Most convicted terrorists are U.S. citizens. Why does the White House say otherwise?

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March 12, 2017

The debate and pending court challenges in Hawaii, Washington and other states over the Trump administration's revised executive order temporarily banning immigration by citizens of six predominantly Muslim countries in the Middle East and North Africa — and suspending admittance of all refugees to the U.S. — revives the question: Is nationality a good predictor of terrorist intent on the homeland?

The January 27 and March 6 executive orders both seem to be predicated on the answer "yes." President Donald Trump stated in a February 28 speech to Congress, "According to data provided by the Department of Justice, the vast majority of individuals convicted of terrorism and terrorism-related offenses since 9/11 came here from outside of our country."

But that statement proves to be misleading and inaccurate, according to government data and researchers who have studied these cases over the past 15 years. On March 2, PolitiFact rated the Trump statement "Mostly False.""If you are looking to create a fact-based policy for making the country secure against terrorism, focusing on immigrants will not provide the answer." — Karen Greenberg, Center on National Security executive director

When it comes to the hundreds of convictions related to Islamic extremism achieved in U.S. federal courts since 9/11, the opposite is true. The vast majority of individuals convicted have been U.S. citizens, while some immigrants and refugees from the countries in Trump's executive order have also been found guilty of terrorism and terrorism-related crimes.

The White House has indicated the Feb. 28 Trump statement was based on a list of 580 international terrorism-related investigations through December, 31 2014, distributed last year by then-Sen. Jeff Sessions and Sen. Ted Cruz in their capacity as members of a Senate Judiciary Subcommittee on Immigration and the National Interest, which Sessions chaired.

The list of 580 cases also formed the basis of a different list compiled by the Center on Immigration Studies, an organization that advocates for restricting immigration, which named 72

individuals from the seven countries blacklisted in the original Trump immigration ban as "terrorists." But "about a dozen" of those defendants were convicted of non-terrorism crimes, according to the center's Director of Policy Studies, Jessica Vaughan.

Kansas Secretary of State Kris Kobach said on the PBS NewsHour last Monday, "Since 9/11, we have had 53 terrorists from those six countries either arrested or convicted of terrorism-related crimes." His office said he was referring to that Center on Immigration Studies list, not including the 19 Iraqis who appeared on it.

But there are shortcomings in relying on the Department of Justice's 2014 list of 580 names to assert "a majority" of convicted terrorists in the U.S. are immigrants.

First, the Department of Justice National Security Division does not compile lists of convicted terrorism or terrorism-related perpetrators by country of origin, citizenship, or immigration status, as it explained in the introduction to its January 2016 report to Senators Sessions and Cruz. The Department of Homeland Security maintains such immigration data, but has not released or completed any summary of the individuals listed by DOJ, Department of Homeland Security spokesman David Lapan told the PBS NewsHour Weekend.

An analysis of the 580 defendants by Senate subcommittee staff, which relied on public documents and media reports, found that "at least 62 were from Pakistan, 28 were from Lebanon, 22 were Palestinian, 21 were from Somalia, 20 were from Yemen, 19 were from Iraq, 16 were from Jordan, 17 were from Egypt, and 10 were from Afghanistan." (In other words, seven of the top nine countries of origin for foreign-born, terrorism-related defendants are not subject to the revised travel ban.)

339 of those 580 cases through 2014 resulted in a conviction for a terrorism crime, such as plotting or training for murder, bombings or other attacks on Americans or providing material support to groups like al Qaeda and the Islamic State in Iraq and Syria (ISIS), according to CATO Institute researcher Alex Nowrasteh, who last September published a comprehensive study of terrorism cases from 1975 to 2015. The other 241 convictions, or 42 percent, were for nonviolent crimes discovered in the course of terrorism investigations, such as making false statements, immigration fraud or illegal
possession of firearms or drugs.

In Nowrasteh's analysis, posted March 6 to the CATO Institute blog, he found a total of 40 of the 247 immigrants on the list of 580 defendants, or 7 percent, were convicted of planning, attempting or carrying out a terrorist attack on U.S. soil. "At most, only 58 percent of the 'terrorism-related' convictions given as the likely justification for this executive order can be classified as actual terrorism. The other 42 percent were not convicted of a terrorism offense," Nowrasteh wrote.

The scope of the 580 cases through 2014 is also broader than the administration's stated goal of stopping "radical Islamic terrorism" — for example, it includes 32 cases involving Colombian FARC rebels.

On the other hand, the list of 580 excludes types of domestic extremism which have been on the rise, including white supremacist violence.

The list of 580 is also outdated and skews toward foreign nationals. For example, it included only five ISIS-related cases when federal prosecutors have now brought 122 such cases, resulting in 64 convictions, 89 percent of them against U.S. citizens, according to the Center on National Security at Fordham University Law School in New York City.*

The Justice Department now has a newer list of 627 people convicted of terrorism and terrorism-related crimes from 9/11 through December 31, 2015, which Stanford University Law School professor Shirin Sinnar recently obtained through a Freedom of Information Act request.

As before, the newer DOJ list excludes domestic terrorism cases without international links and dozens of ISIS-related convictions obtained in 2016. Analyzing the list in a March 4 post to the Just Security blog, Sinnar wrote, "If you exclude all convictions for 'domestic terrorism' at the outset, how can you draw any overall conclusions on the citizenship status or national origin of those convicted of terrorism?"

