



A CENTER OF EXPERTISE

PROMOTING AN INFORMED
UNDERSTANDING OF THE LEGAL
AND SECURITY ISSUES DEFINING
THE POST-9/11 ERA

TERRORIST TRIAL

REPORT CARD: U.S. EDITION

in this issue

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FROM THE EDITOR: THE FIVE-YEAR ANNIVERSARY OF 9/11 PROVIDES A TIMELY SPRINGBOARD FOR THIS SECOND ISSUE OF THE TERRORIST TRIAL REPORT CARD: U.S. EDITION.

The goal of the report is to enable legislators, judges, policymakers and others to assess the ways in which the American legal system has worked to reduce the threat of terrorism.

This Report Card documents, in comprehensive detail, those cases which have passed through the federal court system and have been classified at some point in the process as terrorist cases, representing a total of 510 individuals. More than just numbers, the report provides the story of the charges leveled against these individuals, the conviction rates and the resulting sentences.

It has taken thousands of hours of work and much persistence on the part of our law school student researchers to identify and follow these cases. Our study has created the most comprehensive database available.

We searched through and catalogued every case announced by the Department of Justice. We researched major and minor publications countrywide to include terrorism-related cases that were neither mentioned by the DOJ nor picked up by FindLaw or Westlaw. Finally, we cross-checked with other databases, such as the one we developed in working on our first Report Card and those of other research institutes that study portions of the sample included here. As it stands, there are some names that we could not find anywhere beyond the initial announcement of the charge. Only with the generous help of the DOJ were we able to determine that they were, in fact, either material witnesses or immigration cases, and thus did not belong in our sample. What we have not looked at are proceedings in state courts or in military tribunals. Our research has also revealed a need to look more closely at the way in which deportations have been used as an alternative to prosecution.

Our findings appear below. The statistics presented in these pages provide a tool for assessing the U.S. war on terror and for understanding the elements of U.S. counterterrorism at the level of law enforcement and the courts. Our data shows that the government has an understanding of its suspects and a strategy of prosecution and conviction which have evolved largely on a case by case basis. They include the following:

- ***Al Qaeda remains the primary Foreign Terrorist Organization that concerns the U.S. authorities.***
 - ***Conviction, no matter how short the period of time or how minor the charge, is the primary goal.*** The average prison time for individuals who were arrested on suspicion of terrorism is 51 months, or just over three years, a valid technique if the goal is disruption of alleged plots but not a sufficient means of long-term incapacitation or deterrence. The average sentence for federal terrorism charges is 206 months, or just over 17 years.
 - ***The DOJ's pattern of pursuit is focused on early detection rather than conviction on federal terrorism charges.*** This has resulted in a relatively small share of federal terrorism convictions out of the total convictions – only 15% of the total 307 convictions were for federal terrorism crimes.
 - ***The DOJ often announces potential terrorism cases as such before the evidence is in place that will enable prosecution for a federal crime of terrorism.*** Of the 510 defendants, there were only 163 indictments for terrorism.
- In addition to revealing much about the federal government's strategy for prosecuting terrorism cases, the *Terrorist Trial Report Card* clearly defines the nature of the threat. Here is what our results show about the defendants who have been indicted and prosecuted:
- ***Only four individuals have been convicted of federal crimes of terrorism per se.*** They are Zacarias Moussaoui, Richard Reid, Chao Tung Wu and Shahawar Matin Siraj. These individuals were convicted of attempting to commit terrorism. Three of the four had ties to militant Islamic fundamentalism. Moussaoui, once thought to be the 20th 9/11 hijacker, turned out not to be. Reid, the "shoe-bomber," was apprehended by other passengers on a transatlantic flight. Wu tried to import Chinese surface-to-air missiles into the United States. Siraj was convicted for planning to bomb a New York City subway.
 - ***Nobody affiliated with a radical Islamic group has been charged with crimes related to chemical, biological, radiological or nuclear weapons.***

- **No sleeper cell with logistical or tactical links to al Qaeda has been convicted of plotting an attack to be carried out within the U.S.** While the government has convicted groups in the United States conspiring and attempting to levy war against the U.S. abroad (like the Portland Seven), individuals conspiring to commit terrorism here at home (like Siraj in Brooklyn), and groups linked to al Qaeda (like the Virginia Jihad Network), the government has not convicted al Qaeda cells in the U.S. with instructions to attack inside the country.
- **The vast majority of cases turn out to include no link to terrorism once they go to court.** In the 510 cases announced as terrorism cases, only 158 individuals have been prosecuted on charges of terrorism and material support to terrorism. The remaining 352 individuals have been prosecuted on lesser charges and no criminal link to terrorism was substantiated in court.
- **Finally, no consistent definition of terrorism or of a terrorist readily emerges from the data.** The numbers show a scattershot approach to terrorism indictments. Of the 510 cases, there are a total of 104 separate criminal charges that have been used in an effort to apprehend the individuals allegedly associated with terrorism. These include lesser crimes like forgery, financial fraud, obstruction of justice, and immigration violations.

