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## Lifting the Veil: The Impact of Framing on Sentencing Disparities Between Males and Females Convicted of Terrorism since the Rise of ISIS, 53 UIC J. Marshall L. Rev. 113 (2020)

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**LIFTING THE VEIL: THE IMPACT OF  
FRAMING ON SENTENCING DISPARITIES  
BETWEEN MALES AND FEMALES  
CONVICTED OF TERRORISM SINCE THE  
RISE OF ISIS**

NATALIA GALICA\*

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### **Abstract**

Women are often perceived as more nurturing and peaceful than males. Thus, when a woman commits the violent crime of terrorism, it captures the attention of media, which frames the perception of women in a feminine and submissive light. This Comment explores the impact and presence of framing narratives by analyzing the sentences of males and females charged with terrorism offenses in America since the rise of ISIS. After noting the disparity overall, the Comment focuses on four pairs of cases and the commentary in each case. The pairs were chosen because the male and female actors committed similar crimes, but the sentences had a disparity of years. After the disparity is unveiled, this Comment explores the types of narratives, and how each narrative differed between the males and females, before ultimately proposing solutions to bridge the disparities.

## I. INTRODUCTION

*“Never before in the modern history of terrorism has a group attracted so many women, particularly from the West.”<sup>1</sup>*

Women are often portrayed in the media as soft, nurturing, and motherly. Thus, no one would expect a woman to commit atrocious acts, such as the 9/11 terrorist attacks or the Boston Marathon Bombings.<sup>2</sup> Yet, women — particularly from the West — have joined the Islamic State (ISIS) at an unprecedented rate.<sup>3</sup> Given the increase in participation, it is no surprise that prosecutors in the United States have started to charge more women with terrorism-related offenses for their involvement with the group.

The media coverage surrounding the women who have joined terrorist groups tends to focus on their femininity, framing them as

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\* Juris Doctor Candidate, UIC John Marshall Law School, Class of 2020. Thank you to my family, friends, and all those who supported me. A special thank you to my mentors, who spent countless hours nurturing my passion for learning and writing.

1. JESSICA DAVIS, *WOMEN IN MODERN TERRORISM: FROM LIBERATION WARS TO GLOBAL JIHAD AND THE ISLAMIC STATE* 123 (2017).

2. Karla J. Cunningham, *Cross-Regional Trends in Female Terrorism*, 26 *STUD. IN CONFLICT & TERRORISM* 171, 171-72 (2003). “Because women are not considered credible or likely perpetrators of terrorist violence, they can more easily carry out attacks and assist their organizations.” *Id.*

3. DAVIS, *supra* note 1 (stating, “[w]omen have begun to join the group in shocking numbers . . . Even in comparison to [al-Qaeda in Iraq], the number of women joining ISI[S] is unprecedented”).

boy-crazed “lipstick martyrs.”<sup>4</sup> These framing<sup>5</sup> techniques lead to a perception that female terrorists are less of a threat than male terrorists.<sup>6</sup> In turn, the sentencing disparities between males and females convicted of terrorism offenses since the rise of ISIS are striking. Identifying the role that framing plays in sentencing will allow the criminal justice system to deliver more equitable sentences.

Part II of this Comment will explore the background of terrorism and ISIS. It will first focus on how members of this particular terrorist group are prosecuted in the United States. Then, it will review the role of women within ISIS, generally. Next, this Comment will analyze the problem of framing surrounding female terrorists and the impact such frames have on the legal system. Finally, this portion of the Comment will address the two main terrorism charges that both male and female terrorists face.

Part III of this Comment will dive into the sentencing data of males and females convicted of two terrorism-related offenses in America based on their involvement with ISIS. It will start by addressing the sentencing data as a whole. Then, it will analyze the frames surrounding specific women and men sentenced for similar terrorism offenses in the United States since the rise of ISIS. This section will then discuss the types of frames that are common among both the males and females. In addition to analyzing the common frames, this section will discuss the differences between the frames used based on the sex of the individual.

