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# The prosecution of “others”: presidential rhetoric and the interrelation of framing, legal prosecutions, and the Global War on Terror

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## ABSTRACT

In examining the Global War on Terror, the effects of presidential rhetoric on the framing of terrorism has been well documented. However, little previous work links terrorism and its status as an “othered” phenomenon to differential legal prosecution in a post-9/11 era. Using the Prosecution Project data set, we compared “othered” individuals, as defined by a Muslim, Arab/Middle Eastern, and/or foreign-born status, to “non-othered” individuals charged with terroristic felonies. Furthermore, we subdivided the dataset into three analytical time blocks: the George W. Bush administration immediately post-9/11, the latter half of the Bush administration, and the Obama administration. For the first and third time blocks, we found that “othered” individuals were prosecuted significantly more frequently than “non-othered” individuals. These findings call into question the effect of presidential rhetoric and the national framing of terrorism on the legal prosecution of “othered” individuals.

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## KEYWORDS

Global war on terror;  
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## Introduction

In a post-9/11 era, the United States has been exposed to numerous framings of the notion of “terrorism.” Often times, these frames come from presidential rhetoric. The rhetoric, though best exemplified by presidential speech, can also be constructed through presidential administrative action, such as through declarations of war, executive orders, economic sanctions, and the creation of federal agencies. Common examples of presidential rhetoric, as it pertains to frames of terrorism, can be seen in the words of former President George W. Bush. For example, Bush’s 2001 speech describes terrorists as “[an] enemy [that] hides in shadows, and has no regard for human life. This is an enemy who preys on innocent and unsuspecting people, then runs for cover” (2001b). Additionally, President Bush conceptualises the threat of terrorism through phrases such as: “The murderous ideologies of the Islamic radicals are the great challenge of our new century” (2005); and “Either you are with us, or you are with the terrorists” (2001c). Though these words do not encompass President Bush’s complete definition of terrorism, these speeches identify terrorism as evil, unpredictable, inherent to Islamic radicals, and fundamentally different than the “us” that defines the American people. Characterisations such

as these have led to the dissemination of narratives that create a specific, often biased, framing of terrorism. This characterisation of rhetoric will be further examined through the presidential administrations of George W. Bush and Barack Obama, respectively, as well as specifically investigating how this rhetoric impacts the “othering” of terrorism in legal thought.

Previous studies have addressed the framing of terrorism and the way in which such a frame affects individuals who fit the phenotypic stereotype of a terrorist as one who appears “brown”, Muslim, and/or Arab/Middle Eastern. The effects of this framing include, but are not limited to, an increase in hate crimes against Muslim Americans and disproportionate media coverage of crimes by people identified as having a Muslim identity and/or Middle Eastern/Arab origins (Ahmad 2016; Bahador, Moses, and Youmans 2018; Canel and Garcia Gurrionero 2016; Gershkoff and Kushner 2005; Murray 2011; Rao et al. 2018). In the field of communication and media studies, framing theory refers to how manipulating the portrayal of information can create a specific narrative for the consumer of the information, and how this narrative can affect the behaviour, beliefs, and perspectives of the consumer (Entman 1993; Scheufele 1999). Prior research has used framing theory in conjunction with agenda setting (Iyengar and Kinder 1987) to explain the way the media influences its audience and people’s perspectives on certain topics (McCombs, Shaw, and Weaver 1997; Scheufele 1999).

Our research seeks to apply Scheufele’s (1999) framing theory to the context of political players (i.e. the President of the United States) as influencers, or “Actors,” that affect audience perspectives, attitudes, and behaviours. To be clear, media, in this context, is merely a conduit for disseminating the rhetoric of presidential administrations to the population. Specifically, one can examine if framing terrorism as something committed by “others,”<sup>1</sup> conceptualised by statements made by Presidents George W. Bush and Barack Obama, affected how the nation views and treats people categorised as an “other.” Othering refers to the process by which groups are stigmatised as outsiders – in this case, labelling “brown” individuals as a perceived threat to the United States, its government, and its citizens, in opposition to the idea of the idea of “Americanness” in the post-9/11 United States, and “placed under strict rhetorical, legal, or physical containment” (Lugo-Lugo and Bloodsworth-Lugo 2009).

In examining what Bush labelled the “Global War on Terror” (GWOT), containing “battle fronts” in Afghanistan and Iraq, the American public accepted a link between terrorism and citizens of Middle Eastern countries, many of which include predominantly Muslim nations (Hodges 2011). Bush’s conceptualisation of terrorism excludes white people, American-born individuals, and Christians, creating the false illusion that terrorism only applies to something “foreign, brown, and Muslim” (Lugo-Lugo and Bloodsworth-Lugo 2009). The rhetoric from these speeches also affects media portrayals of terrorism. Media coverage sensationalises attacks from Middle Eastern and/or Muslim men, paying little attention to white, Christian men committing similar gruesome acts (Rao et al. 2018; Lugo-Lugo and Bloodsworth-Lugo 2009). The media thus enforces the rhetoric of the presidents and cements an image of who defines or does not define a terrorist in the minds of the American public. As theorised by Edward Said, the people of the United States view Arab and Muslim peoples, as well as the culture of Arab and Muslim nations, as violent, crude, and at odds with the Western world (1994, 1997). In speaking of terrorism as an act committed by “others”, presidential rhetoric effectively reinforces the idea of a “clash of

civilizations” narrative, in which the cultural values of the West are seen as fundamentally incompatible with the values of the East (Huntington 1993).

By propagating a “clash of civilizations” narrative in media coverage and presidential rhetoric, three components of “otherness” are effectively subject to discrimination in American society: an actual or perceived Muslim identity, foreign origins, and/or an Arab/Middle Eastern ethnicity. To begin, we will examine the discrimination and judgment faced by Muslim Americans. Following the events of 9/11, the United States has seen a rise in anti-Muslim hate crime incidents, with 28 reported incidents in 2000 and 481 reported incidents in 2001 (Ser and Kuek 2016). In 2010, 48% of the American Muslims reported that they had experienced racial or religious discrimination (Gallup Inc. 2010). In 2017, 65% of the Muslim American immigrants and 91% of the American-born Muslims said that “there is a lot of discrimination against Muslims” (Pew Research Center 2018). Since 2015, there has been a marked increase in anti-Muslim activity, including the passage of anti-Sharia legislation, vandalism of mosques, and denouncement of Islam by local authorities (McKenzie, n.d.). Thirty-five per cent of the general American public believe that US Muslims show a great deal/fair amount of support for extremism, compared to only 17% of the US Muslims who believe that Muslims living in the US hold these beliefs (Pew Research Center 2017).