In sum, these numbers – and the stories behind them – tell us either that the threat is much less than we thought, or that the policies of the United States have reduced the threat of terrorism through deterrence, and, yes, through excessive vigilance. The overall record revealed in these charts suggests the presence of few, if any, prevalent terrorist threats currently within the U.S. Any future policy must be premised on this conclusion. It is time, after five years, for a sustained and comprehensive conversation about the domestic prosecution of terrorists. This Report Card is an effort to begin that dialogue.

29%

Conviction rate in prosecutions for federal crimes of terrorism

17.2 years

Average sentence for individuals convicted of and sentenced for federal crimes of terrorism

4.25 years

Average sentence for all individuals convicted and sentenced in cases initially announced as terrorism cases

104

Total number of separate criminal charges used to indict alleged terrorists

12%

Proportion of terrorism cases that involved WMDs (the definition of which includes bombs, grenades, other explosives, and poison gasses)

0

Number of people affiliated with any radical Islamic group who have been charged with plotting to use chemical, biological, radiological, or nuclear weapons



Karen J. Greenberg

Executive Director,
Center on Law and Security

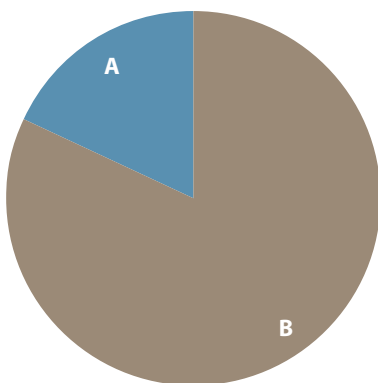
Summary Data of Indictments and Convictions *(510 Total Defendants)*

8	Acquitted
26	Dismissed Without a Conviction
169	Pending
252	Convicted by Plea
55	Convicted at Trial

Current Status of All Charges *(1007 Total Charges; 104 Total Statutes)*

329	Pending
233	Acquitted or Dismissed
445	Guilty

Pleas v. Convictions at Trial *(307 Total Convictions)*



- A** Convicted at Trial, 55 **18%**
- B** Convicted by Plea, 252 **82%**

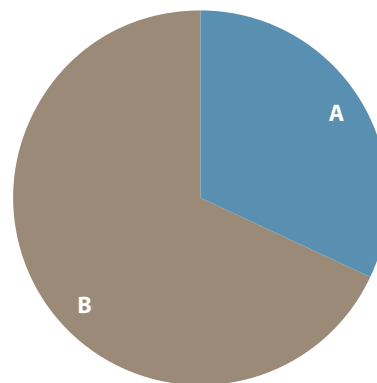
Sentencing Analysis

Total Convicted:	307
Total Number Convicted & Sentenced:	275
Total Prison Time for Convicted & Sentenced (months):	14,131
Total Probation Time for Convicted & Sentenced (months):	8,770
Total Fines for Convicted & Sentenced:	\$23,929,966.19
Avg. Prison Time for Convicted & Sentenced (months):	51
Median Prison Time for Convicted & Sentenced (months):	22
Mode Prison Time for Convicted & Sentenced (months):	6
Avg. Probation for Convicted & Sentenced (months):	32
Median Probation for Convicted & Sentenced (months):	36
Mode Probation for Convicted & Sentenced (months):	36

Terrorism Sentencing Analysis

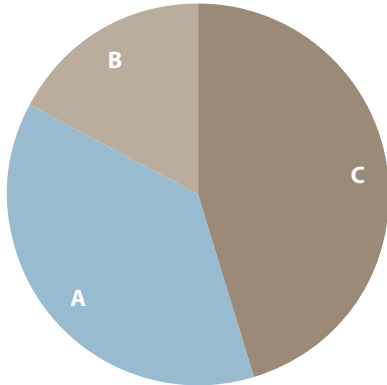
Average sentence for 18 USC 2332 conviction	360 months (life)
Average sentence for 18 USC 2339A conviction	243 months
Average sentence for 18 USC 2339B conviction	222 months
Average sentence for 50 USC 1705 conviction	43 months
Average sentence for the 38 individuals sentenced for one or more federal crimes of terrorism (there have been 46 people convicted, but not all have been sentenced)	206 months

