

Center on Law and Security, New York University School of Law



Highlights from the
Terrorist Trial Report Card
2001-2009:
Lessons Learned

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From the Executive Director:

In the eight years since 9/11, there have been 828 terrorism prosecutions in the United States. The 2009 edition of the *Terrorist Trial Report Card* presents the results. The *TTRC* serves two primary purposes. The first is its quantitative analysis of the nature of the defendants, the details of the accusations against them, and the legal strategies employed by the Department of Justice. Equally as important, it sheds light on the ability of the criminal justice system to try these defendants fairly.

Underlying these years of trials has been a persistent question about whether or not Article III courts can handle the new dimensions of terrorism prosecutions. The possibility of charging Guantanamo detainees in U.S. courts has reinforced the urgency of the debate. Terrorism prosecutions were not new to the United States as of 2001. However, the exponential increase in terrorism-associated indictments, the perceived rise in the threat level, and the enactment of new terrorism statutes has required a rethinking of the legal strategies and law enforcement efforts that bring these cases to trial.

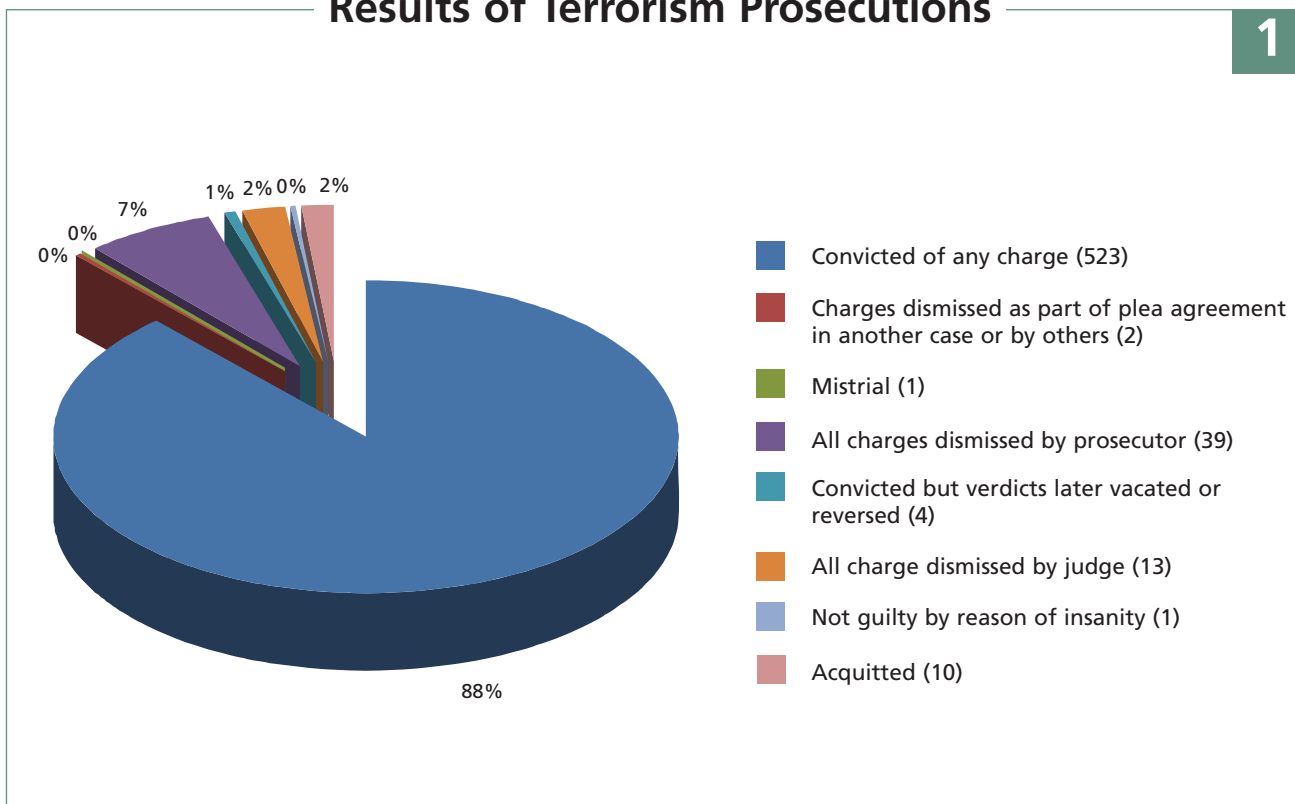
Over time, the record shows an increasingly focused approach to these cases. Issues of both statutory relevance and civil liberties protections have benefited from the learning curve that has defined these years. Lessons learned include which statutes result in successful prosecutions, how to better discern which cases to bring, and how to balance intelligence needs and the requirements of the criminal justice system. Going forward, the *TTRC* offers lasting lessons for providing justice and preserving national security.

I. Terrorism Prosecutions: An Overview

The Department of Justice has indicted 828 defendants.¹ Trials are still pending against 235 defendants, leaving 593 resolved indictments. Out of these 593 defendants, 523 were convicted on some charge either at trial or by plea. **Conviction Rate: 88.2%.**²

Results of Terrorism Prosecutions

1



¹ A single individual may be indicted in multiple criminal cases. In those instances, we have counted such individuals as separate defendants for each case in order for the conviction and acquittal rates to remain as accurate as possible. As a result, although there are only 804 individuals in the Terrorist Trial Database, there are 828 defendants.

² "Terrorism prosecutions" as used herein includes all individuals prosecuted in association with terrorism, as described by the Department of Justice in indictments or press releases. Not all defendants were charged with terrorism statutes.

The Center on Law and Security has defined “core terrorism statutes” as those falling under the Terrorism chapter of the United States Code,³ as well as 18 U.S.C. §1992 (“Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air”) and 18 U.S.C. §1993 (“Terrorist attacks and other acts of violence against mass transportation systems”). Attacks on mass transit, levying war against the United States, sabotage, hostage taking, and other crimes that may be committed by terrorists but also by others are included as national security violations.

