speech under the 1st Amendment, despite the fact that such workplace conduct clearly violated company policy. Several other cases involve similar scenarios, where individuals lie about conduct or statements that are not, in and of themselves, necessarily unlawful.

²¹ See definition at 18 U.S.C. § 2332b(g)(5).

Example 2: Daniela Greene lied on a government form when she stated that she planned to take a vacation from her job at the FBI and to visit Germany. The purpose of her lie was to conceal a much more serious crime: traveling to ISIS-held territory to marry a designated international terrorist who was the subject of the FBI investigation to which she was assigned. For reasons not disclosed to the public, Greene was charged only with having made a false statement on an FBI form. Her crime was stating her intent to travel to Germany when in fact she had other plans. Greene was sentenced to 2 years in prison.

Assaulting, resisting, or impeding federal officers: 18 U.S.C. § 111

It is a federal crime to assault or intimidate certain federal officers or employees on account of the employee's official duties.

Example 1: In the most extreme incident, Fareed Mumuni attempted to stab an arresting officer with a large kitchen knife during his arrest in connection with his involvement in a large group of ISIS supporters in New York and New Jersey. The officer was protected by body armor and did not suffer serious injury. Mumuni faces additional charges ranging from material support to attempted murder of a federal officer. His sentencing is scheduled for November 2017.

Example 2: In a less violent incident, Khaalid Adam Abduldakir was arrested and charged under this statute after publicly posting threats on Twitter indicating that he was going to kill the federal judge and the FBI agents involved in the arrest of Abdirizak Warsame, a leader of a large group of young Somali American ISIS recruits. The felony charge was dropped to a misdemeanor in Abdulkadir's plea agreement. He was sentenced to probation; however, he is currently serving a 6-month sentence after multiple probation violations.

Example 3: As a precursor to Abdulkadir's case, Mahamed Abukar Said was arrested several months earlier for similar conduct. Said had tweeted threats to "whack" Attorney General Loretta Lynch. His felony 18 U.S.C. § 111 charge was reduced to a misdemeanor, and he was sentenced to probation. Also similar to Abdulkadir, Said is currently serving a 1-year sentence for multiple violations of the terms of his parole.

Transmitting Threats in Interstate Communications: 18 U.S.C. § 875

It is a federal crime to transmit in interstate commerce any communication containing a threat to injure or kidnap any person, punishable by up to 5 years in prison. This includes telecommunications such as the internet and social media because the internet by its very nature is not confined within a single state.

Example 1: The "Kill List" cases generally involve the charge of transmitting communications containing threats. To construct the Kill List, personal information about U.S. citizens was stolen from a corporate database by Ardit Ferizi. Ferizi then passed the personally identifiable information to Junaid Hussain. Hussain packaged the list along with

instructions to kill these people in their homes, and propagated the list to his large social media following of ISIS supporters. Ferizi was captured in Malaysia and brought to the Eastern District of Virginia to face charges of providing material support to ISIS. The rest of the “kill list” cases involved individuals inside the U.S. who used the internet to share the kill list with others. Some observers have questioned whether retweeting or similarly distributing communications with relatively minimal involvement in its authorship should be treated as a true threat. Most of these individuals have pleaded guilty and none has gone to trial. The two remaining unresolved cases are Marie Antoinette Castelli, who was 55 years old at the time of her arrest; and Safya Roe Yassin, a single mother who was 38 at the time of her arrest.

Firearms Violations: 18 U.S.C. §§ 922 & 924

These statutes provide for the enforcement of firearms regulations and place certain restrictions on who is permitted to possess a gun. For instance, manufacturing, shipping, importing, buying, or selling firearms, including ammunition, without a license is a violation of this law. Moreover, 18 U.S.C. 922(g) makes it a crime for a convicted felon, or an unlawful drug user who is not a convicted felon, to possess a firearm of any kind, without regard to licensure. This law makes it particularly easy for sting operations to target convicted felons or documented drug users.

Example 1: Yusuf Wehelie and Daniel Seth Franey were each targets of FBI sting operations, and they had each made statements of interest in supporting ISIS and in performing acts of violence. In both cases, undercover agents eventually asked the subjects of the investigation to participate in illegal gun possession and transport. In these two cases, there were only vague discussions of wanting to attack domestic targets but apparently no specific conspiracy or action in furtherance of a particular plot. Nevertheless, the firearms violations resulted in a 10-year sentence for Wehelie, with the judge making an upward departure above the prosecutor’s recommended sentence; and 6 years for Daniel Seth Franey.

