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The Islamic State's Acolytes and the Challenges They Pose to U.S. Law Enforcement

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Summary

Analysis of publicly available information on homegrown violent jihadist activity in the United States since September 11, 2001, suggests that the Islamic State (IS) and its acolytes may pose broad challenges to domestic law enforcement and homeland security efforts. Homegrown IS-inspired plots can be broken into three rough categories based on the goals of the individuals involved. The first two focus on foreign fighters, the last on people willing to do harm in the United States:

- **The Departed—**Americans, often described as foreign fighters, who plan to leave or have left the United States to fight for the Islamic State.
- **The Returned—**American foreign fighters who trained with or fought in the ranks of the Islamic State and come back to the United States, where they can potentially plan and execute attacks at home.
- **The Inspired—**Americans lured—in part—by IS propaganda to participate in terrorist plots within the United States.

At least two other categories of IS foreign fighters pose some threat to U.S. interests:

- **The Lost**—Unknown Americans who fight in the ranks of the Islamic State but do not plot terrorist attacks against the United States. Such individuals may come home after fighting abroad and remain unknown to U.S. law enforcement. Additionally, some American IS fighters will never book a trip back to the United States. Finally, some American IS supporters will perish abroad.
- **The Others**—Foreign IS adherents who radicalize in and originate from places outside of the United States or non-American foreign fighters active in the ranks of the Islamic State. These persons could try to enter the United States when done fighting abroad.

Federal law enforcement has numerous approaches to go after each of these categories of terrorist actors. These include the following:

- **Watchlisting—**the federal counterterrorism watchlisting regimen effectively attempts to shrink "the lost" category described above.
- **Preemption**—efforts geared toward preemption of terrorist activity can be broadly described in terms of interdiction (stopping a suspected terrorist from entering the United States, for example), law enforcement investigation, and government activities aimed at keeping radicalized individuals from morphing into terrorists, also known as countering violent extremism.

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Since 2014, the Islamic State (IS)[1] has become the focal point for the bulk of homegrown violent jihadist terrorist plots. This includes instances in which people in the United States wanted to travel to Syria to fight with extremist groups in the nation's civil war as well as plots to strike domestic targets.[2] Regarding the former, in early 2016, U.S. government officials estimated that about 250 Americans had traveled (or tried to travel) to Syria to fight in the civil war—about 25 had been killed.[3] Regarding the latter, in recent congressional testimony, the Director of National Intelligence, James R. Clapper noted that homegrown actors "will probably continue to pose the most significant Sunni terrorist threat to the U.S. homeland in 2016."[4]

Most homegrown IS acolytes have attempted to travel to Syria to join the terrorist group. The ideological goals undergirding the Islamic State's efforts to violently impose a caliphate[5] in Iraq and Syria have attracted many of them. Some have sought adventure. Others have appeared to crave escape, camaraderie, even marriage. The Islamic State entices supporters via the Internet and social media.[6]

Broad Challenges for Federal Law Enforcement

According to CRS analysis of publicly available information, IS supporters have accounted for 67 homegrown violent jihadist plots between 2014 and early June 2016.[7] In the same time period, IS-linked plots have dominated the homegrown violent jihadist landscape, accounting for 67 of 76 total plots. In November 2015, the Federal Bureau of Investigation (FBI) reportedly had more than 900 investigations of IS suspects in the United States.[8] Coping with the comparative size of

[1] The group is also referred to as the Islamic State of Iraq and the Levant (ISIL/ISIS or the Arabic acronym *Da'esh)*, among other names. For more information see CRS Report R43612, *The Islamic State and U.S. Policy*, by Christopher M. Blanchard and Carla E. Humud and CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*, coordinated by Christopher M. Blanchard.

[2] For this report, the term "homegrown" includes American citizens, lawful permanent residents, or visitors radicalized largely within the United States. "Homegrown violent jihadist" describes homegrown individuals using Islam as an ideological and/or religious justification for their belief in the establishment of a caliphate—a jurisdiction governed by a Muslim civil and religious leader known as a caliph—via violent means. Such violence can be perpetrated within the United States or abroad. The term homegrown violent jihadist includes

- People described by U.S. intelligence and law enforcement agencies as *homegrown violent extremists*—individuals operating in the United States who are inspired by foreign terrorist organizations but do not receive direction or assistance from such groups.
- Homegrown individuals who receive direction or assistance from foreign terrorist organizations.

[3] Jeff Seldin, "Flow of Foreign Fighters to Iraq, Syria Unrelenting," *Voice of America*, January 8, 2016. See also Ken Dilanian, "U.S. Says It's Slowing Flow, but Foreign Fighters Still Flock to ISIS." *NBC News*, January 16. 2016.

[4] James R. Clapper, Director of National Intelligence, statement for the record, U.S. Congress, Senate Committee on Armed Services, *Worldwide Threats*, 114th Cong., 2nd sess., February 9, 2016.

[5] A jurisdiction governed by a Muslim civil and religious leader known as a caliph.

[6] See J.M. Berger and Jonathon Morgan, *The ISIS Twitter Census Defining and Describing the Population of ISIS Supporters on Twitter*, The Brookings Project on U.S. Relations with the Islamic World, No. 20, March 2015; National Consortium for the Study of Terrorism and Responses to Terrorism (START), "Transcending Organization: Individuals and the 'Islamic State,'" June 2014.

[7] As of June 13, 2016. The 67 plots have involved more than 100 individuals in total, and this estimate includes indicted co-conspirators in criminal cases; people who died either in attacks or as foreign fighters; and instances in which some biographical identifiers exist for the individuals centrally involved in plotting tied to a specific criminal case or media reporting involving someone alleged to have been involved in terrorist plotting. Unindicted co-conspirators, cooperating informants, and undercover law enforcement personnel are not counted.

[8] Paul Sperry, "900 'Homegrown' ISIS Cases Being Investigated in U.S.: FBI," *New York Post*, November 22, 2015. It is unclear what proportion of all FBI counterterrorism investigations this represents. In June 2012, one FBI official

this threat is one of the challenges domestic law enforcement agencies face. This is complicated by the varied courses of action chosen by IS supporters as they engage with the terrorist group.