As the layperson continues to describe terrorism as an “othered” phenomenon, whether through explicit mentions of “radical Islamic terrorism” or through indirect associations, such as those contained in Bush’s words, a corresponding rise appears to occur in anti-Muslim discrimination (Holley 2017). Though anti-Muslim discrimination has been researched in a number of ways, as mentioned above, the effect of this discrimination on Muslim Americans in the criminal justice system has not yet been measured. We expect that the discrimination faced by Muslim Americans will also apply to individuals seen as “othered” due to their actual or perceived Islamic beliefs when prosecuted for domestic or foreign terrorism and/or political extremism in the criminal justice system.

In addition to the implicit association between American Muslims and terrorism as defined by the media and presidential rhetoric, the “clash of civilizations” narrative also applies to non-Muslims, especially those who appear and/or identify as Arab and/or Middle Eastern. According to the Sikh Coalition (2018), over 175 anti-Sikh hate crimes have been committed since 2001. Exemplifying this attitude, in 2001, Frank Silva Roque, a white, native-born American, murdered a Sikh-American and attempted to shoot a Lebanese-American, citing revenge for 9/11 and a disdain for Arab Muslims as his primary motivation (SikhNet News 2006). Though Balbir Singh Sodhi, the victim of Roque’s crime, was actually Sikh, Roque’s perception of Sodhi as an Arab Muslim made Sodhi complicit in the attacks of 9/11 that had occurred days earlier. Notably, Frank Silva Roque’s crime is an instance of “non-othered” terrorism/political extremism. His actions contained an overt socio-political motivation, as shown through his stated desire to “kill Middle Eastern people” and to “shoot some rag heads” (Singh 2012). Roque’s “non-othered” status is derived from his white, non-Muslim, and American-born identity. Furthering an “us versus them” dichotomy of “otherness”, Frank Silva Roque stated upon his arrest “I’m a patriot and an American... How can you arrest me and let the terrorists run wild?” (Singh 2012).

Rhetoric from American presidents continues to reinforce the notion of “otherness” in connection to terrorism. For instance, in January 2017, President Donald Trump enacted

an executive order entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States”, in which he restricted immigration from seven predominantly Muslim countries and blocked the entrance of all Syrian refugees (ACLU 2017; Trump 2017; EO 13769 2018). Though the order was enacted to combat national security concerns, the suspension of Syrian refugees is especially concerning, as not one Syrian refugee has been involved in a terrorist attack within the United States (El-Gamal 2017). While our analysis will focus on the presidential administrations of George W. Bush and Barack Obama, Trump’s travel ban represents the most obvious example of presidential rhetoric describing terrorism as solely characteristic of individuals who are foreign-born, Muslim, and/or Arab/Middle Eastern. Thus, presidential speech and action continues to support a false correlation between an “othered” status and terrorism.

While previous literature has shown that the presidential framing of the GWOT affects how the American public conceptualises terrorism (Bahador, Moses, and Youmans 2018; Canel and Garcia Gurrionero 2016; Gershkoff and Kushner 2005; Hodges 2011; Larkin 2015; Lugo-Lugo and Bloodsworth-Lugo 2009; Mullin 2011; Murray 2011), current research has not yet explored the implications of an “othered” status, as defined by a Muslim, Arab/Middle Eastern, and/or foreign-born identity, in the prosecution in the criminal justice system for committing acts of terrorism and/or political violence. Our research explores how the framing of the GWOT, as defined by presidential rhetoric, relates to the indictment, prosecution, and sentencing of terrorists operating in the United States. We hypothesise that the United States government prosecutes, charges, and sentences “othered” individuals – one who is or appears to be Muslim, non-white, and/or foreign-born, specifically from a non-European or Middle Eastern country – more harshly than white, Christian, or otherwise “American” domestic terrorists for committing similar crimes, and that this discrepancy in prosecution is directly impacted by the framing of terrorism by the United States’ presidential administrations.

## Methodology

For the purpose of our study, we chose cases from the Prosecution Project dataset that began in September 2001 and ended in December 2016. The Prosecution Project is a database in which we, the authors of this paper, have been involved in creating (Loadenthal et al. 2018).<sup>2</sup> The project looks into the prosecution of acts of terrorism, political violence, and political extremism in the United States from 1990 to 2018. Since beginning the project, data on all cases identified as terroristic or those which are labelled as such has been collected and entered into a large dataset that spans nearly 30 years and includes over two thousand cases coded across more than 40 variables. We determined that the date range of September 2001 to December 2016 would make for the most effective data sample, based on our experience with collecting and analysing the cases in the database for over a year. We originally intended to include cases beginning as early as 1997 to account for pre-9/11 crimes prosecuted post-9/11 as part of the GWOT, but, through trial and error, the range of 1997 to September 2001 was determined to include far more cases prosecuted and sentenced before the GWOT, skewing statistical analysis to a greater extent than

providing meaningful information. In capping the date range at 2016, we were able to focus exclusively on cases that occurred in the George W. Bush and Barack Obama administrations, as well as excluding cases that were still pending trial. Additionally, we excluded all cases that were not completely coded on all 40+ variables and independently verified by two researchers to preserve the integrity of the dataset. In narrowing the analytical date range, we used 520 cases of terrorism prosecuted in the United States for statistical analysis.