Convictions & Sentencing

The duration of prison sentences for federal ISIS cases has been increasing over time, aided in part by a change to the material support statute, 18 U.S.C. § 2339B, which increased the maximum sentence from 15 years to 20 years for violations committed after June 2015.

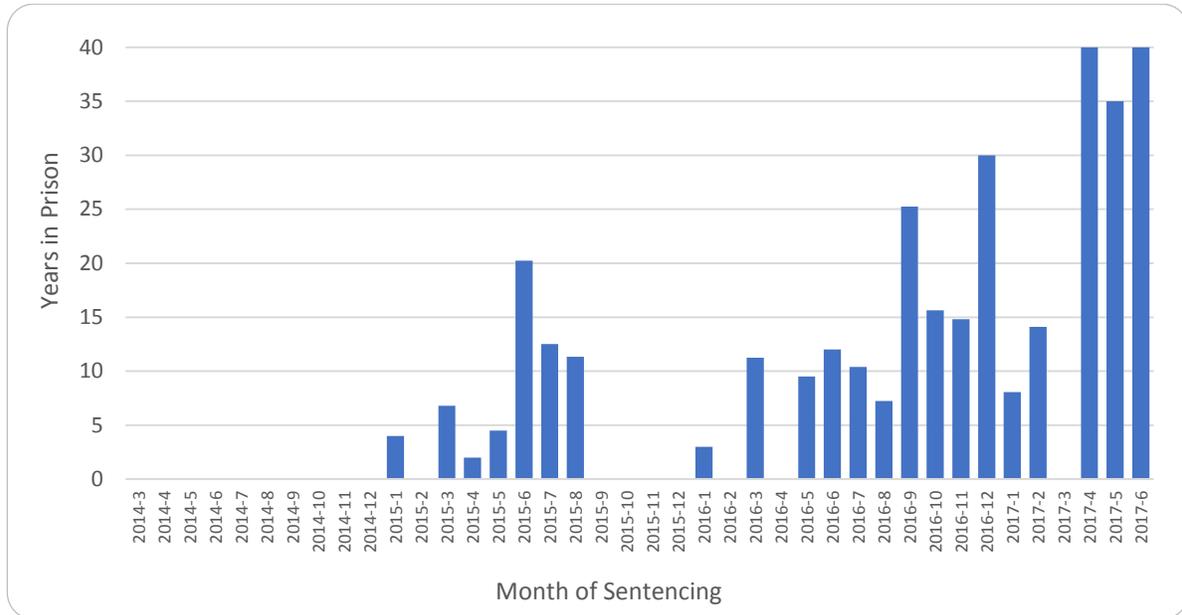


Figure 19. Average Sentences by Month

The monthly average for sentencing indicates an overall trend toward longer prison terms.

