



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 26, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Jeff Sessions
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Sessions:

I am writing in response to requests by a number of Members of the Committee for information about statistics maintained by the Department of Justice relating to prosecution of terrorism and terrorism-related crimes, as well as the incarceration of terrorists by the Bureau of Prisons.

The Counterterrorism Section of the National Security Division (NSD) (and its predecessor section in the Criminal Division) has maintained a chart of international terrorism and terrorism-related prosecutions since September 11, 2001. A copy of that chart, which currently includes just over 400 defendants, and a brief introduction describing its contents, is enclosed with this letter. This chart was initially developed and has since been maintained and regularly updated on a rolling basis by career federal prosecutors. The bulk of the data included in the chart was generated, and relates to prosecutions that occurred, during the prior Administration. In fact, the data was cited publicly by the prior Administration on repeated occasions, including:

- In a book entitled "Preserving Life & Liberty: The Record of the U.S. Department of Justice 2001 – 2005," released in February 2005, the Department said,

“Altogether, the Department has brought charges against 375 individuals in terrorism-related investigations, and has convicted 195 to date.”¹

- In its February 2008 budget request for Fiscal Year 2009, the Department of Justice said, “Since 2001, the Department has increased its capacity to investigate terrorism and has identified, disrupted, and dismantled terrorist cells operating in the United States. These efforts have resulted in the securing of 319 convictions or guilty pleas in terrorism or terrorism-related cases arising from investigations conducted primarily after September 11, 2001, and zero terrorist attacks on American soil by foreign nationals from 2003 through 2007.”

Please note that the chart includes only convictions from September 11, 2001 to March 18, 2010. It does not include defendants whose convictions remain under seal, nor does it include defendants who have been charged with a terrorism or terrorism-related offense but have not been convicted either at trial or by guilty plea. Finally, it does not include convictions related solely to domestic terrorism.

The NSD chart includes the defendant’s name, district, charging date, charges brought, classification category, conviction date, and conviction charges, as well as the sentence and the date it was imposed, if the defendant has been sentenced. As the introduction to the NSD chart explains, the data includes convictions resulting from investigations of terrorist acts planned or committed outside the territorial jurisdiction of the United States over which Federal criminal jurisdiction exists and those within the United States involving international terrorists and terrorist groups. NSD further divides these cases into two categories. The first includes violations of federal statutes that are directly related to international terrorism and that are utilized regularly in international terrorism matters, such as terrorist acts abroad against U.S. nationals and providing material support to a foreign terrorist organization. There have been more than 150 defendants classified in this category since September 11, 2001. The second category includes a variety of other statutes (like fraud, firearms offenses, false statements, or obstruction of justice) where the investigation involved an identified link to international terrorism. There have been more than 240 individuals charged in such cases since September 11, 2001. Examples of the international terrorism nexus identified in some of these cases have also been provided for your review.

¹ Notably, the book goes on to explain that “[t]o identify and prevent additional terrorist attacks, the Department has obtained the cooperation of individuals arrested in terrorism-related investigations by leveraging criminal charges and long prison sentences. As a result, the Department has been able to obtain critical information and intelligence about al Qaeda and other terrorist groups, safehouses, training camps, recruitment, and tactics in the United States, as well as the operations of terrorists who mean to do Americans harm.” It further concludes that “[t]he safety that America has enjoyed since September 11, 2001, is largely due to the enhanced integration and coordination that has occurred with our partners in the U.S. and international law enforcement and intelligence communities. Standing shoulder-to-shoulder, local, state, national and international law enforcement have stood watch together and disrupted terrorist threats around the world.”

Prosecuting terror-related targets using these latter offenses is often an effective method—and sometimes the only available method—of deterring and disrupting potential terrorist planning and support activities. Indeed, one of the great strengths of the criminal justice system is the broad range of offenses that are available to arrest and convict individuals believed to be linked to terrorism, even if a terrorism offense cannot be established. Of course, an aggressive and wide-ranging terrorism investigation will net individuals with varying degrees of culpability and involvement in terrorist activity, as the NSD chart reflects. Arresting and convicting both major and minor operatives, supporters, and facilitators can have crippling effects on terrorists' ability to carry out their plans.

You will also note that the sentences obtained in these cases range from a few months to life. Life sentences have been imposed by our courts in 12 international terrorism or terrorism-related cases since 9/11, and sentences of more than 10 years have been imposed in an additional 59 cases, including 25 cases in which the sentence exceeded 20 years. We believe the long sentences often imposed by our courts in these cases reflect the gravity of the threat posed by these individuals to our nation. However, it is important to note that while a long sentence is an important measure of success in a terrorism-related prosecution, it is not the only measure. Convicting an individual of an available offense and incarcerating him even for a relatively short period of time may be an effective way to disrupt ongoing terrorist activity, deter future activity, collect important intelligence, secure valuable cooperation, or facilitate rapid deportation of an individual.

This vital work continues. In the past year, thanks to the hard work of dedicated career professionals – FBI agents, other federal and state law enforcement officials, and career federal prosecutors – we have been able to disrupt terrorist plots, convict and imprison terrorists and their supporters, and collect intelligence we need to protect the country. We detected and disrupted a plot to attack the subway system in Manhattan with explosive bombs that could have killed many Americans. We conducted successful undercover operations to arrest individuals who separately attempted to blow up buildings in Dallas, Texas, and Springfield, Illinois. And we arrested individuals in Chicago who assisted in the deadly November 2008 terror attacks in Mumbai and were plotting other attacks.

Finally, the Bureau of Prisons (BOP) maintains a separate chart that identifies inmates in BOP custody who have a history of or nexus to international or domestic terrorism. There are currently more than 300 individuals on this chart, which is used to identify those inmates who may warrant increased supervision and monitoring of their communications, among other things. BOP's designation of these inmates may be based upon information from a variety of sources, including sensitive law enforcement or intelligence information that is not publicly available, regarding the inmate's past behavior and associations. BOP does not publicly disclose which inmates have been designated in this fashion. The disclosure of this information could interfere with BOP's

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monitoring and law enforcement investigative efforts. Moreover, disclosure of the identities of these inmates could pose risks to the security of the inmates and prison staff.

Should you or your staff wish to review the BOP chart, BOP is prepared to provide the Committee with access to the chart under conditions designed to protect security and operational equities.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Weich".

Ronald Weich
Assistant Attorney General

Enclosure