

February 8, 2018

Via FedEx

The Honorable Jeff Sessions
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Via Email and FedEx

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Via FedEx

The Honorable Kirstjen M. Nielsen
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Re: Request for Correction Under Information Quality Guidelines

Attorney General Sessions, Secretary Nielsen, Mr. Klimavicz, and Mr. Staropoli:

On January 16, your agencies—the Department of Justice (“DOJ”) and the Department of Homeland Security (“DHS”)—issued a report entitled “Executive Order 13780: *Protecting the Nation From Foreign Terrorist Entry Into the United States*, Initial Section 11 Report” (hereinafter the “Report” or the “Section 11 Report”).¹ As has been widely reported—and as described in more detail below—the Report is rife with inaccuracies, methodological flaws, and a lack of transparency and objectivity. As such, it falls well short of the data quality obligations imposed by Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Pub L. No. 106-554 § 515(a), 44 U.S.C. § 3516 note (hereinafter the “Data Quality Act” or “DQA”), as well as the implementing guidelines adopted by the Office of Management and Budget (“OMB”)² and your agencies³ (hereinafter the “Information Quality Guidelines” or the “Guidelines”).

Despite its many flaws—or, more accurately, because of them—the Report has been cited and amplified by the Administration as evidence of the need for more restrictive immigration policies. Indeed, the Report was the subject of a dedicated White House press briefing, where Press Secretary Sarah Huckabee Sanders stated that it “highlights the urgent need for Congress to

¹ “Section 11” refers to the provision of Executive Order 13780 pursuant to which the Report was issued.

² See Office of Management and Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication, 67 Fed. Reg. 8452 (Feb. 22, 2002) (“OMB Guidelines”).

³ The DOJ Guidelines can be found at <https://www.justice.gov/iqpr/information-quality>. The DHS Guidelines can be found at <https://www.dhs.gov/sites/default/files/publications/dhs-iq-guidelines-fy2011.pdf>.

adopt the immigration reforms identified in the administration’s priorities.”⁴ And President Trump has repeatedly tweeted about the Report, inaccurately characterizing its findings as showing that “nearly 3 in 4 individuals convicted of terrorism-related charges are foreign born.”⁵

Because the Report is being used as part of a misinformation campaign targeted at the American public to justify and support certain immigration policies, it is critical that corrective action be taken to ensure that the public is accurately informed. Therefore, we submit this request for correction under your agencies’ Information Quality Guidelines and ask that you issue a corrected version of the Report that adheres to the requirements of the Guidelines or, in the alternative, that you retract the Report in its entirety. Given the urgency and importance of this matter, we ask that you take these actions as soon as possible, and certainly expect that you will provide a response within 60 calendar days as required by the Guidelines.

The Requestors Have Strong Interests in the Correction of the Inaccurate Data

Protect Democracy is a nonpartisan, nonprofit organization dedicated to preventing our democracy from declining into a more authoritarian form of government. To advance this mission, Protect Democracy engages in advocacy and public education to defend core democratic norms and institutions. Protect Democracy has identified the politicization of independent institutions, the spread of disinformation, and the delegitimization of minority communities as particularly acute threats to our democracy, and has actively worked to counter these threats.⁶ The Report is a striking example of these threats, as it presents highly politicized and misleading information dressed up as objective data and statistics, in order to portray immigrants as a danger to our country. As such, the retraction or correction of the Report would advance Protect Democracy’s mission.

The Brennan Center at NYU School of Law is a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. Through its Liberty & National Security Program, the Brennan Center advocates for effective national security policies that respect constitutional values and the rule of law. In recent months, these efforts have included publishing research evaluating President Donald Trump’s “extreme vetting” as counterterrorism policy,⁷ serving as counsel for plaintiffs challenging the travel ban stemming from Executive Order 13780, and providing other related analysis and commentary directly implicating the data

⁴ Press Briefing by Press Secretary Sarah Sanders and then-Principal Deputy Assistant Attorney General Ed O’Callaghan (“Press Briefing”), Jan. 17, 2018, <https://www.whitehouse.gov/briefings-statements/press-briefing-by-press-secretary-sarah-sanders-and-principal-deputy-assistant-attorney-general-ed-ocallaghan01172018> (transcript of briefing).

⁵ <https://twitter.com/realDonaldTrump/status/953406423177859073>.

⁶ See, e.g., Protect Democracy and Stand Up Ideas, *The Republic at Risk: American Democracy One Year into the Trump Administration*, available at <https://protectdemocracy.org/update/republic-at-risk>.

⁷ Harsha Panduranga, Faiza Patel and Michael Price, *Extreme Vetting and the Muslim Ban*, available at <https://www.brennancenter.org/publication/extreme-vetting-and-muslim-ban>.

at issue in the Section 11 Report.⁸ As such, retraction or correction of the Report would advance the Brennan Center’s mission.

Benjamin Wittes is a Senior Fellow at the Brookings Institution and the Editor in Chief of *Lawfare*, a publication concerned with integrity in national security decision-making. He writes frequently about issues related to national security and terrorism, and has written specifically about the Section 11 Report and President Trump’s claim that “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.”⁹ He also filed a Freedom of Information Act request with DOJ for documents related to the President’s claim—in particular, whether data exists to support the claim and whether DOJ actually provided the President with such data. That request is now the subject of ongoing litigation.¹⁰

Nora Ellingsen is a student at Harvard Law School and has worked on national security and terrorism issues. Previously, Nora worked for five years as a Staff Operations Specialist in the Counterterrorism Division of the FBI. In that role, she assisted FBI Special Agents and Assistant U.S. Attorneys in the investigation and prosecution of subjects of FBI international terrorism investigations within the United States and abroad. Since 2016, she has covered national security issues, including international terrorism prosecutions, on *Lawfare*, including a series of articles using available data to evaluate the President’s claim that “the vast majority of individuals convicted of terrorism and terrorism-related offenses since 9/11 came here from outside of our country.” As a journalist and academic focused on issues directly related to the Report, Nora has an interest in the accuracy of data about terrorism. Retraction or correction of the Report would advance this interest.

