



## Using fake facts to make us afraid

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When you see an immigrant or a foreign visitor, especially from a Muslim country, should your first thought be that you might be looking at a possible terrorist?

Clearly, that's how the Trump administration wants Americans to react. It was the message in the president's first address to Congress a year ago last week when he declared that "the vast majority of individuals convicted of terrorism and terrorism-related offenses since 9/11 came here from outside of our country." At that time, he urged that the U.S. immigration system be

There's a misleading omission in Trump's formulation, though: homegrown fanatics have killed many more Americans on U.S. soil than foreign-born terrorists have. The disparity grows much wider if you include mass killings carried out not for any religious or ideological cause but (as we have recently been tragically reminded) by mentally troubled individuals. Indeed, in just two such shootings in the last five months in Las Vegas, Nevada, and Parkland, Florida, deranged shooters with assault rifles killed more than *three times* as many people as all foreign-born jihadists have killed in this country in the last 16 years.

Another key fact is missing, too: only a fairly small number of those "terror-related" convictions were for acts committed or planned in the United States. Many more involved support, in various forms, for terrorist activity in other countries.

Still, Trump and his associates have repeatedly declared that terrorists sneaking into the country through a too-lax immigration system are a pressing threat to public safety in the United States. That was, for instance, the administration's principal headline earlier this year when it released a report from the Justice and Homeland Security departments, which claimed that nearly three out of every four individuals convicted in international terror cases in U.S. federal courts from 9/11 through 2016 were foreign born — a total of 402, by their count. Announcing that report, Attorney General Jeff Sessions proclaimed that it highlighted the ways in which "our immigration system has undermined our national security and public safety." In the same press release, Homeland Security Secretary Kirstjen Nielsen warned that the United States "cannot continue to rely on immigration policy based on pre-9/11 thinking that leaves us woefully vulnerable to foreign-born terrorists."

Those and a long list of similar statements range from simply misleading to completely false. The deceptions occur in two stages. As a start, the data compiled within government agencies

significantly overstate the incidence of Islamist terrorism in this country. Then the president and his associates regularly misrepresent what that already flawed data actually tells us, leaving the truth even farther behind.

### **"Terror-related cases" that have no relation to terrorism**

The basic database on which Trump and his associates rely is the "[Chart of Public/Unsealed International Terrorism and Terrorism-Related Convictions](#)." It's compiled and updated every year by the Justice Department's National Security Division and lists defendants convicted on federal charges in cases since September 11, 2001. Despite its title, the list includes a significant number of cases that are verifiably *not* terrorism-related and a good many more in which a terrorism connection was not only not proved but remains highly unlikely.

Take Ansar Mahmood's case. It's far from the only example, but what makes it unusual is that the public record includes an explicit official acknowledgement that terrorism turned out not to be involved.

Mahmood, a 24-year-old legal immigrant from Pakistan, came under suspicion a few weeks after the 9/11 attacks when he was noticed taking photographs at a scenic spot along New York's Hudson River. A nervous security guard called the police to report that a Muslim-looking man might be taking pictures of a nearby reservoir and water treatment facility.

He was soon picked up, but investigators quickly concluded that he had no connection whatsoever to terrorism. They did, however, turn up evidence that he had registered a car and cosigned an apartment lease for a Pakistani couple who had overstayed their non-immigrant visas and were in the United States illegally. He was quickly charged with "harboring aliens," a deportable offense, and convicted. After a drawn-out appeal process, Mahmood was deported in 2005.

In a letter notifying him that his final appeal to set aside the deportation order had been rejected, William Cleary, a Bureau of Immigration and Customs Enforcement official, wrote: "It was determined that you were not engaged in any terrorist activity and were quickly cleared of any suspicion of terrorist activity." A few lines later, Cleary added a second time, "I am confident you did not engage in terrorist activity, you have never been charged as a terrorist or accused as being a terrorist."

There could hardly be more conclusive evidence that Mahmood's case had nothing to do with terrorism. Yet, years later, his name still appears on that Justice Department list of "Terrorism and Terrorism-Related Convictions." His two friends, also deported after being found guilty of visa violations and obtaining false IDs, are on the list, too, although there was absolutely no suggestion of any terror connection in their cases, either.