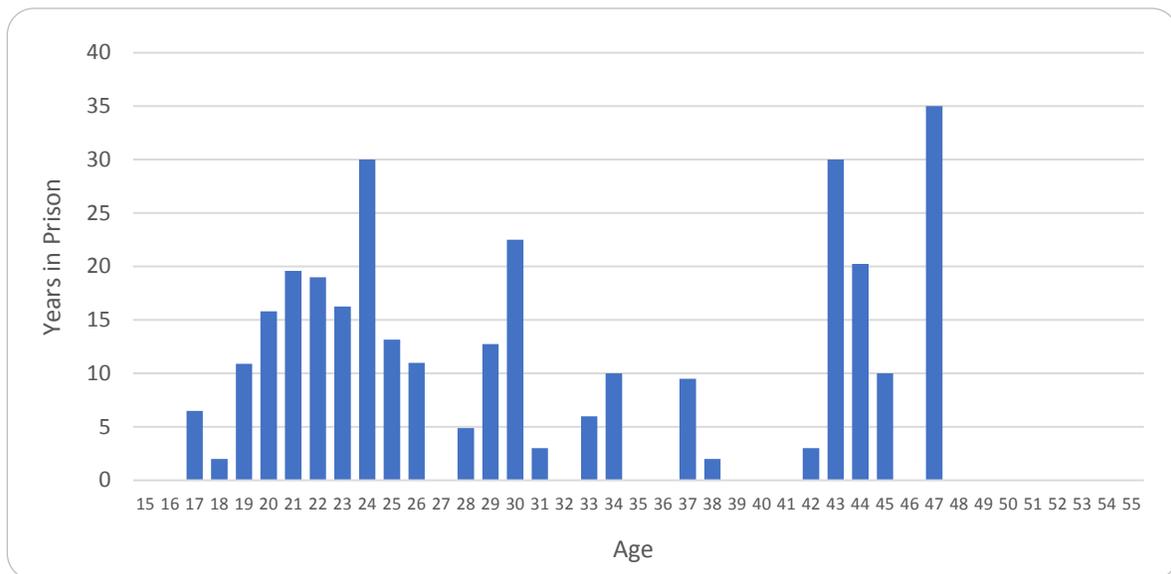


Figure 20. Average Sentence by Age

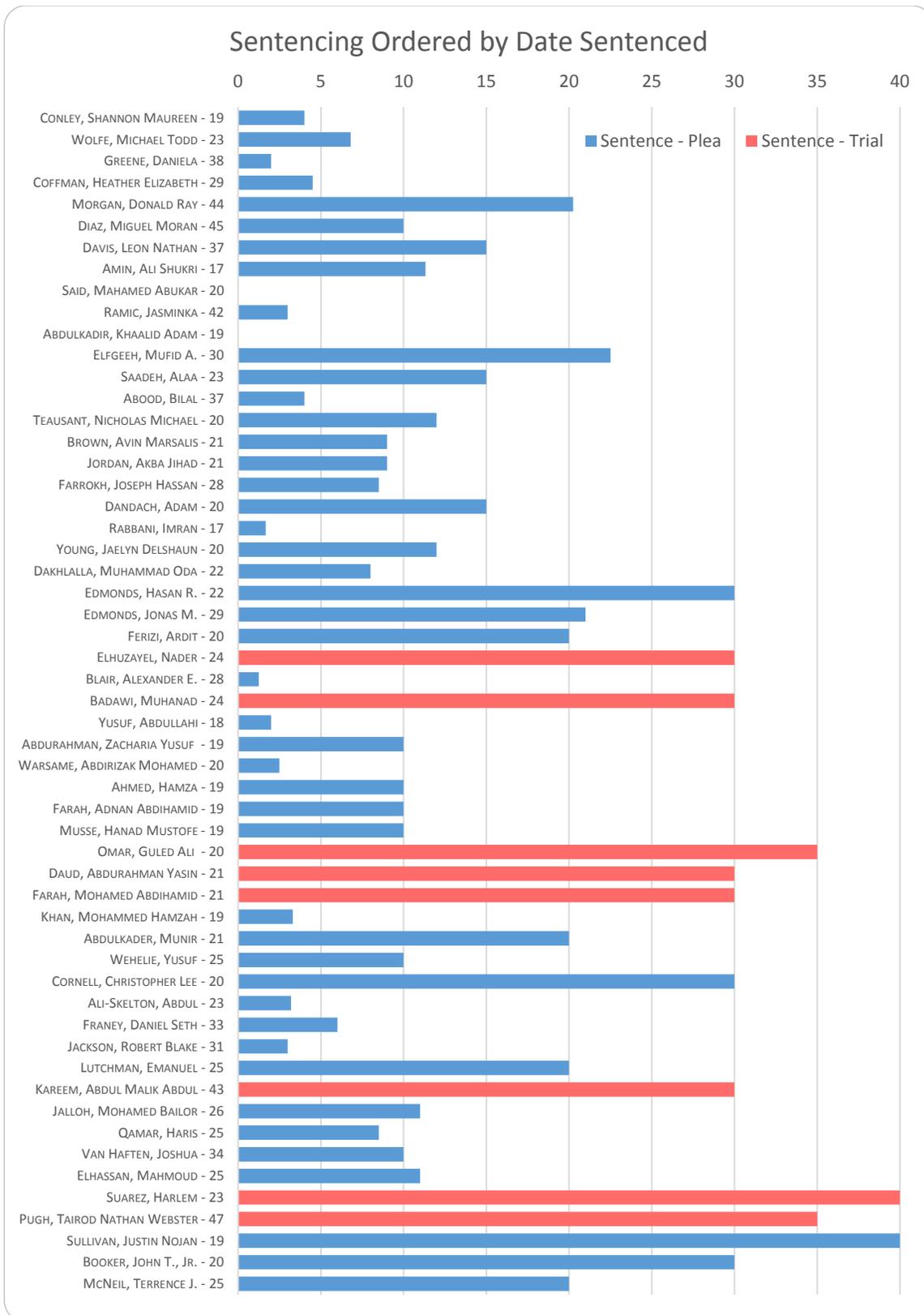


Figure 21. Individual Sentences Ordered by Date Sentenced

Sentencing and Gender - Ordered by Date Sentenced

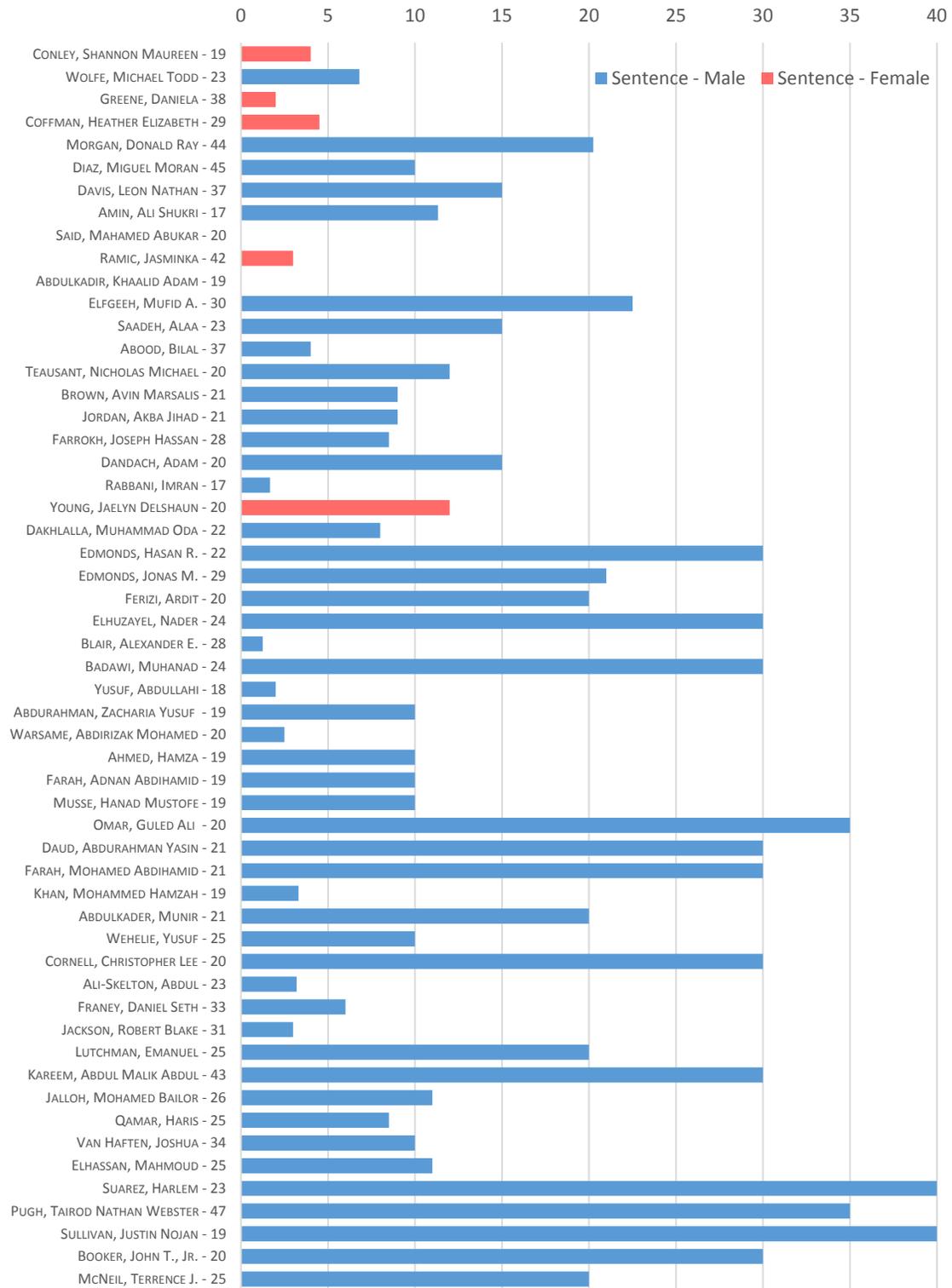


Figure 22. Sentencing and Gender - Ordered by Age at Arrest

List of Cases

Abdin, Zakaryia
Abdulkader, Munir
Abdulkadir, Khaalid Adam
Abdurahman, Zacharia Yusuf
Abood, Bilal
Ahmed, Hamza
Al Hardan, Omar
Al-Ghazi, Amir Said Rahman
Al-Jayab, Aws M. Younis
Alebbini, Laith Waleed
Alhaggagi, Amer Sinan
Ali-Skelton, Abdul
Alimehmeti, Sajmir
Amin, Ali Shukri
Amri, Soufian
Aziz, Jalil Ibn Ameer
Badawi, Muhanad
Bahar, Nisreen
Bhuiya, Mohimanul Alam
Blair, Alexander E.
Booker, John T., Jr.
Brown, Avin Marsalis
Calloway, Clark
Castelli, Marrie Antoinette
Christian, Dayne Antani
Ciccolo, Alexander
Coffman, Heather Elizabeth
Colon, Santos
Conley, Shannon Maureen
Cornell, Christopher Lee
Dakhlalla, Muhammad Oda