Only 29.5% of indictments contain a charge under one of the core terrorism statutes.

102 defendants, or 12.4% of defendants in cases associated with terrorism, have been charged with national security violations or hostage taking.

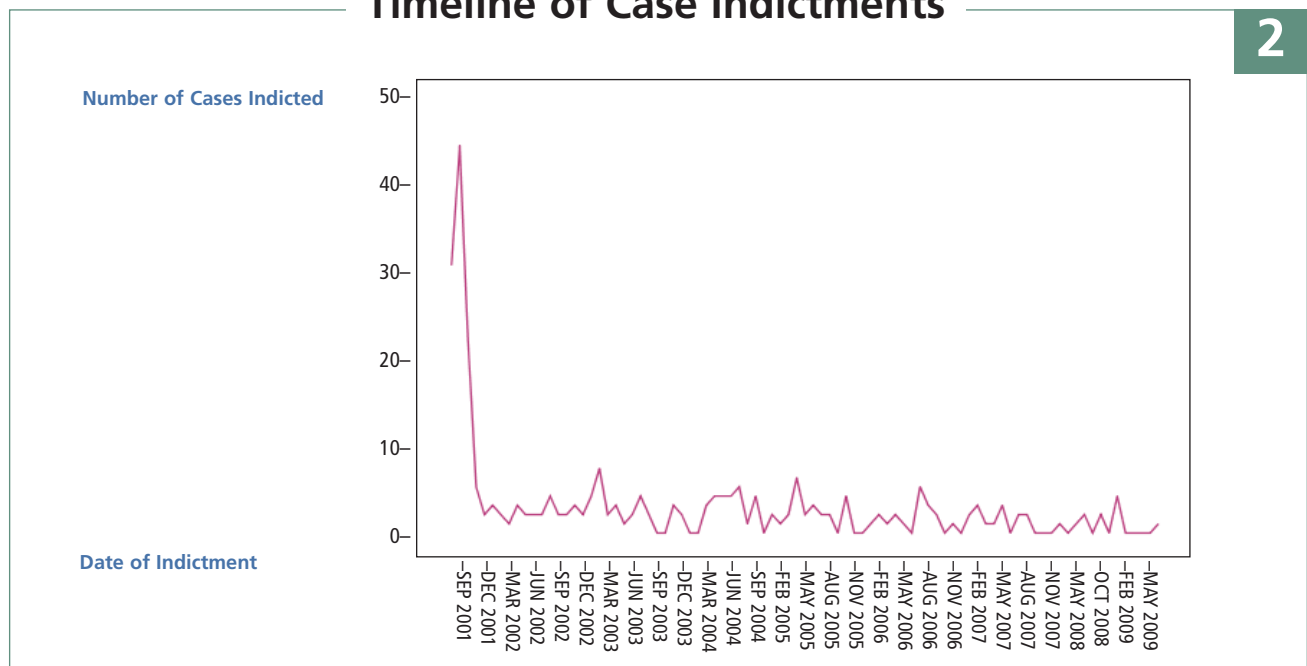
Defendants charged with terrorism/national security violations:	346	
Defendants against whom charges have been resolved:	223	
Convicted of terrorism/national security violations:	174	78%
Charged with terrorism/ national security violations, convicted only on lesser crimes:	24	10.8%
Overall conviction rate where terrorism or national security violations are charged:		88.8%

Results of trials where terrorism or national security violations were charged:

Convicted on Some Charge	198
Mistrial	1
Charges Dismissed by Prosecutors	11
Charges Dismissed as Part of Plea by Other Defendant or In Other Case	1
Acquitted, Guilty Verdicts Vacated, or Dismissed by Judge	12

Timeline of Case Indictments

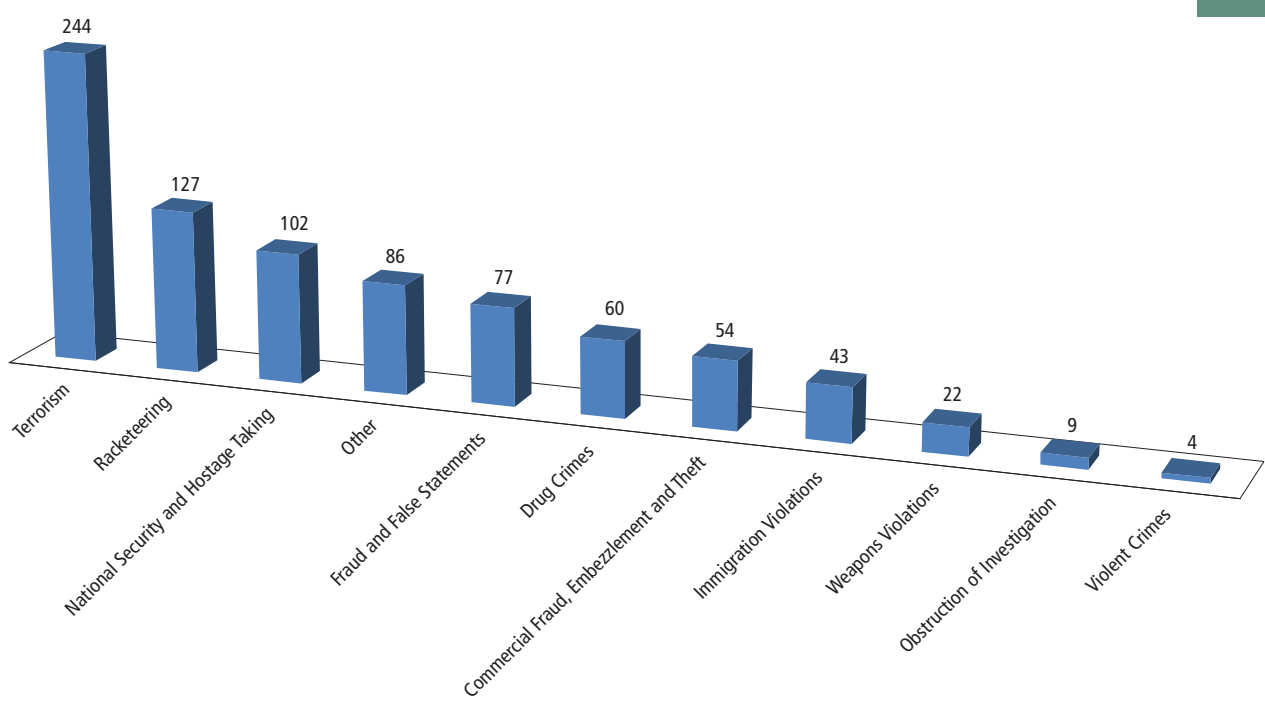
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³ U.S. Code, Part I, Chapter 113B: “Terrorism.”

