Sentencing Disparities in US Terrorism Prosecutions, 2001-2018

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A B S T R A C T   A N D   A R T I C L E   I N F O R M A T I O N

Few studies have examined racial or other disparities in terrorism sentences. Unlike previous research, this study incorporates all types of terrorism, several severity levels, and both state and federal cases. Using a database including all US terrorism cases between 2001 and 2018 (*n* = 825), we test for sentencing disparities based on race/ethnicity, gender, citizenship, state/federal court, and type of terrorism. Our results show some evidence for disparities, with foreign nationals and White supremacists receiving longer sentences and foreign non-jihadi terrorists receiving shorter sentences. We find limited evidence for racial disparities, including longer sentences for minority defendants within some severity levels. The "liberation hypothesis" predicting greater disparities for less-serious crimes was mainly unsupported. Whether prosecution occurred in state or federal court had little effect, suggesting that states are well-equipped to prosecute terrorists. Compared to jihadi defendants, anti-government defendants received larger "discounts" between initial allegations and charges of conviction, dramatically affecting sentence length.

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Research has documented racial and ethnic disparities in nearly every aspect of criminal justice, from traffic stops to early release from prison (Carmichael, 2010; Mitchell, 2018). There is evidence that many of these disparities are unjustified and result largely from unconscious biases against minorities (Beckett et al., 2006; Mitchell & Caudy, 2015; Payne et al., 2017; Unnever et al., 2017). While the ultimate cause of such disparities is debated, some understand disparities as resulting from a system in which White supremacy—the de-facto higher status of White people in US society—functions to protect Whites involved in criminal activity from experiencing harsh treatment by the justice system as well as concentrating enforcement efforts on minorities (Isom, 2023). Although nearly every facet of the US justice system has been extensively analyzed for the presence of disparities, the sentencing of terrorist offenders is a glaring exception.

Previous terrorism sentencing research has tended to focus on particular types of terrorism rather than comparing all types, control for severity in a limited fashion if at all, and include only federal cases. Moreover, much of the available disparities research—including the only studies comparing jihadi and non-jihadi sentences or analyzing racial disparities—focuses on pre-9/11 cases. Yet, it is important to evaluate such disparities in post-9/11 terrorism cases, given widespread concerns that right-wing terrorism is being neglected or treated leniently while Muslims and racial minorities receive harsher treatment for low-level terrorism offenses (Aaronson, 2019; Kanno-Youngs, 2019).

This article addresses this gap in the literature by analyzing a unique database ($n = 825$) of terrorism defendants sentenced between 2001 and 2018. This database encompasses all types of terrorism, both US federal and state cases, several offense severity levels, and discounts between initial charges and the ultimate sentence as well as sentence length. This multifaceted study enables a more comprehensive analysis of terrorism sentencing disparities than previous research. The results of our study shed light on various aspects of terrorism sentencing practices.

Literature Review

Researchers have examined racial, ethnic, and other types of disparities in a remarkable array of criminal justice contexts: for example, traffic stops (Roh & Robinson, 2009), drug crime (Mitchell & Caudy, 2015), and even entrapment in terrorism sting operations (Norris & Grol-Prokopczyk, 2019). On the topic of sentencing disparities, racial disparities have been documented in numerous fields, from traffic offenses (Factor & Gur-Arye, 2019) to the death

penalty (Donahue, 2014). For example, one study found that Blacks receive about 10% longer sentences than Whites convicted of the same crimes (Rehavi & Starr, 2014). To evaluate whether unjustified disparities exist, it is important to control for crime severity and whether the defendant went to trial, both of which strongly predict sentence length (Yan & Bushway, 2018).

Ahmed (2017) suggests that, as with the War on Drugs, the War on Terror has disproportionately targeted young minorities and resulted in lengthy sentences even for non-violent offenses. Little research has been conducted on disparities for Arab-Americans or Muslims in the US justice system, but studies have begun to document such disparities in European countries (Bielen et al., 2021. One study found that in British courts, defendants with Muslim names received prison terms nearly 10% longer than those without such names (Pina-Sanchez & Grech, 2018). Light's (2014) study of citizen/non-citizen disparities in US courts found disparities of larger magnitude than minority/White disparities. Sentencing disparities based on country or origin and citizenship status have also been documented (Logue, 2009).

Several approaches have been proposed for explaining unjustified disparities, including the focal concerns perspective (Steffensmeier & Painter-Davis, 2017), the minority threat hypothesis (Jordan & Maroun, 2016), the liberation hypothesis (Hester & Hartman, 2017), and theories based on unconscious cognitive biases (Mears et al., 2017). Despite their differences, these theories all expect that unjustified racial disparities result from stereotypes about the dangerousness and other attributes of minorities. The liberation hypothesis expects greater disparities for less serious crimes, because judges' wider discretion in such cases provides opportunities for extra-legal factors to influence decision-making (Hester & Hartman, 2017).

Several studies have examined sentencing in US terrorism cases. Based on data provided by several federal government agencies, Smith and Damphousse (1996) compared terrorists sentenced between 1970 and 1991 to non-terrorists and found that the "terrorist" label was the strongest predictor of sentence length. Their subsequent study using the same data found that legal variables explained more of the variance in terrorists' than non-terrorists' sentences (Smith & Damphousse, 1998). This supported the liberation hypothesis, since the greater severity of terrorism offenses and the high priority placed on them by federal prosecutors could have discouraged judicial discretion.

In a study of terrorism sentencing between 1980 and 1998 using the American Terrorism Study

(ATS), Smith and colleagues (2002) found that international terrorists received harsher prison sentences than domestic terrorists. However, the study did not control for sentence severity or the effect of guilty pleas versus going to trial. Murray's (2018) comparative study of non-jihadi terrorism sentencing in the US, which compared left-wing, eco-terrorist and right-wing terrorism cases between 1980 and 2012 by analyzing data from the ATS and Prosecutorial Strategies and Defense project, found that eco-terrorists received more lenient sentences. Notably, these are the only studies that have tested for sentencing disparities based on ideology, and one mainly analyzes pre-9/11 data (without controlling for severity), and the other excludes jihadi cases.

A limited number of terrorism sentencing studies to probe for disparities focus on gender and race. A recent study using United States Extremist Crime Database (ECDB) data (1990-2019) found that women convicted of terrorism offenses receive similar sentences to men, while those convicted of non-terrorism offenses received significantly shorter sentences (Corradi, 2023). Another study, based on ATS data (1980-2021), found that female terrorism defendants received shorter sentences and were less likely to be charged under terrorism statutes (Jackson et al., 2021). A study of terrorism cases between 1980 and 2002, based on the ATS, found that Hispanic terrorism defendants were less likely to have their cases dismissed and that left-wing and international defendants were more likely to have charges dismissed (B. D. Johnson, 2012). Another study of terrorism sentencing between 1980 and 2002, which compared terrorism defendants in the ATS to non-terrorism defendants from a Federal Judicial Center database, found that the average sentence length for terrorists decreased in the post-guidelines era and that race and sex predicted sentence length for both terrorists and non-terrorists (Bradley-Engen et al., 2009). These studies suggest the need to evaluate racial disparities in more recent data, as the only studies analyzing racial disparities-related data focused on pre-9/11 data.

Other terrorism sentencing research has tested for disparities but has instead analyzed such issues as temporal sentencing trends and factors impacting sentencing. A study of ISIS prosecutions from 2014 to 2017, using data compiled by the Center on National Security at Fordham Law School, found that sentences for ISIS-linked offenders increased over time, in part because the maximum sentence for material support for terrorism was increased from 15 to 20 years in 2015 (Greenberg, 2017). An earlier study of ISIS sentences between 2014 and 2016, using an earlier version of the same data, found that the average sentence for ISIS-linked defendants was 9 years, lower than for Al Qaeda-linked defendants (Greenberg, 2016). One study focusing on domestic right-wing extremist homicide participants, using data from the ECDB, found that several factors, including perceptions of reoffending risks and connection to extremist groups, predicted sentence severity (Gruenewald et al., 2024).

A limited number of studies have examined terrorist sentencing outside the US. One study of UK terrorism defendants found that jihadi terrorists had higher sentences than those with other ideological motivations, even after controlling for crime severity. Canadian studies of terrorism sentencing have focused on trends in sentencing over time (Amirault & Bouchard, 2015) and the effect of new terrorism laws on sentencing (Amirault et al., 2016).

While previous research found disparities based on race, the type of terrorism, and other factors, this research either focused on the pre-9/11 era or did not include jihadi terrorism. More recently, some have suggested that discretionary sentencing decisions lead to disparities between right-wing and jihadi defendants, though evidence remains anecdotal. For example, a right-wing extremist who plotted to attack a federal building was not charged under applicable terrorism statutes and received a two year-sentence, whereas a Muslim who gave $200 to an ostensibly ISIS-linked informant was sentenced to 15 years under the material support statute (Aaronson, 2019). Such examples suggest that right-wing terrorists are treated more leniently, even though right-wing terrorism has killed about as many people in the US since 9/11 as jihadi terrorism (Government Accountability Office, 2017). Given widespread concern that authorities are neglecting right-wing terrorism (Kanno-Youngs, 2019; Norris, 2017) and plausible theories that racism or Islamophobia might lead to harsher treatment of jihadi defendants (Norris et al., 2024), such disparities are important to investigate empirically, as we do in this study.

This study addresses a clear research gap, as the only studies to compare sentences between jihadi and non-jihadi terrorism defendants or to evaluate terrorism sentences for racial disparities analyzed data ending in 1998 or 2002 (B. D. Johnson, 2012; Smith et al., 2002) or UK data (Amirault & Bourchard, 2017). Moreover, terrorism sentencing disparities based on citizenship status or state versus federal court have not yet been analyzed. Thus, this study advances our understanding of terrorism sentencing disparities by investigating all types of terrorism, analyzing race as well as citizenship, employing more recent data (18 years of post-9/11 data), incorporating state as well as federal court, and including several severity levels.

The Present Study

As in the studies by Murray (2016) and Smith and colleagues (2002), this study examines sentencing disparities among terrorism defendants with different ideologies. However, this study improves upon their research in four critical ways. First, unlike Smith and colleagues (2002), we account for crime severity. Although Murray's (2016) study accounts for crime severity, it does so by dividing offenses into three categories, whereas the present study employs six levels of severity, enabling a more fine-grained analysis of disparities. This is of considerable importance for identifying disparities because analyses with fewer severity levels might identify potential disparities that in fact could be explained by the differing severity levels of defendants in different ideological or demographic categories.