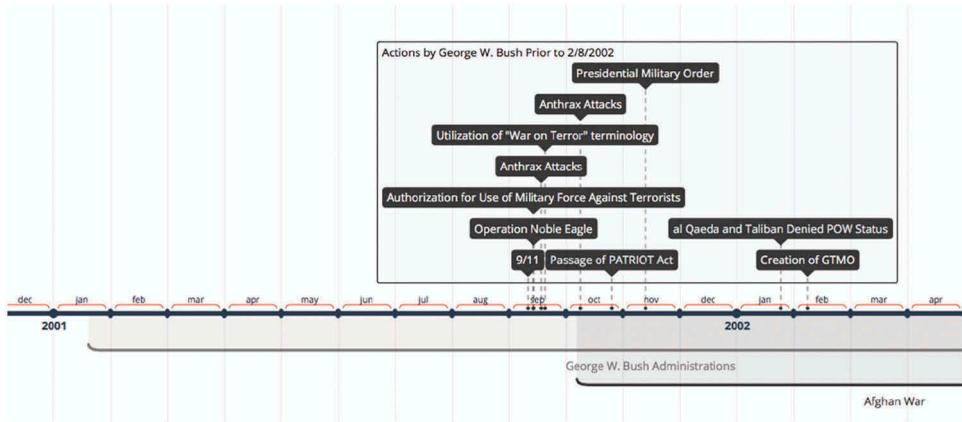
### **Statistical analysis**

In preparing for statistical analysis, the subsets of data based on time block were created from the September 2001–December 2016 dataset, which we derived from the full Prosecution Project dataset. Variables of interest on which cases in the database were coded included the length of sentencing, whether a life sentence was received, and a number of people injured and killed by the crime. Initially, the Prosecution Project data was coded for variables such as ethnicity and ideology, however, as our study was interested primarily in the difference between the sentencing of two groups (individuals who, for all intents and purpose appear as white, Christian, and American-born, and individuals who appear non-white, Muslim, and/or foreign-born from a non-Western European country), cases were grouped into these two categories: “othered” or “non-othered.” Comparative and descriptive statistical analysis was conducted between the groups of “othered” and “non-othered” and, across time, based on the three time blocks determined as key discursive periods in the GWOT.

### **Timeline of the Global War on Terror**

To begin the discussion of the GWOT, one must first establish a timeline of significant events. For the purpose of our discussion, the significant events were chosen using the information from Larkin’s 2015 article “Presidential Rhetoric: A Call to War in the Post-Cold War United States” and Hodges’ 2011 book *The “War on Terror” Narrative: Discourse and Intertextuality in the Construction and Contestation of Sociopolitical Reality*, as these works connected the GWOT timeline to the rhetoric of presidential administrations. To be clear, the events chosen do not make up a comprehensive list of presidential speeches, declarations, and/or actions, but rather represent the most influential instances of presidential rhetoric surrounding the GWOT.

Our study utilised comparative historical analysis to construct the timeline of the GWOT. The comparative historical analysis approach is “fundamentally concerned with explanation and the identification of causal configurations that produce major outcomes of interest” (Mahoney and Rueschemeyer 2003, 11). The timeline begins with the events of 11 September 2001, though it is recognised that events prior to this date contributed to the framing of the GWOT. Furthermore, the dates of the timeline have been broken into three major groupings: immediate responses to 9/11, further actions of the Bush administration, and actions of the Obama administration.<sup>3</sup> We created these time blocks to provide an easier means of statistical comparison between and within presidential administrations and shifts in rhetoric pertaining to the GWOT.



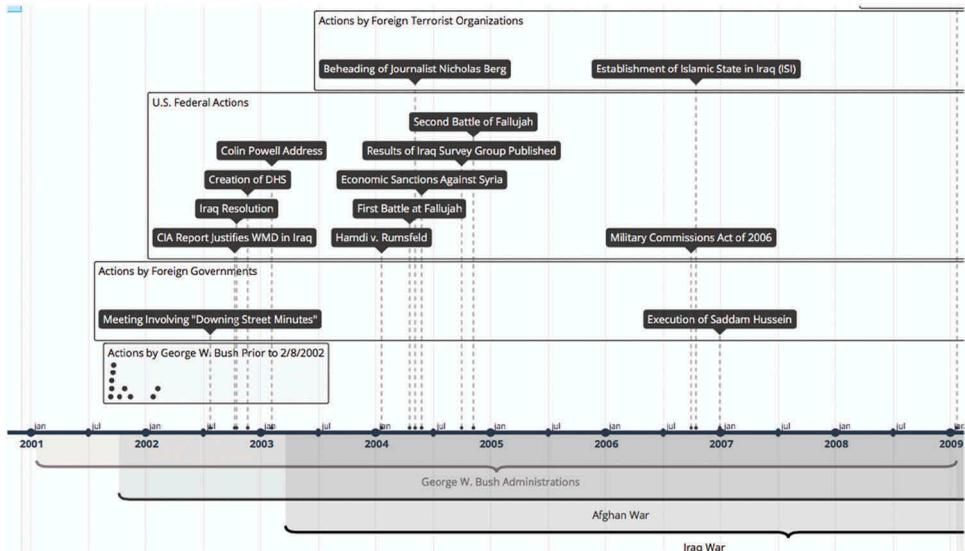
**Figure 1.** Timeline of significant events leading to the creation of the GWOT – first time block (Jaffe 2016; Graham, Keenan, and Dowd 2004; “A Timeline of the U.S. War in Afghanistan”, n.d.; Congress 2001; Obama, n.d.; Kiely 2012; CNN Library, n.d.; Trump 2017; Swift, n.d. (a&b); Politico Staff 2016; Bush 2001a; Nolen, n.d.; Hastert 2002; Sikh Coalition, n.d.; CIA 2002; Kapp 2005; Bush 2001b, 2005, n. d., 2001c; NBC News and Services 2006; Swift, n.d.; Obama 2013; BBC News 2013, 2018; Kean et al., n. d.; “The Iraq War”, n.d.; Department of Justice 2001; NPR 2011; “Timeline: The Rise, Spread and Fall of the Islamic State” 2016; Landler 2014; Newman 2004).

### *First time block*

The first time block is characterised by immediate responses to the attacks on 11 September 2001. The date range encompasses 11 September 2001 to 20 February 2002. Significant events include the “Authorization for Use of Military Force Against Terrorists” (AUMF) joint resolution (Congress 2001); Operation Noble Eagle – a retaliation against al Qaeda and other organisations for the 11 September attacks (Kapp 2005); a Presidential Military Order allowing the detention of non-citizens with suspected connections to terrorism (Bush 2001a; Nolen, n.d.); passage of the PATRIOT Act (Department of Justice 2001); and the authorisation of military force in Afghanistan (Congress 2001). Notably, this time block sees a dramatic increase in othering presidential rhetoric through the strict retaliatory language and actions of President George W. Bush in the post-9/11 era.