Michael F. Crowley is a Senior Fellow at the Brennan Center for Justice at NYU School of Law and a former Senior Policy Analyst with OMB, serving in that capacity from 2004 until 2013 under both Republican and Democratic administrations. With extensive oversight experience involving DOJ, as well as its crime statistics programs, Mr. Crowley has long-standing professional interests in the accurate, fair, and unbiased presentation of data, as well as concerns about the misuse of data to inform government policy. Government policies and strategies that are formulated on the basis of misinformation risk targeting the wrong “problems” and misusing taxpayer resources. The Report is striking because it misuses data in an attempt to mislead, and creates an unsuitable, improper basis for governmental policymaking in the context of immigration and terrorism. As such, it appears to justify immigration policies by assigning

⁸ See, e.g., Faiza Patel, *Why the Trump Administration is Trying to Make Muslim Immigrants Seem Dangerous*, Wash. Post, Jan. 29, 2018, https://www.washingtonpost.com/news/posteverything/wp/2018/01/29/why-the-trump-administration-is-trying-to-make-muslim-immigrants-seem-dangerous/?utm_term=.6b3e82fa1ce1.

⁹ Benjamin Wittes, *Did the Justice Department Really Support the President's Misstatement to Congress? Let's Find Out*, *Lawfare*, Apr. 7, 2017, <https://www.lawfareblog.com/did-justice-department-really-support-presidents-misstatement-congress-lets-find-out>; Benjamin Wittes, *The Friendliest Lawsuit Ever Filed Against the Justice Department*, *Lawfare*, Aug. 12, 2017, <https://www.lawfareblog.com/friendliest-lawsuit-ever-filed-against-justice-department>; Lisa Daniels, Nora Ellingsen and Benjamin Wittes, *Trump Repeats His Lies About Terrorism, Immigration and Justice Department Data*, *Lawfare*, Jan. 16, 2018, <https://lawfareblog.com/trump-repeats-his-lies-about-terrorism-immigration-and-justice-department-data>.

¹⁰ See *Wittes v. U.S. Dep’t of Justice*, No. 1:17-cv-1627-RC (D.D.C. Aug. 11, 2017).

extreme risk to a population cohort on a basis that has little factual or analytical merit. Because the Report conflates terrorism and gender-based violence risk with this cohort, it hazards misdirecting federal anti-terrorism, crime, and immigration efforts in ways that are counterproductive, doing little to mitigate any actual terrorism or crime risk. Further, the Report does not meet the requirements of the DQA and is inconsistent with OMB Guidelines regarding the same.

The Departments' Information Quality Guidelines Requires that Disseminated Data Such as the Section 11 Report Meet Certain Quality Standards

The DQA required agencies to adopt policies and procedures “for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.” *See* Pub L. No. 106-554 § 515(a). As explained in the OMB Guidelines implementing this requirement, “the fact that the Internet enables agencies to communicate information quickly and easily to a wide audience not only offers great benefits to society, but also increases the potential harm that can result from the dissemination of information that does not meet basic information quality guidelines.” 67 Fed. Reg. at 8452. As used in the Guidelines, “quality” encompasses “utility, objectivity, and integrity.” *Id.* at 8459; *see also* DOJ Guidelines (acknowledging OMB’s definition); DHS Guidelines at 4 (same).

Several aspects of the DQA and its implementing Guidelines are particularly relevant here. First, “[t]he more important the information, the higher the quality standards to which it should be held.” *Id.* In particular, agencies should provide an added level of scrutiny to information defined as “influential”—that is where “the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.” *Id.* at 8460; *see also* DOJ Guidelines (defining “influential information” as “that which is expected to have a genuinely clear and substantial impact at the national level, or on major public and private policy decisions as they relate to federal justice issues”); DHS Guidelines at 4 (similar).

Second, disseminated information must be objective. As explained in the OMB Guidelines:

“Objectivity” involves two distinct elements, presentation and substance.

a. “Objectivity” includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation. Also, the agency needs to identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections) and, in a scientific, financial, or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where appropriate, data should have

full, accurate, transparent documentation, and error sources affecting data quality should be identified and disclosed to users.

b. In addition, “objectivity” involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, the original and supporting data shall be generated, and the analytic results shall be developed, using sound statistical and research methods.

67 Fed. Reg. at 8459; *see also* DOJ Guidelines (“DOJ components will ensure disseminated information, as a matter of substance and presentation, is accurate, reliable, and unbiased. Objectivity is achieved by using reliable data sources, sound analytical techniques, and documenting methods and data sources.”); DHS Guidelines at 3-4. When information purports to describe certain risks, the Guidelines expressly incorporate by reference the quality principles in the Safe Drinking Water Act Amendments of 1996, 42 U.S.C. § 300g-1(b)(3)(A) & (B), requiring that agencies use “the best available, peer-reviewed science and supporting studies,” and data “collected by accepted methods or best available methods.” 67 Fed. Reg. at 8460; *accord* DOJ Guidelines; DHS Guidelines at 5. Agencies should also consult with experts, as appropriate. *See* 67 Fed. Reg. at 8453.

Finally, the Guidelines require transparency so that the public can understand the agencies’ methodology and analytic choices, and they require that the information be useful.¹¹ “In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the perspective of the agency but also from the perspective of the public.” 67 Fed. Reg. at 8459.

The Report Fails to Comply with the Guidelines the Agencies Have Set for Themselves

The Report fails to satisfy the agencies’ information quality obligations in multiple respects. As an initial matter, the Report should be subject to a heightened degree of scrutiny because it is “influential” as defined by the Guidelines. *See* 67 Fed. Reg. at 8460; DOJ Guidelines; DHS Guidelines at 4. The Report was issued pursuant to Executive Order 13780 and is clearly intended to advance the Administration’s immigration agenda and to have “a clear and substantial impact,” 67 Fed. Reg. at 8460, on federal immigration policy. Indeed, the release of