Second, the present study compares sentencing between several types of terrorism: jihadi terrorism, right-wing terrorism, left-wing terrorism, separatist terrorism, and Colombia-based terrorism. Smith and colleagues' study (2002) only evaluated the difference between domestic and international terrorism sentences, while Murray (2016) compared right-wing, left-wing and eco-terrorism. This study also improves on Murray's by distinguishing between different types of right-wing terrorism as well as different types of left-wing terrorism. We classify right-wing and left-wing terrorism in terms of three sub-categories each. Our study thus incorporates a total of nine ideological categories.

We note that considerable debate exists about the appropriateness of using the term terrorism to describe property destruction motivated by environmental or animal rights ideologies (Loadenthal, 2017). Without taking sides in such debates, we include them in our study because they are commonly considered forms of terrorism by the government, and these defendants' sentences ought to be compared to other defendants labelled as terrorists. The US government once described "eco-terrorism" as the nation's most serious domestic terrorist threat, and there is a federal law called "The Animal Enterprise Terrorism Act" focused on ideologically-motivated crimes by animal rights activists (Hirsch-Hoefler & Mudde, 2014).

Third, this study includes cases prosecuted in state court, not just federal court as in previous studies. This is a critical issue, because a large proportion of non-jihadi terrorists may be sentenced by state rather than federal judges. A study of extremist homicides found that 82% were prosecuted in state court (Chermak et al., 2012).

Finally, the present study focuses on the post-9/11 era, whereas Smith and colleagues (2002) primarily cover pre-9/11 cases, and Murray covers a large range of years, most of which were prior to 9/11. Since 9/11 had such a dramatic impact on terrorism-related laws and policies, it makes sense to treat this as a separate era and focus on sentencing in this period (Hill et al., 2010).

Based on the previous research and theoretical perspectives outlined above, our hypotheses include the following:

Hypothesis 1: Crime severity will predict sentence length.

Hypothesis 2: Decision whether to plead guilty will predict sentence length.

Hypothesis 3: Racial/ethnic minority and citizenship status will predict sentence length.

Hypothesis 4: Jihadi ideology will predict sentence length.

Hypothesis 5: These disparities will be more pronounced for less severe offenses (the liberation hypothesis).

Hypothesis 6: Non-jihadi motivation, White race, and native-born citizenship will predict larger severity discounts (reductions in level of severity between their original alleged offense and their offense of conviction).

Data and Methods

To build a comprehensive database including all types of terrorism and both federal and state cases, a multi-pronged approach to data gathering was necessary. First, a database employed in previous research was obtained and supplemented with more recent sentencing data. This original database, which was developed by Norris and Grol-Prokopczyk (2015), contained 580 cases for defendants arrested between 2001 and 2014 (Norris & Grol-Prokopczyk, 2019). Several data sources were used to construct the original database. This included incorporating all federal cases from a database compiled by journalist Trevor Aaronson (2019). To compile his database, Aaronson (2019) used "lists of prosecutions from the U.S. Department of Justice (from 2010, 2014, and 2015), court files available through the federal judiciary's case management system, DOJ press releases, and inmate data from the Bureau of Prisons." Because non-jihadi terrorist convictions are rarely included in government lists of terrorism cases, the original database was supplemented by consulting

online lists of "eco-terrorism," crimes by animal rights activists, and right-wing terrorism convictions. These lists appeared in a variety of sources, such as the publications of the Southern Poverty Law Center.

Moreover, Internet searches and searches using the Newsbank database were employed to find cases in each ideological category. Search terms included "anti-government," "sovereign citizen," "White supremacist," "right-wing extremist," "eco-terrorist," "earth liberation front," "animal liberation front," "extremist," "terrorist" along with "sentenced" (with the "and" Boolean connector) to yield news stories or government press releases about convictions. We employed the same methods to extend this database through 2018. Sentence length and other variables were independently confirmed from government press releases or newspaper articles to avoid problems with inaccurate data or different coding definitions.

This multifaceted approach to compiling our data was most suitable for this project because, although various potential sources of terrorism sentencing data exist, they are not necessarily comprehensive (Peterka-Benton & Laguardia, 2021; Spaaij & Hamm, 2015), and we sought to include all cases within every type of terrorism. Cases were included regardless of whether the target of the terrorist offenses in question were foreign or domestic; all convictions in US state or federal courts were included.

In addition, all incidents between 2000 and 2018 in the Global Terrorism Database were reviewed, resulting in the inclusion of several more cases. The TEVUS database, which includes cases from the ECDB, the ATS, and other sources, was also reviewed for additional cases. A list of federal terrorism sentences released by the Department of Justice was also employed to confirm sentence length where this was not available in other sources.

Regardless of its source, each case was evaluated to ensure it conformed to this study's definition of terrorism. To qualify as terrorism for the purposes of this study, crimes had to be ideologically-motivated and intended to "intimidate or coerce a civilian population" or "influence the policy of a government by intimidation or coercion" (18 USC § 2331). This means that the defendants sought to advance their ideological goals by making the public or government officials feel fear or pressure to change their behavior in reaction to the crime. To evaluate whether a case fit this definition, the defendants' actions and statements as described in government press releases, news stories, and, when available, court documents, were evaluated.

Inclusion and exclusion errors were minimized through strict inclusion criteria and cross-referencing multiple sources for each case. Cases with ambiguous motives or without sufficient corroborative evidence of ideological motive were excluded to reduce false positives. Extensive searches using multiple search strategies were performed to prevent the exclusion of valid cases.

Sources were evaluated for reliability and credibility based on their origin and cross-referenced for consistency. Government press releases, court documents, and reputable news outlets (such as national or regional newspapers like the *New York Times* or *Chicago Tribune*) were considered highly reliable. Lesser-known sources were used cautiously and only when corroborated by other credible sources. Overall, the database's validity was ensured by comprehensive data collection procedures, clear criteria for including cases, and cross-referencing of sources. Coding protocols were derived from established legal definitions and sentencing guidelines, so that our data accurately captured the severity and other characteristics of terrorism offenses.

Each case was coded for race/ethnicity, sex, age at sentencing, type of terrorism, whether an informant was involved, whether the defendant pled guilty or went to trial, whether the case was in federal or state court, sentence length, citizenship status, the year of conviction, whether the case was ISIS-related, whether the case involved traveling to join terrorist groups abroad, and crime severity. Race/ethnicity codes include White, Black, Middle Eastern, South Asian, East Asian, Latino, mixed race, Central Asian, and Native American. Type of terrorism included jihadi, left-wing, right-wing, Colombia-related (both left-wing guerillas and right-wing paramilitaries opposing them), and separatist, and with these main ideological categories, both right- and left-wing terrorism was sub-divided into three separate categories, as explained below.

Colombian terrorism was given its own category because of the large number of cases and the fact that it arises from a long-running insurgency or civil war in Latin America, which is unique in our data. By contrast, the separatist category primarily includes violent separatist movements in Asian countries. While these two categories could have been merged into a general non-jihadi foreign terrorism category, it was appropriate to separate them due to their widely different political contexts.

Citizenship status included native-born citizen, naturalized citizen, legal resident, undocumented immigrant, and foreign national. Individuals were coded as foreign nationals if they were citizens of other countries and were not current US residents. Within the right-wing category, each case was coded for whether the offender was anti-government, White supremacist, or other (pro-life,

anti-immigrant, anti-Muslim, or general right-wing). The left-wing category was also coded for three sub-categories: eco-terrorism, animal rights, and other. As noted above, this results in a total of nine separate ideological categories, which we include in all analyses.

Both life sentences and death sentences were coded as 50 years. While a death sentence is understandably considered a harsher sentence than a life sentence, this difference cannot be quantified, and either way, the sentence takes away the remainder of their lives. Other researchers have also coded life sentences as 50 years (Carlsmith et al., 2007). We conducted sensitivity analyses in which we coded life and death sentences in alternate ways, such as assigning 25 years to both or assigning 40 years for life sentences and 50 years for death sentences. None of these alternative models affected our overall findings.

Two additional considerations support our decision to code life and death sentences the same. First, a large percentage of defendants sentenced to death are never executed, thus making death sentences similar in some ways to life sentences. To illustrate, California has 641 inmates on death row but has not executed an inmate since 2006, and even before 2006, only one or two were executed per year (Death Penalty Information Center, 2024a, 2024b). Overall, only 13 defendants, or 1.6% of our analytical sample, were sentenced to death.

Furthermore, there is a growing trend of governors commuting all death sentences to life sentences. This resulted in two of those sentenced to death in our database having their sentences changed to life sentences years after their initial sentencing (Rush, 2022). Coding life and death sentences the same allows our findings to remain valid even if additional death-sentenced defendants have their sentences commuted after this article is published.

Crime severity was coded into six categories based on Base Offense Levels of the Federal Sentencing Guidelines. The highest severity category (offense level 36 and above), referred to below as level 6, includes such crimes as murder and manslaughter. The second-highest category (30 to 35), or level 5, includes attempted murder, conspiracy to murder, solicitation to murder, and kidnapping or hostage-taking. This includes, for example, most terrorist plots. Level 4 (26 to 29) includes material support for terrorism (18 U.S.C. § 2339B) among other offenses, such as conspiracy to destroy defense installations. Level 3 (22 to 25) includes such offenses as arson, property damage through explosives, and the use of a firearm in a crime of violence. Level 2 (15 to 21) encompasses such crimes as obstruction of justice, aggravated assault, and the illegal possession of firearms or explosives. Level 1, the least severe category (14 or below), includes such crimes as fraud and false statements. While this study includes state as well as federal cases, all cases were coded in terms of these six severity levels using the same criteria.

In addition to the severity of the crime of conviction, each case was also coded for the severity of the alleged underlying offense. Thus, if authorities stated in an initial post-arrest press release that a defendant was conspiring with others to commit an attack, but later convicted the defendant of only weapons offenses, the underlying offense variable reflects the original allegations. This was useful for determining whether different types of terrorists receive different levels of "discounts" through plea-bargaining, prosecutorial decisions to file less serious charges, or partial acquittals by juries.

We identified 825 terrorism defendants. For one defendant, ideology could not be determined, and for eight defendants, citizenship information was not found. Excluding these nine left us with an analytic sample of 816 defendants who were not missing data on any independent variable. Our analyses are thus performed only for these defendants. While we strove to include all terrorism prosecutions, our data can still be seen as a sample of a longer time period including before 2001 and after 2018 (Ives et al., 2021) rather than as a full population. We thus engage in standard statistical methods such as hypothesis testing in nearly all analyses.