### *Second time block*

The second time block covers events following the immediate responses to 9/11 until the end of President Bush’s second term. The date range begins on 8 February 2002 and ends on 20 January 2009 at the start of President Obama’s first term. Significant events include the invasion of Iraq in March 2003 (“Iraq War”, n.d.); the CIA report identifying the presence of weapons of mass destruction (WMD) in Iraq as a justification for war (CIA 2002); the passage of the Iraq Resolution (Hastert 2002); and the first economic sanctions and restrictions on Syria for their membership in the “axis of evil” and their support for terrorist organisations (BBC News 2018). Thus, most of the presidential rhetoric surrounding the GWOT was based on military involvement in Afghanistan and Iraq (Hodges 2011). While the strong othering rhetoric was not as prominently featured during the latter half of the Bush administration, the othering rhetoric continued subtly through foreign policy decisions and legal actions (CIA 2002; Hastert 2002; Kapp 2005).



**Figure 2.** Timeline of significant events leading to the creation of the GWOT – second time block (Jaffe 2016; Graham, Keenan, and Dowd 2004; “A Timeline of the U.S. War in Afghanistan”, n.d.; Congress 2001; Obama, n.d.; Kiely 2012; CNN Library, n.d.; Trump 2017; Swift, n.d.; Politico Staff 2016; Bush 2001a; Nolen, n.d.; Hastert 2002; Sikh Coalition, 2018; CIA 2002; Kapp 2005; Bush 2001b, 2005, n.d., 2001c; NBC News, and News Services 2006; Swift, n.d.; Obama 2013; BBC News 2013, 2018; Kean et al., n.d.; “The Iraq War”, n.d.; Department of Justice 2001; NPR 2011; Wilson Center 2016; Landler 2014; Newman 2004).

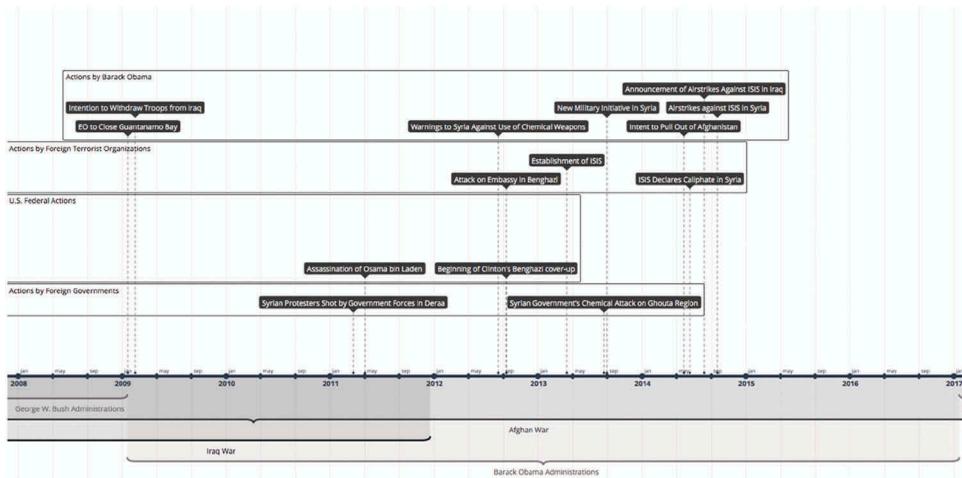
### Third time block

The third time block contains events which occurred during Barack Obama’s presidency. The date range begins on 20 January 2009 to 31 December 2016. During the third time block, there was a renewed effort to reach the end of the GWOT, and active measures were taken against terrorism in the Middle East, although notably, President Obama refused to use divisive language in discussing the GWOT. Significant events include the announcement of the withdrawal of troops from Iraq in February 2009 (Jaffe, n.d.); President Obama’s plans to withdraw troops from Afghanistan (Landler 2014); the declaration and implementation of a new military initiative in Syria (Obama 2013); and air strikes against ISIS in Iraq and Syria in response to the Islamic State’s establishment of the Caliphate (Wilson Center 2016; BBC News 2018).

We hypothesise that the conceptualisation of terrorism through presidential rhetoric, as defined by any speech or action that contributes to the framing of the GWOT, will correlate with the indictment, prosecution, and sentencing of “othered” individuals, demonstrating that the government charges othered individuals more frequently, prosecutes them more harshly and gives them longer sentences than individuals who do not meet the criteria of “other”.

### Findings

A statistically significant difference exists between the number of “othered” and “non-othered” individuals prosecuted in each time block, as determined by a Chi-Squared Test



**Figure 3.** Timeline of significant events leading to the creation of the GWOT – third time block (Jaffe 2016; Graham, Keenan, and Dowd 2004; “A Timeline of the U.S. War in Afghanistan”, n.d.; Congress 2001; Obama, n.d.; Kiely 2012; CNN Library, n.d.; Trump 2017; Swift, n.d. (a&b); Politico Staff 2016; Bush 2001a; Nolen, n.d.; Hastert 2002; Sikh Coalition, n.d.; CIA 2002; Kapp 2005; Bush 2001b, 2005, n. d., 2001c; NBC News, and News Services 2006; Swift, n.d.; Obama 2013; BBC News 2013, 2018; Kean et al., n.d.; “The Iraq War”, n.d.; Department of Justice 2001; NPR 2011; Wilson Center 2016; Landler 2014; Newman 2004). provide link for Swift,n.d.(a&b)

of Independence (Table 1). In each respective time block, the government prosecuted more “othered” individuals than “non-othered” individuals. However, the overall number of “othered” individuals prosecuted increased from one time block to the next, whereas the number of “non-othered” individuals prosecuted increased during the second time block (the latter half of the Bush administration), but subsequently decreased during the third time block (the Obama administration).

There is also a statistically significant difference in the severity of the attacks (i.e. injuries and fatalities) when comparing case details of “othered” versus “non-othered” individuals. On average, attacks carried out by “non-othered” individuals injure anywhere between 47 and 206 less people than “othered” individuals (Table 2).

In the first time block (immediately post-9/11) people categorised as “othered” received, on average, a sentence that was 60 years shorter than “non-othered” people, and for this time block, “othered” status significantly predicted sentence length ( $b = -59.13, F(1,53) =$

**Table 1.** Frequency in the prosecution of othered vs. non-othered individuals.

Group	Prosecution of “others” by time block		
	Bush post-9/11	Bush latter admin.	Obama admin.
Non-othered	6	68	45
Othered	49	85	116
	T-stat	df	p-Value
	23.23	2	<0.001
			Method
			$\chi^2$

**Table 2.** Number of people injured in the attack by othered status.

Number of people injured by othered status				
T-stat	df	p-Value	95% conf. int.	
-3.14	317.28	0.002	-206.75	-47.49
Sample estimates				
Mean in group "non-othered"			Mean in group "othered"	
1.45			128.56	

11.66,  $p < .01$ ).<sup>4</sup> The trend of "othered" individuals receiving shorter average sentence lengths continued for the second time block,<sup>5</sup> but the sentence lengths were shorter on average for "non-othered" individuals in the third time block.<sup>6</sup> However, the trend was only statistically significant for the first time block. A significant correlation was also found between the number of people injured and the defendant receiving a life sentence ( $F(1,510) = 31.82, p < .001$ ), in that the more people that were injured, the greater the chance the defendant would receive a life sentence.