¹¹ *See, e.g.*, 67 Fed. Reg. at 8453 (“[A]gencies must make their methods transparent by providing documentation, ensure quality by reviewing the underlying methods used in developing the data and consulting (as appropriate) with experts and users, and keep users informed about corrections and revisions.”); *id.* at 8456 (“The primary benefit of public transparency is not necessarily that errors in analytic results will be detected, although error correction is clearly valuable. The more important benefit of transparency is that the public will be able to assess how much an agency’s analytic result hinges on the specific analytic choices made by the agency.”); *id.* at 8460 (“If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties. . . . With regard to analytic results related thereto, agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public.”); DOJ Guidelines (“Transparency refers to a clear description of the methods, data sources, assumptions, outcomes, and related information that will allow a data user to understand how the information product was designed or produced. Guidelines to ensure transparency in statistical information covers the dissemination of information, including both presentation and the reporting of information sources and limitations.”); DHS Guidelines at 4.

the Report appears to have been timed to coincide with active congressional negotiations over immigration policy, and the Executive Branch has amplified the Report's conclusions and repeatedly cited them as a justification for more restrictive immigration policies.¹² President Trump himself characterized the Report's findings as showing that “nearly 3 in 4 individuals convicted of terrorism-related charges are foreign born”—eliding the distinction between international and domestic terrorism—and invoked it as support for restrictive immigration policies.¹³

In general, the Report falls well short of the requirements of the DQA and the Guidelines that “disseminated information [be] presented in an accurate, clear, complete, and unbiased manner” and “within a proper context.” 67 Fed. Reg. at 8459. While the Report purports to be a sober, evidence-based analysis of the nationality of those charged with terrorism-related offenses, it instead presents data in a misleading way in order to advance a biased narrative that immigrants present a threat to our country. According to Attorney General Sessions, the Report “reveals an indisputable sobering reality—our immigration system has undermined our national security and public safety.”¹⁴ DHS Secretary Nielsen described the Report as “a clear reminder of why we cannot continue to rely on immigration policy based on pre-9/11 thinking that leaves us woefully vulnerable to foreign-born terrorists, and why we must examine our visa laws and continue to intensify screening and vetting of individuals traveling to the United States to prevent terrorists, criminals, and other dangerous individuals from reaching our country.”¹⁵ And according to the White House, the Report “shows, once again, that our current immigration system jeopardizes our national security” and that it is “TIME TO END CHAIN MIGRATION AND THE VISA LOTTERY.”¹⁶

The Report manifests a lack of objectivity and even outright bias in several specific ways, all of which violate the DQA and the Guidelines. While this list is not exhaustive, the Report violates the legal requirements in the following respects:

¹² See, e.g., Our Current Immigration System Jeopardizes American Security (“White House Fact Sheet”), Jan. 16, 2018, *available at* <https://www.whitehouse.gov/briefings-statements/current-immigration-system-jeopardizes-american-security>; Dep’t of Justice, Office of Pub. Affairs, DOJ, DHS Report: Three Out of Four Individuals Convicted of International Terrorism and Terrorism-Related Offenses were Foreign-Born (“DOJ Press Release”), Jan. 16, 2018, *available at* <https://www.justice.gov/opa/pr/doj-dhs-report-three-out-four-individuals-convicted-international-terrorism-and-terrorism> (linking the Report’s findings to a “list of legislative priorities”); Press Briefing (“[T]his report highlights the urgent need for Congress to adopt the immigration reforms identified in the administration’s priorities.”).

¹³ <https://twitter.com/realDonaldTrump/status/953406423177859073>. Indeed, the Report seems to be constructed specifically to back up President Trump’s assertion—made during a February 28, 2017 address to Congress—that “[a]ccording to data provided by the Department of Justice, the vast majority of individuals convicted of terrorism-related offenses since 9/11 came here from outside of our country,” regardless of what the data actually shows. See Michelle Ye Hee Lee, *President Trump’s Claim That Foreigners are Responsible for “the Vast Majority” of Terrorism Convictions Since 9/11*, Wash. Post, Aug. 15, 2017, https://www.washingtonpost.com/news/fact-checker/wp/2017/08/15/president-trumps-claim-that-foreigners-comprise-the-vast-majority-of-terrorism-convictions-since-911/?utm_term=.f5afaa051d0a.

¹⁴ DOJ Press Release.

¹⁵ *Id.*

¹⁶ White House Fact Sheet.

1. Exclusion of domestic terrorism. The Report is limited to “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,” and omits “individuals convicted of offenses relating to domestic terrorism.” Report at 2. In other words, the Report includes only those terrorism-related offenses that almost *by definition* are far more likely to be committed by foreign nationals and excludes those that are far more likely to be committed by U.S. citizens. While there is nothing inherently wrong with an analysis of international terrorism-related charges, by focusing exclusively on the contribution of foreign-born individuals to the problem of terrorism while omitting significant categories of domestic actors, the Report leaves the reader with the impression that foreign-born individuals are the primary perpetrators of acts of terrorism more generally. To the contrary, “[d]omestic terrorism convictions account for the majority of terrorism convictions in the U.S. since Sept. 11, 2001, and those convicted of domestic terrorism charges are less likely to be foreign-born than their international terrorism counterparts.”¹⁷
2. Distorted information relating to extraditions and capture. The Report’s primary conclusion is that, of the 549 individuals convicted of international terrorism-related charges in U.S. federal courts between September 11, 2001 and December 31, 2016, 73 percent were foreign-born. *See* Report at 2. This includes 254 non-citizens and 148 naturalized citizens. *Id.* However, the Report mentions only once—and only in passing—that these numbers include “defendants who were transported to the United States for prosecution,” *id.*, but nowhere identifies how many such individuals are contained in the relevant dataset. This omission leaves the reader with the impression that the convicted individuals were predominantly immigrants to the country. In fact, it is highly likely that the data included approximately 100 individuals who were extradited into the United States or captured and brought to the United States for prosecution, and thus would not have been affected by U.S. immigration policy and/or interacted with the U.S. immigration system.¹⁸ The inclusion of these individuals without a clear explanation is inconsistent with the requirement that information be presented in an “accurate, clear, complete, and unbiased manner” and put “in a proper context.” 67 Fed. Reg. at 8459.