Results

The descriptive statistics in Table 1 show the defendant characteristics in terms of demographics, terrorism type, and other variables. About half of the defendants (52.2%) had a jihadi motivation, while 28.1% were right-wing, 11.1% were left-wing, 5.7% were Colombia-based, and 2.8% were separatists. In terms of race and ethnicity, 45.5% were White, 16.5% were Black, 16.9% were of Middle Eastern background, and 10.5% were South Asian. To briefly summarize some of the other defendant characteristics, about 61% were native-born citizens, about 93% were male, about 90% were prosecuted in federal court, and about 61% pled guilty. Defendants were widely distributed among age and severity categories.

Table 1: Characteristics of Terrorism Defendants and Mean Sentence Length, 2001-2018 (n=816)

Characteristic	Categories	# of Cases	% of Total Sample	Average Sentence (Years)
Terrorism Type	Jihadi	424	52.2%	16.6
	Right-Wing	232	28.1%	16.9
	Anti-Government	112	13.7%	15.8
	White Supremacist	75	9.2%	18.4
	Other	45	5.5%	17.3
	Left-Wing	90	11.1%	5.8
	Environmental	48	5.9%	5.4
	Animal Rights	15	1.8%	3.5
	Other	27	3.3%	7.9
	Colombia-related	47	5.7%	12.5
	Separatist	23	2.8%	8.2
Race/Ethnicity	White	371	45.5%	14.1
	Black	135	16.5%	17.0
	Middle-Eastern	138	16.9%	15.3
	South Asian	86	10.5%	14.8
	Hispanic/Latino	58	7.1%	13.1
	Mixed	8	1.0%	38.5
	Other (East/Central Asian, Nat. Am.)	20	2.5%	14.7
Citizenship	Native-born citizen	496	60.8%	14.7
	Naturalized citizen	102	12.5%	15.6
	Legal resident	61	7.5%	14.9
	Undocumented immigrant	21	2.6%	23.8
	Foreign national	136	16.7%	14.6
Gender	Male	756	92.7%	15.4
	Female	60	7.4%	10.2
Age	17-25	185	22.8%	14.2
	26-35	263	32.4%	15.2
	36-50	224	27.6%	14.7
	51-	140	17.2%	16.9
Jurisdiction	Federal	731	89.6%	13.9
	State	85	10.4%	24.4
Informant Use	Informant	446	54.7%	13.3
	Non-Informant	370	45.3%	17.2
Disposition	Guilty Plea	499	61.2%	10.4
	Conviction at Trial	317	38.9%	22.3
Sentence Type	Life Sentence	61	7.5%	50.0*
	Death Sentence	13	1.6%	50.0*
	Non-Life Prison Term	722	88.5%	11.9
	No Prison Term	20	2.5%	0.0
Year	2001-2003	57	7.0%	15.0
	2004-2006	96	11.8%	12.00
	2007-2009	149	18.3%	13.4
	2010-2012	154	18.9%	15.8
	2013-2015	180	22.1%	16.7
	2016-2018	180	21.1%	15.8
Severity	1 (Fraud, Smuggling)	52	6.4%	3.6
	2 (Possession, Property Crimes)	166	20.3%	6.8
	3 (Violence, Explosives Use)	129	15.8%	11.0
	4 (Material Support)	277	34.0%	12.4
	5 (Violent Plot, Attempted Murder)	147	18.0%	27.0
	6 (Murder)	45	5.5%	47.5
Total		816	100.0%	15.0

Note: *As explained in the text, both life and death sentences were coded for 50 years.

Are There Sentencing Disparities by Race, Terrorism Type, or Citizenship Status?

Table 2 presents OLS regressions of sentence length on demographic and legal predictors. Skewness of sentence length in our data (1.3) is slightly outside acceptable cut-offs by some criteria (Townsley et al., 2016) but well within the cut-offs according to other criteria (Hair et al., 2010; Kline, 2016).[1] Given this, and ongoing debate about the usefulness of log-transforming dependent variables (Dunlap et al., 1994; Villadsen & Wulff, 2021), we present regressions using both original and log-transformed sentence length.

The regression of (non-logged) sentence length in Table 2 shows that being mixed-race, being motivated by any of the three sub-categories of right-wing extremism, or being an undocumented immigrant or foreign national, predicts longer sentences. Since mixed-race is such a small and diverse category, encompassing only about 1% of the total dataset, this may reflect stochastic variation rather than a bias against mixed-race individuals.[2]

Separatist and Colombian terrorism both strongly predict shorter sentences. The regression with logged sentence length in Table 2 yields similar results, except that anti-government ideology and citizenship categories no longer predict longer sentences, and animal rights ideology marginally predicts shorter sentences.

Whether the defendant was sentenced in state versus federal court did not affect sentence length. However, a supplementary model (not shown) found a significant interaction effect between White supremacist ideology and federal court. White supremacists were sentenced more harshly in federal court than in state court after controlling for crime severity and other variables.

As expected, crime severity, and whether the defendant pled guilty, had substantial and significant impacts on sentences, supporting Hypotheses 1 and 2. These results also partially support Hypotheses 3 and

Table 2: OLS Regressions of Sentence Length on Demographic and Legal Variable (*n*=816)

Variable	Sentence Length		Log of Sentence Length	
	Coefficient	SE	Coefficient	SE
Race/Ethnicity (Ref., White)				
Black	-1.1	1.5	.09	.09
Middle-Eastern/South Asian	-1.6	1.5	.03	.09
Hispanic	1.1	2.0	.12	.11
Mixed Race	16.3***	3.9	.79***	.22
Other	2.5	2.0	.17	.16
Terrorism (Ref., Jihadi)				
Separatist	-9.1***	2.5	-.57***	.15
Colombian	-9.4***	2.3	-.35**	.13
Environmental	0.2	2.1	-.10	.12
Animal Rights	-1.1	3.1	-.31^	.18
Other Left Wing	-0.9	2.4	-.14	.14
Anti-Government	4.3**	1.7	.10	.10
White Supremacist	6.1***	1.8	.32**	.11
Other Right Wing	5.8***	2.0	.27*	.12
Citizenship (Ref., Native-born)				
Legal Resident	-0.1	1.7	-.10	.10
Naturalized Citizen	2.1	1.4	<.01	.08
Undocumented Immigrant	5.3*	2.5	.17	.15
Foreign National	6.5***	1.5	.14	.09
Gender (Ref., Male)	-2.1	1.5	-.12	.09
Crime Severity	-4.0***	0.3	.37***	.02
Trial (Ref., Guilty plea)	6.3***	0.3	.41***	.05
Federal Court (Ref., State court)	-1.4	1.4	.07	.08
Intercept	-10.5***	2.5	.87***	.15

*Note: F = 37.6 & 38.3, p < .001. Adj. R-Squared (both) = .49, ^ p < .10 *p <=. 05 **p <= .01 ***p <= .001*

4, since jihadis receive longer sentences than some non-jihadi groups, and undocumented immigrants and foreign nationals receive longer sentences than citizens.

One might expect that race, citizenship status, and ideology are highly correlated, leading to potential collinearity problems. In fact, however, while race and ideology are somewhat correlated, there remains considerable diversity within ideological categories. For example, among jihadi defendants, 47.6% were Middle-Eastern or South Asian, 29% were Black, 14.6% were White, and 4.5% were Hispanic. Racial categories were sometimes rather diverse in terms of ideology as well. Specifically, among White defendants, 59% were right-wing, 17% were jihadi, and 23% were left-wing.

In any case, to formally evaluate collinearity in our data, we calculated the Variance Inflation Factor (VIF) for each predictor variable. All VIF values were below 2, indicating that multicollinearity was not a significant issue (Fox & Monette, 1992). Furthermore, stepwise regression models evaluating alternative combinations of predictors based on AIC scores did not provide a basis for omitting variables. Nevertheless, we performed sensitivity analyses to determine whether including only certain predictor variables changed the overall results.

Specifically, we performed three regressions, each of which included only one of the three main explanatory variables that relate to unjustified disparities—race, citizenship, and ideology. The only difference in the results of these analyses was that being Black or Middle-Eastern/South Asian predicted lower sentences, and being undocumented or a foreign national no longer predicted longer sentences. These results suggest that the full model in Table 2 is preferable because only after controlling for both race and citizenship did it become clear that undocumented status and being a foreign national predict longer sentences while race itself has little impact. Moreover, only after controlling for both race and ideology was it revealed that it was not whiteness that predicted longer sentences, but far-right ideology.

Are Disparities More Pronounced for Lower-Severity Offenses?

To evaluate Hypothesis 5, which, in line with the liberation hypothesis predicts greater disparities for less serious offenses, we ran the same OLS regression as above, but limited the analysis to offenses with severity level of 1 through 3 (the least serious crimes). In this regression, Black defendants received longer sentences than White defendants, a result that approached significance under conventional criteria ($p = .07$), and, as in the full model, White supremacists received longer sentences ($b = 4.16$, SE

$= 2.11$, $p = .05$). An interactive model, as an alternative way to compare disparities with a binary high (4 to 6) or low (1 to 3) severity level, returns similar results for Black defendants, approaching significance ($b = -4.8$, $SE = 2.8$, $p = .089$). A level-by-level approach showed significantly higher sentences for Black defendants only in levels 3 ($t = 4.3$, $p < .01$, Cohen's $d = .94$) and 5 ($t = 2.1$, $p = .04$, Cohen's $d = .44$), and Middle-Eastern/South Asian defendants only had higher sentences in level 5 ($t = 3.1$, $p < .01$, Cohen's $d = .64$).

To provide maximum detail about such disparities, we first show the average sentence for each group within each severity level (Table 3). Tests of statistical significance are omitted in this table because our data include nearly the entire population of US terrorism prosecutions within the study's time period (only 1% were dropped due to missingness). As shown, Black defendants had higher average sentences than Whites in all severity levels other than level 4, and Middle-Eastern/South-Asian defendants had higher sentences than Whites in four severity levels, as did Hispanics and mixed-race individuals. Foreign nationals had higher sentences than native-born citizens only in level 5, and undocumented immigrants had higher sentences only in level 5 and 6. Naturalized citizens had higher sentences than native-born citizens in all but one severity level, and legal residents had higher sentences in three levels.

For the ideological categories, the most striking result is that separatist, Colombian, and all three categories of left-wing defendant had lower sentences than jihadis in every severity category in which they appeared, with the exception of Colombians who had longer sentences in level 2. Moreover, jihadis received longer sentences than anti-government defendants in three severity levels. The only non-jihadi terrorists to receive longer sentences than jihadis in more than one level were the White supremacists, who had longer sentences in the four lowest severity levels. Results from Table 3 should be regarded as tentative, since although this study strove to include the entire population of terrorism convictions during this time period, it is possible some cases were missed, and the data can also be seen as a sample of a more expansive time period.

