

Connecting the Dots Administrative Amnesty and the Thousands of Watchlisted Terrorists Residing in the United States

By Janice Kephart

According to statistics provided by high-ranking FBI sources, more than 98 percent of those individuals on the federal government's sole Terrorist Watchlist¹ are associated with international terrorism (foreign nationals or Americans attacking Americans based on international extremist ideologies). The remainder are associated with domestic terrorism the FBI defines as "Americans attacking Americans based on U.S.-based extremist ideologies."² However, despite a growing national discussion of homegrown violent extremism, it is important to put that discussion in context: Today, less than 2 percent of all watchlisted persons are U.S. citizens. On any given day, there are about 550,000 individuals on the Watchlist: approximately 540,000 are foreign nationals, while only about 10,000 are U.S. citizens.

According to the senior members of the intelligence community responsible for maintaining the Watchlist on a daily, real-time basis, at least 20,000 to 30,000 known terrorists on that list are actually in the United States at any one time. That leaves more than half a million people on the Watchlist who are foreigners abroad, which means that the Watchlist, — used by consular officers in visa interviews, the Transportation Security Administration in international and domestic air travel, border inspectors and the Border Patrol — is responsible for keeping out over half a million terrorists that may be seeking entry to the United States on any given day. This also means that if 10,000 U.S. citizens (including naturalized citizens) are on the Watchlist, then (at least) 10,000 to 20,000 foreign nationals associated with international terrorism are within our borders using America to work, attend school, raise families, strategize an operation, or fundraise through any variety of criminal enterprises.

This number — 10,000 to 20,000 foreign-born terrorists having successfully entered and embedded in the United States — has remained near static, as I recall, since 9/11. (Exact numbers could not be confirmed, but I was told my guesstimate was in the right ballpark.) The non-U.S. citizens run the gamut from legal permanent residents, to those who entered on a valid visa and are still within a granted length of stay, to those here illegally by either staying beyond their length of stay or having entered without inspection across our physical borders.

For the 10,000 or so U.S. citizens where there is credible evidence leading to a "reasonable suspicion" of terrorist activity, probably more than two-thirds are native-born U.S. citizens and fewer than one-third are naturalized.³ That still means the United States has naturalized at least a few thousand terrorists in recent years. In fact, three of the 11 most notorious terrorism arrests in 2009 and 2010 were naturalized U.S. citizens. All in all, five cases involved native-born U.S. citizens, while six involved foreign nationals, all of whom had received multiple U.S. immigration benefits. What follows is not a comprehensive list, but it does reflect the most significant U.S.-based terrorist incidents in 2009 and 2010.

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Illegal Overstay

September 2009: Hosam Smadi, a 19-year Jordanian illegal overstay by a year, attempted to detonate what he thought was a car bomb to destroy a 1.2 million-square-foot, 60-story Dallas office building.

Multi-Entry Visa

December 2009: Umar Farouq Abdulmutallab, a Nigerian with a multi-entry visa to the United States and prior travel into the United States for a religious conference, detonated a malfunctioning explosive on board an international flight about to land in Detroit on Christmas Day.

Legal Permanent Resident

September 2009: Najibullah Zazi, an Afghan legal permanent resident residing in the United States since 1999, conspired to conduct suicide bombings (with others) on four rush hour New York City subway lines on or near the 9/11 anniversary. The conspiracy had operational support from Al Qaeda abroad and explosives materials were stockpiled.

U.S. Citizens (Naturalized)

November 2010: Mohamed Osman Mohamud, a 19-year-old Somali-born U.S. citizen, attempted to detonate what he thought was a car bomb during a Christmas tree lighting ceremony in Portland, Ore. He had told undercover agents he had dreamed since he was 15 of a “spectacular fireworks show” where he hoped all would be dead or wounded.

October 2010: Farooque Ahmed, a Pakistani-born U.S. citizen who grew up on Staten Island and became a U.S. citizen at 17, conspired to bomb four Metro subway stations near the Pentagon in Virginia — Court House in Rosslyn; Pentagon City Mall; Arlington Cemetery; and a Washington, DC, hotel. Ahmed had conducted extensive surveillance and drawn up plans.