There were a number of findings indicative of larger possible overall trends. These findings were not statistically significant, but we decided to note them as they are relevant to our research. First, "non-othered" people generally carry out less deadly acts of political violence and extremism than "othered" people – they kill fewer people in their attacks, on average ( $t(318.) = -1.674, p = .09$ ). Second, on average, prosecutors hand down life sentences more frequently to "othered" people than "non-othered" people ( $F(1,511) = 1.371, p = .2421$ ).

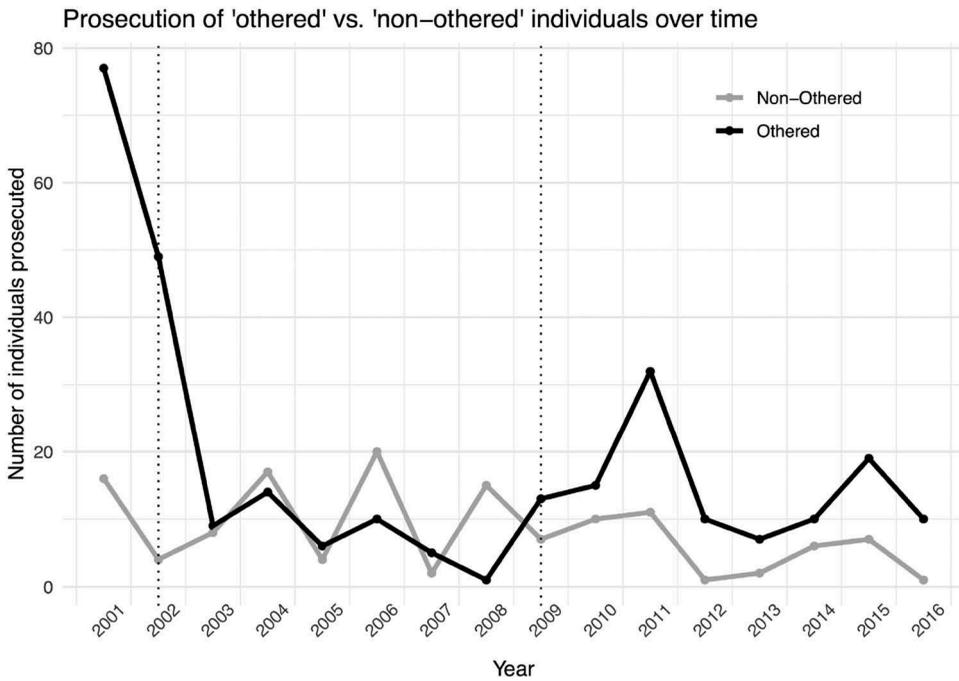
It appears that the number of prosecutions follows closely the number of attacks by "othered" individuals, while the number of prosecutions of "non-othered" individuals has dropped dramatically in a way that does not reflect the frequency of attacks and acts of political violence being carried out (Figure 4). Specifically, a distinct switch occurs between 2008 and 2009 in the frequencies of prosecution by "othered" status that does not exist in the frequencies of attacks (Figure 5).<sup>7</sup>

## Discussion

### Severity of sentence by "otherness"

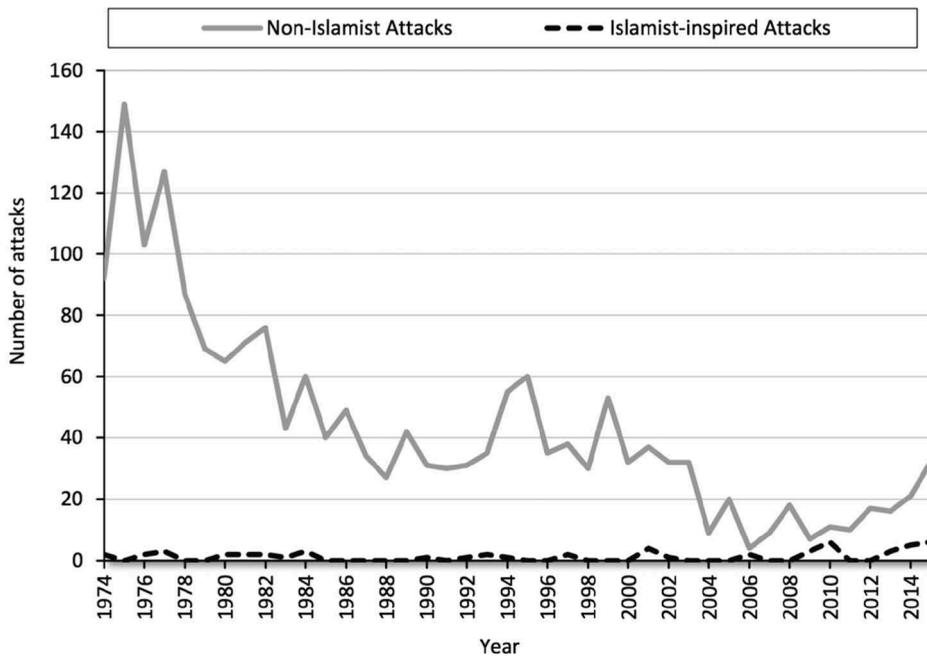
Our original prediction that "othered" individuals would receive longer jail sentences than "non-othered" individuals was not supported by our findings. "Othered" individuals actually received significantly shorter sentence lengths than "non-othered" individuals for the first time block. "Othered" individuals did tend to receive more life sentences, but their "othered" status was not a significant predictor of this; rather, "othered" individuals tended to injure more people in attacks and the number of people injured in an attack significantly predicted whether an individual received a life sentence or not.

