

## ***Equal Treatment?: Measuring the legal and media responses to ideologically motivated violence in the United States***

In 2010, Justin Carl Moose, a self-described “Christian counterpart to Osama bin-Laden,” planned to blow up an abortion clinic. He was in possession of means to make explosives, including potassium permanganate, fuse wires, and metal shavings to make the explosive TATP.

And in May 2013, officials arrested Buford “Bucky” Rogers, who reportedly held white supremacist views and who law enforcement officials say cheered the Boston marathon bombing. Rogers made homemade bombs with the military-grade explosive PETN, crafted Molotov cocktails filled with “homemade napalm,” and had a loaded SKS rifle. He discussed using the weapons locally.

Most people have likely never heard of these two men, possibly because their plans received relatively little media coverage. Combined, the *New York Times* and *Washington Post* ran just two articles on Rogers. They printed no stories about Moose. Ultimately for their alleged plotted crimes, Rogers was sentenced to 40 months (3.3 years) in federal prison, and Moose was sentenced to 30 months (2.5 years).

Compare their cases to Antonio Martinez, who was alleged to have acted in the name of Islam when he planned to bomb a military recruitment station outside Baltimore and shoot personnel as they fled the scene. Law enforcement provided Martinez a fake bomb. Together, the *New York Times* and *Washington Post* published ten articles about Martinez. Martinez was charged with planning to use a weapon of mass destruction and was sentenced to 300 months (25 years) in federal prison.

This report seeks to explore whether and why these cases, and those like them, have such different outcomes. More specifically, this report examines the extent to which the perceived identity of an alleged perpetrator as either Muslim or non-Muslim shapes both print media coverage and legal responses to ideologically motivated violence (IMV) in the United States.

This report defines violence as ideologically motivated when the perpetrator of violence is perceived by a) the media and/or b) law enforcement to be committing the violence to promote an ideology. This report does not attempt to *determine* perpetrator ideologies, nor does it endorse the accuracy of these assessments by media or law enforcement. Rather, it analyzes what happens to perpetrators based on the *perception* of their ideologies.

Our analysis of the examples examined in this report found that, **for similar plots, Muslim-perceived perpetrators receive harsher legal charges and longer prison sentences than their non-Muslim counterparts. Perpetrators identified as Muslim also had qualitatively different media coverage than perpetrators not identified as Muslim.**

The differences were often stark:

- On average, prosecutors sought **three times** the sentence length for Muslim perpetrators as for perpetrators not identified as Muslim for similar plots of attempted ideologically driven violence (230 months vs. 76 months). Additionally, Muslim perpetrators received **four times** the average sentence as their non-Muslim counterparts for attempted plots of similar conduct (211 vs. 53).
- Moreover, undercover law enforcement or an informant provided the means of the crime (such as a firearm or inert bomb) in a majority (**two-thirds**) of convictions in plots involving a perceived Muslim perpetrator, but in a small fraction (**two out of twelve**) of those involving a non-Muslim perpetrator.
- In terms of print media coverage, Muslim-perceived perpetrators received **twice** the absolute quantity of media coverage as their non-Muslim counterparts in the cases of violent completed acts. For “foiled” plots, they received **770%** the media coverage as their counterparts.
- Differences also extended to media references to a perceived Muslim perpetrator’s religion as compared to ideologies of perceived non-Muslims, mentions of specific phrases such as “terrorist” or “terrorism,” and coverage of the ultimate prison sentences.

## Summary of Methodology

ISPU’s report examines two categories of perpetrators in both the media and legal analyses:

- **CATEGORY A:** Individuals committing or plotting violent acts who are perceived to be Muslim, allegedly acting in the name of Islam.
- **CATEGORY B:** Individuals committing or plotting violent ideologically motivated acts who are not perceived to be Muslim and motivated by another ideology.

Cases examined in both analyses were divided into three categories:

- **PRIMARY INCIDENTS:** Causing two or more fatalities (one fatality was excluded, as it typically means the death of the perpetrator only)
- **HIGH-INTENSITY INCIDENTS:** Causing at least seven fatalities or at least 50 injuries. This category is the upper extremity of combined fatalities and injuries in the set analyzed, and is grouped to allow better comparison
- **VIOLENT PLOTS:** Where the planned offense is not executed, but where there is sufficient evidence to bring prosecution