Departed, Returned, Inspired

The 67 homegrown IS-plots can be broken into three rough categories based on the courses of action that plotters pursued as they attempted to support the terrorist group. (See **Figure 1**.) The first two categories focus on foreign fighters,[9] the last on people willing to do harm in the United States:

- ***The Departed***—American foreign fighters who plan to leave or have left the United States to fight for the Islamic State. This group includes suspects scheming to travel but who are caught before they arrive in IS territory.
- ***The Returned***—American foreign fighters who trained with or fought in the ranks of the Islamic State and return to the United States, where they can potentially plan and execute attacks at home.[10]
- ***The Inspired***—Americans lured—in part—by IS propaganda to participate in terrorist plots within the United States.

The desire to become a foreign fighter (captured in either the departed or the returned category) played a role in 41 of the 67 IS-related plots. Almost all of the 41 had people either *departing* the United States for Syria or considering such a trip. Two of the 41 cases involved investigations of people who had returned from the conflict zone.[11] Together, the 41 plots accounted for more than two-thirds of homegrown IS acolytes. In other words, it seems more often than not, the allure of the Islamic State has encouraged would-be violent jihadists to journey to Syria rather than strike a domestic target.[12] However, this is not to suggest that the Islamic State discourages Americans from staying put and committing acts of terrorism.

stated that there were over 6,000 open JTTF investigations. Kerry Sleeper, Deputy Assistant Director, Federal Bureau of Investigation, remarks during Panel II of the "Intelligence and Information Sharing to Protect the Homeland," conference sponsored by the Center for Strategic and International Studies and the Intelligence and National Security Alliance, June 27, 2012.

[9] For the purposes of this report, foreign fighters are U.S. citizens, legal permanent residents, or aliens who radicalized in the United States and plotted to or traveled abroad to join a foreign terrorist group. "Plots" include schemes by homegrown individuals or groups to either join terrorist organizations abroad (become foreign fighters) or to commit violent attacks at home or abroad. "Attacks" involve ideologically driven physical violence committed by terrorists. To qualify as an attack, the violence has to harm a person or people in the United States or those targeted as Americans abroad.

[10] This group does not include people who left the United States but failed to join up with a terrorist group. Such individuals are among "the departed."

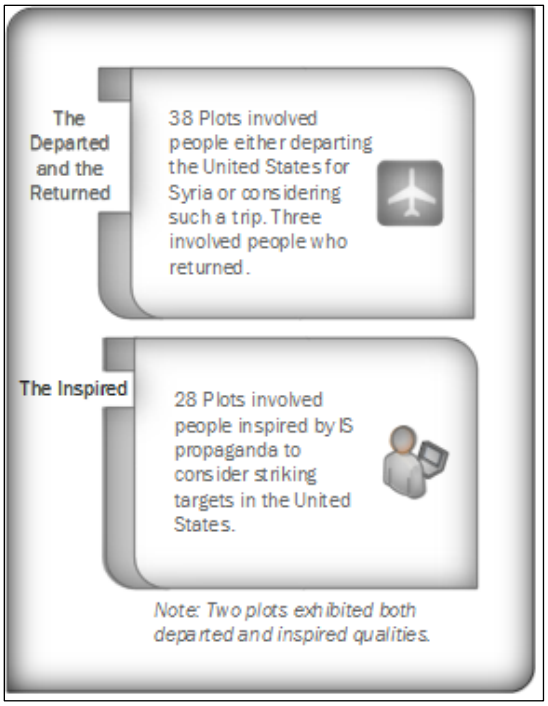
[11] These two plots apparently did not include viable schemes to strike domestic targets after the plotters returned to the United States.

[12] This is a rough estimate including 79 of 113 people identified in the 67 plots. Not everyone in a plot featuring foreign fighter dimensions planned on traveling abroad. Some of the 67 were people who conspired with others who desired to travel. The overall estimate includes indicted co-conspirators in criminal cases; people who died either in attacks or as foreign fighters; and instances in which some biographical identifiers exist for the individuals centrally involved in plotting tied to a specific criminal case or media reporting involving someone alleged to have been involved in terrorist plotting. Unindicted and wholly unidentified conspirators, cooperating informants, and undercover law enforcement personnel are not counted.

To the contrary, the Islamic State has incited would-be followers to stay in their home countries to commit terrorist acts. For example, in May 2016, the group issued an audio recording, particularly encouraging American and European sympathizers to commit attacks in their home countries during the holy month of Ramadan (early June to early July).[13] The January 2016 issue of *Dābiq*, the Islamic State's English language magazine, praises the married couple reportedly involved in the San Bernardino shooting in December 2015.[14] In 28 cases since the start of 2014, people *inspired* by the terrorist group's propaganda considered striking targets in the United States.[15] Five of these succeeded.

Figure 1. Homegrown Islamic State Plots

January 2014-Early June 2016



Source: Based on CRS analysis of open source material through June 13, 2016.

Attacks in the United States "Inspired" by the Islamic State

According to CRS estimates, 5 of the 13 homegrown violent jihadist attacks that have occurred since 9/11 involved people inspired by the Islamic State. It does not appear that any of the suspects in either the five IS-inspired attacks or the eight others had sustained, substantive, in-person contact with foreign terrorist organizations. In essence, these attacks involved do-it-yourself—DIY—terrorists. Largely isolated from the operational support of terrorist organizations, they acquired violent skills (however rudimentary) by themselves or relied on abilities that they had developed prior to becoming violent jihadists. Such DIY-ers often scraped together ideological justification for their deeds from online or social media sources aligned with terrorist organizations. Some drew inspiration from charismatic figures like now-dead radical U.S.-born imam Anwar al-Awlaki, who was affiliated with the terrorist group Al Qaeda in the Arabian Peninsula. Awlaki died in a widely reported U.S. strike in Yemen in 2011.[16]

As mentioned above, five attacks involved people who reportedly supported the Islamic State.

[13] Paul Cruickshank, "Orlando Shooting Follows ISIS Call for U.S. Ramadan Attacks," *CNN*, June 13, 2016; Maher Chmaytelli, Stephen Kalin, and Ali Abdelaty, "Islamic State Calls for Attacks on the West during Ramadan in Audio Message, *Reuters*, May 22, 2016; U.S. Government Open Source Enterprise (OSE) Report TRO2016052227212358, "ISIL Spokesman Urges 'Soldiers', ISIL 'Supporters' To Target 'Civilians' During Ramadan," Twitter in English, Arabic, May 21, 2016.

[14] Tom Winter and Robert Windrem, "New Issue of ISIS Magazine Dabiq Applauds San Bernardino Carnage," *NBC News*, January 19, 2016.