Dandach, Adam
Daniels, Aaron Travis
Das, Nelash Mohamed
Daud, Abdurahman Yasin
Davis, Leon Nathan
Diaz, Miguel Moran
Edmonds, Hasan R.
Edmonds, Jonas M.
El Gammal, Ahmed
Mohammed
Elfgeeh, Mufid A.
Elhassan, Mahmoud
Elhuzayel, Nader
Elshinawy, Mohamed
Farah, Adnan Abdihamid
Farah, Mohamed Abdihamid
Farrokh, Joseph Hassan
Ferizi, Ardit
Franey, Daniel Seth
Goldberg, Joshua Ryne
Greene, Daniela
Gregerson, Sebastian
Habibov, Abror
Harcevic, Armin
Hassan, Mohamed
Hendricks, Erick Jamal
Hernandez, Alex
Hester, Robert Lorenzo
Hicks, Marlonn
Hodzic, Ramiz Zijad
Hodzic, Sedina Unkic
Hubbard, Gregory
Ismail, Yusra
Jackson, Darren Arness
Jackson, Robert Blake
Jalloh, Mohamed Bailor
Jones, Joseph D.
Jordan, Akba Jihad
Juraboev, Abdurasul
Hasanovich
Kang, Erik Ikaika
Kareem, Abdul Malik Abdul
Kasimov, Dilkhayot
Khan, Asher Abid
Khan, Mohammed Hamzah
Khweis, Mohamad Jamal
Kodaimati, Mohamad Saeed
Lepsky, Gregory
Ludke, Jason
Lutchman, Emanuel
Marquez, Enrique
McNeil, Terrence J.