## Incident Selection

IMV incidents associated with perpetrators of both categories were selected from existing, published datasets of ideologically motivated violence.<sup>[1]</sup> Based on a combination of these existing datasets, United States-based IMV incidents from 2002 to 2015<sup>[2]</sup> resulting in two or more fatalities<sup>[3]</sup> were included. We also included a set of violent ideological plots that were prevented or foiled prior to completion, either by law enforcement investigation or through a “sting” operation. The violent plots included bomb plots and firearms plots. As used in this report “violent plot” and “plot” are interchangeable. The goal of selecting this set of incidents was not to create a new or comprehensive database of IMV acts. Instead, the purpose was to facilitate as best as possible an “apples to apples” study, i.e., **to compare Category A and Category B perpetrators whose conduct and impact were similar in severity and quality.** Incident selection was done prior to any analysis and was not changed after analysis began.

### Are We Comparing Apples to Apples?

Some may suggest that differences in nature and scale of offenses may make it difficult to analyze or draw inferences from the legal and media treatment of the two categories of perpetrators. While we cannot rule out that such differences might partly explain some differences in outcome, we have taken a number of steps to ensure as close to an “apples to apples” comparison as possible.

Here are the factors that have been recorded and accounted for in analyzing incidents:

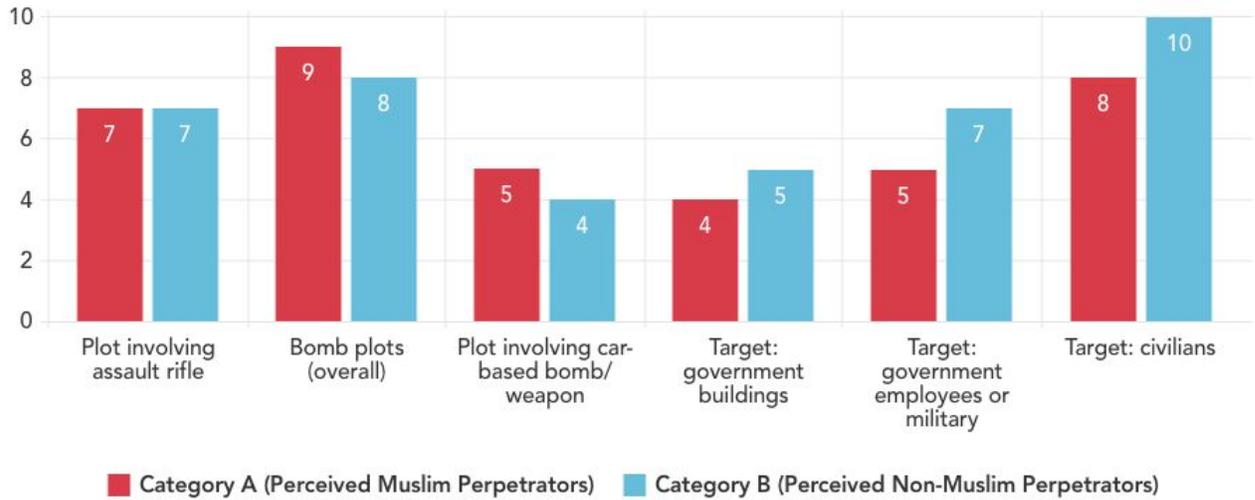
- **Fatalities:** An incident resulting a greater number of fatalities is generally more severe than one with fewer.
- **Weapon used:** The weapon used in a violent incident or planned for use in a violent plot indicates the intended scale of the violent act.
- **Intended outcome:** This measures the level of harm the perpetrator aimed to cause, as alleged by law enforcement.
- **Target of incident:** The type of target is recorded in incidents, such as whether it is a religious community, a racial or ethnic group, an LGBT individual or group, or the government.
- **Existence of co-perpetrators:** Where applicable, any accused co-perpetrators or co-conspirators are recorded.

<sup>[1]</sup> START Global Terrorism Database, Southern Poverty Law Center (SPLC) Lone Wolf database, and The Intercept Terror Trials Database, further outlined in the Methodology section below.

<sup>[2]</sup> Incidents beyond 2015 were not included in the dataset as the START Global Terrorism Database did not yet contain 2016 data at the start of this research project. Thus, significant incidents or plots perceived to be ideologically driven such as the [Orlando Pulse Nightclub shooting](#) or [Kansas anti-Muslim “Crusaders” plot](#) were not part of this study.