[15] Two plots exhibited both departed and inspired qualities.

[16] Mark Mazzetti, Eric Schmitt, and Robert F. Worth, "Two-Year Manhunt Led to Killing of Awlaki in Yemen," *New York Times*, September 30, 2011. Awlaki's orations—available online—appeared to influence people involved in at least five of the attacks.

- On June 12, 2016, Omar Mateen reportedly shot and killed at least 49 people in a gay nightclub in Orlando, FL. He allegedly wounded more than 50 others. Mateen was killed by police. He claimed allegiance with the Islamic State during a 911 phone call he purportedly made during the attack. His immediate motives remain unclear.[17]
- On January 7, 2016, Edward Archer allegedly shot an on-duty Philadelphia, PA police officer three times in the arm. The wounded man survived. Archer reportedly assaulted the officer while the latter was in his patrol vehicle. The FBI is investigating the incident as an act of terrorism. After the attack, the reputed assailant confessed to the crime and mentioned the Islamic State.[18]
- On December 2, 2015, husband and wife Syed Rizwan Farook and Tashfeen Malik reportedly killed 14 people and injured 22 others in a shooting incident at the Inland Regional Center, a social services facility in San Bernardino, CA.[19] The couple appeared to have targeted employees attending a holiday lunch and training session for San Bernardino County's health department, where Farook worked.[20] Both died in a shootout with police after the attack on the Inland Regional Center. The FBI has noted that the day of the shooting, "a post on a Facebook page associated with Malik" pledged allegiance to Abu Bakr al Baghdadi, the leader of the Islamic State.[21] In 2011, Farook allegedly began to plot a terrorist attack with a neighbor, Enrique Marquez, Jr., a U.S. citizen. They purportedly targeted a stretch of State Route 91 and the Riverside Community College in California, and "planned to use firearms and explosives to carry out the terrorist attacks."[22] Two rifles Farook and Marquez obtained for their planned attack were used in the San Bernardino shooting. The neighbors did not carry out their highway and college plot, in part, because arrests in an unrelated FBI counterterrorism investigation in Southern California made them wary.[23] Their scheme was never detected by law enforcement.[24] Additionally, it appears that

[17] Evan Perez et al., "Omar Mateen Pledged Allegiance to ISIS, Officials Say," *CNN*, June 12, 2016. Ashley Fantz et al., "Orlando Shooting: All But One Victim Identified, Officials Say," *CNN*, June 13, 2016.

[18] Jeremy Roebuck and Dylan Purcell, "FBI Director: Officer's Shooting Probed as Terrorist Attack," *Philadelphia Inquirer*, January 14, 2016; Aubrey Whelan, et al. "Police: Gunman Who Shot Cop Pledged Allegiance to the Islamic State," *Philadelphia Inquirer*, January 10, 2016.

[19] *United States v. Enrique Marquez, Jr.*, Criminal Complaint, U.S. District Court for the Central District of California, December 17, 2015; Missy Ryan et al., "Both San Bernardino Attackers Pledged Allegiance to the Islamic State, Officials Say, *Washington Post*, December 8, 2015; Michael S. Schmidt and Richard Pérez-Peña, "FBI. Treating San Bernardino Attack as Terrorism Case," *New York Times*, December 4, 2015.

[20] Ibid.

[21] *United States v. Enrique Marquez, Jr.*, Criminal Complaint, U.S. District Court for the Central District of California, December 17, 2015.

[22] Department of Justice, press release, "California Man Charged with Conspiring to Provide Material Support to Terrorism and Being 'Straw Purchaser' of Assault Rifles Ultimately Used in San Bernardino, California Attack," December 17, 2015. See also Joe Nelson, "Enrique Marquez Jr. Denied Bail in Connection to San Bernardino Terror Attack," *San Bernardino Sun*, December 21, 2015.

[23] Ibid.

[24] In late December 2015, Marquez was indicted on charges related to his alleged conspiracy with Farook in 2011 and 2012. He was also charged for making a false statement related to the purchase of two assault rifles used in the 2015 shooting at the Inland Regional Center. Department of Justice, press release, "Federal Grand Jury Indicts Riverside Man on Charges of Conspiring with Shooter in San Bernardino Terrorist Attack to Provide Material Support to Terrorists," December 30, 2015.

Farook helped to radicalize Marquez by introducing him to extremist ideology and the work of Anwar al-Awlaki.

- In November 2015, Faisal Mohammad, an 18-year-old, stabbed a fellow student and attacked three others at the University of California, Merced campus. In March 2016, the FBI announced that its investigation of the incident uncovered evidence that Mohammad may have been inspired by Islamic State propaganda.[25]
- In May 2015, Elton Simpson and Nadir Soofi were shot and killed by local law enforcement in Garland, TX, as they tried to attack an exhibition of cartoons depicting the prophet Muhammad. A security guard was wounded in the altercation.[26] Simpson purportedly had a pro-Islamic State social media account and claimed Awlaki as an inspiration.[27]A third individual, U.S. citizen Abdul Malik Abdul Kareem, conspired with Simpson and Soofi but was not directly involved in the shootout in Garland. In March 2016, Kareem was found guilty of attempting to provide material support to the Islamic State as well as other charges.[28]

Beyond the Departed, Returned, and Inspired

Aside from the three categories based on the courses of action that IS supporters follow, at least two other sorts of IS foreign fighters pose some threat to U.S. interests.

- ***The Lost:*** unidentified Americans who fight in the ranks of the Islamic State. Such individuals may come home after fighting abroad and remain unknown to U.S. law enforcement. Some American IS fighters will never book a trip back to the United States. (The post 9/11 record of U.S. counterterrorism investigations suggests this prospect. None of the Americans who have fought for al-Shabaab, a terrorist group based in Somalia, are known to have come home to plot attacks.) Finally, some American IS supporters will perish abroad.
- ***The Others:*** foreign IS adherents who radicalize in and originate from places outside of the United States or non-American foreign fighters active in the ranks of the Islamic State. These persons could try to enter the United States from abroad.

Confronting the Challenges

In the broadest of senses, confronting the threats posed by IS acolytes categorized as the departed, returned, inspired, lost, and others requires U.S. law enforcement to *identify* individuals who

[25] Federal Bureau of Investigation, press release, "Update on Investigation at University of California, Merced," March 17, 2016.

[26] Adam Goldman and Mark Berman, "FBI Had Known about Suspected Texas Shooter for Years," *Washington Post,* May 4, 2015.