Therefore, as an additional way to evaluate variations in disparities by severity level, separate multivariable regressions were performed for each severity level; these allowed us to control for the effect of going to trial and other variables.[3] In these analyses, shown in Table 4, disparities by race, ideological category, or citizenship status differed notably across severity levels. (Level 6 was omitted due to the lack of

significant results.) Naturalized citizens, undocumented immigrants, and foreign nationals had significantly higher sentences, but only in level 5. White supremacists only had significantly higher sentences in severity level 2. Few racial disparities are in evidence now that ideology and citizenship are controlled for, though Blacks have significantly higher sentences than Whites in severity level 3, and those from the Middle East or South Asia have lower sentences than Whites in severity level 4.[4] Jihadis have significantly higher sentences than separatists in level 2 and both separatists and Colombians in level 5. Federal court only predicts longer sentences in

severity level 1, again suggesting that state courts are well-equipped to prosecute terrorism cases. Women receive longer sentences than men in Severity Level 2 but shorter sentences in Severity Level 4 (which mainly comprises material support for terrorism).

Overall, our results provide little support for the liberation hypothesis (Hypothesis 5), as disparities are not consistently more pronounced for lower-severity crimes. On the one hand, in the highest severity category, disparities are few and slight, and some disparities-related findings (such as higher sentences for White supremacist and Black defendants) are most robust in lower severity levels.

Table 3: Average Sentence Length in Years by Severity Level and Defendant Attributes (*n*=816)

Variable	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6
Race/Ethnicity	6.5	7.8	20.0	12.1	27.8	50.0
Black	2.7	6.7	10.3	14.7	21.2	46.8
White	3.7	6.1	15.0	12.1	31.4	50.0
Mid.-East./S. Asian	3.8	8.3	10.1	10.4	25.1	50.0
Hispanic	--	--	32.0	20.7	46.3	50.0
Mixed Race	1.2	5.5	2.8	16.0	50.0	50.0
Other	6.5	7.8	20.0	12.1	27.8	50.0
Terrorism Type						
Separatist	--	1.9	2.3	9.1	24.5	--
Jihadi	3.9	6.9	13.6	13.0	30.7	50.0
Colombian	1.8	10.0	--	9.7	20.8	--
Environmental	0.5	2.2	6.2	--	--	--
Animal Rights	0.5	2.8	6.1	--	--	--
Other Left Wing	0.0	4.4	5.9	--	11.7	50.0
Anti-Government	--	6.3	18.7	--	19.9	45.2
White Supremacist	10.0	11.3	14.1	8.1	19.3	47.4
Other Right Wing	0.0	8.3	11.6	--	23.7	50.0
Citizenship						
Native-born Citizen	4.8	6.8	10.9	12.8	21.7	47.4
Legal Resident	2.2	4.5	12.1	13.1	31.0	--
Naturalized Citizen	3.2	11.4	11.7	13.4	29.0	50.0
Undocumented	2.0	--	--	12.5	38.6	50.0
Foreign National	3.0	5.2	--	10.9	34.2	--
Female	4.0	11.8	5.9	8.0	17.6	40.0
Male	3.5	6.4	11.6	12.8	27.3	48.1
Trial	4.6	9.6	18.9	15.1	30.5	49.0
Guilty Plea	3.2	5.8	7.7	11.0	19.2	45.2
Federal Court	3.6	6.8	10.7	12.4	27.9	49.4
State Court	0.0	6.3	12.4	--	19.7	46.5
Overall Average	3.4	6.8	11.0	12.4	27.0	47.5

However, in the second-highest severity level (level 5), there is strong evidence of several types of disparities. In the lowest severity level, immigrants receive lower sentences than native-born citizens, the opposite of what the liberation hypothesis would predict.

Hypotheses 3 and 4, which predicted disparities based on race, citizenship and ideology, were somewhat supported, since some of the predicted racial, citizenship, and ideological groups received longer sentences. However, right-wing defendants (particularly White supremacists) received longer sentences than jihadis, and disparities based on race and citizenship were not found for every non-White or non-native-born citizen group.

Disparities in "Discounts" Between Initial Charge Severity and Charges of Conviction

We next present an analysis of the "discount" between the severity of the alleged underlying offense (as expressed in initial charges and/or public statements by authorities upon arrest) and the severity of the actual offenses of conviction. In many cases, the FBI or prosecutors accuse the defendant of committing certain serious crimes, like conspiracy to commit terrorist attacks, and yet they are only ultimately convicted of relatively minor offenses.

Presumably, such initial allegations (whether or not they are formalized as charges) represent the government's good-faith view of the defendants' most serious offense, though such statements may also be meant to influence the judge in sentencing. For example, in one case involving firearms charges, prosecutors said, regarding an alleged violent plot by the defendant, "Sometimes there are things we think are important for the judge to know that may or may not develop into charges" (Whitehurst, 2014). Such "discounts," in which defendants are charged for less serious crimes than they were originally alleged to have committed, are a possible source of disparities and is thus analyzed in this article.

Table 4: OLS Regressions Measuring Sentencing Disparities by Severity Level (*n*=816)

Variable	Level 1	Level 2	Level 3	Level 4	Level 5
Race/Ethnicity (Ref., White)					
Black	3.39 (2.89)	0.93 (3.39)	10.54 (5.22)*	-3.02 (1.87)	1.00 (3.87)
Mid.-East./S. Asian	1.68 (1.69)	-4.32 (4.59)	2.26 (5.43)	-3.20 (1.91)^	0.56 (3.78)
Hispanic	2.72 (2.28)	2.60 (3.66)	-3.97 (4.31)	-1.04 (2.98)	4.15 (5.02)
Mixed Race	--	--	12.24 (9.38)	6.27 (6.38)	24.50 (7.26)***
Other	0.98 (4.13)	15.80 (7.42)*	-5.92 (11.09)	-0.20 (3.26)	17.78 (13.45)
Type (Ref., Jihadi)					
Separatist	--	-20.62 (9.47)*	-.90 (12.78)	-3.42 (2.45)	-22.11 (13.24)^
Colombian	-2.09 (2.97)	0.69 (8.96)	--	-2.82 (2.75)	-22.37 (5.01)***
Environmental	-4.13 (2.90)	-3.76 (4.12)	1.44 (4.21)	--	--
Animal Rights	-4.64 (3.94)	-6.17 (3.82)	0.52 (5.92)	--	--
Other Left Wing	--	-0.95 (3.33)	0.56 (5.55)	--	-3.90 (6.36)
Anti-Government	--	0.45 (3.08)	6.47 (4.42)	--	2.78 (4.80)
White Supremacist	4.86 (3.94)	6.48 (3.26)*	3.21 (4.16)	-5.58 (8.82)	3.96 (6.33)
Other Right Wing	-5.14 (3.94)	0.98 (3.71)	5.16 (4.23)	--	6.56 (8.82)
Citizenship (Ref., Nat.-born)					
Legal Resident	-4.92 (2.02)*	-2.50 (4.57)	-6.74 (6.74)	0.65 (1.82)	6.44 (4.44)
Naturalized Citizen	-3.63 (1.57)*	8.29 (4.72)^	0.36 (6.42)	1.71 (1.57)	7.03 (3.69)^
Undocumented	-4.82 (3.75)	--	--	0.10 (2.80)	15.90 (5.10)**
Foreign National	-4.03 (1.63)*	2.97 (4.07)	--	1.40 (1.81)	20.43 (3.73)***
Gender (Ref., Male)	-1.02 (1.92)	7.91 (2.45)**	-2.44 (2.85)	-4.81 (2.10)*	-11.92 (6.27)^
Trial (Ref., Guilty plea)	0.99 (1.29)	6.08 (1.42)***	11.00 (2.45)***	3.54 (1.20)**	11.44 (2.44)***
Federal Ct. (Ref., State court)	1.65 (.81)*	1.87 (2.30)	2.98 (2.41)	--	6.16 (4.35)
Intercept	<0.01 (3.49)	1.88 (3.71)	2.75 (4.79)	13.68 (1.70)***	7.59 (5.73)

Notes: ^ $p <= .1$, * $p <= .05$, ** $p <= .01$, *** $p <= .001$. Level 6 is not shown due to consistently non-significant results.

Table 5 presents bivariate statistics showing that some groups of defendants indeed receive larger or smaller discounts than others. Specifically, Colombians, environmentalists, and animal rights-motivated defendants have significantly smaller average discounts than jihadis, contrary to Hypothesis 6. However, anti-government defendants have significantly larger discounts than jihadis, supporting Hypothesis 6. Blacks, Hispanics, Middle-Eastern/South Asian, and mixed-race defendants all had lower discounts than White defendants, further supporting Hypothesis 6. Thus, our prediction in Hypothesis 6 is confirmed for anti-government defendants and most racial minority groups, but not supported for White supremacist, left-wing, and foreign non-jihadi defendants.

The effect size (Cohen's *d*) is provided as a measure of the magnitude of disparities. Values of below .2 are considered "very small" effect sizes, values between .2 and .5 are considered "small," those between .5 and .8 are "medium," and those above .8 are "large" (Cohen, 1988). In Table 5, the effect size is small for most statistically significant results, although it is "medium" for anti-government defendants and close to medium for Colombians, animal rights defendants, and mixed-race individuals.

In a multivariable regression version of these analyses (not shown), including all potential predictors simultaneously, the same terrorism types remained significant: that is, Colombian, animal rights, and environmental types predicted lower discounts, whereas anti-government terrorism predicted higher discounts. No other disparities-related variables such as race or citizenship significantly predicted severity discounts.

The most striking result in these analyses is the substantially larger discounts for anti-government defendants than for any other group. This may be due to the fact that initial government press releases about anti-government extremists tend to describe their plots to commit terrorist attacks, while in practice, they are often convicted of lower-level crimes. Perhaps prosecutors later realized there was insufficient evidence of criminal conspiracy, and this simply happened more often in anti-government cases. Yet, it is also possible that these larger discounts result from favorable treatment of anti-government defendants. These findings are consistent with structural-contextual theory because it is likely that police and prosecutors work together more closely to achieve jihadi convictions with lengthy sentences due to the prioritization of these cases in the post-9/11 environment.