<sup>[3]</sup> Incidents coded as one fatality in the existing databases were not included as it often reflected a circumstance in which the perpetrator alone was killed during the act

### CONSISTENT SEVERITY FACTORS ACROSS VIOLENT PLOTS



*The severity analysis of violent plots across both Categories show the sets to be comparable across a range of metrics*

## Legal Analysis

### PROSECUTION

***Perpetrators of violent plots perceived to be Muslim were prosecuted with severe legal charges at a significantly higher percentage than non-Muslim perpetrators.***

- More severe charges (material support of terrorist organization; weapons of mass destruction) were used in 83% of Category A cases and in 17% of Category B cases.
- Less severe charges (possession of a firearm as a felon; possession of means to make explosives) were used in 17% of Category A cases and 83% of Category B cases.

***In ISPU's case sample, charging documents always mentioned Muslim-associated ideologies.***

- Charging documents referenced Muslim-associated ideologies in all Category A violent plots.
- Just 6 of the 12 Category B cases referenced perpetrator ideology in charging documents; ideologies behind the remaining six surfaced during legal proceedings or were reported by the press.

***Violent plots perpetrated by Muslim-perceived perpetrators were significantly more likely to be prosecuted as terrorism cases.***

- Category A perpetrators had terrorism-related charges in 10 out of 12 cases analyzed; Category B perpetrators had terrorism-related charges in 2 out of 12 cases.
- Terrorism-related charges can carry optional boosts to sentences for prosecutors to pursue if they argue a case was terrorism; this occurred in 7 of 12 Category A cases and only 3 of 12 Category B cases.

### SENTENCING

***Average prison sentences given and average sentences sought for violent plots are significantly higher for perpetrators perceived to be Muslim.***

- Sentences issued for Category A perpetrators (average 211 months) were more than four times the length on average than those issued for Category B perpetrators (average 53 months).
- Sentences sought by prosecutors were an average of 76 months for Category B perpetrators and 230 months for Category A perpetrators, **more than three times the length.**

### LAW ENFORCEMENT INVOLVEMENT

***Undercover law enforcement or informants provided means of the crime (ex. firearm or inert bomb) in majority of Category A cases of violent plots, but in very few Category B cases. However, Category A perpetrators were charged significantly more often with attempting to create or use weapons of mass destruction (WMDs), which leads to a higher sentence.***

- Category A bomb plots that were not carried out were almost exclusively charged as “weapons of mass destruction” (WMDs); Category B bomb plots that appear to have qualified as WMDs based on alleged facts were much less likely to receive that charge.
- Category A bomb plots were charged as “weapons of mass destruction” more than three times as often as Category B plots.
- Non-WMD defendants typically receive less than five years in prison; WMD charges usually lead to over a twenty-year sentence.
- Category B perpetrators were often charged with a lesser charge even when they obtained or made their own military-grade explosives

## Media Analysis

### AMOUNT OF COVERAGE

#### ***Muslim-perceived perpetrators on average receive much more media coverage than non-Muslim perpetrators.***

- Analysis of the print archives of the *New York Times* and *Washington Post* showed that in cases of violent ideological plots that were not carried out, Category A perpetrators received an average of 770% more media coverage as Category B perpetrators.
- In cases analyzed, the Category B violent plot that received the most media coverage (six articles) was still lower than the *average* number of articles written about a Category A incident (7.7 articles).
- The average number of articles written about Category A perpetrators involved in primary incidents was more than double the average number of articles written about Category B perpetrators.
- In high-intensity incidents, Category A incidents received a significantly higher average number of articles per casualty (average of 43, excluding Boston bombing) compared to Category B (28.9 average articles).

### TERMINOLOGY

#### ***Articles about Muslim-perceived perpetrators were twice as likely to reference “terror” and “extreme” while articles about non-Muslim perpetrators were much more likely to reference “hate.”***

- A large majority of articles referencing Category A offenders contained terror-focused terms (ex.: “terror,” “terrorism,” “terrorist”), compared to just a quarter of articles referencing Category B offenders, despite both categories of offenders being alleged to have been ideologically motivated and mostly targeting civilians.
- Headlines covering Category A offenders included the terms “terror,” “terrorism,” or “terrorist” at a much higher rate than headlines covering Category B offenders (13% vs. 1.1% for primary incidents, 7.3% vs. 2.2% for high-intensity incidents, and 27% vs. a non-measurable amount due to a low number of articles for plots).
- The use of “extreme” followed a similar trend to “terror” in the two sets of offenders, with articles written about Category A perpetrators being much more likely to include the terms “extreme,” “extremist,” or “extremism” than Category B plots.
- Only 4–7% of articles about Category A offenders contained the term “hate,” while 24–35% of Category B offenders contained the term “hate.”