¹⁷ Nora Ellingsen and Lisa Daniels, *What the Data Really Show About Terrorists Who “Came Here,” Part III: What If You Included Domestic Terrorism Cases*, Lawfare, Apr. 11, 2017, <https://lawfareblog.com/what-data-really-show-about-terrorists-who-came-here-part-iii-what-if-you-included-domestic>; *see also* Faiza Patel, *Trump Administration’s Fuzzy Math on Terrorist Origins is More Than Misleading—It’s Dishonest*, Just Security, Jan. 16, 2018, <https://www.justsecurity.org/51084/trump-administrations-fuzzy-math-terrorist-origins-misleading-its-dishonest> (“[A]ccording to an April 2017 Government Accountability Office report, ‘far right wing extremist groups’ had perpetrated 73 percent of deadly attacks in the U.S. (quoting U.S. Gov’t Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* at 4, Apr. 2017, available at <https://www.gao.gov/assets/690/683984.pdf>)).

¹⁸ *See* Lisa Daniels, Nora Ellingsen and Benjamin Wittes, *Trump Repeats His Lies About Terrorism, Immigration and Justice Department Data*, Lawfare, Jan. 16, 2018, <https://lawfareblog.com/trump-repeats-his-lies-about-terrorism-immigration-and-justice-department-data>; Nora Ellingsen and Lisa Daniels, *What the Data Really Show About Terrorists Who “Came Here,” Part I: Introduction and Overview*, Lawfare, Apr. 11, 2017, <https://lawfareblog.com/what-data-really-show-about-terrorists-who-came-here-part-i-introduction-and-overview>.

3. Failure to provide important information about underlying data. The Report relies on a list of terrorism-related convictions maintained by DOJ's National Security Division ("NSD"). According to documents obtained in response to a FOIA request submitted by Mr. Wittes, NSD never shares this data without including a lengthy explanatory preamble. Indeed, in an email regarding the underlying NSD data, a senior NSD official emphasized that "[t]he scope and limitations of the information contained in the chart are fully described in its preamble, which should always accompany the chart." See Exhibit A. Later in the same email, the official again explained that "the explanations/caveats in the preamble always need to accompany that total number [of convictions listed on the chart]—which is why the chart and the preamble should always be distributed and read together." *Id.* Yet, the Report does not include much of the information contained in the preamble, thereby omitting important context about the underlying data.
4. Manufactured distinctions between U.S. citizens. As alluded to above, the Report draws a distinction between those who are U.S. citizens by birth and those who are naturalized citizens. See Report at 2. This distinction is a "departure from the long-standing practice of treating American citizens equally in the context of counterterrorism efforts—without any basis in fact, study or analysis" and is irrelevant in the context of national security law or immigration law.¹⁹ Yet, the Report does not even attempt to explain why it is relevant for its own purposes. Indeed, the Report goes so far as to suggest—again, without any explanation—that the citizenship status of parents of the U.S. citizens by birth who were convicted of terrorism-related offenses might be relevant data. See Report at 2 n.1. In this respect, the Report even departs from its authorizing Executive Order, which instructs the Departments to provide certain information on "foreign nationals," without any mention of foreign-born U.S. citizens. See Exec. Order No. 13780, 82 Fed. Reg. 13209, 13217 (Mar. 6, 2017).
5. Cherry-picked and unrepresentative examples. The Report provides eight "illustrative examples" of the 402 foreign-born individuals convicted of international terrorism-related charges. *Id.* at 3. Of those eight individuals, two entered the United States as a result of the visa lottery program (one as the recipient of a visa and one as the child of a recipient) and five were admitted as family members of naturalized citizens or lawful permanent residents. According to the White House, this shows that "[a] significant number of terrorists have entered the United States solely on the basis of family ties and extended-family chain migration," that "[t]errorists have also entered the United States through the visa lottery program," and that "chain migration" and the visa lottery present a threat to our national security. See White House Fact Sheet. However, the Report provides no information about how many of the 394 other foreign-born individuals entered the United States as a result of "chain migration" or the visa lottery program, and thus, there is no way to know whether the examples are indeed "illustrative."

¹⁹ Carrie Cordero and Paul Rosenzweig, *Beware the Slippery Slope in the DOJ-DHS Report on Foreign-Born Terrorists*, Lawfare, Jan. 19, 2018, <https://www.lawfareblog.com/beware-slippery-slope-doj-dhs-report-foreign-born-terrorists>.

6. Failure to provide critical underlying information and context about terrorist watchlist claim. The Report states that “[i]n fiscal year 2017, DHS had 2,554 encounters with individuals on the terrorist watchlist . . . traveling to the United States.” Report at 9. But the underlying data is not provided, and it is widely acknowledged that the watchlist is substantially overbroad.²⁰ Furthermore, the Report does not define what counts as an “encounter,” including whether the number includes someone who was an inconclusive or incorrect match with a name on the watchlist. See Report at 9.
7. Gender based violence. The Report’s section on violence against women repeatedly misrepresents or fails to put into proper context the sources on which it relies, in an apparent attempt to create the false impression that immigrants are more likely to commit acts of gender-based violence. See Report at 7-8. For example, the Report relies on a 2011 GAO report for the proposition that “aliens were convicted for [sic] 69,929 sex offenses” during the period from 2003-2009. *Id.* at 8. This claim is wrong in several obvious ways. First, the number 69,929 comes from a table in the GAO report that estimates the number of “Criminal Alien *Arrest* Offenses by Type of Offense.”²¹ An arrest is not a conviction, as the GAO report explicitly states.²² And “a single arrest can be for multiple offenses,” so 69,929 offenses does not mean that 69,929 people were arrested.²³ The claim that the 69,929 “convictions” occurred over the seven year period from 2003-2009 is also mistaken, as the GAO “analysis includes criminal aliens with arrests dating from *August 1955 to April 2010*.”²⁴ Finally, the Report assumes, without explaining its assumption, that “sex offenses . . . in most instances constitutes gender-based violence against women.” Report at 8. At the same time, the Report admits that this assumption is “not explicitly stated in the [GAO] report” and indeed, for state arrest offenses and convictions, the GAO report defines “sex offenses” to include “indecent exposure” and “prostitution,”²⁵ the latter of which is more often charged to women.²⁶
8. Honor killings and forced marriages. The Report’s discussion of honor killings and forced marriages is similarly flawed. The Report states that an “estimated . . . 23-27 honor killings occur every year in the United States.” Report at 8. That number comes from a study commissioned by a group headed by Ayaan Hirsi Ali, a fervent critic of Islam who has been characterized as trafficking in discourse stigmatizing Muslim communities and “argu[ing] that immigrants have no interest in being law-abiding

²⁰ See Harsha Panduranga, *Trump Administration’s Watchlist Data Overstates Terror Threat*, Just Security, Jan. 23, 2018, https://www.justsecurity.org/51301/misleading-data-terrorist-watchlist-adds-confusion-doj-dhs-numbers/?utm_campaign=website&utm_source=TakeCareBlog&utm_medium=Email.