May 2010: Faisal Shahzad, a Pakistani-born U.S. citizen, detonated a “vehicle-borne explosive device” that malfunctioned in Times Square. He came to the United States in 1997 (likely on a tourist visa), but did not acquire a student F-1 visa until 1998. In 2002, he acquired an H-1B worker visa. In 2004, in an arranged marriage in Pakistan, he wed a U.S. citizen of Pakistani descent. In 2006, he became a legal permanent resident and in April 2009, just before the terrorist attempt, he acquired citizenship. His American passport enabled him to attempt to flee the country in May without concern of jeopardizing his legal status or calling attention to himself while his naturalization application was still pending.

U.S. Citizens (Native-Born)

December 2010: Antonio Martinez, an Islamic convert, attempted to detonate what he thought was a car bomb in front of a military recruiting center near Baltimore.

November 2009: Nidal Malik Hasan, born to Jordanian immigrants of Palestinian descent, killed 13 soldiers and wounded 43 others in a shooting spree at Fort Hood, Texas.

October 2009: David Coleman Headley, of Pakistani descent, was arrested as a surveillance accomplice for the 2008 Mumbai (Bombay) terrorist attacks that killed over 160 people.

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September 2009: Michael Finton, an Islamic convert, attempted to detonate what he thought was a car bomb in front of a federal government building in Springfield, Ill.

June 2009: Carlos Bledsoe, an Islamic convert, killed one soldier and wounded another at a military recruiting station in Little Rock, Ark.

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In 2010, the FBI's Terrorist Screening Center confirmed the identity of 4,876 terrorists who had encounters — usually for reasons unrelated to terrorism — with law enforcement. A local police officer on the beat in Texas doing his job and making notes on a hazmat traffic violation is one example. Or in another traffic incident, a police officer in California requested the identities of three persons in a vehicle where identification linked three separate FBI terrorism cases in different jurisdictions together. These are just encounters; most of the time these individuals are simply watched for intelligence purposes (with a law enforcement objective to take down the operation if the terrorist indicates a desire to carry out a terrorist attack).

Taken from a different perspective, the Watchlist's 2 percent of U.S. citizens — about 10,000 people — were responsible for eight of 11 terrorist attempts inside the United States in 2009 and 2010. The fact that 2 percent of the Watchlist accounts for 73 percent of attempts over the past two years is concerning. While native-born converts present a special problem, it is imperative that the nation consider that more than half of the terrorist incidents were conducted by foreign-born terrorists, either foreign nationals or naturalized citizens.

An immigration system that repeatedly fails to keep terrorists from entering, and worse, permits overstays, permanent residency, and naturalization, is a system where the Watchlist is either not being properly utilized by the immigration system or needs to be made more robust. Granted, the intelligence community is going to miss some terrorists — gathering credible evidence sufficient to meet a “reasonable suspicion” standard is tricky business — especially those without some U.S. connections. But our immigration service granting naturalization to thousands, once in the United States? That is reflective of a serious disconnect between the intelligence community and immigration services.

In addition, there are thousands of terrorists operating here freely and, while not eligible for Obama's administrative amnesty (technically, only terrorists and convicted felons are off the Obama amnesty list), they likely will stay here and be able to work here indefinitely — whether legal or not. Why? Because the president is telling the immigration bureaucracy to look the other way most of the time, as explored in depth in my series “Amnesty by Any Means.”⁴ If immigration agents are not doing basic checks — not even asking questions — then they will not necessarily be checking the Watchlist. And the terrorist simply walks. To be clear, it seems no matter what the Obama administration claims, foreign-born terrorists are more likely to be naturalized or gain other legal status benefits under new directives than they were before.

Most Americans would like these individuals deported or prosecuted based on terrorist activity or, in the case of foreign-born terrorists, at minimum see that the immigration violations pursued, such as an illegal entry or overstay or lying to immigration authorities about their affiliation to a foreign terrorist organization. In some cases where Americans want deportation, they come in conflict with the intelligence and law enforcement community, which may want an investigation to continue.