[27] Claudia Koerner, "The Garland, Texas, Shooters' Quiet Path to Violent Jihad," *BuzzFeed News,* May 14, 2015; Nigel Duara, "Man Tied to Cartoon Contest Attack Accessed Islamic State List, Authorities Say," *Los Angeles Times,* December 24, 2015.

[28] Department of Justice, press release, "Phoenix Man Convicted of Conspiracy to Support ISIL and Other Terrorism-Related Offenses," March 17, 2016; *United States v. Abdul Malik Abdul Kareem, aka Decarus Thomas,* Indictment, United States District Court for the District of Arizona, June 10, 2015.

present a danger as terrorists and *preempt* their efforts to do harm.[29] All of this draws on resources, strategies, and programs developed largely in response to 9/11. Beyond these established programs, additional law enforcement efforts specifically targeting the Islamic State have been made.

The following discussion is not intended as an exhaustive analysis of federal law enforcement counterterrorism efforts in the homeland. It is meant to broadly inform policymakers on such activity.

Identifying Potential Terrorists

For the United States, systematically identifying potential terrorists involves the country's watchlisting regimen. The datasets in the regimen include identities linked to the Islamic State. Maintaining and enhancing the datasets can

- Help identify and stop known or suspected terrorists who plan to or depart the United States for IS territory.
- Assist U.S. authorities in spotting IS foreign fighters trying to return to the homeland.
- Help authorities track the travel and activities of homegrown IS acolytes inspired to do harm domestically.
- Shrink "the lost" and "the others" categories described above.

The National Counterterrorism Center (NCTC) keeps a classified database known as the Terrorist Identities Datamart Environment (TIDE). TIDE is the U.S. government's "central repository of information on international terrorist identities."[30] TIDE includes:

> to the extent permitted by law, all information the [U.S. government] possesses related to the identities of individuals known or appropriately suspected to be or to have been involved in activities constituting, in preparation for, in aid of, or related to terrorism (with the exception of purely domestic terrorism information).[31]

In late 2013, TIDE held the identities of approximately 1.1 million people. Of this number, about 25,000 were U.S. citizens and lawful permanent residents.[32] Since 2014, NCTC particularly has

[29] In other instances, such as the murders of Steven Sotloff and James Foley by the Islamic State, the FBI and additional federal agencies play more reactive roles, gathering intelligence and investigating after crimes have been committed to bring the perpetrators to justice.

[30] TIDE is the "central and shared knowledge bank on known and suspected terrorists and international terror groups" mandated by the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458. See National Counterterrorism Center, "Terrorist Identities Datamart Environment (TIDE)," August 1, 2014. The Intelligence Reform and Terrorism Prevention Act (IRTPA, P.L. 108-458) of 2004 established NCTC in law. Among other things, NCTC is "the primary organization in the U.S. government for integrating and analyzing all intelligence pertaining to terrorism possessed or acquired by the U.S. government (except purely domestic terrorism); serves as the central and shared knowledge bank on terrorism information; provides all-source intelligence support to government-wide counterterrorism activities; establishes the information technology (IT) systems and architectures within the NCTC and between the NCTC and other agencies that enable access to, as well as integration, dissemination, and use of, terrorism information." NCTC also advises the Director of National Intelligence and serves as the "primary organization for strategic operational planning for counterterrorism." See http://www.nctc.gov/whoweare.html.

[31] Ibid.

[32] Ibid. A lawful permanent resident (LPR) is someone who has been granted permission to live and work in the United States. It is synonymous with immigrant and is often referred to as a "green card holder."

worked with European partners to identify, track, and disrupt the violent activities of foreign fighters engaged in the Syrian conflict.[33]

Within TIDE, NCTC "aggregates information" on known or suspected terrorists who travel to Syria.[34] TIDE is not just a list but serves as an "analytic tool" and "valuable forum" for "identifying, tracking, and sharing information" about terrorists.[35] NCTC also has a Pursuit Group that partly relies on such information to develop leads for "partner agencies to pursue." The group is specifically "working to identify foreign fighters entering Syria who have potential access or connections to the Homeland, so they can be watchlisted."[36]

On March 10, 2016, several news outlets received a cache of documents from a reputedly disgruntled IS member. The cache purportedly included what amounts to personnel files containing information about more than 22,000 alleged IS members. If authenticated, this may assist the efforts of U.S. and foreign intelligence and law enforcement agencies to identify heretofore unknown IS fighters.[37]

Watchlisting

The Terrorist Screening Database (TSDB, commonly referred to as the Terrorist Watchlist) lies at the heart of federal efforts to identify and share information about identified people who may pose terrorism-related threats to the United States.[38] It includes biographic identifiers for those either known to have or suspected of having ties to terrorism. In some instances it also includes

[33] Nicholas J. Rasmussen, Director, National Counterterrorism Center, written statement for a House Committee on Homeland Security hearing, "Countering Violent Extremism: The Urgent Threat of Foreign Fighter and Homegrown Terror," February 11, 2015, Hereinafter: Rasmussen, "The Urgent Threat." Brookings Institution, "A National Counterterrorism Center Threat Assessment of ISIL and Al Qaeda in Iraq, Syria, and Beyond," "Proceedings," September 3, 2014, http://www.brookings.edu/~/media/events/2014/09/03-national-counterterrorism-center-threat-assessment-isil-al-qaeda-iraq-syria-beyond/20140903_isil_syria_transcript.pdf.

[34] Rasmussen, "The Urgent Threat."

[35] Ibid.

[36] Ibid.

[37] Stuart Ramsay, "IS Registration Forms Identify 22,000 Jihadis," *Sky News,* March 10, 2016; Richard Engel, Ben Plesser, and Cassandra Vinograd, "Leaked ISIS Personnel Files Paint Picture of Group's Recruits," *NBC News,* March 10, 2016.