Nor are these isolated examples. Others on the conviction list who clearly were not terrorists include three Arab Americans, at least two of them naturalized U.S. citizens, convicted for buying a truckload of stolen breakfast cereal, and a group of 20 defendants, predominantly Iraqis, found guilty in a scheme to fraudulently obtain commercial driver's licenses and permits to transport hazardous material. There are also cases involving defendants convicted for false

marriage claims, foreign students who illegally got jobs in violation of student visa rules, a young man from Saudi Arabia who stored child pornography on his computer, and various others where the record shows no mention of any terrorist link.

Even the most dangerous sounding of these, the one involving hazardous-material permits, may sound ominous, but the scam itself occurred in the 1990s, well before the 9/11 attacks, and prosecutors made it clear that there was no link with terrorism. So did the trial judge, who said he could not "characterize this as a successful prosecution of a terrorism case, because it was not."

None of the 20 defendants who illegally obtained those licenses received any prison time. All were given probation; some paid modest fines. Those sentences would certainly have been far harsher if there had been any genuine suspicion that the defendants might be dangerous. (The driver's license examiner they paid off at the Pennsylvania Department of Transportation, an American, remains on the "terror-related convictions" list, too.)

### **Why are they on the list?**

Given the clear evidence that they were never terrorists, why are Mahmood and his friends, as well as those Iraqi truckers and others in similar cases, still officially identified as having been "convicted of terrorism," as the Trump White House has inaccurately characterized everyone named on the Justice Department chart? Or, in the only marginally more careful wording used in the list itself, why are they still guilty of "international terrorism-related offenses"?

The immediate reason is that, like Mahmood, they originally came to the attention of investigators looking for possible terrorist ties. In other words, their cases started out as possible terrorism ones and, under Justice Department procedures, simply remained in that category even when no such ties were found. The broader reason: counting them and others like them that way plays right into the Trump administration's anti-immigrant, anti-refugee, and anti-Muslim agenda. It magnifies, falsely, the supposed threat of "foreign nationals" connected with "terrorism-related activity" in the United States.

Setting aside the cases that were clearly not in any way linked to terrorism, there are many more on the chart in which individuals were suspected of ties of some kind to terrorism but were never charged. In those cases, the question is simply left unanswered, but there can be no doubt that some of those suspects, too, were neither terrorists nor supporters of terror movements. In other words, that group similarly inflates the claimed total.

There is another strong hint that many on the Justice Department list are unlikely to have been either terrorists or to have had serious ties to such organizations and it requires no additional research. It's right there on the chart itself in a column listing the sentences that defendants received for their crimes. More than 130 of the offenders on the list (both foreign and U.S.-born), when convicted, were given probation but no prison time at all or were sentenced only to time served before trial. Another 45 were sentenced to one year or less, including several token sentences of one day or, in a single case, a week.

Those light sentences — for more than a quarter of all the cases on the chart — certainly seem to indicate that no authority thought the defendants represented a terror threat.

### **Another distortion. . .**

Counting cases that have nothing to do with terrorism as "terror-related" isn't the only way the administration has distorted the facts about immigration and the threat of terrorism. It also counts cases that have nothing to do with immigration.

For example, a White House [fact sheet](#), summarizing the main findings of the January 16th Justice/Homeland Security report, says that 402 foreign-born defendants — the total given in the — all "entered the United States through our immigration system."

That is false. The report doesn't say that at all. You have to look carefully to find it, but the document explicitly says the opposite, stating that along with those defendants who had at one time or another passed through immigration controls, the 402 foreign-born offenders also include individuals "who were transported to the United States for prosecution." Presumably, some of them were captured overseas by U.S. military or security agencies and some were turned over to the U.S. by a foreign government.

The Justice Department has not disclosed how many such individuals are on the list. The number, however, is apparently substantial. Researchers for the [Lawfare Blog](#), working from an earlier version of the chart, determined that an even 100 defendants (later reduced to 99) "were extradited, or brought, to the United States for prosecution" without going through any immigration procedure. Including those cases as evidence of a lax immigration system is plainly deceptive.