²¹ U.S. Gov’t Accountability Office, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs at 21* (Mar. 2011), available at <https://www.gao.gov/assets/320/316959.pdf> (emphasis added).

²² See *id.* at 18 n.24.

²³ *Id.*

²⁴ *Id.* at 18 (emphasis added).

²⁵ *Id.* at 54.

²⁶ See U.S. Dep’t of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Arrests in the United States, 1990-2010* (Oct. 2012), available at <https://www.bjs.gov/content/pub/pdf/aus9010.pdf>.

citizens.”²⁷ Furthermore, according to the lead researcher who produced the “23-27” number cited in the administration’s report, the estimate was “not terribly scientific” given the lack of data available: it was arrived at by extrapolating based on the frequency of honor killings in selected European countries and combining that with American crime and demographic figures.²⁸ The Report’s estimate that “approximately 1,500 forced marriages occur every year in the United States,” Report at 8, also misstates the underlying data. That statistic comes from a 2014 study commissioned by the Bureau of Justice Statistics that relied on data from the Tahirih Justice Center.²⁹ But that data showed only that legal and social service providers “encountered as many as 3,000 cases of forced marriage during [a] two year window, not that the marriages occurred during that time.”³⁰ Furthermore, those cases could have occurred outside the United States, and “[b]oth the victims and perpetrators were diverse in religious, ethnic, and national background, including U.S. citizens and immigrants.”³¹ As a general matter, the Report portrays forced marriages as a problem attributable to immigration, when it is in fact a significant domestic issue.³²

9. Lack of transparency. The Report suffers from a general lack of transparency about the underlying data on which it relies. As previously mentioned, it provides no information that can be used to assess whether the individuals named in the Report are truly “illustrative.” More fundamentally, while the Report is largely based on “a list maintained by DOJ’s National Security Division” and subsequent DHS analysis of that list, Report at 2, neither the list nor the analysis has been made public.³³ The same can be said of the list of 1,716 aliens who were removed because of “national security

²⁷ Anna C. Korteweg and Gökçe Yurdakul, United Nations Research Institute for Social Development Religion, *Culture and the Politicization of Honour-Related Violence: A Critical Analysis of Media and Policy Debates* at 9 (Oct. 2010), available at [http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=E61F80827BF3409FC1257744004DC465&parentdoctype=paper&netitpath=80256B3C005BCCF9/\(httpAuxPages\)/E61F80827BF3409FC1257744004DC465/\\$file/KortewegYurdaku.pdf](http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=E61F80827BF3409FC1257744004DC465&parentdoctype=paper&netitpath=80256B3C005BCCF9/(httpAuxPages)/E61F80827BF3409FC1257744004DC465/$file/KortewegYurdaku.pdf).

²⁸ Jesse Singal, *Here’s What the Research Says About Honor Killings in the U.S.*, New York, Mar. 6, 2017, <http://nymag.com/daily/intelligencer/2017/03/heres-what-the-research-says-about-american-honor-killings.html>.

²⁹ See Tahirih Responds to Incorrectly Cited Gender-Based Violence Research in DHS/DOJ Report, Jan. 17, 2018, <http://www.tahirih.org/news/tahirih-responds-to-incorrectly-cited-gender-based-violence-research-in-new-dhs-doj-report>.

³⁰ *Id.*

³¹ *Id.*

³² See Anjali Tsui, Dan Nolan and Chris Amico, *Child Marriage in America: By the Numbers*, Frontline, July 6, 2017, <http://apps.frontline.org/child-marriage-by-the-numbers>.

³³ Indeed, according to reports, DHS did not even conduct an analysis as claimed by the Report. See Spencer Ackerman, *Team Trump Bypassed DHS Analysts to Produce Bogus Terror Report*, Daily Beast, Jan. 21, 2018, <https://www.thedailybeast.com/team-trump-bypassed-dhs-analysts-to-produce-bogus-terror-report>. To the contrary, “DHS . . . does not track or correlate international terrorism data by citizenship or country of origin, and have warned the Trump administration that doing so risks a misleading portrait of both terrorism and immigration.” *Id.* The Report “did not include the contributions of those career DHS officials tasked with providing professional and objective analysis.” *Id.* As such, the Report was issued without consultation with individuals with relevant subject matter expertise, in contravention of the DQA and the Guidelines.

concerns,” Report at 7, and, as discussed above, the 2,554 DHS “encounters with individuals on the terrorist watchlist . . . traveling to the United States,” Report at 9. In short, there is no way for the public to assess the reliability of the underlying data or the agencies’ analysis of that data, as required by the DQA and the Guidelines. *See* 67 Fed. Reg. at 8459.

Individually, each one of these flaws requires correction to ensure that the Report satisfies the requirements the agencies have set forth in the Guidelines. Taken together, the effect is magnified and they render the Report deeply misleading.

The Agencies Should Retract the Report or Make the Following Corrections to Adhere to the Information Quality Guidelines

We believe that the Report is so saturated with bias and a lack of objectivity—both in conception and execution—that the appropriate course is to retract it in its entirety, and we ask that you do so. However, should you decline to retract the Report, we would ask that you take the following steps to correct it and reissue a revised version:

1. Include data and appropriate context regarding domestic terrorism-related convictions;
2. Include data and appropriate context regarding the underlying data in which the Report relies, including the number of foreign-born individuals convicted of international terrorism-related offenses who were extradited to the United States for prosecution;
3. Explain why drawing a distinction between naturalized citizens and citizens by birth is relevant, as well as why information about the citizenship of the parents of citizens by birth is relevant;
4. Include data to support the assertion that the eight individuals named in the Report are “illustrative,” particularly as to their method of admission to the United States (or, if such data are unavailable, provide context so that the public can judge whether the examples are truly “illustrative”);
5. Provide additional information about DHS’s 2,554 encounters with individuals on the terrorist watchlist, including how an “encounter” is defined;
6. Correct data and appropriate context regarding gender-based violence, honor killings, and forced marriages;
7. Provide access to the data underlying the Report; and
8. Consult with relevant experts, including career DHS officials and those in the private sector.