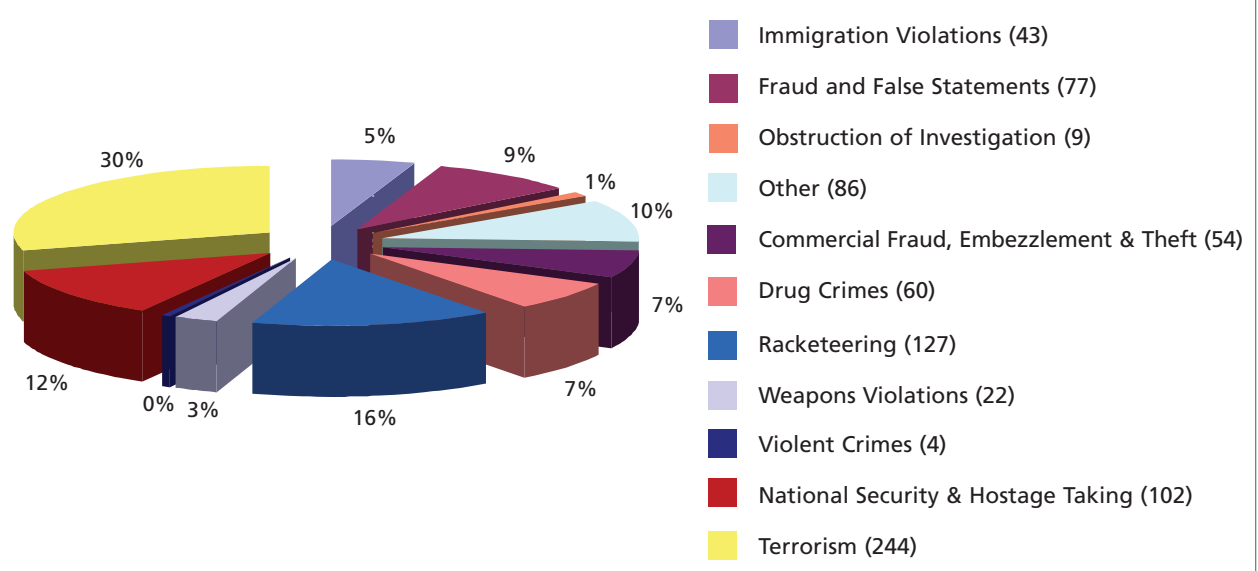
Indictments by Most Serious Charge Brought

3



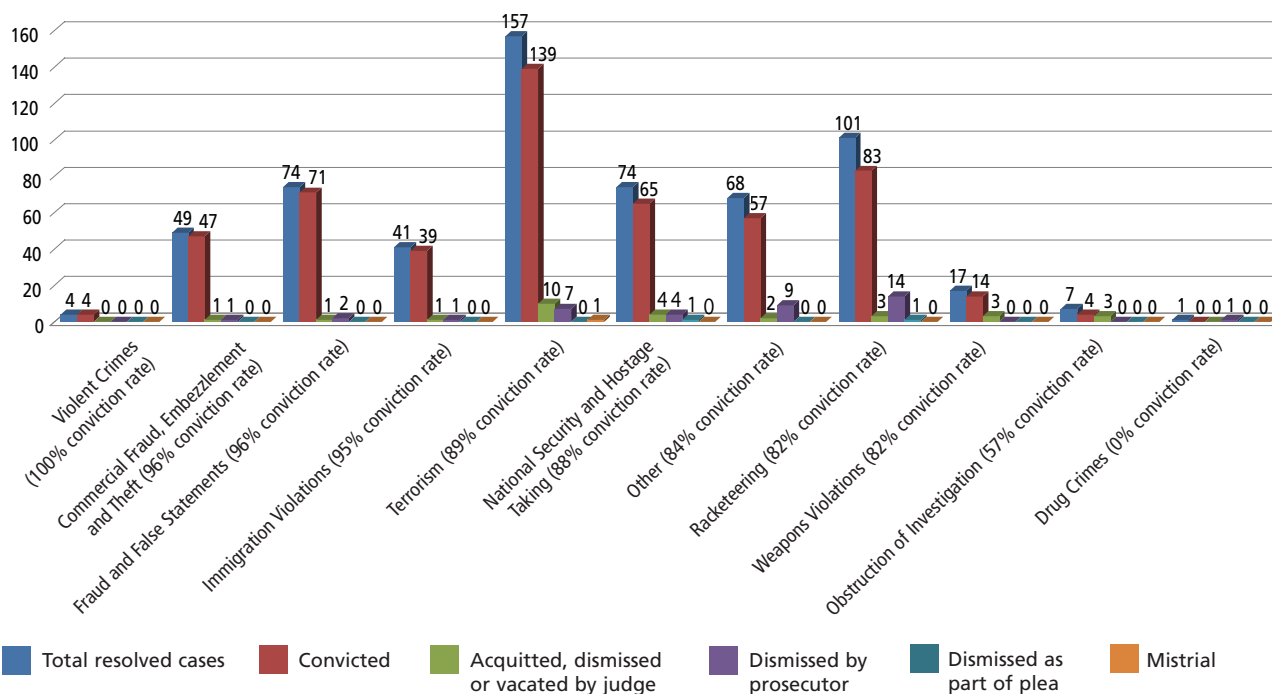
Percent of Indictments by Most Serious Charge