Proportion of Terrorism & Terrorism Support to Total Number of Indictments *(510 Total Defendants)*



- A** Terrorism & Terrorism Support (*18 USC 2332, 18 USC 2339A&B, 50 USC 1705*), 163 **32%**
- B** Non-Terrorism, 347 **68%**

Federal Crimes of Terrorism Indictments: Convictions v. Acquitted or Dismissed v. Pending
 (163 Total Federal Crimes of Terrorism Indictments)*

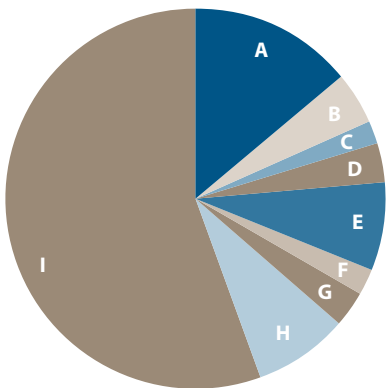


- A** Convictions, 47 **29%**
- B** Acquitted or Dismissed, 22 **13%**
- C** Pending, 94 **58%**

* The four primary terrorism statutes are: 18 U.S.C. 2332 (Terrorism), 18 U.S.C. 2339A (Material Support to Terrorists), 18 U.S.C. 2339B (Material Support to a Foreign Terrorist Organization), and 50 U.S.C. 1705 (Financial Support to a Foreign Terrorist Organization). These include conspiracy defendants.

Chart is organized by indictment; in some instances one individual has been indicted with more than one crime of terrorism. Each indictment is counted separately.

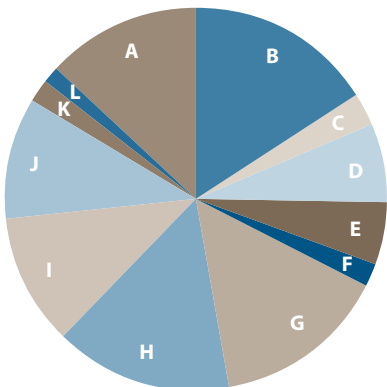
Affiliation with a Foreign Terrorist Organization by Defendant* (510 Total Defendants)



- A** Al Qaeda, 72 **14%**
Included in the 72 cases in which an al Qaeda affiliation was alleged are 7 defendants who unwittingly assisted the 9/11 hijackers before the attack.
- B** FARC (Columbia), 23 **5%**
- C** AUC (Columbia), 9 **2%**
- D** Hamas, 18 **4%**
- E** Hezbollah, 37 **7%**
- F** Tamil Tigers, 12 **2%**
- G** Lashkar-e-Taiba, 16 **3%**
- H** Other, 41 **8%**
- I** No known affiliation, 282 **55%**