Table 5: Differences in Severity Level Discounts by Defendant Attributes (*n*=816)

	Mean Discount	*t*-statistic	*p*-value	Cohen's *d**
Race				
Black	.36	-3.1	<.01*	-.26
Mid-East/S. Asian	.48	-1.7	.09	-.14
Hispanic	.26	-3.0	<.01*	-.34
Mixed	.13	-3.7	<.01*	-.45
Other	.75	0.4	.67	.10
White (Ref.)	.64			
Citizenship				
Legal Resident	.46	-0.8	.41	-.11
Naturalized	.43	-1.2	.22	-.13
Undocumented	.43	-0.7	.50	-.13
Foreign National	.44	-1.3	.20	-.12
Native-b. (Ref.)	.57			
Terrorism Type				
Separatist	.35	-0.7	.50	-.12
Colombian	.06	-3.2	<.01*	-.41
Environmental	.19	-3.2	<.01*	-.29
Animal Rights	.07	-4.8	<.01*	-.40
Other Left Wing	.67	1.0	.35	.20
Anti-Government	1.10	4.7	<.01*	.59
White Supremacist	.59	0.9	.40	.12
Other Right Wing	.47	0.0	.99	<.01
Jihadi (Ref.)	.46			

Note: * P-values of below .01 are marked with an asterisk to highlight statistically-significant results. Cohen's *d* values indicate whether effect sizes are very small (|*d*|<.2), small (|*d*| .2 to .5), medium (|*d*| .5 to .8), or large (|*d*|>.8).

The lower average discount for Colombians probably results from the fact that most of these defendants were both alleged to have committed, and convicted of, material support for terrorism. The ease of convicting someone of material support, given the wide range of possible conduct that can be considered material support, may also account for the lack of larger discounts among jihadi defendants (Price et al., 2012). For example, 24% jihadi defendants thought to have participated in terrorist conspiracies (a level 5 offense) were convicted instead of material support for terrorism (a level 4 offense). However, for level-5 anti-government defendants, the material support statutes are largely inapplicable to them (Norris, 2020b), resulting in plea bargains for lower-level offenses.

A particularly common combination involved anti-government defendants who were initially alleged to have been involved in a level 5 offense (such as a conspiracy to commit an attack) but instead were convicted of a level 2 offense (such as illegal firearm possession). This combination was found in 29% of all anti-government offenders but in less than 1% of jihadi offenders. To illustrate this combination, several members of the right-wing survivalist group River Otter Preppers were originally said be plotting to kill federal officials but, instead, were convicted of weapons or explosives charges. In an even more extreme case, anti-Muslim extremist William Tore Tint was originally alleged to have been conspiring to kill Muslims (a level 5 offense) but was only convicted of lying to federal officials (a level 1 offense). Eighty-five percent of anti-government defendants who had a discount of 3 or more severity levels pled guilty.

These "discounts" can have dramatic effects on sentencing patterns. Strikingly, as shown in Table 6, among anti-government defendants initially alleged to have committed a level 5 offense (usually a terrorist plot), the average sentence was 11 years in prison, whereas for jihadi offenders initially alleged to have committed a level 5 offense, the average sentence was 25.5 years. Thus, presumably due to prosecutorial decisions to offer more favorable plea deals in right-wing cases, jihadi offenders received sentences over twice as long as right-wing anti-government offenders in the same initial offense category. White supremacists and "other" left-wing defendants initially said to have committed a level 5 offense also ultimately received significantly lower sentences than jihadis with the same initial severity level.[5]

Based on Cohen's (1988) original criteria, jihadi defendants' mean sentence length shows a "large" difference compared to both anti-government defendants and "other" left-wing defendants and a "medium" difference compared to White supremacist defendants (though the latter would also be deemed "large" using more recent standards; Gignac & Szodorai, 2016). In any case, a difference of over ten years (25.5 for jihadis and 14.7 for White supremacists) is certainly substantial in practical terms. Defendants who are Black, Middle-Eastern/South Asian, and mixed-race also had longer sentences than Whites in initial severity level 5.

Table 6: Mean Sentence by Defendant Attributes for Defendants in Initial Severity Level (*n*=235)

Category	Mean Sentence	*t*-statistic	*p*-value	Cohen's *d**
Type				
Colombian	20.8	-0.9	.38	-.30
Other Left-Wing	8.5	-6.6	<.01	-1.10
Anti-Government	11.0	-6.4	<.01	-.96
White supremacist	14.7	-4.1	<.01	-.71
Other Right-Wing	21.0	-0.8	.47	-.28
Jihadi (Ref.)	25.5			
Race				
Black	22.8	3.4	<.01	.57
Mid-East/S. Asian	25.9	4.3	<.01	.74
Hispanic	25.5	2.3	.05	.75
Mixed	42.0	5.1	<.01	1.92
White (Ref.)	14.7			
Citizenship				
Legal Resident	25.3	2.2	.04	.70
Naturalized	26.1	2.9	.01	.76
Undocumented	27.0	2.4	.03	.83
Foreign National	31.7	4.4	<.01	1.13
Native-born (Ref.)	15.8			

Note: Separatists, environmentalists and animal rights defendants are excluded due to lack of > 1 observations.

Including all severity levels, anti-government defendants received larger severity discounts than jihadis in both state and federal court, but the difference in discounts was larger in federal court ($t = 5.7$, $p < .001$) than in state court ($t = 2.3$, $p = 0.03$). The average overall discount was higher in federal court (.5) versus state court (.2), a statistically significant result ($t = -3.1$, $p < .01$) that held true and remained significant for both anti-government and jihadi defendants when tested separately.

In sum, hypothesis 6 was somewhat supported because, as Table 5 showed, anti-government ideology predicted higher discounts, and minority status (for three minority groups) predicted lower discounts. However, contrary to hypothesis 6, several non-jihadi defendant types received lower discounts than jihadis. A summary of our findings regarding our six hypotheses is provided in Table 7.

Supplementary Analysis

Previous research suggested that ISIS-linked cases could be associated with higher or lower sentences (Greenberg, 2016, 2017). When added to the multivariable linear regression, ISIS cases predicted longer sentences compared to other jihadi cases ($b = 4.2$, $SE = 1.6$, $p < .01$). Given widespread alarm about ISIS's unique brutality, this result is not surprising. Yet, when we added a dummy identifying defendants who joined or attempted to join a foreign terrorist group, we found that these defendants received lower sentences ($b = -3.8$, $SE = 1.3$, $p < .01$). Further analysis showed that jihadi defendants who tried to join ISIS (a subset of all ISIS-related cases) received significantly lower average sentences than jihadi defendants who tried to join non-ISIS terrorist groups (10.5 vs. 15.2, respectively; $t = 2.5$, $p = .01$). Given the large number of young people who (perhaps impulsively) decided to

join ISIS at the height of the group's success, some judges may have been relatively lenient toward these defendants.

While sting operations are probably necessary for preventing terrorist attacks, there is debate about whether many of the defendants convicted in sting operations would have committed crimes without being encouraged by informants (Field, 2019). As for the effect on sentencing of the involvement of informants, it is possible that lower sentences would result if judges question defendants' independent capacity or motivation to commit attacks. Indeed, entrapment-related concerns or partial acquittals have impacted sentence length in some documented cases (Norris, 2020a). Alternatively, sting operations could lead to higher sentences if the defendants agree to commit particularly high-level attacks as part of informant operations (Norris, 2019). Gruenewald and colleagues (2019) found several differences between plots involving sting operations and successful terrorist attacks, including the more frequent presence of explosives rather than firearms in sting-facilitated plots and the lack of prior terrorist involvement among such offenders. Such differences among offenders could potentially impact sentencing. Klein and colleagues (2019) found that police investigatory strategies (often involving informant operations) among jihadi and far-right plotters were highly similar, with some differences, such as a higher rate of tips from the public among right-wing terrorism investigations. If stings are initiated or administered in different ways among different types of terrorism defendants, this could impact sentencing patterns as well.

To investigate potential connections between sting operations and sentencing, the effect of undercover informants on sentence length was

Table 7: Summary of Evidence for Hypotheses

Hypotheses	Results
H1: Crime severity will predict sentence length	**Supported.** Higher severity strongly predicted longer sentence length in all analyses.
H2: Decision whether to plead guilty will predict sentence length.	**Supported.** The decision to go to trial rather than plead guilty strongly predicted sentence length in all analyses.
H3: Racial/ethnic minority and citizenship status will predict sentence length	**Somewhat supported.** Some minority racial/ethnic and citizenship groups received longer sentences (net of severity and other controls).
H4: Jihadi ideology will predict sentence length.	**Somewhat supported.** Jihadis received longer sentences than some non-jihadi categories, but right-wing terrorists received longer sentences than jihadis in some severity levels.
H5: Disparities will be more pronounced in lower crime severity levels (liberation hypothesis)	**Mainly unsupported**. The association between crime severity level and disparities was non-linear. Disparities were largely absent in the highest level, prevalent in the second-highest, and also present in some lower severity levels.
H6: Non-jihadi motivation, White race, and native-born citizenship will predict larger severity discounts	**Somewhat supported**. Anti-government ideology predicts larger discounts, and some racial/ethnic minorities had lower discounts, but some non-jihadi groups received lower discounts than jihadis. Citizenship was not predictive of discount.

analyzed. Interestingly, although some sting operations result in long sentences, the average sentence for cases involving a government informant was lower than in non-informant cases. In multiple linear regression controlling for crime severity and the decision to go to trial (not shown), the presence of an informant significantly predicted lower sentence length (b = -2.1, SE = .67, p = .002). This may be because of leniency toward such suspects when entrapment was alleged (Norris, 2020a) or, perhaps more likely, because such cases often have multiple defendants, some of whom were less central to the plot and thus received lower sentences. Interestingly, when interactions between informant presence and ideology were added to the regression, the only significant interaction effect was between anti-government ideology and the involvement of an informant. This indicates that judges are more lenient toward anti-government defendants convicted as part of sting operations relative to other terrorism defendants arrested through such operations. Although informant presence predicts lower sentences among jihadi defendants as well (which was confirmed by excluding non-jihadi cases in an alternative analysis), the effect is much stronger for anti-government defendants.

Some might question the inclusion of state terrorism cases in our database due to the different legal and statutory environments in each state. While we believe controlling for federal versus state court was an appropriate way to test for differences in sentencing (though not without limitations, as noted below), we conducted a further analysis (not shown) excluding state cases to see if overall results were affected. Interestingly, when the full non-logged model in Table 2 is performed while excluding state cases, all substantive results are the same, except that only White supremacist ideology, and not anti-government or "other" right-wing ideology, significantly predicted longer sentences.

To evaluate a recent claim that terrorism sentences have declined in previous years (Farivar, 2017), we added the year of sentencing to the linear regression. Results were significant, with later years predicting a longer sentence, but this effect completely disappeared after controlling for crime severity. However, when separate regressions were run for each severity level, controlling for guilty pleas, there was a statistically significant increase in sentences over time within severity category 4, which primarily includes material support charges. The maximum sentence for this charge under federal law was increased from 15 to 20 years in 2015, so it is understandable that the average sentence significantly increased. Confirming this explanation, Bayesian structural time series analysis showed a statistically significant increase in category 4 sentences beginning in 2015 (Relative Effect = 48%, p = .002).