4



Which Cases Does the Government Win? Conviction Rates by Category of Crime

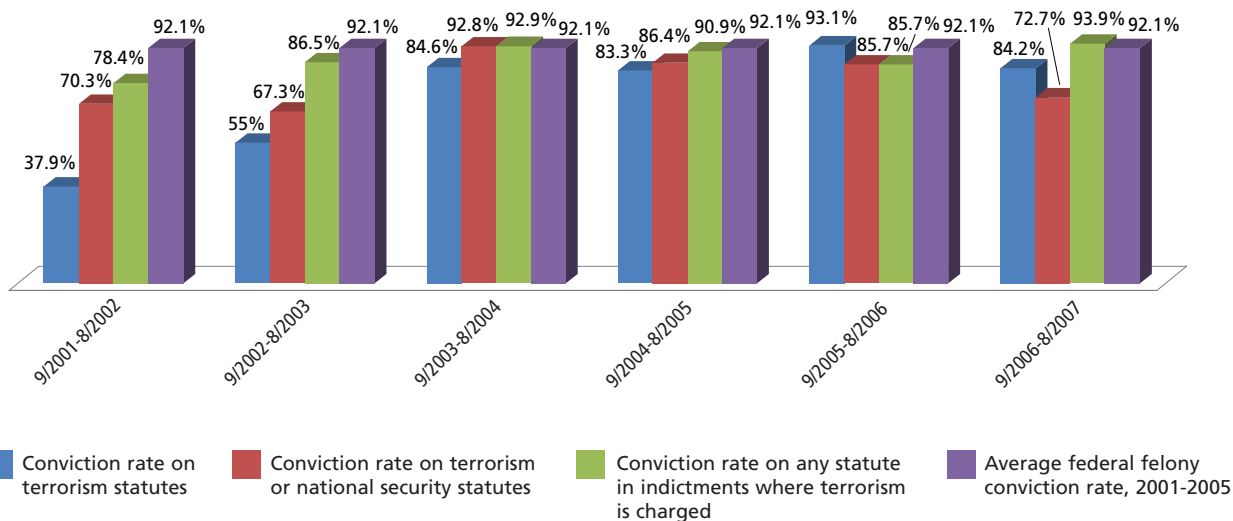
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Categories are by most serious charge; conviction rates are for any charge.

Conviction Rates in Indictments Where Terrorism Charges Are Brought

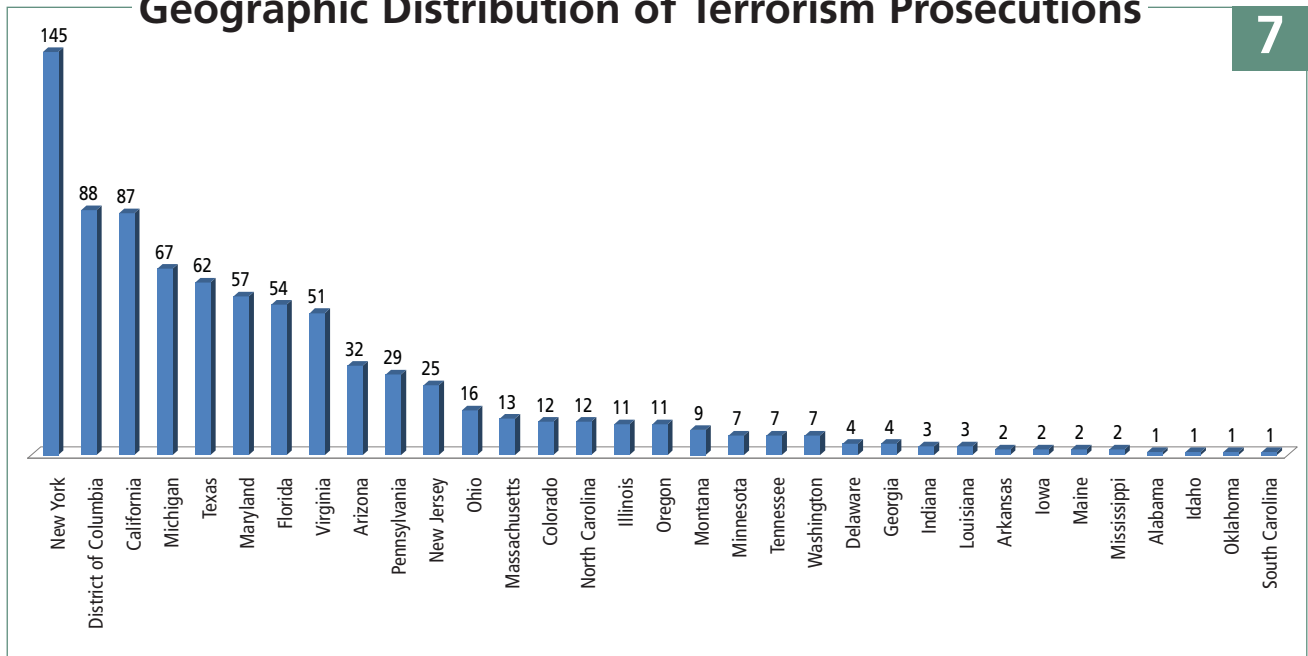
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II. What the Cases Tell Us