An explanation for why "othered" individuals received shorter sentence lengths can still be attributed to the othering rhetoric of the Bush administration immediately post-9/11. Upon further investigation of the dataset, we found that the majority of prosecutions of "othered" individuals occurring directly after the 9/11 attacks were largely non-violent crimes – mostly immigration violations that resulted in deportation (Loadenthal et al. 2018). These trends in prosecution correspond to "terror sweeps" that occurred post-9/11,



**Figure 4.** Prosecution of othered vs. non-othered individuals over time.

### Islamist versus Non-Islamist Terror Events in the United States



**Figure 5.** Number of attacks by “Islamist versus Non-Islamist” ideology over time, borrowed from Thrall and Goepner (2017).

in which Arab/Middle Eastern and/or Muslim individuals in the United States were targeted by the government as “possible accomplices” to the 9/11 attacks (Akram and Karmely 2004). Almost all of the over 1,200 individuals taken into custody were found to have no ties to foreign terrorist organisations and were either released free of charge or charged with felony immigration violations (Akram and Karmely 2004). This is in line with our finding that while othering presidential rhetoric does not affect the length of jail sentence of “othered” individuals as compared to “non-othered” people, it seems to have an effect on the number of prosecutions of “othered” versus “non-othered” people.

### *Frequency of prosecution of “othered” individuals*

Overall, patterns in the frequency of the prosecution of “othered” individuals as compared to “non-othered” individuals were significantly different based on time block. Specifically, the United States government prosecutes “othered” individuals for their acts of political violence and extremism at greater rates than “non-othered” individuals, although prior research (Trevor and Goepner 2017) seems to show non-othered individuals carry out political violence and/or extremist attacks at greater rates (Figures 4 and 5). The main difference between the three time blocks is presidential rhetoric, as defined by presidential declarations and actions. Thus, it is possible that the differences in presidential rhetoric may have impacted the rates of prosecution of “othered” individuals.

### *Rhetorical analysis*

In order to understand how presidential rhetoric precisely has had an effect upon the patterns of “othered” prosecution, one can further delve into the framing of the Global War on Terror (GWOT) by presidential administrations. Hodges (2011) created the “six phases of the rhetorical ‘War on Terror’” as the framework for the rhetorical analysis of the George W. Bush administration. The first four of these six phases define Bush’s rhetoric in the first time block. President Bush frequently used war metaphors to describe the struggle against terrorism. Beginning with the “precipitating event” of 9/11, Bush enacted the GWOT as a retaliatory measure (“America’s response”) to the large-scale domestic attack (Hodges 2011).<sup>8</sup> Specifically, Bush launched the “first battle of the GWOT” by declaring war on Afghanistan (Hodges 2011). Additionally, Bush fought the GWOT on “numerous fronts” through domestic “terrorist sweeps”, drone strikes abroad, and active fighting on multiple fronts (Hodges 2011). As discussed above, it was Bush’s othering policies, specifically seen through these domestic “terror sweeps”, that contributed to an increase in the prosecution of “othered” individuals for the first time block (Figure 4).

In order to connect Bush’s GWOT rhetoric during the latter half of his administration to our findings, we refer to the last two “phases of the rhetorical ‘War on Terror’” (Hodges 2011). Following the decentralised fighting on “numerous fronts”, Bush entered the US into the “second battle of war” in Iraq, followed by “challenges and commitments” to maintaining a strong international and domestic defence (Hodges 2011). It is important to note that this latter half of Bush’s presidency was characterised by both othering language and military action. However, we did not find that “othered” prosecutions significantly differed from “non-othered” prosecutions for this time block. Notably, “othered”

prosecutions did increase in this time block, as compared to “othered” prosecutions in Bush’s immediate post-9/11 era. In sum, though the number of “others” prosecuted increased, so did the number of “non-others” prosecuted. This finding does not support our hypothesis that the othering language of Bush’s administration would result in a significant difference between “othered” and “non-othered” prosecutions in both the first and second time blocks. Future research will need to examine other possible factors within the latter half of the Bush administration to account for this finding.

In order to understand why the discrepancy between the frequency of “othered” and “non-othered” prosecutions resurfaced during Obama’s administration, one must further examine Obama’s framing of the GWOT. Obama seemed to stray away from the war metaphors and seemingly refused to use the terminology of the GWOT, preferring instead to use the term “struggle against terrorism” (Hodges 2011). Rather than calling the Afghan and Iraq Wars “battles” or “fronts”, he used the term “war” (Hodges 2011). Obama repeatedly claimed to view terrorism as a tactic, rather than a trait of particular groups (Mullin 2011). Furthermore, President Obama discussed his desire to enact foreign policy changes relating to the GWOT, such as the closing of Guantanamo Bay and the decision to withdraw US military forces from Iraq, as demonstrated in the timeline in Figure 3. However, during his administration, Obama failed to fulfil some of these promises, as well as escalating violence in the name of terrorism in the case of Syria and the ongoing war in Afghanistan (Mullin 2011).

Though a rhetorical shift occurs from the strong “us versus them” narrative of the Bush administration, the Obama administration has created a double-standard in which the rhetoric does not match the actions being taken. Thus, the finding that the prosecution of “othered” individuals increased as compared to “non-othered” individuals under the Obama administration does not support our hypothesis. We predicted that direct othering rhetoric, such as that found in the speeches and actions of George W. Bush, would cause an increase in “othered” prosecutions. Even though Obama strayed away from othering rhetoric, he used strict military actions to conceptualise his version of the GWOT. Future research is needed to examine if this dichotomy between a lack of “othered” language and a presence of “othered” action contributed to the significant difference between “othered” and “non-othered” prosecutions.

In conclusion, the prosecution of “othered” individuals significantly differed from “non-othered” individuals immediately after 9/11 and during the Obama years. There is strong evidence to suggest that this discrepancy in the first time block is a direct result of Bush’s othering GWOT rhetoric and its relation to domestic “terror sweeps”. However, there is less evidence to suggest a direct relationship between the maintenance of “othering” rhetoric in the latter Bush years and an increase in “othered” prosecution rates, as “othered” and “non-othered” individuals were prosecuted at similar rates. Moreover, Obama’s lack of othering rhetoric in the speech did not correspond to a reduction of “othered” prosecutions; in fact, “othered” prosecutions not only increased but increased differentially as compared to “non-othered” individuals. It is, however, possible that the relationship may exist due to the dissonance in Obama’s othering rhetoric.