Limitations

As this study analyzes only terrorists sentenced by state or federal courts, it does not encompass all of the ways US authorities have dealt with terrorism, such as confinement at Guantanamo, targeted assassination through drone strikes, and warfare. Such methods are used almost exclusively against jihadi terrorists. Controlling for race and ideology in our analysis might thus give the misleading impression that jihadi ideology and Middle-Eastern/South Asian identity does not predict harsher treatment by the US government. When viewed in the widest counterterrorism context, this is decidedly not the case. Sensitivity analyses including interaction effects (not shown) suggest that jihadi defendants who are naturalized citizens or foreign nationals have longer sentences than native-born defendants after controlling for relevant variables like crime severity. Thus, it may be that foreign-born jihadi defendants are both sentenced more harshly and more likely to experience violent forms of counterterrorism as well.

A further limitation is that, due to the lack of centralized information on terrorism sentencing, and the fact that terrorists are sentenced in both state and federal court, a multifaceted strategy was necessary for identifying terrorism cases, particularly left- and right-wing cases. It is thus possible that some cases were missed. One limitation of including state cases is that in some states, there may be substantial differences between the percentage of the sentence that will likely be served before release compared to that of the federal system. It was not feasible in our study to adjust sentence lengths by state, but future studies comparing federal and state sentences should do so when possible.

Due to resource constraints, convictions after 2018 could not be included in the database, and a single coder—the first author—coded all the data. Future research should include more recent data and ideally include multiple coders and establish interrater reliability. So many defendants have been convicted of January 6th-related offenses—at least 900 so far (Richer & Kunzelman, 2024)—that this could comprise a study of its own, comparing January 6 defendants to other defendants to gain insight on how courts treated these defendants. Presumably, many of these offenses qualify as terrorism and could be included in terrorism disparities research.

Further research could also delve more deeply into specific types of terrorism offenses, such as traveling abroad to join a terrorist group. Aside from

testing for disparities, researchers could evaluate whether sentencing is influenced by such factors as the particular terrorist groups that defendants sought to join; their anticipated roles in these groups; the mental health and other vulnerabilities of defendants; and for cases involving sting operations, the likelihood of defendants joining the groups on their own without the facilitation of undercover agents.

Discussion

This study tested for sentencing disparities by race/ethnicity, citizenship status, and ideological type in US terrorism prosecutions between 2001 and 2018. After controlling for crime severity, federal versus state court, and whether the defendant pled guilty, we found that jihadi defendants received longer sentences than some non-jihadi categories (Colombians and separatists), while right-wing terrorists (particularly White supremacists) received longer sentences. Black and Middle-Eastern/South Asian defendants received longer sentences in some severity levels, and undocumented immigrants and foreign nationals received longer sentences than native-born citizens. Women received longer sentences in one severity category and shorter sentences in another. The fact that our results on racial and gender disparities were somewhat mixed, in that certain disparities were identified only for specific severity levels, is consistent with prior research, which does not always find direct effects of race and gender on sentencing (Corradi, 2023; Wrigley & Schumacher, 2023).

Our findings that White supremacists in particular received longer sentences than jihadi defendants, while anti-government defendants in particular benefit from much larger severity discounts than jihadi defendants, are novel results that illustrate the benefits of incorporating all types of terrorism within disparities research and disaggregating wider categories like "right-wing terrorism" into sub-categories. Moreover, our finding that jihadi defendants do not receive longer sentences than left-wing defendants (after controlling for offense severity) is not what might be expected, as jihadi ideology is more highly stigmatized than the environmental or animal-rights motivations of most left-wing defendants. This suggests that sentencing guidelines can constrain discretion and avoid disparities, at least across some ideological categories.

Disparities based on race, citizenship status, or ideology are potentially consistent with theories of disparities based on cognitive biases against disfavored outgroups. Speculatively, the longer sentences for White supremacists may be due to greater assessments of dangerousness or blameworthiness, the relative punitiveness of judges in regions with more White supremacists, and/or White supremacists' more serious offenses within each severity category. However, our data do not enable us to adjudicate between these explanations.

Ironically, the fact that White supremacists receive longer sentences suggests that White supremacists' attempt to shore up or enhance White privilege though violent extremism (Isom, 2023) in practice backfires by negating their own privilege within the justice system, leading to harsher than expected prison sentences even compared to jihadi terrorists. This provides an illustration of the futility or counterproductive nature of most contemporary terrorism, the highlighting of which has been proposed as a method for deradicalizing far-right extremists (Norris, 2024). At the same time, anti-government extremists, who may be fueled by racist ideas even if their ideology is not focused on race (Byman, 2023), are treated more leniently, perhaps because their views are not expressed in explicitly racist terms and are thus viewed as less dangerous.

Compared to jihadi defendants, anti-government offenders had a much larger gap (or "discount") between the severity of the crime they were initially alleged to have committed and the crime of their actual conviction. This difference had a dramatic effect on sentencing. For example, due to this greater discount, jihadi defendants initially alleged to have committed a level 5 offense (such as a murder conspiracy) ultimately received an average sentence twice as long as anti-government defendants initially alleged to have committed a level 5 offense. Black, Hispanic, and mixed-race defendants also received significantly lower discounts than Whites.

There are a number of possible explanations for the difference in severity discounts between jihadi and anti-government defendants. First, an in-group leniency effect (more favorable treatment of the White male anti-government defendants) or an out-group harshness effect (less favorable treatment toward jihadists) could explain these results (Piazza, 2015). A greater leniency effect for the anti-government defendants would be predicted not only by theories of disparities based on cognitive biases but also by Black's (2010) theory of law, which expects less harsh treatment for those of higher status or greater cultural similarity to decision-makers. Most anti-government defendants are Christian White males, like most prosecutors and judges (Goodwin & Lindsay, 2018; Reflective Democracy Campaign, 2019; Shashahani & Liu, 2017). Moreover, although anti-government extremist ideologies are characterized by bizarre conspiracy theories, they have some elements in common with mainstream conservatism, such as dislike for taxes and regulations and fervent support for Second Amendment rights.

Second, it is also possible that in many anti-government cases, authorities initially thought there was a conspiracy to commit a terrorist attack, and announced it after the arrests, but later concluded that it was "just talk" that did not rise to the level of a conspiracy. The presence of unfounded "hype" after the initial arrest of the defendants may often result from misleading testimony from unreliable informants who were exaggerating the extent of the plot or otherwise misleading their law enforcement handlers (Norris, 2019). However, these factors could also explain severity discounts in jihadi cases, and, in principle, there is no reason why they should be more prevalent in right-wing cases. Third, the availability of material support laws for jihadi but not anti-government offenders might partly explain the difference in discounts. As noted above, material support charges are often offered in plea bargains for jihadi defendants initially accused of more serious offenses.

Finally, it is likely that the prioritization of jihadi prosecutions since 9/11 led to more efforts by the FBI and prosecutors to achieve high-level convictions. Additional investment in terms of investigation and time in jihadi cases may discourage discounts and facilitate successful prosecutions for serious offenses. This would be consistent with structural-contextual theory, which argues that for certain high-priority crimes, the various parts of the criminal justice work together in a tightly coordinated way to achieve convictions (Murray, 2018; Norris, 2019; Smith & Damphousse, 1998). These same forces could enable higher-level convictions closer to the actual underlying offense among cases that are more highly prioritized.

Of course, there are legitimate reasons to offer plea bargains with substantially less serious charges than initial allegations. Prosecutors need to take into account many factors, such as resources, the likelihood of conviction, and the availability of witnesses and other sources of evidence. While larger "discounts" may reflect bias, our data do not enable us to reliably determine whether this is so, because the factors influencing prosecutorial decision-making are largely hidden from public view. A qualitative inquiry into individual cases, perhaps involving interviews with prosecutors or others, may shed light on whether the greater "discounts" for anti-government offenders are due to bias, as opposed to legitimate factors.

Some have called for a new federal criminal statute allowing all people whose acts conform to the federal definition of terrorism to be charged as terrorists (McCord & Blazakis, 2019; Norris, 2017). The thinking behind such proposals is in part to ensure that federal authorities can charge all right-wing terrorists with terrorism, enabling appropriate sentences on par with similar jihadi offenders (Sinnar, 2019). Yet, this study showed that jurisdiction (state or federal) did not predict overall sentence length. This suggests that right-wing terrorists can effectively be prosecuted at the state level and that a new federal terrorism law may have a mainly symbolic purpose of establishing right-wing terrorism as the "moral equivalent" of jihadi terrorism (McCord, 2017). On the other hand, since 72% of anti-government defendants were prosecuted at the federal level, a new statute may be important for eliminating jihadi/anti-government disparities in severity discounts and thus sentencing. Many states already have the kind of broad terrorism statutes being considered at the federal level, though it is unclear how often these laws are being used (Norris, 2020b).

The difference in results between anti-government and White supremacist terrorists for both sentencing and severity discounts suggests that it may be appropriate for researchers to disaggregate the "right-wing terrorism" category into different sub-categories for future analyses. Despite some overlap between the groups in practice, their ideologies are quite distinct and should be analyzed separately in many contexts.[6]

Future research on terrorism sentencing patterns, whether qualitative or qualitative, should seek to evaluate competing explanations for any disparities observed. Qualitative studies of sentencing, even case studies of single terrorism cases regarded as excessively harsh or lenient, might use a variety of sources, from analyses of judge's sentencing statements (see McGarrity, 2013) to interviews with prosecutors, to determine which theoretical explanations are most applicable. Although we could not consider the mental health of defendants due to lack of data, it would be useful for future studies to build on Corradi's (2023) research by evaluating the effect of mental health diagnoses on sentencing for all types of terrorism defendants. Moreover, qualitative and quantitative studies could investigate alternative explanations for the severity discounts between different types of terrorism. Ideally, such research could lead to specific recommendations for how to reduce or eliminate unjustified sentencing disparities.