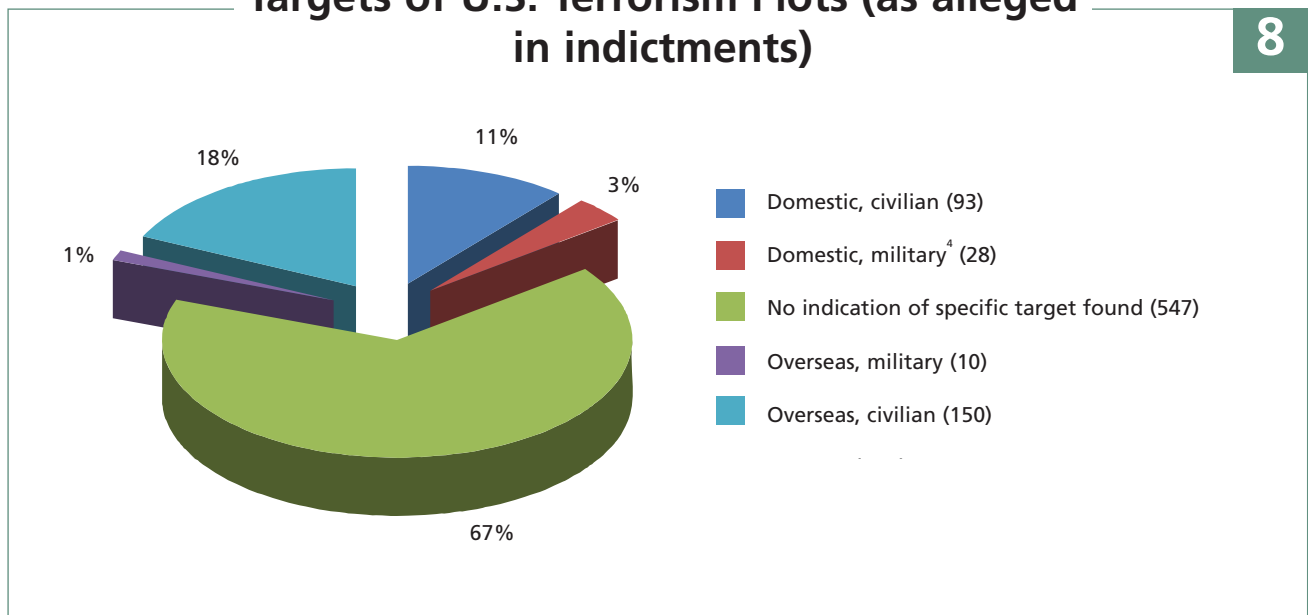
Geographic Distribution of Terrorism Prosecutions

7



Targets of U.S. Terrorism Plots (as alleged in indictments)

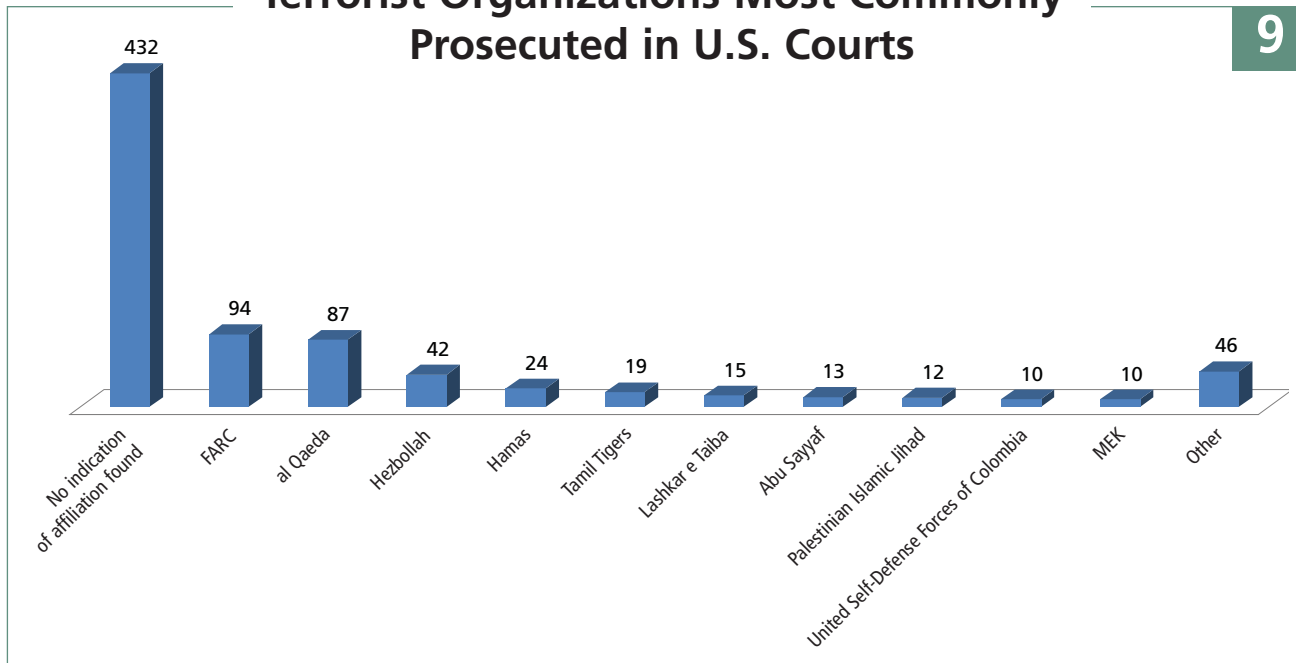
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⁴ "Military" as used herein includes all military personnel, installations, and infrastructure, both U.S. and foreign.