## Conclusions

The way in which the presidential administration frames the GWOT matters, as presidential rhetoric and its corresponding framework affects foreign policy, media coverage of terrorism, public perceptions, and, most notably, legal action. By conflating Islam with terrorism, the American people now conceptualise terrorism as a problem exclusively pertaining to brown, Muslim, and/or foreign-born actors (Mullin 2011). Figure 6 outlines the process of how “Actors” create frames, and how these frames consequently influence their audience. The model developed for our particular project was adapted from Scheufele’s (1999) model that outlines the process of media framing. The basis of the framing process begins when an Actor inputs their own values to build a frame, which allows the frame to be translated to the audience and subsequently change the audience reaction. Applying Scheufele’s theory to the GWOT, one can look at the administrations of Presidents George W. Bush and Barack Obama as the Actor, and the American people – and, particularly, the American judicial system – as the audience.

The American people have not only heard statements made by the President referring to terrorists as “other” and the GWOT as a battle between “us” and “them,” but even further have seen the dichotomous ideology perpetuated through the military actions taken against regions of the world in which these “othered” people reside. The dichotomy creates a frame in which terrorism is inherently something carried out by foreign, non-white, and/or Muslim individuals, which seems to translate to some extent to the prosecutions of individuals who carry out acts of political violence and extremism.

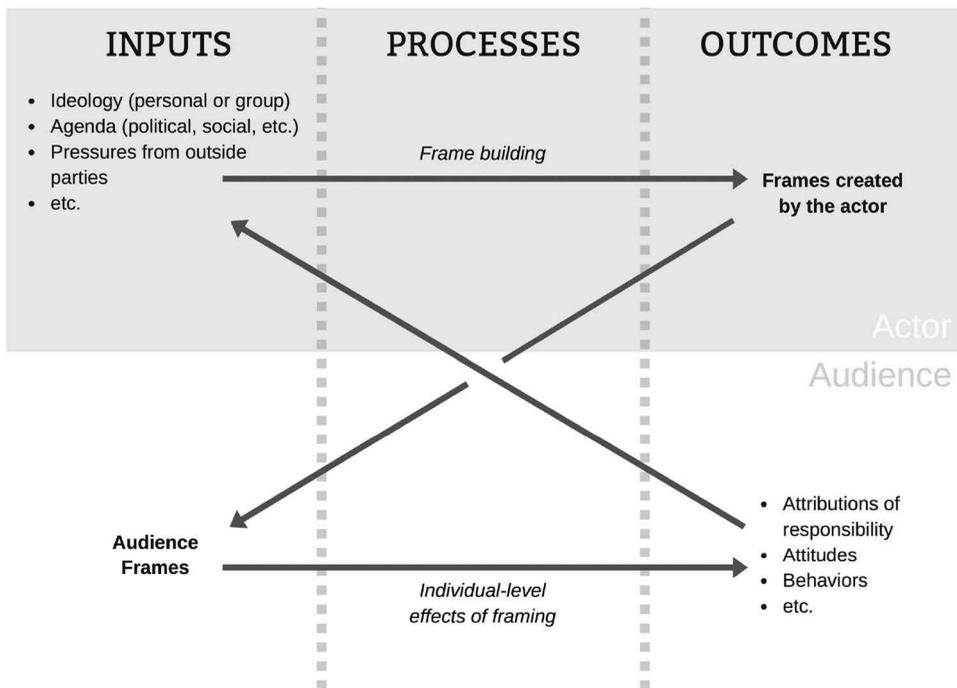


Figure 6. The process of framing, adapted from Scheufele’s (1999) “A process model of framing”.

Further research may be needed to investigate the effects of direct speech as rhetoric versus indirect action as rhetoric in the creation of frames. The effects of the “othering” narrative are obvious and apparent in anti-Muslim and xenophobic hate crimes, but harder to notice in the often less publicised legal process. Additionally, further research could also investigate the relationship between presidential rhetoric and the shift towards online radicalisation, as utilised by Foreign Terrorist Organizations, such as the Islamic State (ISIS) (Pape et al. 2017). In an increasingly digitised age, sound bites and social media posts by presidents become more influential in representing the country as a whole. In a post-Obama administration United States, there have been discussions about the potential ability of President Trump’s travel ban against Muslim-majority countries to act as propaganda for ISIS in demonstrating America’s “anti-Muslim” bias (Pape 2018).

As the United States continues forward into new presidential administrations, the unequal treatment of non-white, non-Christian, and/or foreign-born individuals in the American legal system has the potential to lessen – but only if the administration and nation are willing to question their biases, frames, and narratives. The Trump administration and other administrations moving forward must keep in mind that the framing of terrorism as an act committed exclusively by “others” not only affects the daily lives of Muslim, Arab/Middle Eastern, and/or foreign-born Americans but also has the potential to impact the legal prosecution of terrorism. As the United States forges ahead on a path that has been defined by the ostracism of “outsiders” and “others,” with cries of “secure the border”, “build a wall”, “radical Islamic terrorism”, and “America First” (Trump 2014; Holley 2017; Trump 2018), let us remember the power that presidential rhetoric has on all aspects of American life.

## Notes

1. Based on the theory of othering (Lugo-Lugo and Bloodsworth-Lugo 2009; Said 1994, 1997).
2. Further information on the Prosecution Project can be found in Appendix 2, including inclusion/exclusion criteria, methodology, and data accessibility.
3. See Appendix 1 for a more in-depth discussion of the events included in each time block.
4. Notably, these “othered” prosecutions do not include any of the 9/11 attackers, as they were killed during their attacks.
5. During the second time block, the sentences were, on average, 17 years less for “othered” people ( $b = -17.26$ ,  $F(1,151) = 0.7932$ ,  $p = .375$ ).
6. During the third time block, the average sentence length was 39 years longer for “non-othered” people ( $b = 39.40$ ,  $F(1,150) = 1.346$ ,  $p = .2479$ ). The average for “non-othered” individual sentence length in the third time block was calculated including a number of statistical outliers; however, these outliers were not removed as they were decided to maintain evaluative value.
7. Thrall and Goepner’s graph maps what they refer to as “Islamist” and “Non-Islamist” attacks. While these two groups do not directly correspond to our research categories of “othered” and “non-othered”, respectively, the overall similarity in the trend of the graphs, as well as the operational definitions of “Islamist” and “Non-Islamist”, indicates that Thrall and Goepner are measuring approximately the same groups of people.
8. See Figure 1 for a complete timeline of speeches and events.
9. For more detailed information on the Prosecution Project, one can visit <https://tpp.lib.miamioh.edu> or contact researchers A. Chapekis ([chapekam@miamioh.edu](mailto:chapekam@miamioh.edu)) and S. M. Moore ([mooresm5@miamioh.edu](mailto:mooresm5@miamioh.edu)), respectively.