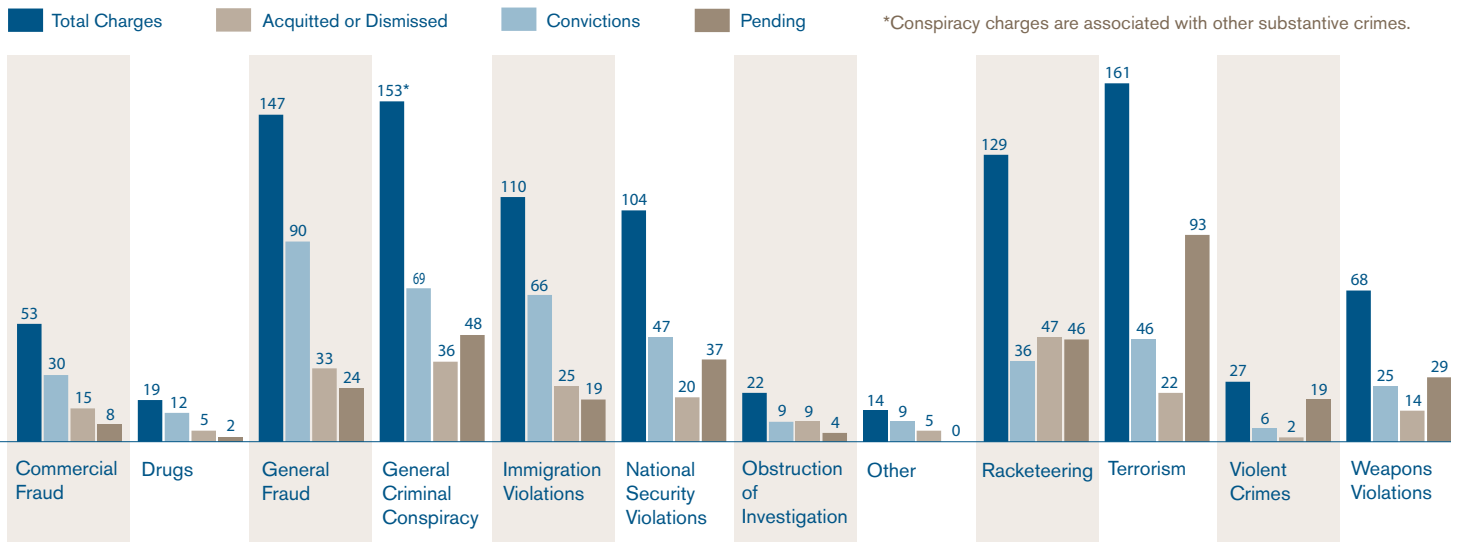
*There are 228 cases in which the government alleged an affiliation with an FTO. This data does not reflect whether or not the affiliation was proven at trial.

Categories of Charges (1007 Total Charges; 104 Total Statutes)

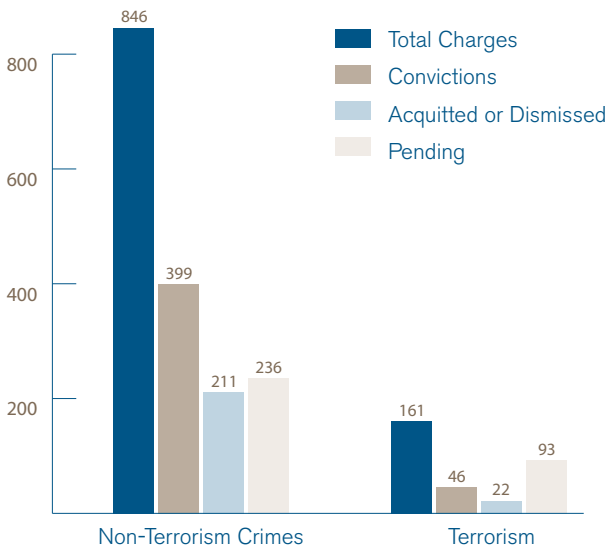


- A** Racketeering, 129 **13%**
- B** Terrorism, 161 **16%**
- C** Violent Crimes, 27 **3%**
- D** Weapons Violations, 68 **7%**
- E** Commercial Fraud, 53 **5%**
- F** Drugs, 19 **2%**
- G** General Fraud, 147 **15%**
- H** General Criminal Conspiracy, 153 **15%**
- I** Immigration Violations, 110 **11%**
- J** National Security Violations, 104 **10%**
- K** Obstruction of Investigation, 22 **2%**
- L** Other, 14 **1%**

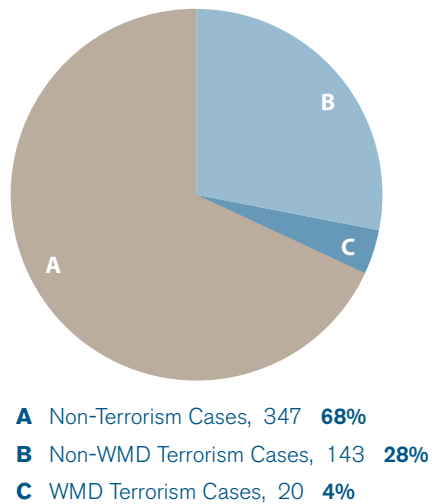
Summary Data According to Charges (1007 Total Charges; 104 Total Statutes)



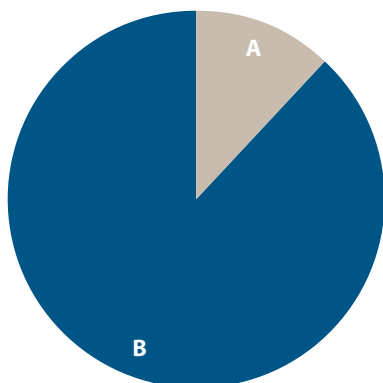
Actual Charges Filed in Cases Initially Announced as Terrorism Cases (1007 Total Charges; 104 Total Statutes)