They undercut the Trump administration's anti-immigration narrative in another way, too. Obviously, defendants who were extradited or otherwise brought into the United States *for* prosecution were more likely than those on the list as a whole to be charged with serious offenses and to receive much stiffer sentences. So adding them to the overall "foreign-born" figure not only gives a false impression of failures in immigration screening, but also inflates the threat that actual immigrants represent.

### **. . . and one more**

The Trump administration's message about "foreign-born terrorists" and the U.S. immigration system is clear enough: dangerous people are coming into this country to do bad things to Americans. Though you wouldn't guess it from listening to the president or his attorney general and homeland security secretary, a much larger number of cases involved exactly the opposite problem: people *leaving* the United States, or trying to leave, to do bad things elsewhere.

Only a small minority of the guilty verdicts on the Justice Department's conviction list were for committing or planning violent acts on U.S. soil. Significantly more defendants were tried for supporting terrorism abroad.

The comparison is dramatically clear in an [analysis](#) by the Cato Institute's Alex Nowrasteh. Examining an earlier version of the Justice Department's chart of convictions, he discovered that only 40 foreign-born defendants had been found guilty of "planning, attempting, or carrying out a terrorist attack on U.S. soil." More than 200 were, however, convicted for "material support for

foreign terrorists, attempting to join foreign terrorist organizations, planning a terrorist attack abroad, or a similar offense taking place abroad."

The same pattern is evident even in the recent Justice/Homeland Security report, despite all the accompanying dire rhetoric about threats to public safety in America.

The report summarizes eight terror-related cases as "illustrative examples" of crimes by foreign-born offenders. Not one of those crimes caused harm to a person or damage to property in the United States itself. Three of the eight defendants came to the United States as young children. No immigration process, no matter how rigorous, could have screened them out. The same is true of a significant number of others on the Justice Department's list. Just one of the eight defendants -- the only offenders actually identified in the report -- had anything resembling a concrete plan for a terror attack in this country. Of the other seven, one made vague threats about carrying out "an act of martyrdom" in the United States, but only if he wasn't able to go to Syria to join jihadist forces there. The other six cases involved individuals accused of supporting terror groups in other countries, with no mention of any possible acts inside the United States. The case summaries give no indication that any of the eight killed or injured an American anywhere.

### **A chilling footnote**

There is one other revealing thread in the administration's campaign to link immigration to terrorism. In the Justice/Homeland Security report's statistical breakdown of terror-related convictions, a footnote to the last line, which shows that 147 defendants were "U.S. citizens by birth," says: "Information pertaining to the citizenship status of the parents of these 147 individuals was not available at the time of this report's issuance."

The White House [fact sheet](#) repeated that point in its summary of the report, noting that it "does not contain information regarding the number of terrorism and terrorism-related offenses committed by individuals who are the children of foreign-born individuals." It then added: "Terrorist attacks carried out by children of foreign-born individuals include the attack in Orlando by Omar Mateen, which killed 49 people and wounded more than 50 others, and the attack in San Bernardino, California, by Syed Rizwan Farook, which killed 14 people and injured 22 others." (For the record, and it's odd the White House didn't mention it, Syed Farook's wife, who accompanied him in the San Bernardino shootings, *was* an immigrant.)

Neither the report nor the White House statement explained what crimes committed by U.S.-born shooters have to do with its declared subject: terror-related acts by "foreign nationals in the United States." Nor, obviously, does a mass shooting by a killer born in Chicago (Farook) or Long Island, New York, (Mateen) tell us anything about the effectiveness of immigration screening procedures or any other aspect of the U.S. immigration system, though it does fit a Trumpian vision of a world under threat from dangerous Muslims.

Perhaps those references to the "children of foreign-born individuals" were not meant to cast suspicion on the entire Muslim-American community. Possibly the White House and the Justice Department were not intentionally stoking public hostility and fear by implying that all Muslims,

whether immigrants or born in the United States, should be regarded as potentially disloyal or dangerous. But if there was a less chilling motive, it's hard to imagine what it might be.