Terrorist Organizations Most Commonly Prosecuted in U.S. Courts

9



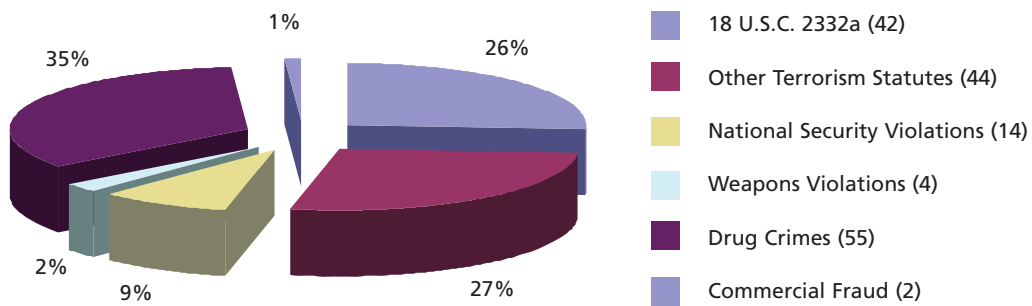
Most Common Countries of Origin, by Defendant (804 total defendants, only the most common citizenships listed)

United States	273
Colombia	98
Pakistan	60
Palestinian Territories	22
Jordan	18
Iraq	14
Egypt	13
United Kingdom	12
Sri Lanka	11
Canada	11
Philippines	11
Yemen	10
Saudi Arabia	10
Other	84
No indication of citizenship found	157

The following charts represent defendants charged under *any* statute, when they were alleged to have participated in plots involving weapons of mass destruction. We use the definition of “weapons of mass destruction” as provided in 18 U.S.C. §2332a, which defines “weapons of mass destruction” as “destructive devices,” including bombs, grenades, other explosives, and poison gasses.

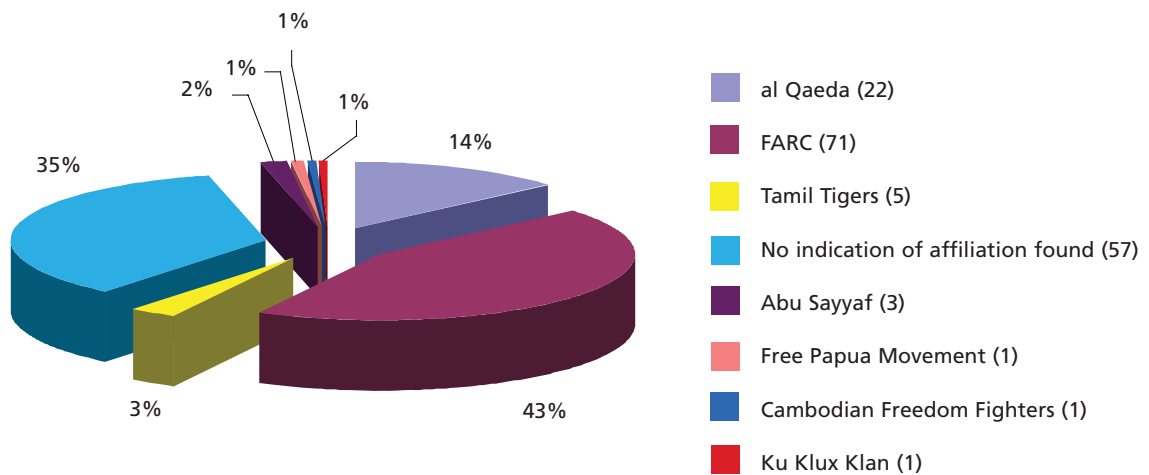
Statutes Used to Prosecute Defendants Implicated in Plots Involving WMDs

10



Alleged Affiliation in WMD Plots

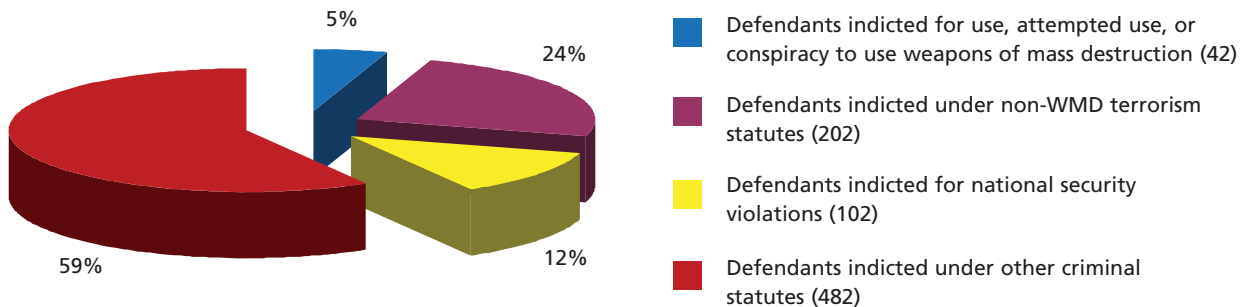
11



The following chart represents the number of defendants charged under 18 U.S.C. §2332a — the statute criminalizing use, attempted use or conspiracy to use a weapon of mass destruction.

Percent of Indictments Charging Use, Attempted Use, or Conspiracy to Use WMDs

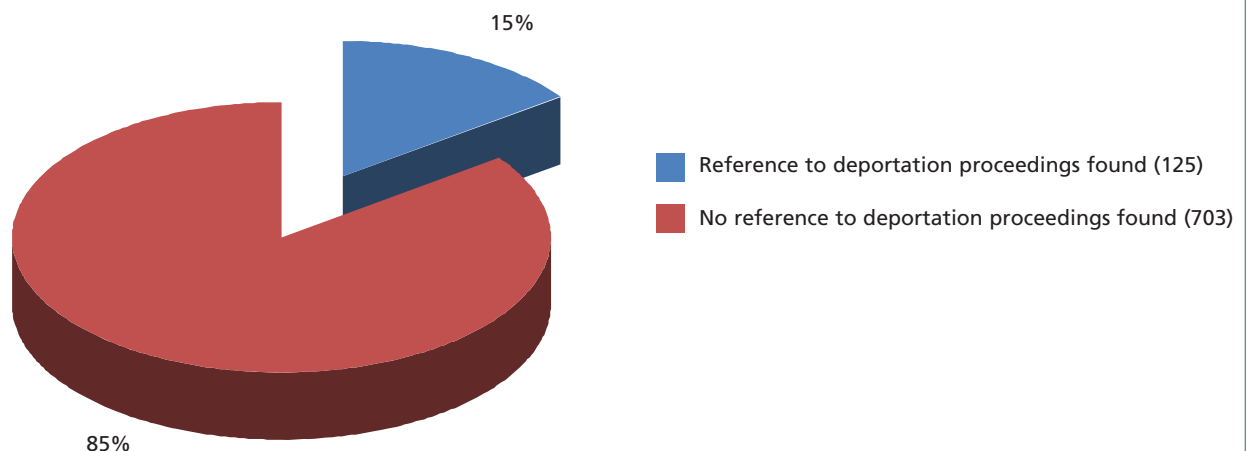
12



Federal statistics on deportation are not readily available. The accompanying charts represent only those cases where deportation proceedings were mentioned in the case docket or in media reports about the defendant — there may be other cases that resulted in deportation proceedings where no references to those proceedings were made public or publicly accessible.