WMD Terrorism Indictments v. Non-WMD Terrorism Indictments Out of All Indictments (510 Total Defendants)



WMD Cases Among Indictments Under the Four Primary Terrorism Statutes (163 Total Federal Crimes of Terrorism Indictments)*



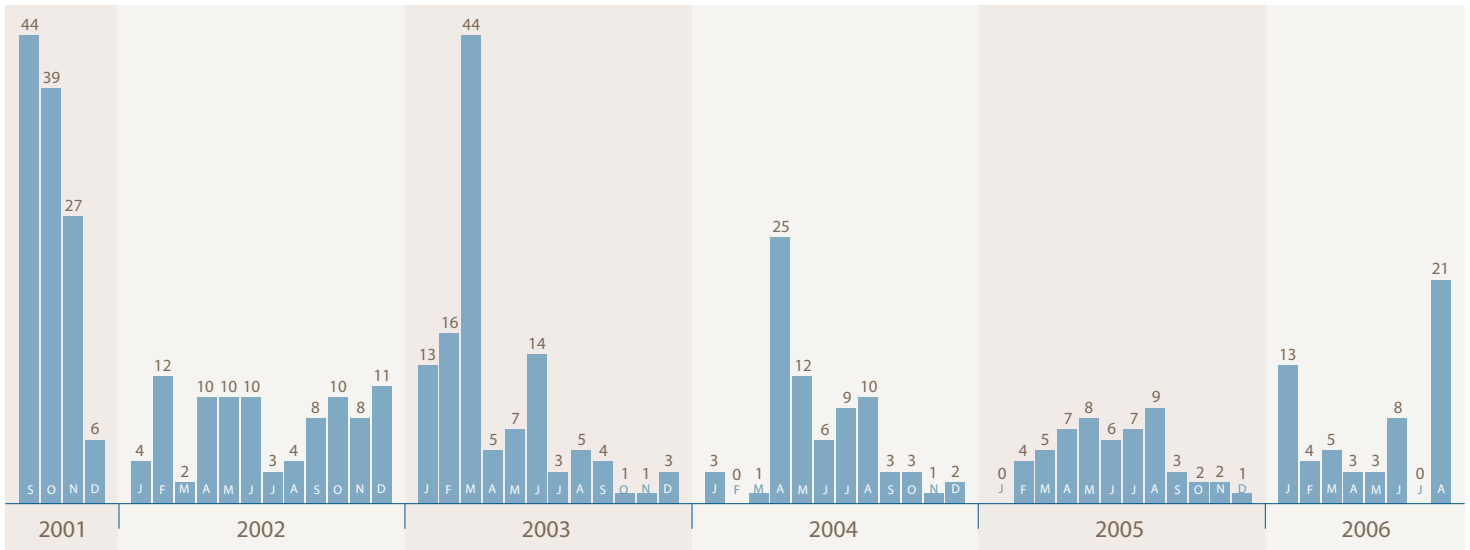
Under the U.S. Code, WMDs are defined as "destructive devices," including bombs, grenades, other explosives, and poison gasses.

