

EXHIBIT 32

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What the Data Tells Us About Immigration and Terrorism

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President Donald Trump signed an executive order enacting a 90-day suspension of all visas for nationals of Iraq, Iran, Libya, Somali, Sudan, Syria, and Yemen. The asserted purpose of the order is to protect the United States from “terrorist attacks by nationals” under the pretext that “numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001.” This claim underlies the order’s indefinite bar on Syrian refugee admittance, 120-day bar of other refugees, and the 90-day travel ban affecting nationals from the seven Muslim countries listed above. An earlier version of the order which was leaked to the press stated that “hundreds of foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001.”

Both the leaked draft and the order suggest that there is a horde of terrorists who are bypassing the screening process employed by U.S. consulates around the world. But as the CATO Institute has demonstrated, Americans face a de minimis risk of death from terrorism at home: 1 in 3.6 million. The false assertion that domestic terrorism is a largely Muslim problem is more a reflection of the President’s misguided belief in Muslim conspiracies and an interconnected web of “global jihad ” than actual empirical evidence. Framing potential terrorism as foreign, undifferentiated, and uniquely Muslim serves no other purpose than to deepen fears of an immigrant “other” in order to increase executive power.

The apparent basis for this focus on foreign born terrorists seems to be a 2016 analysis released by Attorney General Jeff Sessions, which investigated a Department of Justice list of 580 terrorism and

terrorism-related convictions. The analysis concluded that at least 380 convictions were of foreign-born individuals. Earlier that year, the then-Senator decried “the dangerous and costly status quo” associated with investigating “immigrant suspects in the United States” while admitting “680,000 migrants from Muslim countries [into the U.S.] every five years.” Sessions claims that the immigration of people from Muslim-majority countries represents a failure of costly counterterrorism efforts. But a close analysis of the data undermines this conclusion.

First, in what seems like an attempt to inflate numbers, Sessions’ analysis lumps together terrorism convictions and cases in which individuals were implicated in terrorism, two very different things. Sessions’ analysis came on the heels of three letters sent to the Departments of Justice, Homeland Security and State demanding “immigration histories of individuals implicated in terrorism since early 2014.” According to Sessions, “implicated” is a very broad standard that could include any convictions resulting from a terrorism investigation, even those without definitive links to international terrorism. In fact, only 194 of the 380 foreign-born convictions identified by Sessions (51 percent) were prosecuted for terrorism offenses. But this does not mean that 194 people were convicted of terrorist attacks. Rather, the vast majority of these individuals (68 percent) were convicted of “material support” of terrorism, which are cases where money, goods or other resources were provided to someone associated with a U.S. designated terrorist group. This result closely matches findings from a recent Fordham University study of all ISIS-related convictions from May 2014 to June 2016. The study revealed that 70 out of 101 charges (69 percent) were for “material support” of terrorism. Under the material support law, there is no requirement that the assistance provided was intended to, or assisted in any violent act.

An egregious example of material support is the case of the Holy Land Foundation for Relief and Development (HLF), formerly one of the largest Muslim charities in the United States. The five defendants, all leaders in the organization, were convicted of 108 criminal counts, including material support of terrorism, money laundering, and tax fraud. HLF, now defunct, was convicted of providing material support to Hamas, a designated foreign terrorist organization in the Palestinian territories. The prosecution did not assert that “HLF was funding Hamas directly or that its money was used (or was intended to be used) to support suicide bombings or other sorts of violence.” Only that the government maintained that Hamas controlled the local organizations HLF funded thus helping “Hamas win the ‘hearts and minds’ of the Palestinian people.” This claim was undermined by the fact that the U.S. Agency for International Development provided funds to the same organizations for at least three years after the government closed HLF. An attorney for one of the defendants, Nancy Hollander summed the problem with this case best, “the government traced every penny from the Holy Land Foundation directly to charity. No guns, no suicide belts, no explosives. Yet, because this charity went to families in Palestine, it was a crime.” The five defendants were sentenced to a combined total of 180 years in prison.