[38] Christopher M. Piehota, Director, Terrorist Screening Center, Federal Bureau of Investigation, statement before the House Homeland Security Committee, Subcommittee on Transportation Security, Hearing: "Safeguarding Privacy and Civil Liberties While Keeping our Skies Safe," September 18, 2014. Hereinafter: Piehota, Testimony. Federal Bureau of Investigation, "Terrorist Screening Center: Frequently Asked Questions," September 25, 2015; Department of Justice, Office of Inspector General, "Audit of the Federal Bureau of Investigation's Management of Terrorist Watchlist Nominations," March 2014, footnote 10, p. 3. Hereinafter: Department of Justice, Office of Inspector General, "Audit." All nominated identities of known or suspected terrorists for the TSDB are vetted by analysts at either NCTC or the FBI and then undergo verification at the Terrorist Screening Center (TSC). The nomination process is governed by watchlist procedures described in "Watchlisting Guidance" developed by the "watchlisting community." The community includes the Office of the Director of National Intelligence, the Central Intelligence Agency, the National Geospatial Intelligence Agency, the National Security Agency, the National Reconnaissance Office, the Department of Justice, the Department of Defense, the Department of State, the Department of the Treasury, the Department of Homeland Security, and the Department of Energy.

biometric information on such people.[39] It stores hundreds of thousands of unique identities.[40] Some of the entries in TIDE get into the TSDB, which held approximately 800,000 people in November 2014.[41] The Terrorist Screening Center (TSC), a multi-agency organization administered by the FBI, maintains the TSDB.[42] Information from the Terrorist Watchlist populates a number of other lists that play important roles in screening individuals such as travelers entering the United States.

Preempting Terrorists

Preemption of terrorist activity by U.S. law enforcement can be broadly described in terms of *screening and interdiction* (stopping a suspected terrorist from entering the United States, for example), law enforcement *investigation,* and government activities aimed at *keeping radicalized individuals from morphing into terrorists*. Of course, much of this work is predicated on identifying dangerous actors.

Screening and Interdiction

Portions of the TSDB are exported to data systems in federal agencies that perform screening activities such as background checks, reviewing the records of passport and visa applicants, and official encounters with travelers at U.S. border crossings. As suggested above, screening processes are crucial to stopping terrorists—interdicting them—before they can harm the homeland. Interdiction conceivably involves at least two wide categories of IS acolytes who may intend to travel to the United States—"*the returned"* and "*the others*."

"The Returned"

Within the Department of Homeland Security (DHS), components such as Customs and Border Protection (CBP) and the Transportation Security Administration (TSA) draw on the TSDB for information regarding known or suspected terrorists, including any Americans entered into the TSDB for joining the Islamic State. For example, battle-hardened American IS members who choose to *return* to the United States run the risk of being spotted at U.S. borders by CBP officials who routinely test the identities of travelers against information drawn from the TSDB.

CBP, charged with the mission of preventing terrorists and their weapons from entering the United States, has described its efforts as intelligence-driven and layered, geared toward mitigating the risk posed by travelers destined for the United States.[43] As this suggests, the agency

[39] Timothy J. Healy, (former) Director, Terrorist Screening Center, Federal Bureau of Investigation, statement before the House Committee on the Judiciary, Hearing, "Sharing and Analyzing Information to Prevent Terrorism," March 24, 2010. According to media reporting, in 2013, TIDE included more than 144,000 people with biometric information. See Jeremy Scahill, Ryan Devereaux, "Watch Commander: Barack Obama's Secret Terrorist-Tracking System, by the Numbers," *The Intercept,* August 5, 2014. Hereinafter: Scahill and Devereaux, "Watch Commander."

[40] Department of Justice, Office of Inspector General, "Audit," footnote 10, p. 2.

[41] U.S. Congress, House Committee on Homeland Security, Subcommittee on Transportation Security, *Safeguarding Privacy and Civil Liberties while Keeping Our Skies Safe,* Hearing Transcript, 113th Cong., 2nd sess., September 18, 2014, p. 25.

[42] See https://www.fbi.gov/about-us/nsb/tsc/about-the-terrorist-screening-center. The TSC was created by Presidential Directive in 2003 in response to the terrorist attacks of September 11, 2001. Before the TSC consolidated federal watchlisting efforts, numerous separate watchlists were maintained by different federal agencies. The information in these lists was not necessarily shared or compared. See Federal Bureau of Investigation, "Ten Years After: The FBI since 9/11, Terrorist Screening Center," (2011).

[43] In 2012, Customs and Border Protection (CBP) described commercial air travel as "the primary target of terrorist

is at the forefront in identifying Americans who fought with the Islamic State attempting to come home—"*the returned*." CBP "detect[s], assess[es] and, if necessary, mitigate[s] the risk posed by travelers throughout the international travel continuum. CBP and its partners work to address risk at each stage in the process: (1) the time of application to travel; (2) ticket purchase or reservation; (3) check in at a foreign airport; and (4) arrival in the United States."[44] Additionally, DHS Secretary Jeh Johnson and other DHS officials have broadly alluded to U.S. efforts to coordinate with allies on foreign fighters.[45] DHS has expanded its liaison with international officials regarding foreign fighters involved in conflict in Syria and Iraq.[46]

"The Others"... The Ones Who Require Visas and ...

The State Department and DHS play important roles in visa security. These feature prominently in the effort to identify IS fighters not from the United States who try to get U.S. visas—"*the others*."[47] For example, the State Department Bureau of Consular Affairs is responsible for issuing visas and uses a number of tools to conduct national security and public safety reviews of visa applicants. One tool, implemented in partnership with NCTC, is dubbed "Kingfisher Expansion" (KFE) and began operations in June 2013.

> KFE examines 100 percent of the approximately 11 million visa applicants each year to identify any connections to terrorism by comparing applicant data to the classified data holdings [of NCTC].... KFE is an interagency program with a secure on-line vetting platform that allows FBI, DHS, and the Terrorist Screening Center to participate in the applicant reviews. This allows for a more comprehensive and coordinated response back to State Department.[48]

Additionally, Immigration and Customs Enforcement (ICE), an agency within DHS, operates the department's Visa Security Program. The program is responsible for stopping terrorists and criminals who may try to use the legal visa process to enter the United States. ICE agents are stationed at 20 Visa Security Units located in U.S. embassies and consulates abroad.[49] ICE notes

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organizations seeking to attack the homeland or move operatives into the United States." See Kevin McAleenan, then Assistant Commissioner, U.S. Customs and Border Protection, Office of Field Operations, written statement for a House Committee on Homeland Security, Subcommittee on Border and Maritime Security hearing, "Eleven Years Later: Preventing Terrorists from Coming to America," September 11, 2012.