A WMD Terrorism Cases, 20 12%
 B Non-WMD Terrorism Cases, 143 88%

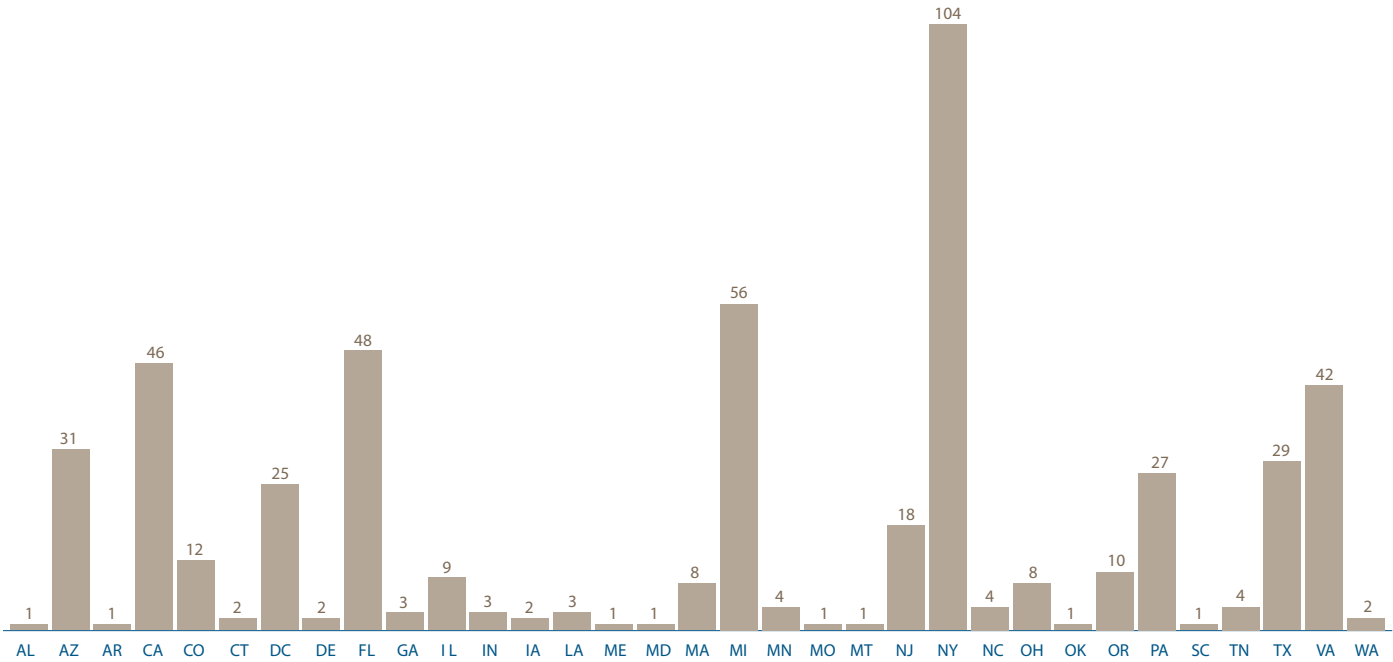
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Chart is organized by indictment; in some instances one individual has been indicted with more than one crime of terrorism. Each indictment is counted separately.

Timeline of Terrorism-Related Indictments



Federal Indictments by State



FOR A DETAILED ACCOUNTING OF THE INDIVIDUALS COVERED BY THIS REPORT, PLEASE LOG ON TO WWW.LAWANDSECURITY.ORG.

CATEGORIES OF CRIMES

GENERAL CRIMINAL CONSPIRACY

18 U.S.C. § 371: CONSPIRACY; Conspiracy to commit offense or to defraud the United States

TERRORISM

18 U.S.C. § 2332 TERRORISM; Criminal penalties

18 U.S.C. § 2339A TERRORISM; Providing material support to terrorists

18 U.S.C. § 2339B TERRORISM; Providing material support or resources to designated foreign terrorist organizations

50 U.S.C. § 1705 WAR AND NATIONAL DEFENSE; INTERNATIONAL EMERGENCY ECONOMIC POWERS; Penalties

NATIONAL SECURITY VIOLATIONS

18 U.S.C. § 32 AIRCRAFT AND MOTOR VEHICLES; Destruction of aircraft or aircraft facilities

18 U.S.C. § 43 ANIMALS, BIRDS, FISH, AND PLANTS; Animal enterprise terrorism

18 U.S.C. § 175 BIOLOGICAL WEAPONS; Prohibitions with respect to biological weapons

18 U.S.C. § 229 CHEMICAL WEAPONS; Prohibited activities

18 U.S.C. § 793 ESPIONAGE AND CENSORSHIP; Gathering, transmitting or losing defense information

18 U.S.C. § 841 IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS; Definitions

18 U.S.C. § 842 IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS; Unlawful acts

18 U.S.C. § 844 IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS; Penalties

18 U.S.C. § 871 EXTORTION AND THREATS; Threats against President and successors to the Presidency

18 U.S.C. § 951 FOREIGN RELATIONS; Agents of foreign governments

18 U.S.C. § 956 FOREIGN RELATIONS; Conspiracy to kill, kidnap, maim or injure persons or damage property in a foreign country

18 U.S.C. § 960 FOREIGN RELATIONS; Expedition against friendly nation

18 U.S.C. § 1114 HOMICIDE; Protection of officers and employees of the United States

18 U.S.C. § 1751 PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION, KIDNAPPING, AND ASSAULT

18 U.S.C. § 1993 RAILROADS; Terrorist attacks and other acts of violence against mass transportation systems (repealed)

18 U.S.C. § 2155 SABOTAGE; Destruction of national-defense materials, national-defense premises, or national-defense utilities