Conclusion

The American people rely on the U.S. government to provide accurate, objective, and unbiased data. In our democracy, that allows the public to understand the policy choices facing our country and to hold our government accountable. Your agencies, which are responsible for law enforcement and homeland security, must maintain the trust of the American people in order to fulfill their missions. Furthermore, Congress has mandated the adoption of information quality guidelines and, pursuant to that obligation, each of your agencies has adopted such guidelines. The Report fails to adhere to these legal requirements and fails to provide accurate

and objective information as required by the DQA and your agencies' Guidelines. We ask that you retract the Report or make the corrections set forth above. We look forward to hearing from you and thank you for your consideration.

Sincerely,

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The Honorable Ron Johnson, Chairman
The Honorable Claire McCaskill, Ranking Member
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The Honorable Bob Goodlatte, Chairman
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The Honorable Trey Gowdy, Chairman
The Honorable Elijah E. Cummings, Ranking Member
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EXHIBIT A

Matthews, Patricia (NSD)

From: Gauhar, Tashina (ODAG)
Sent: Friday, February 10, 2017 11:18 PM
To: Toscas, George (NSD)
Subject: FW: NSD Chart of Convictions

FYI.

-----Original Message-----

From: Gauhar, Tashina (ODAG)
Sent: Friday, February 10, 2017 11:17 PM
To: Tucker, Rachael (OAG) <ratucker@jmd.usdoj.gov>
Subject: RE: NSD Chart of Convictions

Thanks. Credit goes to George and NSD for pushing hard to get this done! If you have not met George yet, let me know and I will introduce you next week!

-----Original Message-----

From: Tucker, Rachael (OAG)
Sent: Friday, February 10, 2017 11:16 PM
To: Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>
Subject: Re: NSD Chart of Convictions

Tash! Thank you. This is great.

> On Feb 10, 2017, at 11:14 PM, Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov> wrote:

- >
- > Hi Rachael. NSD has worked hard to update the chart to now include the 2016 numbers. You can see the revised chart attached herein. Per the e-mail below, NSD sent the document to the OLA for delivery to Congress.
- >
- > NSD is comfortable with your sending this chart to the WH and/or DHS as needed to get the additional information for the stats we previously discussed.
- >
- > Let me know if you need anything else from me on this.
- >
- > Thanks and have a great weekend.
- >

> --Tash

>
>

> **From:** Toscas, George (NSD)
> **Sent:** Friday, February 10, 2017 5:10 PM
> **To:** Burton, Faith (OLA) <fburton@jmd.usdoj.gov>; Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
> **Cc:** Weinsheimer, Bradley (NSD) <braweinsheimer@jmd.usdoj.gov>; Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>; Toscas, George (NSD) <gtoscas@jmd.usdoj.gov> (NSD)

> **Subject:** NSD Chart of Convictions

>
>

16,7c

6,7c

> Faith and Joanne,

>

> Here is the chart covering public/unsealed convictions from 9/11/01 through 12/31/16 (updated as of 2-10-17). Let us know if you have any questions.

>

> The chart lists public international terrorism and terrorism-related convictions from 9/11 through the end of 2016. Since it contains information from public cases, additional supporting information can be found in public court documents (if folks care to search the public court dockets). The scope and limitations of the information contained in the chart are fully described in its preamble, which should always accompany the chart.

>

> Here are some general statements that are supported by the chart/preamble and could be used publicly:

>

> "Since 9/11, convictions have been obtained against hundreds of defendants for terrorism or terrorism-related charges in Article III courts."

>

> "We have a long history of using the criminal justice system to incapacitate individuals who pose a threat to the U.S. and its interests here and abroad. Since 9/11, hundreds of convictions have been obtained in our federal courts."

>

> (IMPORTANT FYI - We do not use the total (600+) number of convictions listed on the chart in any statements because the explanations/caveats in the preamble always need to accompany that total number -- which is why the chart and the preamble should always be distributed and read together. Call me if you'd like to discuss this issue or need any further explanation. Thanks.)

>

> GZT

>

>

>

>

> <NSD Chart of Convictions 9-11-01 to 12-31-16 Updated 2-10-17.pdf>

**INTRODUCTION TO THE NATIONAL SECURITY DIVISION'S CHART OF
PUBLIC/UNSEALED INTERNATIONAL TERRORISM AND TERRORISM-RELATED
CONVICTIONS FROM 9/11/01 TO 12/31/16**

The National Security Division's Chart of Public/Unsealed International Terrorism and Terrorism-Related Convictions tracks public/unsealed convictions resulting from international terrorism investigations conducted since September 11, 2001, including 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. Convictions listed on the attached chart involve the use of a variety of Federal criminal statutes available to prevent, disrupt, and punish international terrorism and related criminal activity. The convictions are the product of the Department's aggressive, consistent, and coordinated national enforcement effort with respect to international terrorism that was undertaken after the September 11, 2001 terrorist attacks.

Criminal cases arising from international terrorism investigations are divided into two categories, according to the level of coordination and monitoring required by the Counterterrorism Section of the National Security Division (or its predecessor section in the Criminal Division). This nationwide coordination and monitoring of international terrorism matters is designed to ensure coherent, consistent, and effective use and application of the statutes available for use in the prosecution of such matters.

Category I cases involve charged violations of federal statutes that are directly related to international terrorism (regardless of the offense of conviction). These statutes prohibit, for example, terrorist acts abroad against United States nationals, the use of weapons of mass destruction, conspiracy to murder persons overseas, providing material support to terrorists or foreign terrorist organizations, receiving military style training from foreign terrorist organizations, and bombings of public places or government facilities. A complete list of Category I offenses is found in Appendix A.