- The description of an incident as a hate crime versus terrorism can have legal implications. Hate crime charges can lead to a maximum of ten years in prison, or life if attempted murder is involved; terrorism charges carry higher maximum sentences of 20 or more years without attempted murder.

***Articles referencing Muslim-perceived perpetrators are likely to mention religion.***

- Articles mention “Islam” or “Muslim” in 63.5 percent of articles about plots, 40.1% of articles about high-intensity incidents, and 63% of articles about primary incidents in Category A cases analyzed.

**PRESS RELEASES**

***The U.S. Department of Justice issued press releases from its national office six times as often in regards to violent plots by Muslim-perceived perpetrators than violent plots by non-Muslim-perceived perpetrators.***

- Category A prosecutions more often involved charges that require establishing a connection to or ideology of a Foreign Terrorist Organization.
- Justice Department national press releases referenced ideology more often in releases about Category A violent plots; half of the national releases included Muslim-associated ideologies in the headline or first paragraph of the release.
- Only a quarter of the Category B plots analyzed had national office releases, and all three mentioned the perpetrator’s identity further into the release.
- Press releases from the local FBI Field Office or U.S. Attorney office issued press releases at more consistent rates: 75% for Category A cases and 83% for Category B cases.

**Methodology**

The research team compiled a collection of incidents by accessing databases that track ideologically motivated violence, including START (The National Consortium for the Study of Terrorism and Responses to Terrorism) Global Terrorism Database; Southern Poverty Law Center (SPLC) Lone Wolf Database, and *The Intercept* Terror Trial and Terrors Database. Incident occurrence dates ranged from 2001 to 2015. Incidents included are 1) violent in nature; 2) occurred or plotted to occur in the United States; 3) excluded when occurred or plotted to occur in New York City or Washington, DC, as media coverage in the papers selected would increase for local incidents, skewing results. Violent plots were included, as they offer the most reliable dataset to include completed legal proceedings, as many completed incidents of IMV result in the death of the perpetrator. Cases were divided into three categories: primary incidents including two or more fatalities (18 total); “high-intensity” incidents including least seven fatalities or at least 50 injuries (6 total); and violent plots (28 total). All cases were run through a legal and media analysis.

The **media investigation** involved two levels of analysis. Print coverage from the *New York Times* and *Washington Post* was accessed through Nexis, starting from the date of the incident until April 30, 2017. Unique Boolean search phrases were generated for each case to generate a list of articles; after the list was generated within Nexis, two rounds of research review were



conducted to eliminate non-responsive articles. The first level of analysis included specific measurement and word searches, including

- number of articles mentioning the incident,
- duration of reporting,
- whether “hate,” “terrorism,” or “extremism” were mentioned,
- whether Category A perpetrator’s religion was mentioned,
- number of articles where headline included “terror” or “hate,” and
- number of articles where headline included ethnicity/country of origin/religion of perpetrator.

The second level of media analysis looked at the content of the articles, including determining type of piece--i.e., opinion, news coverage, etc.--and the language used in the article that would be beyond the scope of word search. Article-level review was conducted for all plots and a smaller sample from the other subsets, including Planned Parenthood, Oak Creek, Fort Hood, Chattanooga Military Base, and Charleston Church shootings. Researchers reviewed

- whether the article referenced a specific motivating ideology of the perpetrator,
- whether the article reflected interviews with community members, neighbors, and family members of the perpetrator, and
- whether the articles referenced the mental or psychiatric condition of the perpetrator.

The **legal proceedings and outcomes of cases** were obtained using PACER (Public Access to Court Electronic Records), Lexis, state-level case databases and other legal tools where applicable. Typically, cases were identified for analysis by way of the jurisdiction where the violent act was committed and name of the perpetrator. Case studies relied on charging documents, government sentencing memorandum, and sentencing court documents. Metrics were gathered, including

- whether there was a federal case or decision to charge with hate crimes vs. terrorism,
- whether there were state proceedings or whether there was an opportunity to charge using state-level hate or terrorism statute,
- level of charges issued,
- if a plea, conviction, or acquittal was entered,
- what sentence was sought and issued,
- prior criminal record, and
- whether instrumentality of the offense was provided by law enforcement.

Another set of searches for each case via Nexis and Google News identified key words of the incident, including perpetrator name and location, in order to find law enforcement press quoted in print media or written press releases. This was to identify in what cases the Justice Department was delivering press, and if so, whether it was issued locally or nationally.