18 U.S.C. § 2383 TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES; Rebellion or insurrection

18 U.S.C. § 2384 TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES; Seditious conspiracy

22 U.S.C. § 2778 MILITARY EXPORT CONTROLS; Control of arms exports and imports

49 U.S.C. § 46306 AIR COMMERCE AND SAFETY; Registration violations involving aircraft not providing air transportation

49 U.S.C. § 46502 AIR COMMERCE AND SAFETY;
Aircraft piracy

49 U.S.C. § 46504 AIR COMMERCE AND
SAFETY; Interference with flight crew members and
attendants

49 U.S.C. § 46505 AIR COMMERCE AND SAFETY;
Carrying a weapon or explosive on an aircraft

49 U.S.C. § 46506 AIR COMMERCE AND SAFETY;
Application of certain criminal laws to acts on aircraft

50 U.S.C. § 1702 WAR AND NATIONAL DEFENSE;
INTERNATIONAL EMERGENCY ECONOMIC
POWERS; Presidential authorities

VIOLENT CRIMES

18 U.S.C. § 373 CONSPIRACY; Solicitation to
commit a crime of violence

18 U.S.C. § 751 ESCAPE AND RESCUE; Prisoners
in custody of institution or officer

18 U.S.C. § 1111 HOMICIDE; Murder

18 U.S.C. § 1117 HOMICIDE; Conspiracy to murder

18 U.S.C. § 1203 KIDNAPPING; Hostage taking

18 U.S.C. § 2261 DOMESTIC VIOLENCE AND
STALKING; Interstate domestic violence

WEAPONS VIOLATIONS

18 U.S.C. § 922 FIREARMS; Unlawful acts

18 U.S.C. § 924 FIREARMS; Penalties

26 U.S.C. § 5841 INTERNAL REVENUE CODE;
MACHINE GUNS, DESTRUCTIVE DEVICES,
AND CERTAIN OTHER FIREARMS; Registration
of firearms

26 U.S.C. § 5861 INTERNAL REVENUE CODE;
MACHINE GUNS, DESTRUCTIVE DEVICES, AND
CERTAIN OTHER FIREARMS; Prohibited acts

RACKETEERING

18 U.S.C. § 1951 RACKETEERING; Interference
with commerce by threats or violence

18 U.S.C. § 1952 RACKETEERING; Interstate and
foreign travel or transportation in aid of
racketeering enterprises

18 U.S.C. § 1956 RACKETEERING; Laundering of
monetary instruments

18 U.S.C. § 1957 RACKETEERING; Engaging in
monetary transactions in property derived from
specified unlawful activity

18 U.S.C. § 1960 RACKETEERING; Prohibition of
unlicensed money transmitting business

18 U.S.C. § 1962 RACKETEER INFLUENCED AND
CORRUPT ORGANIZATIONS; Prohibited activities

GENERAL FRAUD

18 U.S.C. § 1028 FRAUD AND FALSE
STATEMENTS; Fraud and related activity in
connection with identification documents,
authentication features, and information

18 U.S.C. § 1029 FRAUD AND FALSE
STATEMENTS; Fraud and related activity in
connection with access devices

18 U.S.C. § 1001 FRAUD AND FALSE
STATEMENTS; Statements or entries generally

18 U.S.C. § 1030 FRAUD AND FALSE
STATEMENTS; Fraud and related activity in
connection with computers

26 U.S.C. § 7201 INTERNAL REVENUE CODE;
Attempt to evade or defeat tax

26 U.S.C. § 7206 INTERNAL REVENUE CODE;
Fraud and false statements

26 U.S.C. § 7212 INTERNAL REVENUE CODE; Attempts to interfere with administration of Internal Revenue laws

31 U.S.C. § 5313 RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS; Reports on domestic coins and currency transactions

31 U.S.C. § 5316 RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS; Reports on exporting and importing monetary instruments

31 U.S.C. § 5324 RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS; Structuring transactions to evade reporting requirement prohibited

31 U.S.C. § 5332 RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS; Bulk cash smuggling into or out of the United States