The other 49 percent of convictions – which the Sessions analysis describes as “implicated in terrorism” and the Justice Department called “terrorist-related offenses”—were actually convictions for crimes ranging from immigration fraud to obstruction of justice. It is not possible to verify the Justice Department’s claim that these cases involved “charged violations of a variety of other statutes where the investigation involved an identified link to international terrorism” and may have “connections to international terrorism that are not apparent from the nature of the offenses of conviction themselves.” However, the use of this category was criticized by the DOJ Inspector General as “inaccurately reported by significant margins” in a September 2013 audit. Indeed, as far back as 2003, the Government Accountability Office reported that the “DOJ does not have sufficient management oversight and internal controls in place to ensure the accuracy and reliability in its terrorism-related convictions.” Although the Department was found to have “revised its procedures for gathering, classifying, reporting terrorism-related statistics based on recommendations” from subsequent audits, the DOJ Inspector General maintained in 2013 that “implementation of the revised procedures was not effective to ensure that terrorism-related statistics were reported accurately.”

Second, at least 75 of the total of 194 terrorism convictions resulted from FBI sting operations. This figure was obtained by cross-referencing a Mother Jones database of terrorism-related sting operations and the Sessions analysis. These convictions may not be indicative of real threats. For years, the FBI has targeted dozens of individuals, and provided them with the inspiration, resources, and tools to carry out domestic terrorist plots or provide material support to terrorist groups. Many of these cases involve people who were not part of any foreign terrorist group and may never have had the interest or capacity to threaten national security without significant FBI encouragement and resources.

For example, Laguerre Payen is one of four convicted in a Newburgh, NY sting operation made infamous by an HBO documentary. An FBI informant recruited James Cromite, a low-level drug dealer and offered him \$250,000 to recruit three other Muslims and carry out an attack. The informant recruited Payen, a homeless crack addict and paranoid schizophrenic. When told of a trip to Florida as reward, Payen said he could not go because he had no passport. He hardly posed the type of threat on which the government should expend resources.

Another example is Patrick Abraham, one of five convicted in a Miami sting operation. An FBI informant targeted a group of poor African-American and Haitian men, offering them \$50,000 to join a terror plot. Subsequently, the informant recorded Abraham and the other men pledging allegiance to al-Qaeda. The group, dubbed the Liberty City 7, was not even Muslim, but a sect of the Moorish Science Temple that called itself the "Seas of David." According to Mother Jones, the men were financially strapped misfits who operated out of a warehouse, where they had no weapons save a ceremonial sword. They were clearly misguided in seeking support from a purported member of a terrorist group but not, as the government asserts, domestic al-Qaeda operatives intent on, much less capable of, committing harm to the United States.

Third, the Justice Department list of foreign born terrorism convictions covers a range of disparate foreign terrorist organizations (FTO's) with very different political aims. These FTO's pose varying degrees of risk to US national security. For instance, some of convictions involved groups such as the Cambodian Freedom Fighters (Cambodia), the Front for the Liberation of the Enclave of Cabinda (Angola), and the Tamil Tigers or the Liberation Tigers of Tamil Eelam (Sri Lanka), militant political organizations involved in violent conflicts in their respective nations, but pose no known domestic threat.

The executive order's attempt to cast America's terrorist threats as uniquely Muslim, interconnected and undifferentiated belies the immense heterogeneity of terrorist organizations from outside the country. Empirical evidence demonstrates that Americans face more concrete threats from "homegrown extremism" and even then, in a given year an individual is more than twice as likely to be killed by a far right extremist as opposed to someone claiming ties to Islam.

There is no question that terrorism is a serious national security issue but the threat is complicated. Relying on raw and undifferentiated data serves to obfuscate rather than assist the development of an effective response. The claim that foreign-born individuals have a greater propensity to commit terrorism, and that limiting foreign-born individuals travel into the United States on this basis will have a positive impact on national security, is another example of an "alternative fact" that should have no place in the day to policy operations of the state.

(Image: Flickr.com/GeoLiv)