Medina, James Gonzalo
Morgan, Donald Ray
Mumuni, Fareed
Musleh, Akram
Musse, Hanad Mustofe
Nagi, Arafat
Niknejad, Reza
Nur, Abdi
Omar, Guled Ali
Padilla-Conde, Yosvany
Pugh, Tairod Nathan Webster
Qamar, Haris
Queen, Michael
Rabbani, Imran
Rafik Naji, Mohamed
Rahami, Ahmad Khan
Rahim, Said
Raishani, Saddam Mohamed
Rakhmatov, Azizjon
Ramic, Jasminka
Rayyan, Khalil Abu
Redzepagic, Elvis
Roble, Mohamed
Rosic, Nihad
Rovinski, Nicholas
Saadeh, Alaa
Saadeh, Nader
Said, Mahamed Abukar
Saidakhmetov, Akhror
Saleh, Ali
Saleh, Munther Omar
Salkicevic, Mediha Medy
Salman, Noor
Schimenti, Edward
Siddiqui, Asia
Smith, Alexander Samuel
Suarez, Harlem
Sullivan, Justin Nojan
Teausant, Nicholas Michael
Thomas, Keonna
Topaz, Samuel Rahamin
Van Haften, Joshua
Velentzas, Noelle
Warsame, Abdirizak
Mohamed
Wehelie, Yusuf
Williams, Lionel Nelson
Wolfe, Michael Todd
Wright, David Daoud
Yassin, Safya Roe
Young, Jaelyn Delshaun
Young, Nicholas
Yusuf, Abdullahi
Zakirov, Akmal
Zuhbi, Mohamed