[44] Ibid. For more information on CBP's efforts see CRS Report R43356, *Border Security: Immigration Inspections at Ports of Entry*, by Lisa Seghetti. For issues related to visa issuance, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

[45] The press release discussed the United Kingdom's decision to raise its threat level from "substantial" to "severe" because of developments in Syria and Iraq. See Department of Homeland Security, "Statement by Secretary Johnson on the United Kingdom's Decision to Raise Their Threat Level," press release, August 29, 2014, http://www.dhs.gov/news/2014/08/29/statement-secretary-johnson-united-kingdom%E2%80%99s-decision-raise-their-threat-level.

[46] Francis X. Taylor, Under Secretary, Office of Intelligence and Analysis, Department of Homeland Security, written statement for a House Committee on Homeland Security hearing, "Terrorism Gone Viral: The Attack in Garland, Texas and Beyond," June 2, 2015. Hereinafter: Taylor, written statement.

[47] For more on this, see CRS Report R43589, *Immigration: Visa Security Policies*, by Ruth Ellen Wasem.

[48] Matthew G. Olsen, (then) Director, National Counterterrorism Center, written statement, for a Senate Committee on Homeland Security and Governmental Affairs hearing, "The Homeland Threat Landscape and U.S. Response," November 14, 2013. The FBI-led Terrorist Screening Center maintains the TSDB.

[49] The program is located in U.S. embassies and consulates. According to DHS, Visa Security Units *screen* and *vet* visa applicants. Agents in the units *screen* visa applicants against State Department and DHS data systems. These include the State Department's Consular Lookout and Support System as well as DHS's TECS (not an acronym). After such screening, if a visa applicant has an exact or possible "match to a record in a specific database held by DHS," the

that such visa security efforts include examining visa applications for fraud, initiating investigations, coordinating with law enforcement partners, and providing law enforcement training and advice to State Department officials.[50]

Syrian Refugees

Prospective refugees do not apply for visas to enter the United States (they are subject to a different admissions process), but they go through a similar vetting regimen as someone applying for a visa. The Obama Administration has noted that refugees experience a more "rigorous screening than anyone else we allow into the United States."[51] Administration officials have asserted that federal agencies are involved in additional screening of Syrian refugees.[52] For example, U.S. Citizenship and Immigration Services within DHS conducts enhanced reviews of potential Syrian refugees.[53] However, congressional critics have noted that such enhancements may not be enough, especially because U.S. intelligence agencies know relatively little about the people in Syria and Iraq who are involved with the Islamic State and have limited/no resources in Syria that can confirm the information provided by refugee applicants.[54]

... Those Who Don't

What about IS fighters from countries where their citizens do not need visas to travel to the United States, that is, countries participating in the U.S. Visa Waiver Program (VWP)?[55] In 2014, DHS responded to concerns regarding IS foreign fighters from VWP countries by expanding the information collected from VWP travelers through the Electronic System for Travel Authorization (ESTA).[56] Customs and Border Protection (CBP) uses ESTA to review prospective travelers from visa waiver countries "to determine if they pose a law enforcement or security risk before they board aircraft destined for the United States."[57] DHS has stated that ESTA has been a "highly

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applicant is *vetted*. Vetting involves

- researching and investigating the visa applicant,
- examining documents submitted with the visa application,
- interviewing the applicant, and
- consulting with consular, law enforcement, or other officials.

Agents in the Visa Security Units can also vet applicants if the applicants match "case selection guidelines" but did not generate exact or possible matches in the screening process. In FY2012, HSI agents screened 1.3 million visa applicants and vetted more than 171,000. See *The DHS Visa Security Program*, p. 4.

[50] Immigration and Customs Enforcement, Homeland Security Investigations, "Preventing Terrorism—Visa Security Program;" Department of Homeland Security, *Congressional Budget Justification, FY2016.*

[51] See White House, infographic, "The Screening Process for Refugee Entry into the United States," November 20, 2015. For more information on refugee admissions, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno.

[52] See U.S. Department of State, "Background Briefing on Refugee Screening and Admissions," November 12, 2015.

[53] See https://www.uscis.gov/refugeescreening#Enhanced%20Review.

[54] House Homeland Security Committee, *Final Report of the Task Force on Combating Terrorist and Foreign Fighter Travel, (*September 2015) p. 43.

[55] See http://www.cbp.gov/travel/international-visitors/visa-waiver-program/visa-waiver-program-improvement-and-terrorist-travel-prevention-act-faq. For background on the Visa Waiver Program, see CRS Report RL32221, *Visa Waiver Program*, by Alison Siskin.

[56] Congress established ESTA so that those traveling under the VWP would undergo a security screening before traveling to the United States. Travelers under the VWP may not travel to the United States without an approval from ESTA. Department of Homeland Security, press release, "Statement by Secretary Jeh C. Johnson on House Homeland Security Committee Task Force Report on Combating Terrorist and Foreign Fighter Travel," September 30, 2015. Hereinafter: Johnson, "Statement on House Homeland Security."

[57] For details see Customs and Border Protection, press release, "Strengthening Security of the VWP through

effective security and vetting tool" enabling "DHS to deny travel under the [VWP] to thousands of prospective travelers who may pose a risk to the United States [presumably endangering national security or public safety], prior to those individuals boarding a U.S. bound aircraft."[58] However, since ESTA is a biographic and not a biometric security check, and there is no interview by a consular officer, some contend that ESTA does not provide the same level of screening as applying for a visa.[59]

In addition to the enhancements of ESTA data elements discussed above, in 2015, DHS boosted the security criteria that countries "must meet to participate in the VWP."[60] Also, in December 2015, Congress passed legislation requiring changes to the U.S. visa waiver program.[61] Among other changes, the legislation established new eligibility requirements for the VWP which, as implemented, modified what data were to be collected from travelers via ESTA.[62] Furthermore, as of April 2016, all foreign travelers participating in the Visa Waiver Program will have to use e-Passports.[63]

Investigation: Targeting "the Departed," "the Returned," and "the Inspired"

The FBI is the lead agency for investigating the federal crime of terrorism, and its IS-related cases largely have targeted suspects that this report describes as "the departed," "the returned," and "the inspired."[64] Aside from its own investigative work, the Bureau relies on other U.S. federal agencies (such as DHS, the State Department, the Central Intelligence Agency, and NCTC) as well as state, local, and foreign governments for assistance and investigative leads.[65]

Enhancements to ESTA."

[58] Taylor, written statement.

[59] See CRS Report RL32221, *Visa Waiver Program*, by Alison Siskin.

[60] Johnson, "Statement on House Homeland Security."