References

Aaronson, T. (2019, March 23). *Homegrown material support: The domestic terrorism law the Justice Department forgot*. The Intercept. https://theintercept.com/2019/03/23/domestic-terrorism-material-support-law/

Ahmed, S. (2016). Is history repeating itself: Sentencing young American Muslims in the war on terror. *Yale Law Journal*, *126*, 1520–1576. https://www.yalelawjournal.org/pdf/h.1520.Ahmed.1576_rfyg9e76.pdf

Amirault, J., & Bouchard, M. (2015). A group-based recidivist sentencing premium? The role of context and cohort effects in the sentencing of terrorist offenders. *International Journal of Law, Crime and Justice*, *43*(4), 512–534. https://doi.org/10.1016/j.ijlcj.2014.12.002

Amirault, J., & Bouchard, M. (2017). Timing is everything: The role of contextual and terrorism specific factors in the sentencing outcomes of terrorist offenders. *European Journal of Criminology*, *14*(3), 269–289. https://doi.org/10.1177/1477370815578194

Amirault, J., Bouchard, M., Farrell, G., & Andresen, M. A. (2016). Criminalizing terrorism in Canada: Investigating the sentencing outcomes of terrorist offenders from 1963 to 2010. *Journal of Criminal Law and Criminology*, *106*, 769–810. https://scholarlycommons.law.northwestern.edu/jclc/vol106/iss4/4/

Beckett, K., Nyrop, K., & Pfingst, L. (2006). Race, drugs, and policing: Understanding disparities in drug delivery arrests. *Criminology*, *44*(1), 105–137. https://doi.org/10.1111/j.1745-9125.2006.00044.x

Bielen, S., Grajzl, P., & Marneffe, W. (2021). Blame based on one's name? Extralegal disparities in criminal conviction and sentencing. *European Journal of Law and Economics*, *51*(3), 469–521. https://doi.org/10.1007/s10657-020-09670-6

Black, D. (2010). *The behavior of law*. Emerald.

Bradley-Engen, M. S., Damphousse, K. R., & Smith, B. L. (2009). Punishing terrorists: A re-examination of US federal sentencing in the postguidelines era. *International Criminal Justice Review*, *19*(4), 433–455. https://doi.org/10.1177/1057567709348357

Byman, D. (2023). Is there a wave of right-wing terrorism? A review article. *Political Science Quarterly*, *138*(2), 251–270. https://doi.org/10.1093/psquar/qqad007

Carlsmith, K. M., Monahan, J., & Evans, A. (2007). The function of punishment in the "civil" commitment of sexually violent predators. *Behavioral Sciences & the Law*, *25*(4), 437–448. https://doi.org/10.1002/bsl.761

Carmichael, J. T. (2010). Sentencing disparities for juvenile offenders sentenced to adult prisons: An individual and contextual analysis. *Journal of Criminal Justice*, *38*(4), 747–757. https://doi.org/10.1016/j.jcrimjus.2010.05.001

Chermak, S. M., Freilich, J. D., Parkin, W. S., & Lynch, J. P. (2012). American terrorism and extremist crime data sources and selectivity bias: An investigation focusing on homicide events committed by far-right extremists. *Journal of Quantitative Criminology*, *28*(1), 191–218. https://doi.org/10.1007/s10940-011-9156-4

Cohen, J. (1988). *Statistical power analysis for the behavioral sciences* (2nd ed.). Erlbaum.

Corradi, A. (2023). Disparities in extreme contexts: The impact of gender and mental health status on the criminal justice outcomes of extremists. *Journal of Criminal Justice*, *88*, 102104. https://doi.org/10.1016/j.jcrimjus.2023.102104

Death Penalty Information Center. (2024a). *Current US death row population by race*. https://deathpenaltyinfo.org/death-row/overview/demographics

Death Penalty Information Center. (2024b). *Executions by state and year*. https://deathpenaltyinfo.org/executions/executions-overview/executions-by-state-and-year

Donohue, J. J. (2014). An empirical evaluation of the Connecticut death penalty system since 1973: Are there unlawful racial, gender, and geographic disparities? *Journal of Empirical Legal Studies*, *11*(4), 637–696. https://doi.org/10.1111/jels.12052

Dunlap, W. P., Chen, R., & Greer, T. (1994). Skew reduces test-retest reliability. *Journal of Applied Psychology*, *79*(2), 310–313. https://psycnet.apa.org/doi/10.1037/0021-9010.79.2.310

Factor, R., & Gur-Arye, M. (2020). Social solidarity and sentencing disparities between ethnicvgroups: the case of hit-and-run traffic offenses. *Journal of Empirical Legal Studies*, *17*(1), 164–185. https://doi.org/10.1111/jels.12245

Farivar. M. (2017, July 1). *Homegrown US terrorists have received lighter sentences in recent years*. VOA News. https://www.voanews.com/a/homegrown-us-terrorists-lighter-sentences-recent-years/3924813.html

Field, A. (2019). Ethics and entrapment: understanding counterterrorism stings. *Terrorism and Political Violence*, *31*(2), 260–276. https://doi.org/10.1080/09546553.2016.1213721

Fox, J., & Monette, G. (1992). Generalized collinearity diagnostics. *Journal of the American Statistical Association*, *87*(417), 178–183. https://doi.org/10.1080/01621459.1992.10475190

Gignac, G. E., & Szodorai, E. T. (2016). Effect size guidelines for individual differences researchers. *Personality and Individual Differences*, *102*, 74–78. https://doi.org/10.1016/j.paid.2016.06.069

Government Accountability Office. (2017). *Countering violent extremism: Actions needed to define strategy and assess progress of federal efforts*. https://www.gao.gov/assets/gao-17-300.pdf

Goodwin, M., & Lindsay, M. (2018). American courts and the sex blind spot: Legitimacy and representation. *Fordham Law Review*, *87*, 2337–2384. https://fordhamlawreview.org/wp-content/uploads/2019/04/03_Goodwin-2337-2384.pdf

Greenberg, K. J. (Ed.). (2016). *Case by case: ISIS prosecutions in the United States, March 1, 2014–June 30, 2016*. Center on National Security at Fordham Law. https://static1.squarespace.com/static/5b16a000e17ba39f6f3825ba/t/5d55bbda5e0ed8000152e7cb/1565899739918/CNS_case_by_case_ISIS_july2016.pdf

Greenberg, K. J. (2017). *The American exception: Terrorism prosecutions in the United States: The ISIS cases, March 2014–August 2017*. Center on National Security at Fordham Law. https://news.law.fordham.edu/wp-content/uploads/2017/09/TheAmericanException9-17.pdf

Gruenewald, J., Klein, B. R., Freilich, J. D., & Chermak, S. (2019). American jihadi terrorism: A comparison of homicides and unsuccessful plots. *Terrorism and Political Violence*, *31*(3), 516–535. https://doi.org/10.1080/09546553.2016.1253563

Gruenewald, J., Klein, B. R., Hayes, B. E., Parkin, W. S., & June, T. (2024). Examining disparities in case dispositions and sentencing outcomes for domestic violent extremists in the United States. *Crime & Delinquency*, *70*(1), 126–156. https://doi.org/10.1177/00111287221109769

Hair, J. F., Black, W. C., Babin, B. J., & Anderson, R. E. (2010). *Multivariate data analysis: A global perspective*. Prentice Hall.

Hester, R., & Hartman, T. K. (2017). Conditional race disparities in criminal sentencing: A test of the liberation hypothesis from a non-guidelines state. *Journal of Quantitative Criminology*, *33*(1), 77–100. https://doi.org/10.1007/s10940-016-9283-z

Hill, J., Oliver, W. M., & Marion, N. (2010). "Shaping history" or "riding the wave"? President Bush's influence on the public opinion of terrorism, homeland security, & crime. *Journal of Criminal Justice*, *38*(5), 896–902. https://doi.org/10.1016/j.jcrimjus.2010.06.005

Hirsch-Hoefler, S., & Mudde, C. (2014). "Ecoterrorism": Terrorist threat or political ploy?. *Studies in Conflict & Terrorism*, *37*(7), 586–603. https://doi.org/10.1080/1057610X.2014.913121

Ives, A. R., Zhu, L., Wang, F., Zhu, J., Morrow, C. J., & Radeloff, V. C. (2021). Statistical inference for trends in spatiotemporal data. *Remote Sensing of Environment*, *266*, 112678. https://doi.org/10.1016/j.rse.2021.112678

Isom, D. A. (2023). *Gratuitous angst in White America: A theory of Whiteness and crime*. Taylor & Francis.

Jackson, S. M., Ratcliff, K., & Gruenewald, J. (2023). Gender and criminal justice responses to terrorism in the United States. *Crime & Delinquency*, *69*(5), 1044–1070. https://doi.org/10.1177/00111287211047535

Johnson, B. D. (2012). Cross-classified multilevel models: An application to the criminal case processing of indicted terrorists. *Journal of Quantitative Criminology*, *28*(1), 163–189. https://doi.org/10.1007/s10940-011-9157-3

Johnson, D. (2012). *Right-wing resurgence: How a domestic terrorist threat is being ignored*. Rowman & Littlefield.

Jordan, K. L., & Maroun, R. (2016). Minority threat and criminal sentencing: Examining juveniles in the adult criminal justice system. *Journal of Crime and Justice*, *39*(1), 41–54. https://doi.org/10.1080/0735648X.2015.1133397

Kanno-Youngs, Z. (2019, Oct. 1). Homeland security dept. affirms threat of White supremacy after years of prodding. *New York Times*. https://www.nytimes.com/2019/10/01/us/politics/white-supremacy-homeland-security.html

Klein, B. R., Gruenewald, J., Chermak, S. M., & Freilich, J. D. (2019). A mixed method examination of law enforcement investigatory strategies used in jihadi and far-right foiled terrorist plots before and after 9/11. *Journal of Qualitative Criminal Justice and Criminology*, *7*(2), 29–58. https://doi.org/10.21428/88de04a1.5963ad76

Kline, R. (2016). *Principles and practice of structural equation modeling*. Guilford.