Category II cases involve charged violations of a variety of other statutes where the investigation involved an identified link to international terrorism. These Category II cases include offenses such as those involving fraud, immigration, firearms, drugs, false statements, perjury, and obstruction of justice, as well as general conspiracy charges under 18 U.S.C. § 371. Prosecuting terror-related targets using Category II offenses and others is often an effective method – and sometimes the only available method – of deterring and disrupting potential terrorist planning and support activities. This approach underscores the wide variety of tools available in the U.S. criminal justice system for disrupting terror activity. Examples of Category II offenses are listed in Appendix B, and examples of Category II cases are described in Appendix C to illustrate the kinds of connections to international terrorism that are not apparent from the nature of the offenses of conviction themselves.

The attached chart includes the defendant's name, district, charging date, charges brought, classification category, conviction date, and charges of conviction. If a convicted defendant has been sentenced, the relevant date and sentence imposed is included. The chart includes only public/unsealed convictions from September 11, 2001 to December 31, 2016. The chart does not include defendants whose convictions remain under seal, nor does it include defendants who were charged with terrorism or terrorism-related offenses but, as of December 31, 2016, had not been convicted either at trial or by

guilty plea. The chart does not include convictions related solely to domestic terrorism. Note that the chart maintained by the National Security Division is distinct from statistics maintained by the Bureau of Prisons to track inmates with terrorist connections. The chart lists more than 360 defendants classified in Category I and more than 300 defendants classified in Category II.

The chart is organized by conviction date, with the most recent convictions first. The last group of defendants included on the chart were identified during the course of the nationwide investigation conducted after September 11, 2001, and were subsequently charged with a criminal offense. Individuals whose convictions arose from this initial terrorism investigation were included on the chart at that time regardless of whether investigators developed or identified evidence that they had any connection to international terrorism. Since then, additional defendants have been added to this chart only if, at the time of charging, they appeared to have a connection to international terrorism, even if they were not charged with a terrorism offense. The decision to add defendants to the chart is made on a case-by-case basis by career prosecutors in the National Security Division's Counterterrorism Section, whose primary responsibility is investigating and prosecuting international and domestic terrorism cases to prevent and disrupt acts of terrorism anywhere in the world that impact on significant United States interests and persons.

Appendix A

Category I Offenses

Aircraft Sabotage (18 U.S.C. § 32)

Animal Enterprise Terrorism (18 U.S.C. § 43)

Crimes Against Internationally Protected Persons (18 U.S.C. § § 112, 878, 1116, 1201(a)(4))

Use of Biological, Nuclear, Chemical or Other Weapons of Mass Destruction (18 U.S.C. §§ 175, 175b, 229, 831, 2332a)

Production, Transfer, or Possession of Variola Virus (Smallpox) (18 U.S.C. § 175c)

Participation in Nuclear and WMD Threats to the United States (18 U.S.C. § 832)

Conspiracy Within the United States to Murder, Kidnap, or Maim Persons or to Damage Certain Property Overseas (18 U.S.C. § 956)

Hostage Taking (18 U.S.C. § 1203)

Terrorist Attacks Against Mass Transportation Systems (18 U.S.C. § 1993)

Terrorist Acts Abroad Against United States Nationals (18 U.S.C. § 2332)

Terrorism Transcending National Boundaries (18 U.S.C. § 2332b)

Bombings of places of public use, Government facilities, public transportation systems and infrastructure facilities (18 U.S.C. § 2332f)

Missile Systems designed to Destroy Aircraft (18 U.S.C. § 2332g)

Production, Transfer, or Possession of Radiological Dispersal Devices (18 U.S.C. § 2332h)

Harboring Terrorists (18 U.S.C. § 2339)

Providing Material Support to Terrorists (18 U.S.C. § 2339A)

Providing Material Support to Designated Terrorist Organizations (18 U.S.C. § 2339B)

Prohibition Against Financing of Terrorism (18 U.S.C. § 2339C)

Receiving Military-Type Training from an FTO (18 U.S.C. § 2339D)

Narco-Terrorism (21 U.S.C. § 1010A)

Sabotage of Nuclear Facilities or Fuel (42 U.S.C. § 2284)

Aircraft Piracy (49 U.S.C. § 46502)

Violations of IEEPA (50 U.S.C. § 1705(b)) involving E.O. 12947 (Terrorists Who Threaten to Disrupt the Middle East Peace Process); E.O. 13224 (Blocking Property and Prohibiting Transactions With

Persons Who Commit, Threaten to Commit, or Support Terrorism or Global Terrorism List); and E.O. 13129 (Blocking Property and Prohibiting Transactions With the Taliban)

Appendix B

Examples of Category II Offenses

Crimes Committed Within the Special Maritime and Territorial Jurisdiction of the United States (18 U.S.C. §§ 7, 113, 114, 115, 1111, 1112, 1201, 2111)

Violence at International Airports (18 U.S.C. § 37)

Arsons and Bombings (18 U.S.C. §§ 842(m), 842(n), 844(f), 844(I))

Killings in the Course of Attack on a Federal Facility (18 U.S.C. § 930(c))

False Statements (18 U.S.C. § 1001)

Protection of Computers (18 U.S.C. § 1030)

False Information and Hoaxes (18 U.S.C. § 1038)

Genocide (18 U.S.C. § 1091)

Destruction of Communication Lines (18 U.S.C. § 1362)

Sea Piracy (18 U.S.C. § 1651)

Unlicensed Money Remitter Charges (18 U.S.C. § 1960)

Wrecking Trains (18 U.S.C. § 1992)

Destruction of National Defense Materials, Premises, or Utilities (18 U.S.C. § 2155)

Violence against Maritime Navigation and Maritime Fixed Platforms (18 U.S.C. §§ 2280, 2281)

Torture (18 U.S.C. § 2340A)

War Crimes (18 U.S.C. § 2441)

International Traffic in Arms Regulations (22 U.S.C. § 2778, and the rules and regulations promulgated thereunder, 22 C.F.R. § 121-130)

Crimes in the Special Aircraft Jurisdiction other than Aircraft Piracy (49 U.S.C. §§ 46503-46507)

Destruction of Interstate Gas or Hazardous Liquid Pipeline Facilities (49 U.S.C. § 60123(b))