Sinnar pointed out the newer DOJ list of 627 cases through 2015 includes 119 immigrants swept up in the nationwide post-9/11 dragnet but whose offenses were not terrorism crimes. Sinnar wrote, "More than 100 people appear on this list regardless of whether investigators had any evidence they were connected to international terrorism."

Sinnar noted another 150 individuals listed among the 627 were never charged with terrorism offenses. "Law enforcement officials may never have established a credible relationship to terrorism, whatever their original suspicions," she wrote.

So, how else do we know the vast majority of terrorism convictions are against U.S. citizens, as opposed to immigrants? Here are five different looks at numbers that support that conclusion:

- The Department of Homeland Security's March 1, 2017, assessment of 204 jihadists indicted or killed in the past six years (between March 2011 and December 2016), found that 116, or 57 percent, were American-born and 88, or 43 percent were foreign-born. Half of these immigrants were under 16-years-old when they were admitted to the U.S.

"We assess that most foreign-born, U.S.-based violent extremists likely radicalized several years after their entry to the United States, limiting the ability of screening and vetting officials to prevent their entry because of national security concerns," the DHS assessment said.

The top four countries of origin of the 88 jihadists, comprising a combined 40 percent of the group, were Somalia, Bosnia, Uzbekistan, and Pakistan; of those, Somalia is the only country affected by the Trump executive orders.

A separate DHS draft report examining 82 individuals involved in recent acts inspired by foreign terrorist organizations found not only were a majority American-born, but the perpetrators were citizens of 26 different countries (led by Pakistan). The reports concluded, "citizenship is unlikely to be a reliable indicator of potential terrorist activity."

- The New America Foundation, in Washington, D.C., maintains a database currently of <u>401 U.S. residents</u> charged in jihadist terrorism cases since 2001, which shows <u>84 percent were U.S. citizens</u> or legal permanent residents, or green card holders.

  New America policy analyst David Sterman, who co-authored the study with Peter Bergen, told the NewsHour Weekend that 72.5 percent of those perpetrators were either American-born or naturalized citizens, and 11.5 percent were legal residents.

Perpetrators in the 84 percent range from <u>Hesham Mohamed Hedayet</u>, a legal permanent resident from Egypt who shot and killed two people at the El Al ticket counter at Los Angeles International airport in 2002, to <u>Nidal Malik Hasan</u>, the American-born army major on death row for killing 13 fellow military members and wounding more than 30 others at Fort Hood, Texas, in 2009, to <u>Mohammad Youssuf Abdulazeez</u>, a Kuwaiti-born naturalized citizen who shot and killed five U.S. military personnel at two military stations in Chattanooga, Tennessee, in 2015.

"Every jihadist who conducted a lethal attack inside the United States since 9/11 was a citizen or legal resident. In addition about a quarter of the extremists are converts, further confirming that the challenge cannot be reduced to one of immigration," Bergen and Sterman wrote.

- The Center on National Security at Fordham has looked at a larger pool of post-9/11 defendants and perpetrators killed during attacks – a total of 497 tied to al Qaeda and the Islamic State – and found 299 of the federal prosecutions, or 60 percent, were brought against U.S. citizens. In the top threat since mid-2014 – <u>ISIS-related cases</u> — 79 percent of the defendants were U.S. citizens, with 60 percent American-born. Half of the ISIS-tied defendants were accused of trying to join the fight overseas, the most common offense.

"If you are looking to create a fact-based policy for making the country secure against terrorism, focusing on immigrants will not provide the answer," CNS executive director Karen Greenberg told the NewsHour Weekend. "There is no predictive trend for any particular foreign nationality and terrorism in the United States. But the numbers do suggest that the United States could and should do a better job helping immigrant families adjust to life in the United States."

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- The Bipartisan Policy Center reported in 2013 that while the threat of homegrown extremism has grown, there's "no <u>single ethnic profile</u> for homegrown jihadist extremists," a conclusion echoed in multiple congressional hearings by both FBI directors since 9/11, Robert Mueller and James Comey.

In testimony before the House of Representatives Judiciary Committee on <u>June 11, 2014</u>, Comey said self-radicalizing Muslim extremists "do not share a typical profile; their experiences and motives are often distinct. They are willing to act alone, which makes them difficult to identify and stop."

- The Duke University and University of North Carolina Triangle Center on Terrorism and Homeland Security, which issued its <u>annual report</u> on Muslim-American extremism in

January, has looked at 36 violent attacks carried out by Muslims inside the U.S. since 9/11. It found that 32 perpetrators were either American-born, such as San Bernardino mass shooter Syed Rizan Farook, or were admitted to the U.S. as children, such as Boston Marathon bomber Dzokhar Tsarnaev. Four attackers came as adults, including thwarted Times Square bomber Faisal Shahzad and second San Bernardino shooter Tashfeen Malik, both Pakistan-born.

University of North Carolina professor and report author Charles Kurzman said that since 9/11, 21 percent of Muslim-Americans implicated in violent extremist acts had family backgrounds in the six banned countries, and among plots directed inside the U.S., six percent of the attackers had backgrounds in those countries.

No fatalities in the U.S. have been caused by extremists with family backgrounds in the six banned countries or Iraq, according to the Triangle Center, as well as Fordham's Center on National Security, New America Foundation's international security program, and the Program on Extremism at the George Washington University Center For Cyber & Homeland Security.

"The six countries targeted in this executive order have not been a major source of violent extremism in the United States," Kurzman told the NewsHour Weekend. "Apparently the current level of vetting has been quite effective in minimizing the danger of terrorist infiltration. So the sense of urgency that seems to be driving the executive order does not match the actual level of threats we have witnessed in this country."