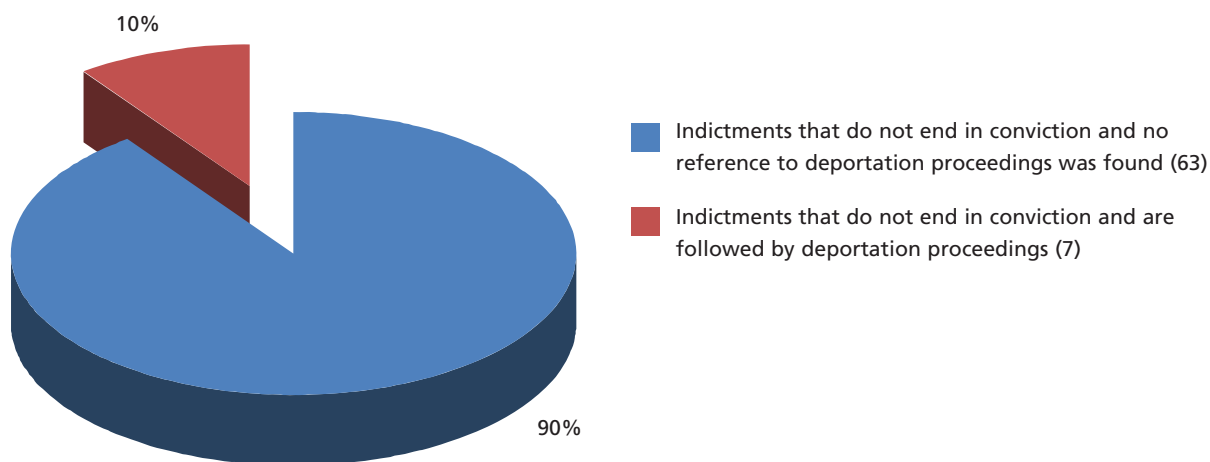
Number of Indictments Where References to Deportation Proceedings Were Found

13



Deportation Proceedings Following Indictments Where Defendants Were Not Convicted

14



III. Sentencing

Average Sentences:⁵

Overall: Minimum sentence: 0

Maximum sentence: 1,920 months, or 160 years

Average sentence: 67.0 months, or 5.6 years

Average sentence for persons charged with terrorism: 236.0 months, or 19.7 years

Average sentence for persons convicted of terrorism: 191.9 months, or 16.0 years

Average sentence for persons charged with national security violations but not terrorism: 124.5 months, or 10.4 years

Average sentence for persons convicted of national security violations and not charged with terrorism: 90.3 months, or 7.5 years

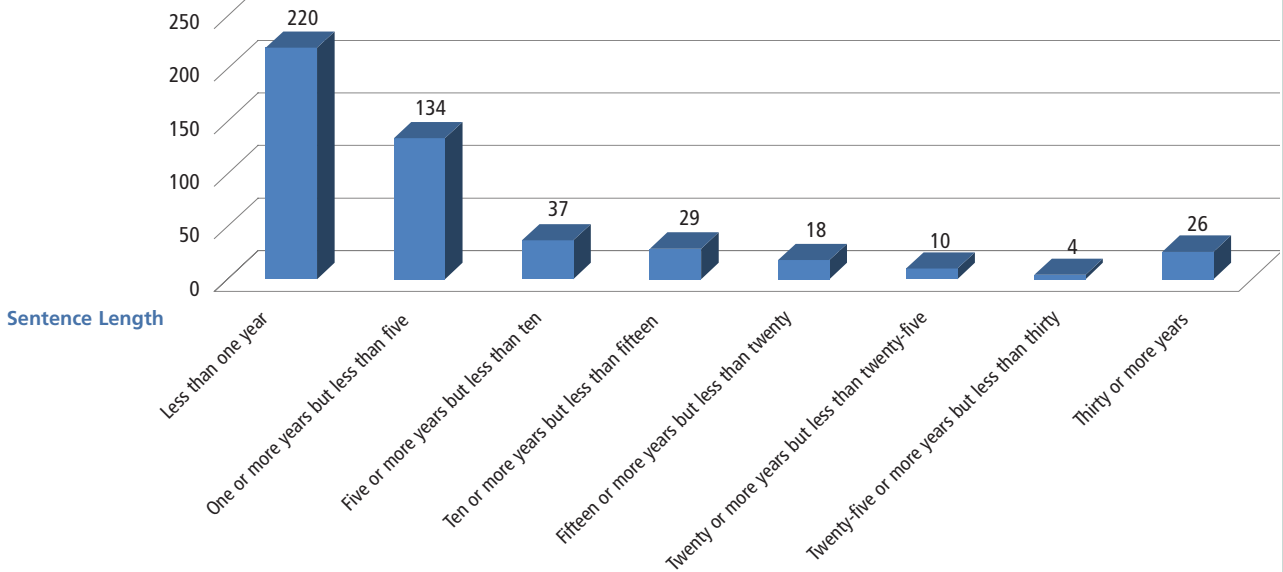
Average sentence for persons not charged with terrorism or national security violations: 14.6 months, or 1.2 years

⁵ For purposes of calculating average sentences, life sentences have been quantified herein as 30 years. However, the following bar charts include life sentences in the "30 years and up" category. There are thirteen life sentences in the dataset. Sentence totals herein do not include defendants who have been convicted but not yet sentenced or where sentence is sealed.