Light, M. T. (2014). The new face of legal inequality: Noncitizens and the long-term trends in sentencing disparities across US district courts, 1992–2009. *Law & Society Review*, *48*(2), 447–478. https://doi.org/10.1111/lasr.12073

Loadenthal, M. (2017). "Eco-terrorism": An incident-driven history of attack (1973–2010). *Journal for the Study of Radicalism*, *11*(2), 1–34. https://doi.org/10.14321/jstudradi.11.2.0001

Logue, M. A. (2009). "The price of being Mexican": Sentencing disparities between noncitizen Mexican and non-Mexican Latinos in the federal courts. *Hispanic Journal of Behavioral Sciences*, *31*(4), 423–445. https://doi.org/10.1177/0739986309347447

McCord, M. B. (2017, Aug 21). *Criminal law should treat domestic terrorism as the moral equivalent of international terrorism*. Lawfare. https://www.lawfaremedia.org/article/criminal-law-should-treat-domestic-terrorism-moral-equivalent-international-terrorism

McCord, M. B., & Blazakis, J. M. (2019, Feb. 27). *A road map for Congress to address domestic terrorism*. Lawfare. https://www.lawfaremedia.org/article/road-map-congress-address-domestic-terrorism

McGarrity, N. (2013). "Let the punishment match the offence:" Determining sentences for Australian terrorists. *International Journal for Crime, Justice and Social Democracy*, *2*(1), 18–34. https://search.informit.org/doi/abs/10.3316/INFORMIT.122586336534150

Mears, D. P., Craig, M. O., Stewart, E. A., & Warren, P. Y. (2017). Thinking fast, not slow: How cognitive biases may contribute to racial disparities in the use of force in police-citizen encounters. *Journal of Criminal Justice*, *53*, 12–24. https://doi.org/10.1016/j.jcrimjus.2017.09.001

Mitchell, O. (2018). The continuing evolution of race and sentencing research and reviews of this research. *Journal of Criminal Justice*, *59*, 29–31. https://doi.org/10.1016/j.jcrimjus.2017.05.004

Mitchell, O., & Caudy, M. S. (2015). Examining racial disparities in drug arrests. *Justice Quarterly*, *32*(2), 288–313. https://doi.org/10.1080/07418825.2012.761721

Murray, K. (2018). A comparative analysis of conviction outcomes of American domestic terrorists. *International Journal of Comparative and Applied Criminal Justice*, *42*(1), 75–88. https://doi.org/10.1080/01924036.2016.1251952

Norris, J. J. (2017). Why Dylann Roof is a terrorist under federal law, and why it matters. *Harvard Journal on Legislation*, *54*, 501–541. https://journals.law.harvard.edu/jol/wp-content/uploads/sites/86/2017/03/54.1-HLL105.pdf

Norris, J. J. (2019). Explaining the emergence of entrapment in post-9/11 terrorism investigations. *Critical Criminology*, *27*(3), 467–483. https://doi.org/10.1007/s10612-019-09438-8

Norris, J. J. (2020a). How entrapment still matters: Partial successes of entrapment claims in terrorism prosecutions. In A. Sarat (Ed.), *Studies in law, politics, and society* (Vol. 82, pp. 141–166). Emerald Publishing Limited. https://doi.org/10.1108/S1059-433720200000082007

Norris, J. J. (2020b). When (and where) can right-wing terrorists be charged with terrorism? *Critical Studies on Terrorism*, *13*(4), 519–544. https://doi.org/10.1080/17539153.2020.1810991

Norris, J. J. (2024). Could the futility of terrorism inspire deradicalization? Narrative strategies arising from case studies of far-right lone-actor terrorism. *Journal for Deradicalization*, *38*, 28–80. https://journals.sfu.ca/jd/index.php/jd/article/view/859

Norris, J. J., & Grol-Prokopczyk, H. (2015). Estimating the prevalence of entrapment in post-9/11 terrorism cases. *Journal of Criminal Law & Criminology*, *105*(3), 609–677. https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=7566&context=jclc

Norris, J. J., & Grol-Prokopczyk, H. (2019). Racial and other sociodemographic disparities in terrorism sting operations. *Sociology of Race and Ethnicity*, *5*(3), 416–431. https://doi.org/10.1177/2332649218756136

Norris, J. J., McFall, J. P., & Grol-Prokopczyk, H. (2024). Decision-making in terrorism sting operations: is entrapment driven by the sunk-cost effect and intergroup biases? *Journal of Policing, Intelligence and Counter Terrorism*, *19*(2), 223–246. https://doi.org/10.1080/18335330.2023.2266712

Payne, B., Vuletich, H. A., & Lundberg, K. (2017). The bias of crowds: How implicit bias bridges personal and systemic prejudice. *Psychological Inquiry*, *28*(4), 233–248. https://doi.org/10.1080/1047840X.2017.1335568

Peterka-Benton, D., & Laguardia, F. (2021). The trouble with numbers: Difficult decision making in identifying right-wing terrorism cases. An investigative look at open source social scientific and legal data. *Studies in Conflict & Terrorism*, *47*(5), 502–525. https://doi.org/10.1080/1057610X.2021.1980981

Piazza, J. A. (2015). Terrorist suspect religious identity and public support for harsh interrogation and detention practices. *Political Psychology*, *36*(6), 667–690. https://doi.org/10.1111/pops.12190

Pina-Sánchez, J., & Grech, D. C. (2018). Location and sentencing: To what extent do contextual factors explain between court disparities? *The British Journal of Criminology*, *58*(3), 529–549. https://doi.org/10.1093/bjc/azx033

Price, M., Rubinstein, R. A., & Price, D. (2012). 'Material support': US anti-terrorism law threatens human rights and academic freedom. *Anthropology Today*, *28*(1), 3–5. https://doi.org/10.1111/j.1467-8322.2012.00847.x

Reflective Democracy Campaign. (2019). *Tipping the scales: Challengers take on the old boys' club of elected prosecutors*. https://wholeads.us/wp-content/uploads/2019/10/Tipping-the-Scales-Prosecutor-Report-10-22.pdf

Rehavi, M. M., & Starr, S. B. (2014). Racial disparity in federal criminal sentences. *Journal of Political Economy*, *122*(6), 1320–1354. https://www.doi.org/10.1086/677255

Richer, D. R., & Kunzelman, M. (2024, Jan. 5). *Hundreds of convictions, but a major mystery is still unsolved 3 years after the Jan. 6 Capitol riot*. Associated Press. https://apnews.com/article/capitol-riot-jan-6-criminal-cases-anniversary-bf436efe760751b1356f937e55bedaa5

Roh, S., & Robinson, M. (2009). A geographic approach to racial profiling: The microanalysis and macroanalysis of racial disparity in traffic stops. *Police Quarterly*, *12*(2), 137–169. https://doi.org/10.1177/1098611109332422

Rush, C. (2022, Dec. 15). Mixed reactions to Oregon governor commuting death row. *San Diego Union-Tribune*. https://www.sandiegouniontribune.com/2022/12/15/mixed-reactions-to-oregon-governor-commuting-death-row/

Shahshahani, S., & Liu, L. J. (2017). Religion and judging on the federal Courts of Appeals. *Journal of Empirical Legal Studies*, *14*(4), 716–744. https://doi.org/10.1111/jels.12162

Sinnar, S. (2019). Separate and unequal: The law of "domestic" and "international" terrorism. *Michigan Law Review*, *117*(7), 1333–1404. https://www.jstor.org/stable/45136737

Smith, B. L., & Damphousse, K. R. (1996). Punishing political offenders: The effect of political motive on federal sentencing decisions. *Criminology*, *34*(3), 289–322. https://doi.org/10.1111/j.1745-9125.1996.tb01209.x

Smith, B. L., & Damphousse, K. R. (1998). Terrorism, politics, and punishment: A test of structural-contextual theory and the "liberation hypothesis." *Criminology*, *36*(1), 67–92. https://doi.org/10.1111/j.1745-9125.1998.tb01240.x

Smith, B. L., Damphousse, K. R., Jackson, F., & Sellers, A. (2002). The prosecution and punishment of international terrorists in federal courts: 1980–1998. *Criminology & Public Policy*, *1*(3), 311–338. https://doi.org/10.1111/j.1745-9133.2002.tb00093.x

Spaaij, R., & Hamm, M. S. (2015). Key issues and research agendas in lone wolf terrorism. *Studies in Conflict & Terrorism*, *38*(3), 167–178. https://doi.org/10.1080/1057610X.2014.986979

Steffensmeier, D., Painter-Davis, N., & Ulmer, J. (2017). Intersectionality of race, ethnicity, gender, and age on criminal punishment. *Sociological Perspectives*, *60*(4), 810–833. https://doi.org/10.1177/0731121416679371

Townsley, M., Birks, D., Ruiter, S., Bernasco, W., & White, G. (2016). Target selection models with preference variation between offenders. *Journal of Quantitative Criminology*, *32*(2), 283–304. https://doi.org/10.1007/s10940-015-9264-7

Unnever, J. D., Cullen, F. T., & Barnes, J. C. (2017). Racial discrimination and pathways to delinquency: Testing a theory of African American offending. *Race and Justice*, *7*(4), 350–373. https://doi.org/10.1177/2153368716658768

Villadsen, A. R., & Wulff, J. N. (2021). Statistical myths about log-transformed dependent variables and how to better estimate exponential models. *British Journal of Management*, *32*(3), 779–796. https://doi.org/10.1111/1467-8551.12431

Whitehurst, L. (2014, Sept. 14). Provo man targeted by terror task force takes plea deal. *Daily Herald* (Utah). https://www.heraldextra.com/news/2014/sep/14/provo-man-targeted-by-terror-task-force-takes-plea-deal/

Wrigley, V. R., & Schumacher, T. (2023). The effects of pretrial detention length on sentencing guideline departures in two Pennsylvania counties. *Criminology, Criminal Justice, Law & Society*, *24*(3), 11–33. https://ccjls.scholasticahq.com/article/90808.pdf

Yan, S., & Bushway, S. D. (2018). Plea discounts or trial penalties? Making sense of the trial-plea sentence disparities. *Justice Quarterly*, *35*(7), 1226–1249. https://doi.org/10.1080/07418825.2018.1552715

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Endnotes

[1] In addition, the residuals of the untransformed data were not normally distributed according to the Shapiro-Wilk and Kolmogorov-Smirnov tests ($p < .01$ for both) but were normally distributed after log-transformation with a constant of 2 added. Since non-normal residuals violate OLS assumptions, this provides another reason to log-transform sentence length (Villadsen & Wulff, 2021).

[2] This result may raise the question of whether some racial categories could have been merged to increase the size of each category. However, the only categories that could reasonably be merged were the "mixed-race" and "other categories," creating a larger "other" category. In an alternative regression (not shown) using this category, "other" race still predicted higher sentences. Since this finding of higher sentences was, in fact, driven exclusively by the mixed-race defendants and not the remainder of the "other" category, we prefer to identify these two groups separately to prevent misleading interpretations of our results.

[3] Separate regressions by severity levels were appropriate in this case because interactive models would be cumbersome and difficult to interpret given the six severity levels and 21 disparities-relevant variables.

[4] Alternative regressions were performed to test whether the inclusion of race alone in the models, but not ideology or citizenship, would change the results. The only notable difference was that in Level 5, Middle Eastern/South Asian ethnicity predicted longer sentences.

[5] As might be expected based on these results, when initial crime severity but not convicted crime severity is included in a model predicting sentence length, anti-government ideology no longer predicts longer sentences than jihadi defendants.

[6] This disaggregated terminology may be sensible as a policy matter as well. The catchall term "right-wing terrorism" tends to alienate mainstream conservatives, who fear being associated with terrorism. Indeed, a 2009 Homeland Security report on "Right-Wing Extremism" ignited a firestorm of protest from right-wing political and media figures, prompting the Attorney General to apologize and officially withdraw the report (D. Johnson, 2012). By contrast, a 2019 Homeland Security report analyzing the same threats using the terms "anti-government" and "white supremacist" and omitting the word "right-wing," has not attracted significant criticism (Kanno-Youngs, 2019).