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No potential conflict of interest was reported by the authors.

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## Appendices

### Appendix 1.

#### Timeline of the Global War on Terror (GWOT) in greater detail

##### *First time block*

In order to summarise the immediate responses to the attacks on 9/11, the date range 11 September 2001–8 February 2002 was used, as there was a significant gap between the creation of Guantanamo Bay on 8 February 2002 and any further actions by President George W. Bush to directly influence the GWOT. We subdivided the reactions to these attacks into responses by President Bush, responses by the United States federal government as a whole, and responses by Foreign Terrorist Organizations (FTO). Bush immediately responded by pushing Congress to pass the Authorization for Use of Military Force Against Terrorists joint resolution (Congress 2001). Upon receiving his request, Bush initiated Operation Noble Eagle to retaliate against the organisations that perpetrated the attacks on 9/11, namely al-Qaeda (Kapp 2005). Bush also issued a Presidential Military Order that gave the president the power to detain non-citizens suspected of connection to terrorists or terrorism as enemy combatants, further sustained by Bush's creation of the detention centre at Guantanamo Bay, Cuba (Bush 2001a; Nolen, n.d.). Additionally, Congress reacted strongly, such as the passage of the USA PATRIOT Act and the authorisation of military force in Afghanistan, both in October 2001 (Department of Justice 2001; Congress 2001). Furthermore, responses by both domestic and international terrorists occurred, such as the claiming of the attack by al-Qaeda and the anthrax attacks of September and October 2001 (Kean et al., n.d.; NPR 2011). These three categories comprise the basis of the initial responses to the GWOT, as first described Bush on 20 September 2001 (Bush 2001c).

##### *Second time block*

Following the first time block of initial responses to the events of 9/11, one can examine further actions of Bush's administration in a second time block that extends from 8 February 2002 to the end of Bush's second administration on 20 January 2009. The majority of Bush's actions in his post-9/11 administration were characterised by events and declarations leading to and following the invasion of Iraq in March 2003. The build-up to the war included notable occurrences such as the CIA report that provided evidence for the presence of weapons of mass destruction (WMD) in Iraq and the passage of the Iraq Resolution to justify military force (CIA 2002; Hastert 2002). The first year of war brought such events as the First and Second Battles of Fallujah in Iraq. In 2006, the first iteration of the Islamic State, the Islamic State in Iraq (ISI), was also established (Wilson Center 2016) as well as the first sanctions and restrictions on Syria for their membership in the "axis of evil" and their support for terrorist organisations (BBC News 2018). Though the majority of these events involve military action, it is important to note that the "us versus them" rhetoric of the first time block continues into this time block as well. Furthermore, the actions of Bush's post-9/11 era had a lasting impact upon Obama's transition to power in 2009, as well as creating a precedent for foreign policy with regards to terrorism.

##### *Third time block*

For the final time period contributing to the framing of the GWOT under the Bush and Obama administrations, one can examine the time from 20 January 2009 to 20 January 2017 to characterise Obama's presidency. Obama campaigned on the promise of ending the wars in Afghanistan and Iraq, leading to his announcement of withdrawing troops from Iraq in February 2009 (Jaffe 2016), with the last US troops leaving Iraq on 18 December 2011 (Council on Foreign Relations, n.d.) and his plans to pull out of Afghanistan by 2016 (Landler 2014). However, tensions with Syria also rose under the Obama administration. With the mass murder of Syrian protesters by government forces in

Deraa in 2011 (BBC News 2018) and Syrian President Bashar al-Assad's chemical attack on the civilians at Ghouta in 2013 (BBC News 2013), Obama moved to pass a new military initiative in Syria in August 2013 (Obama 2013). At the same time, the Islamic State of Iraq and Syria (ISIS) was established from the ISI (Wilson Center 2016), declaring the creation of a caliphate in Syria in June 2014 (BBC News 2018). The emergence of ISIS's self-described Islamic caliphate led Obama to announce air strikes against ISIS in Iraq and Syria in 2014 (Wilson Center 2016; BBC News 2018). With a new "front" in the GWOT with the emergence of the ISIS threat, President Obama seemed unable to restore peace to the Middle East, handing a destabilised Syria to President Trump in 2017.

## Appendix 2.

### The prosecution project

The Prosecution Project<sup>9</sup> encompasses an ongoing dataset designed to hold information relating to the attacks, prosecution, and sentences of acts of political violence occurring in the United States from 1990 to 2018 (Loadenthal et al. 2018). In order for researchers to include a case in the dataset, an individual must commit a crime and be charged with a felony by the United States government, and the crime must have an obvious or stated socio-political goal, serve to support organised political violence, and/or the crime/criminal is described by official state speech as terrorism (The Prosecution Project 2018). Notably, the inclusion criteria exclude individuals that died in the course of the crime, such as the 9/11 hijackers. Using the above-described decision tree, the Prosecution Project had amassed 1,381 cases as of April 2018, coded for 42 variables that include ideology, religion, ethnicity, nationality, tactic, target, and sentencing length (Loadenthal et al. 2018). The dataset is made unique in the sense that it includes both jihadist and non-jihadist (e.g. leftist, rightist, separatist, issue-specific) domestic terrorists, allowing one to run statistical analyses in terms of frequencies and correlations between ideology, religion, ethnicity, and sentencing length.

The dataset has incorporated information from the largest known databases on incidents of domestic terrorism prosecutions and uses secondary accounts, such as news articles, and governmental and institutional reports to triangulate additional data (Loadenthal et al. 2018). tPP serves to assimilate a large number of previous compiled datasets (Aaronson and Williams 2017; Bergen et al., n.d.; Neiwert et al. 2017; Counter Extremism Project 2016; Muslim Public Affairs Council 2012; Vidino and Hughes 2015; Anti-Defamation League 2015, n.d.; GW Program on Extremism 2018; Rao et al. 2018; National Abortion Federation 2017; Southern Poverty Law Center 2015; START University of Maryland 2017; RAND Corporation 2009; Jenkins 2010; United Nations Office on Drugs and Crime 2010; U.S. Department of Justice 2009).