However, the tension between enforcing immigration law and pursuing investigations is far less robust today. With Obama administration politicians having issued at least four directives to immigration authorities to not pursue immigration enforcement⁵ on the border, in the interior, in immigration courtrooms, or in the adjudication of immigration benefits, there is little issue about who gets to stay. Everyone does, unless caught red-handed.

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The president's claim that he wants terrorists deported is increasingly moot: Deportations cannot happen as long as immigration attorneys are told to clear dockets of cases,⁶ immigration benefits adjudicators are told to refer problem cases to immigration agents, and the immigration agents are not allowed to enforce the law. Inevitably, whether the president intends such an outcome or not, these same folks will be looking the other way when a terrorist knocks on the immigration door. The terrorist gets his way, the FBI doesn't know about it, and viola, more immigration benefits for terrorists. Not because the FBI isn't doing its job, but because immigration authorities are told not to do theirs.

What does this mean? The simplest and seemingly obvious things are the following:

1. We need to remember that most of the terrorist threat to the United States remains outside our borders. Curtailing terrorist travel should remain a top priority.
2. We need to stay vigilant overseas in visa and aviation screening to keep terrorists from traveling here legally.
3. We need to stay vigilant on our physical borders to keep alien smugglers from helping terrorists enter anonymously.
4. We need worksite enforcement to make sure terrorists cannot easily support themselves while here.
5. We need a commitment to immigration law — and a willingness to enforce it, humanely but consistently.
6. We need more robust vetting of immigration benefits so terrorists cannot gain legal status, even naturalization, here.

While these recommendations are part and parcel of the 9/11 Commission recommendations and our staff monograph focusing on the immigration and border aspects of the attacks, *9/11 and Terrorist Travel*, they have been pushed aside for what I have termed “Amnesty by Any Means.” However convoluted the “secure border” menagerie that has been drawn on this issue by the executive branch, their amnesty policy simply encourages terrorist entry and embedding. With thousands here already, is that a risk the American public really wants to take?

End Notes

¹ My *Backgrounder*, “Border Watchlisting a Decade after 9/11”, <http://www.cis.org/border-watchlisting-9-11>, explains in depth how the Terrorist Watchlist is created, maintained, and services the border community. The FBI’s official stance is that “more than 95 percent of the Terrorist Watchlist is international terrorism-based,” which would mean that the domestic list would have to be about 27,500 names out of the 550,000 total. Yet the domestic list is only Americans, and there are only 10,000 U.S. names on the list. That means that more than 98 percent of the Watchlist names must be foreign-born, and less than 2 percent (which represents 10,000 names) are on the domestic list. Yet since we know the international list contains American names as well, that means something less than 2 percent of the list is actually domestic, and probably more like 1 percent, with 99 percent of the list international terrorists. But without more specific numbers, I can only conclude that international terrorism accounts for “more than 98 percent” of the names on the list, and domestic terrorism for “less than 2 percent.”

² For a short FBI explanation of “domestic terrorism,” see “Domestic Terrorism in a Post-9/11 Era”, http://www.fbi.gov/news/stories/2009/september/domterror_090709.

³ As strange as it may seem, for any variety of reasons terrorists obtain immigration benefits, including the crown jewel of benefits — naturalization — often quite easily. I explored this issue in an in-depth 2005 report, <http://www.cis.org/articles/2005/kephart.html>, that showed that 20 of 21 convicted and known terrorists that attempted to obtain naturalization had done so successfully. I do not have access to current information on naturalizations of terrorists, but the terrorist incidents indicate that those associated with radical anti-American sentiment are still being naturalized today.

⁴ <http://cis.org/amnesty-by-any-means-memos>.

⁵ <http://www.cis.org/kephart/border-patrol-transportation-hubs>.

⁶ <http://cis.org/kephart/DOJ-lawyers-amnesty-by-any-means>.