Deceased:
Adan, Dahir
Artan, Abdul Razak Ali
Farooq, Syed Rizwan
Malik, Tashfeen
Mateen, Omar
Mohammad, Faisal
Rahim, Usaamah
Simpson, Elton
Soofi, Nadir Hamid

List of Statutes

TERRORISM CHARGES

18 U.S. Code § 956 - Foreign Relations: Conspiracy to Kill, Kidnap, Maim, or Injure Persons or Damage Property in a Foreign Country

18 U.S. Code § 2332a - Terrorism: Use of Weapons of Mass Destruction

18 U.S. Code § 2332b - Terrorism: Acts of Terrorism Transcending National Boundaries

18 U.S. Code § 2339A - Providing Material Support to Terrorists

18 U.S. Code § 2339B - Providing Material Support or Resources to Designated Foreign Terrorist Organizations

18 U.S. Code § 2339C – Prohibitions Against Financing Terrorism

18 U.S. Code § 2339D - Receiving Military-type Training from a Foreign Terrorist Organization

WEAPONS CHARGES

18 U.S. Code § 842 - Importation, Manufacture, Distribution and Storage of Explosive Materials: Unlawful Acts

18 U.S. Code § 844 - Importation, Manufacture, Distribution and Storage of Explosive Materials: Penalties

18 U.S. Code § 922 - Firearms: Unlawful Acts

18 U.S. Code § 924 - Firearms: Penalties

26 U.S. Code § 5841 - Machine Guns, Destructive Devices, and Certain Other Firearms: Registration of Firearms

26 U.S. Code § 5861 - Machine Guns, Destructive Devices, and Certain Other Firearms: Prohibited Acts

26 U.S. Code § 5871 - Machine Guns, Destructive Devices, and Certain Other Firearms: Penalties

OTHER CHARGES

18 U.S. Code § 2 - General Provisions: Principals

18 U.S. Code § 4 - General Provisions: Misprision of Felony

18 U.S. Code § 111 - Assault: Assaulting, Resisting, or Impeding Certain Officers or Employees

18 U.S. Code § 115 - Assault: Influencing, Impeding, or Retaliating Against a Federal Official by Threatening or Injuring a Family Member

18 U.S. Code § 371 - Conspiracy to commit offense or to defraud United States

18 U.S. Code § 373 - Solicitation to commit a crime of violence

18 U.S. Code § 875 - Extortion and Threats - Interstate Communications

18 U.S. Code § 1001 - Fraud and False Statements: Statements or Entries Generally

18 U.S. Code § 1028A - Fraud and False Statements: Aggravated Identity Theft

18 U.S. Code § 1030 - Fraud and False Statements: Fraud and Related Activity in Connection with Computers

18 U.S. Code § 1113 - Homicide: Attempt to Commit Murder or Manslaughter

18 U.S. Code § 1114 - Homicide: Protection of Officers and Employees of the United States

18 U.S. Code § 1344 - Mail Fraud and Other Fraud Offenses: Bank Fraud

18 U.S. Code § 1389 - Military and Navy: Prohibition on Attacks on United States Servicemen on Account of Service

18 U.S. Code § 1425 - Nationality and Citizenship: Procurement of Citizenship or Naturalization Unlawfully

18 U.S. Code § 1505 - Obstruction of Justice: Obstruction of Proceedings Before Departments, Agencies, and Committees

18 U.S. Code § 1512 - Obstruction of Justice: Tampering with a Witness, Victim, or an Informant

18 U.S. Code § 1519 - Obstruction of Justice: Destruction, Alteration, or Falsification of Records in Federal Investigations and Bankruptcy

18 U.S. Code § 1542 - Passports and Visas: False Statement in Application and Use of Passport

18 U.S. Code § 1544 - Passports and Visas: Misuse of Passport

18 U.S. Code § 1546 - Passports and Visas: Fraud and Misuse of Visas, Permits, and Other Documents

20 U.S. Code § 1097 - General Provisions Relating to Student Assistance Programs: Criminal Penalties

21 U.S. Code § 841 - Drug Abuse Prevention and Control: Prohibited Act



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