Sentence Lengths for All Terrorism-Related Indictments

15

Number of Indictments

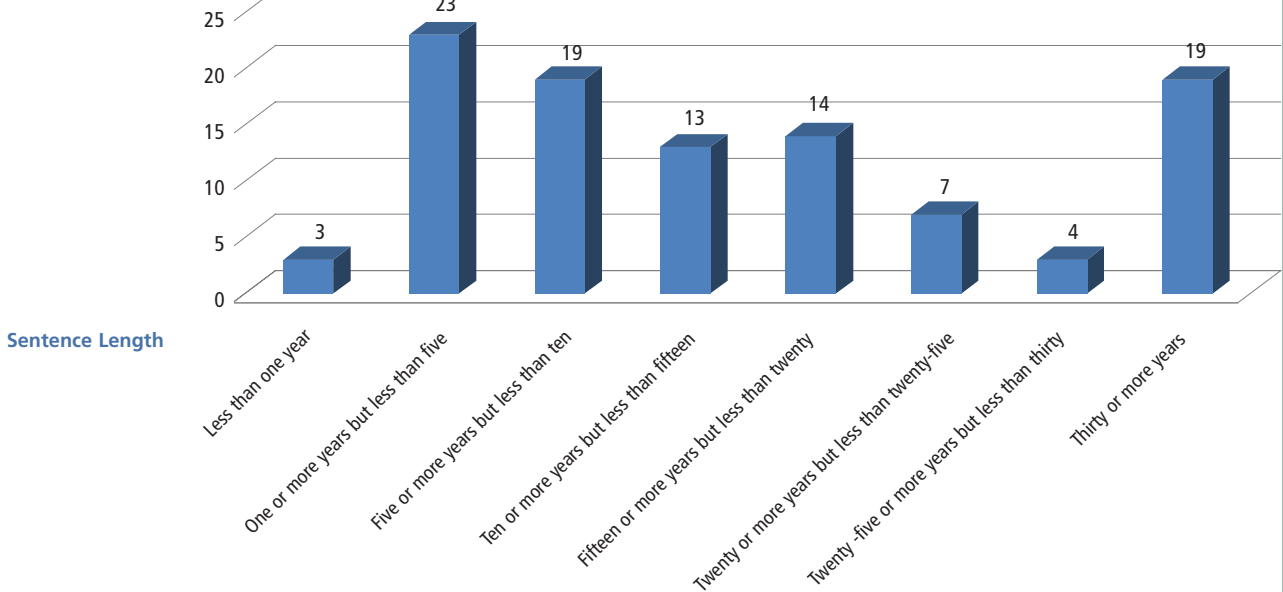


Sentence Length

Sentence Lengths Where Core Terrorism Statute Is Charged

16

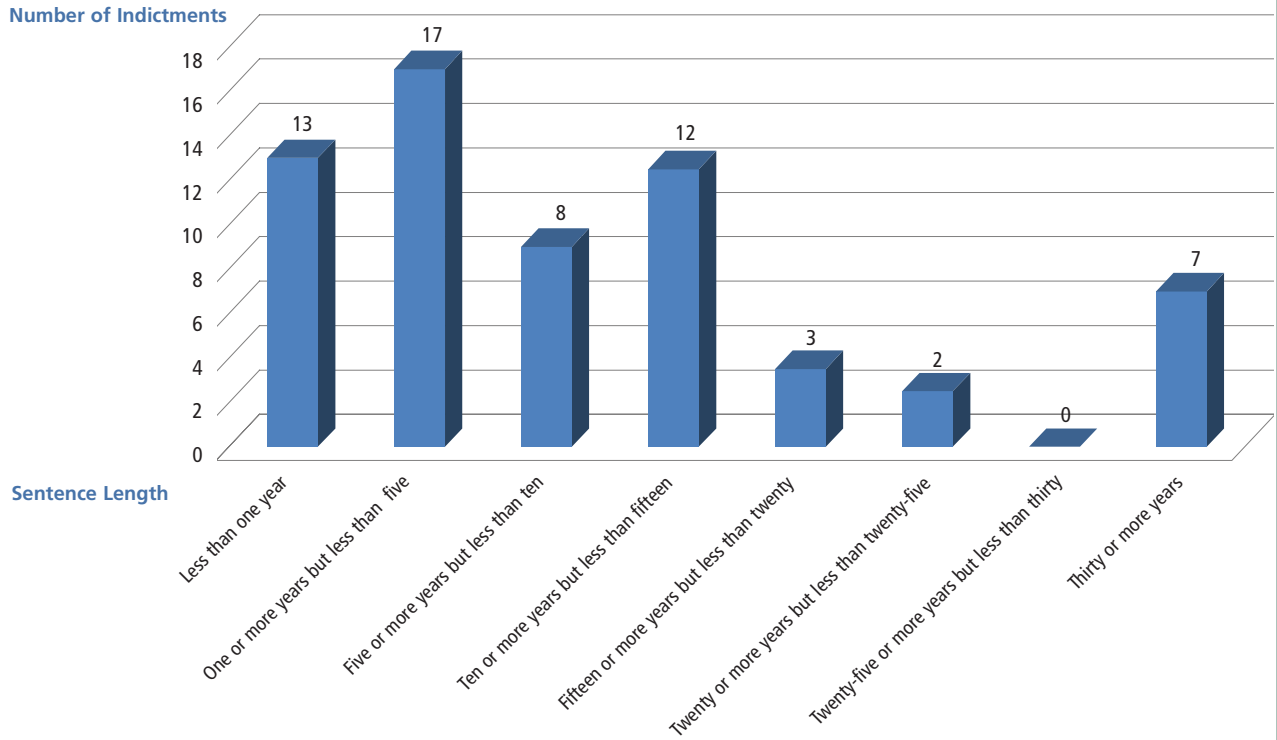
Number of Indictments



Sentence Length

Sentence Lengths Where National Security Violations Are Charged But Not Terrorism

17



Sentence Lengths Where neither Terrorism nor National Security Violations Are Charged

18