COMMERCIAL FRAUD

15 U.S.C. § 78J COMMERCE AND TRADE; SECURITIES EXCHANGES; Manipulative and deceptive devices

18 U.S.C. § 471 COUNTERFEITING AND FORGERY; Obligations or securities of United States

18 U.S.C. § 473 COUNTERFEITING AND FORGERY; Dealing in counterfeit obligations or securities

18 U.S.C. § 513 COUNTERFEITING AND FORGERY; Securities of the States and private entities

18 U.S.C. § 542 CUSTOMS; Entry of goods by means of false statements

18 U.S.C. § 545 CUSTOMS; Smuggling goods into the United States

18 U.S.C. § 2314 STOLEN PROPERTY; Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

18 U.S.C. § 2315 STOLEN PROPERTY; Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

18 U.S.C. § 2320 STOLEN PROPERTY; Trafficking in counterfeit goods or services

18 U.S.C. § 2342 TRAFFICKING IN CONTRABAND CIGARETTES; Unlawful acts

18 U.S.C. § 1014 FRAUD AND FALSE STATEMENTS; Loan and credit applications generally; renewals and discounts; crop insurance

18 U.S.C. § 1341 MAIL FRAUD; Frauds and swindles

18 U.S.C. § 1343 MAIL FRAUD; Fraud by wire, radio or television

18 U.S.C. § 1344 MAIL FRAUD; Bank fraud

18 U.S.C. § 1347 MAIL FRAUD; Health care fraud

42 U.S.C. § 408 FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; Penalties

18 U.S.C. § 659 EMBEZZLEMENT AND THEFT; Interstate or foreign shipments by carrier; State prosecutions

18 U.S.C. § 1365 MALICIOUS MISCHIEF; Tampering with consumer products

IMMIGRATION VIOLATIONS

18 U.S.C. § 911 FALSE PERSONATION; Citizen of the United States

18 U.S.C. § 1015 FRAUD AND FALSE STATEMENTS; Naturalization, citizenship or alien registry

18 U.S.C. § 1542 PASSPORTS AND VISAS; False statement in application and use of passport

18 U.S.C. § 1543 PASSPORTS AND VISAS; Forgery or false use of passport

18 U.S.C. § 1544 PASSPORTS AND VISAS; Misuse of passport

18 U.S.C. § 1546 PASSPORTS AND VISAS; Fraud and misuse of visas, permits, and other documents

8 U.S.C. § 1253 IMMIGRATION AND NATIONALITY; Penalties related to removal

8 U.S.C. § 1305 IMMIGRATION AND NATIONALITY; Notices of change of address

8 U.S.C. § 1324 IMMIGRATION AND NATIONALITY; Bringing in and harboring certain aliens

8 U.S.C. § 1325 IMMIGRATION AND NATIONALITY; Improper entry by alien

8 U.S.C. § 1326 IMMIGRATION AND NATIONALITY; Reentry of removed aliens

18 U.S.C. § 1425 NATIONALITY AND CITIZENSHIP; Procurement of citizenship or naturalization unlawfully

OBSTRUCTION OF INVESTIGATION

18 U.S.C. § 4 GENERAL PROVISIONS; Misprision of felony

18 U.S.C. § 401 CONTEMPTS; Power of court

18 U.S.C. § 1038 FRAUD AND FALSE STATEMENTS; False information and hoaxes

18 U.S.C. § 1503 OBSTRUCTION OF JUSTICE; Influencing or injuring officer or juror generally

18 U.S.C. § 1505 OBSTRUCTION OF JUSTICE; Obstruction of proceedings before departments, agencies, and committees

18 U.S.C. § 1512 OBSTRUCTION OF JUSTICE; Tampering with a witness, victim, or an informant

18 U.S.C. § 1621 PERJURY; Perjury generally

18 U.S.C. § 1623 PERJURY; False declarations before grand jury or court

DRUGS

21 U.S.C. § 841 DRUG ABUSE PREVENTION AND CONTROL; Prohibited acts

21 U.S.C. § 846 DRUG ABUSE PREVENTION AND CONTROL; Attempt and conspiracy

21 U.S.C. § 952 DRUG ABUSE PREVENTION AND CONTROL; Importation of controlled substances

21 U.S.C. § 853 DRUG ABUSE PREVENTION AND CONTROL; Criminal forfeitures

OTHER

18 U.S.C. § 876 EXTORTION AND THREATS; Mailing threatening communications

47 U.S.C. § 223 COMMON CARRIER REGULATION; Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications

18 U.S.C. § 981 FORFEITURE; Civil forfeiture

18 U.S.C. § 982 FORFEITURE; Criminal forfeiture

18 U.S.C. § 2252 SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN; Certain activities relating to material involving the sexual exploitation of minors