Appendix C

Examples of Category II Terrorism-Related Convictions

Fort Dix Plot (conspiracy to murder members of the U.S. military). In 2008, following a jury trial in the United States District Court for the District of New Jersey, Ibrahim Shnewer, Dritan Duka, Shain Duka, Eljvir Duka and Serdar Tatar were convicted of violating 18 U.S.C. §1117, in connection with a plot to kill members of the U.S. military in an armed attack on the military base at Fort Dix, New Jersey. The defendants were also convicted of various weapons charges. The government's evidence revealed that one member of the group conducted surveillance at Fort Dix and Fort Monmouth in New Jersey, Dover Air Force Base in Delaware, and the U.S. Coast Guard in Philadelphia. The group obtained a detailed map of Fort Dix, where they hoped to use assault rifles to kill as many soldiers as possible. During the trial, the jury viewed secretly recorded videotapes of the defendants performing small-arms training at a shooting range in the Poconos Mountains in Pennsylvania and of the defendants watching training videos that included depictions of American soldiers being killed and of known Islamic radicals urging jihad against the United States.

Fawaz Damrah (citizenship fraud). In 2004, following a jury trial in the United States District Court for the Northern District of Ohio, Fawaz Damrah was convicted of violating 18 U.S.C. § 1425 for concealing material facts in his citizenship application. The government's evidence showed that in his citizenship application, Damrah concealed from the U.S. government his membership in or affiliation with the Palestinian Islamic Jihad (PIJ), a.k.a. the Islamic Jihad Movement in Palestine; the Afghan Refugees Services, Inc., a.k.a. Al-Kifah Refugee Center; and the Islamic Committee for Palestine. Damrah further concealed the fact that he had, prior to his application for U.S. citizenship, "incited, assisted, or otherwise participated in the persecution" of Jews and others by advocating violent terrorist attacks against Jews and others. During the trial, the government's evidence included footage of a 1991 speech in which Damrah called Jews "the sons of monkeys and pigs," and a 1989 speech in which he declared that "terrorism and terrorism alone is the path to liberation."

Soliman Biheiri (false statements and passport fraud). In 2003 and 2004, following two jury trials in the United States District Court for the Eastern District of Virginia, Soliman Biheiri was convicted of violating 18 U.S.C. §§ 1425 and 1546 for fraudulently procuring a passport, as well as 18 U.S.C. §§ 1001 and 1015 for making false statements to federal agents. Biheiri was the president of BMI, Inc., a New Jersey-based investment firm. The government's evidence showed that Biheiri had deliberately deceived federal agents during a June 2003 interview in which he denied having business or personal ties to Mousa Abu Marzook, a Specially Designated Global Terrorist and a leader of Hamas. In fact, the government's evidence showed that Biheiri had managed funds for Marzook both before and after Marzook was designated as a terrorist by the U.S. government in 1995. Specifically, the government presented files seized

from Biheiri's computer showing that Marzook had invested \$1 million in U.S. business ventures managed by Biheiri and his investment firm.

Mohammad Salman Farooq Qureshi (false statements). In 2005, following the entry of a guilty plea in the United States District Court for the Western District of Louisiana, Qureshi was convicted of violating 18 U.S.C. § 1001 for making false statements to the FBI regarding the nature and extent of his involvement with al-Qaeda member Wadih El Hage, and the non-governmental organization Help Africa People. Qureshi was interviewed by the FBI in 1997, 1998, 2000, and 2004 in relation to terrorism crimes and during those interviews lied about his knowledge of El Hage, Help Africa People, and other al Qaeda members. The proffer filed in support of the plea agreement established Qureshi's connections to and contacts with El Hage, his contact with a subject under investigation in Oregon, and his activities and financial support of Help Africa People, a non-governmental organization believed to have been used by El Hage and others to provide cover identities and funds in connection with the 1998 attacks on the United States Embassies in Kenya and Tanzania. By Qureshi's admissions, at least \$30,000 in Qureshi's funds were given to El Hage in Nairobi, Kenya. El Hage is serving a life sentence for his role in the East Africa Embassy bombings.

Sabri Benkahla (perjury, obstruction, false statements). In 2007, following a jury trial in the United States District Court for the Eastern District of Virginia, Sabri Benkahla was convicted on two counts of violating 18 U.S.C. § 1623, for perjury, one count of violating 18 U.S.C. § 1503 for obstructing justice, and one count of violating 18 U.S.C. § 1001 for making false statements to the FBI. These false statements included denial of his involvement with an overseas jihad training camp in 1999, as well as his asserted lack of knowledge about individuals with whom he was in contact. The government's evidence revealed that the grand jury and FBI in 2004 sought to question Benkahla about his contacts with Ibrahim Buisir of Ireland, and Manaf Kasmuri of Malaysia, both of whom are Specially Designated Global Terrorists, as well as those with Ahmed Abu Ali, his friend and fellow student at the University of Medina, until both were arrested by Saudi authorities in June 2003. Further, the government's evidence revealed that the grand jury and FBI sought to question Benkahla about his contacts with an individual suspected of being Malik al-Tunisi, a facilitator for the al-Zarqawi terrorist network in Iraq.

Akram Musa Abdallah (false statements). In 2009, following the entry of a guilty plea in the United States District Court for the District of Arizona, Akram Musa Abdallah was convicted of violating 18 U.S.C. § 1001 for making false statements to the FBI. In January 2007, Abdallah knowingly made a false material statement to special agents of the FBI during an interview in connection with the federal investigation and prosecution of the Holy Land Foundation for Relief & Development (HLF) and its officers. At the time of the interviews, Abdallah knew the HLF was a Specially Designated Global Terrorist organization. Abdallah also knew that when he was interviewed, the HLF and its officers were pending trial in the United States District Court for the Northern District of Texas, for crimes including providing material support to a foreign terrorist organization. During the interviews, Abdallah told FBI agents he was not involved in

fundraising activities for the HLF, when, in fact, between approximately 1994 and 1997, Abdallah was involved in numerous fundraising activities, including collecting donations, organizing, facilitating and coordinating fund raising events on behalf of the HLF in the Phoenix metropolitan area. In July 2004, the HLF and seven of its principals were indicted on a variety of charges stemming from its financial support of Hamas, and in November 2008, after a two-month trial, those defendants were convicted on all charges.