[61] See Consolidated Appropriations Act, 2016, P.L. 114-113. H.R. 2029. For a discussion of the VWP provisions in the bill, see "Legislation in the 114th Congress," in CRS Report RL32221, *Visa Waiver Program*, by Alison Siskin.

[62] Certain travelers are no longer eligible to travel or be admitted to the United States under the VWP. These include: (1) Nationals of VWP countries who have been present in Iraq, Syria, or countries listed under specified designation lists (currently including Iran and Sudan) at any time on or after March 1, 2011. There are limited exceptions based on government/military service. (2) Nationals of VWP countries who are also nationals of Iraq, Syria, Iran, or Sudan. Travelers who fall under these restrictions are not barred from entering the United States, but they must obtain a visa from a U.S. Embassy or Consulate for such travel. See http://www.cbp.gov/travel/international-visitors/visa-waiver-program/visa-waiver-program-improvement-and-terrorist-travel-prevention-act-faq.

[63] Such passports include "the security feature of an electronic chip, which holds all of a passenger's including name, date of birth and other biographical information. This not only protects privacy and prevents identity theft, but also helps to safely identify a passenger, making travel safer and faster." See Department of Homeland Security, press release, "Statement by Secretary Jeh C. Johnson on Strengthening Travel Security with E-Passports," April 1, 2016.

[64] Pursuant to 28 C.F.R. 0.85(l), the Attorney General has assigned responsibility to the Director of the FBI to "(l) Exercise Lead Agency responsibility in investigating all crimes for which it has primary or concurrent jurisdiction and which involve terrorist activities or acts in preparation of terrorist activities within the statutory jurisdiction of the United States. Within the United States, this would include the collection, coordination, analysis, management and dissemination of intelligence and criminal information as appropriate." If another federal agency identifies an individual who is engaged in terrorist activities or in acts in preparation of terrorist activities, the other agency is required to promptly notify the FBI.

[65] Dana Priest and William M. Arkin, "Monitoring America," *Washington Post*, December 20, 2010. For more information on how the FBI investigates terrorism, see CRS Report R41780, *The Federal Bureau of Investigation and Terrorism Investigations*, by Jerome P. Bjelopera.

Specifically, in 2015 media reporting suggested that local police were enlisted in some locations to help with surveillance of possible terrorism suspects tied to the Islamic State.[66]

Joint Terrorism Task Forces (JTTFs) led by the FBI play the chief role in coordinating federal counterterrorism investigations across the United States, bringing together federal, state, and local participants in the process.[67] There are more than 100 JTTFs across the country in the FBI's field offices and resident agencies. JTTFs are locally based, multiagency teams of investigators, analysts, linguists, special weapons and tactics (SWAT) experts, and other specialists who *investigate* terrorism and terrorism-related crimes.[68] Among their many roles, the agents, task force officers, and analysts working on JTTFs gather leads, evidence, and information related to these cases. They analyze this information and help develop cases for prosecution, most often pursued in federal court. JTTF members share leads and information from counterterrorism cases with federal, state, and local partners to coordinate counterterrorism investigations and broaden U.S. counterterrorism efforts.[69] Over 4,100 federal, state, and local law enforcement officers and agents work on them (including more than 1,500 people from more than 600 partner agencies), more than four times the total prior to 9/11.[70]

Fusion Centers and Information Sharing

During the past decade, law enforcement cooperation has increased in the area of information sharing, particularly the exchange of material tied to terrorist threats. A hallmark of this has been the development of state and major urban area fusion centers, designed *not* to investigate people or crimes but to share threat information. The more than 70 federally recognized fusion centers in operation are not federally led. Rather they are controlled by state and local entities and supported by the federal government.[71] They play a notable role in information and intelligence sharing, bringing together federal, state, and local law enforcement and security professionals working on counterterrorism and crime issues.[72] Sharing can involve the reporting of suspicious activity to

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[66] Evan Perez and Shimon Prokupecz, "FBI Struggling with Surge in Homegrown Terror Cases," *CNN*, May 30, 2015.

[67] Federal Bureau of Investigation, *FBI Information Sharing Report, 2011*, (2012) p. 6, http://www.fbi.gov/stats-services/publications/national-information-sharing-strategy-1/information-sharing-report-2011.

[68] Ibid.; Federal Bureau of Investigation, "Protecting America Against Terrorist Attack: A Closer Look at Our Joint Terrorism Task Forces," May 2009; Brig Barker and Steve Fowler, "The FBI Joint Terrorism Task Force Officer," *The FBI Law Enforcement Bulletin*, vol. 77, no. 11 (November 2008), p. 13.

[69] Program Manager, Information Sharing Environment, *Information Sharing Environment: Annual Report to the Congress*, June 30, 2012, p. 15, http://ise.gov/sites/default/files/ISE_Annual_Report_to_Congress_2012.pdf. Hereinafter: Program Manager, Information Sharing Environment, *Information Sharing Environment: Annual Report* (2012).

[70] James B. Comey, Jr., Director, Federal Bureau of Investigation, written statement for a U.S. Senate Committee on the Judiciary hearing, "Oversight of the Federal Bureau of Investigation," May 21, 2014; Federal Bureau of Investigation, "Protecting America from Terrorist Attack: Our Joint Terrorism Task Forces," http://www.fbi.gov/about-us/investigate/terrorism/terrorism_jttfs. Seventy-one of the 103 JTTFs currently operated by DOJ and the FBI were created since 9/11. The number of top-secret security clearances issued to local police working on JTTFs has increased. The number rose from 125 to 878 between 2007 and 2009. Kevin Johnson, "FBI Issues More Top Secret Clearance for Terrorism Cases," USA Today, August 12, 2010; STRATFOR, A Decade of Evolution in U.S. Counterterrorism Operations, Special Report, December 2009. There is also a National JTTF, which was established in July 2002 to serve as a coordinating mechanism with the FBI's partners. Some 40 agencies are now represented in the National JTTF, which has become a focal point for information sharing and the management of large-scale projects that involve multiple partners. See Department of Justice, "Joint Terrorism Task Force," http://www.justice.gov/jttf/.

[71] Such support can involve funding, technical assistance, technological resources, and personnel detailed to particular centers, for example. See Department of Homeland Security, "State and Major Urban Area Fusion Centers."

[72] Department of Homeland Security, "State and Major Urban Area Fusion Centers." Department of Homeland Security, Office of Inspector General, *DHS's Efforts to Coordinate and Enhance Its Support and Information Sharing*

generate investigative leads for JTTFs to pursue. It can also include the exchange of more finished intelligence analysis discussing the evolution and nature of existing threats.

Stopping Radicalized Individuals from Morphing into Terrorists

Thwarting terrorist plotters also involves understanding the intricacies of radicalization—especially determining when individuals move from radical activity involving First Amendment-protected behavior to violent extremism (i.e., terrorism).[73] Thus, the U.S. government faces the difficult task of finding ways to keep people who are radicalizing or radicalized from morphing into terrorists. Regarding the Islamic State, the FBI, DHS, and NCTC are working to understand the motivations driving people to radicalize and join terrorist groups in Syria.[74] Ideally, this work prevents people from ever falling into the "departed," "returned," "inspired," "others," or "lost" categories described above.

More generally, American counter-radicalization approaches favor government engagement with communities affected by terrorism. The U.S. government has a strategy aimed at countering violent extremism (CVE), much of which is focused on the domestic arena.[75] The Administration's CVE strategy revolves around countering the radicalization of all types of potential terrorists. As such, the radicalization of violent jihadists falls under its purview and is the key focus.[76] The Administration held a CVE summit in February 2015, and in January 2016, announced the creation of a Countering Violent Extremism Task Force to coordinate "federal efforts and partnerships" in the CVE arena.[77] The task force, a permanent interagency body, emerged after "representatives from 11 departments and agencies" reviewed federal CVE efforts.[78] The task force is to "organize federal efforts" at

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with Fusion Centers, November 16, 2011; Torin Monahan and Neal A. Palmer, "The Emerging Politics of DHS Fusion Centers," *Security Dialogue,* vol. 40, no. 6 (December 2009); P.L. 110-53, §511, 121 STAT. 318. Amends *Homeland Security Act of 2002* by adding §210A(a).

[73] For this report, "radicalization" describes the process of acquiring and holding radical or extremist beliefs (constitutionally protected activity); and "terrorism" or "violent extremism" describe illegal action—often violent—taken on the basis of these radical or extremist beliefs. The radicalization process is best depicted in broad brush strokes. No single path from radical to terrorist can be traced. No specific personality profile can be used to determine who will become a terrorist, and some scholars have argued that it is even unclear whether all terrorists go through a radicalization process. For example, see Peter R. Neumann, "The Trouble with Radicalization," *International Affairs,* vol. 89, no. 4, (2013) pp. 873–893; and Erik Pruyt and Jan H. Kwakkel, "Radicalization under Deep Uncertainty: A Multimodel Exploration of Activism, Extremism, and Terrorism," *System Dynamics Review,* vol. 30, no 1 (January-June 2014): pp. 1–28.

[74] Brookings Institution, "A National Counterterrorism Center Threat Assessment of ISIL and Al Qaeda in Iraq, Syria, and Beyond," "Proceedings," September 3, 2014, http://www.brookings.edu/~/media/events/2014/09/03-national-counterterrorism-center-threat-assessment-isil-al-qaeda-iraq-syria-beyond/20140903_isil_syria_transcript.pdf.

[75] White House, Empowering Local Partners to Prevent Violent Extremism in the United States, August 2011. For more on CVE see CRS Report R42553, *Countering Violent Extremism in the United States,* by Jerome P. Bjelopera.

[76] The initial August 2011 strategy was supported by the Administration's release in December 2011 of its "Strategic Implementation Plan." See White House, *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States,* December 2011.

[77] https://www.whitehouse.gov/the-press-office/2015/02/18/fact-sheet-white-house-summit-countering-violent-extremism. For the Task Force, see https://www.dhs.gov/news/2016/01/08/countering-violent-extremism-task-force.

[78] See https://www.dhs.gov/news/2016/01/08/countering-violent-extremism-task-force. It will be "hosted by the Department of Homeland Security (DHS) with overall leadership provided by DHS and the Department of Justice, with additional staffing provided by representatives from the Federal Bureau of Investigation, National Counterterrorism Center, and other supporting departments and agencies."

> **Research and Analysis.** The Task Force will coordinate federal support for ongoing and future CVE research and establish feedback mechanisms for CVE findings, thus cultivating CVE programming that incorporates sound results.
>
> **Engagements and Technical Assistance.** The Task Force will synchronize Federal Government outreach to and engagement with CVE stakeholders and will coordinate technical assistance to CVE practitioners.
>
> **Communications.** The Task Force will manage CVE communications, including media inquiries, and leverage digital technologies to engage, empower, and connect CVE stakeholders.
>
> **Interventions.** The Task Force will work with CVE stakeholders to develop multidisciplinary intervention programs.[79]

Examples of interagency efforts at CVE afoot prior to the Task Force's creation include the following:

- The National Security Council has coordinated an interagency "effort to work with Boston, Los Angeles, and Minneapolis/St. Paul to facilitate and support the development of locally based, and driven, violent extremism prevention and intervention pilot frameworks."[80]
- The Community Resilience Exercise, developed and presented by DHS and NCTC, brings together local law enforcement and community leaders in a specific locale to work through "a hypothetical violent extremist or foreign fighter-related scenario, including a hypothetical attack. The goal of the exercise is to build capacity within municipalities to mitigate the terrorist threat."[81]
- The Community Awareness Briefing, developed by DHS and NCTC, is "a key tool [the agencies] use to convey information to local communities and authorities on the terrorist recruitment threat. The CAB now also includes information on the recruitment efforts of violent extremist groups based in Syria and Iraq."[82] As of June 2015, the CAB had been presented in 15 U.S. cities.[83]
- Community engagement efforts pursued by the office of Civil Rights and Civil Liberties in DHS, including June 2014 meetings in Los Angeles that covered topics concerning Syria and World Refugee Day.[84]

[79] Ibid.

[80] Taylor, written statement.

[81] John Mulligan, Deputy Director, National Counterterrorism Center, written statement for a House Committee on Homeland Security hearing, "Terrorism Gone Viral: The Attack in Garland, Texas and Beyond," June 2, 2015.

[82] Nicholas J. Rasmussen, (then) Deputy Director, National Counterterrorism Center, written statement for a Senate Committee on Homeland Security and Governmental Affairs hearing, "Cybersecurity, Terrorism, and Beyond: Addressing Evolving Threats to the Homeland," September 10, 2014.

[83] Taylor, written statement.

[84] Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Newsletter*, vol. 4. no. 6, June 2014.

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