Part IV of this Comment will discuss the policy changes needed to combat the problem of disparate sentencing between males and females. It will begin by discussing the need for awareness of framing and its impact. Then, it will discuss the viability of imposing sentencing guidelines. Finally, the Comment will propose combatting the impacts of sentencing disparities through a

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4. Brigitte L. Nacos, *The Portrayal of Female Terrorists in the Media: Similar Framing Patterns in the News Coverage of Women in Politics and in Terrorism*, 28 *STUD. IN CONFLICT & TERRORISM* 435, 438-39 (2005) (describing the prevalence of media sources focusing on the physical appearance of female terrorists and the image of women terrorists acting for the sake of love).

5. In this comment, the phrases “framing” and “frames” refer to the rhetorical devices used to describe both male and female criminal defendants charged with terrorism offenses. Analyzing the rhetoric surrounding both can offer an insight into the perceptions of the defendants from the legal professionals involved. *See e.g.*, Jessica Hullman & Nicholas Diakopoulos, *Visualization Rhetoric: Framing Effects in Narrative Visualization*, 17 *IEEE TRANSACTIONS ON VISUALIZATION & COMPUTER GRAPHICS* 2231, 2232 (2011) (stating that “[r]esearchers seek to better understand ‘framing effects’, situations where often small changes in the presentation of an issue or an event, such as slight modifications of phrasing, produce measurable changes of opinion”).

6. Nacos, *supra* note 4, at 447-48. Terrorist groups will continue to exploit the media portrayals of female terrorists being weaker, particularly in “target societies that deem women far less suspect and dangerous than men.” *Id.*

rehabilitation program as a way to address the underlying issue behind sentencing disparities.

## II. UNDERSTANDING THE CONTEXT OF SENTENCING DISPARITIES

Before discussing the sentencing disparities, it is important to understand how an individual is charged for terrorism offenses. First, this section will briefly discuss the history of ISIS and how the group operates within the United States. Next, it is necessary to understand the roles that women have in terrorist organizations, as that may impact how individual women are sentenced. Afterwards, this section will contextualize how female terrorists are portrayed in the media. Finally, this section will give an overview of how terrorism-related crimes are charged in the United States.

### *A. Terrorism and the Rise of ISIS*

An act of terrorism is typically defined as “pre-meditated, politically-motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents, usually intended to influence an audience.”<sup>7</sup> A recent conceptualization of this definition is the beheading of American journalist James Foley<sup>8</sup> in 2014 — an event that captured the attention of American media because it was filmed and broadcasted online.<sup>9</sup> The video was titled “A Message To America.”<sup>10</sup> In it, an ISIS fighter with a British accent warned America of a new Islamic army and of the measures the new army would take if America continued with its drone strikes and aggression in the Middle East.<sup>11</sup> While the video did not show much of the actual beheading, it ended with footage of Foley’s severed head and a warning that the beheadings would continue if America did not stand down.<sup>12</sup> The publicized beheading brought widespread recognition to ISIS and inspired the mobilization of thousands of Western supporters.<sup>13</sup>

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7. 22 U.S.C. § 2656f(d) (2018).

8. JESSICA STERN & J. M. BERGER, *ISIS: THE STATE OF TERROR* 120 (2015). James Foley was an American reporter who was kidnapped in 2012 while working in Syria. *Id.* His beheading death in August 2014 was widely publicized in Western media. *Id.*

9. *Id.*

10. *Id.*

11. *Id.* at 120-121 (describing the video in greater detail).

12. *Id.* The ISIS fighter could be heard saying, “[t]he life of [Steven Sotloff, another American journalist], Obama, depends on your decision.” *Id.* With this and similar videos, ISIS was able to combine storytelling with scenes of gruesome violence. *Id.*

13. Daniel L. Byman, *Comparing Al Qaeda and ISIS: Different Goals, Different Targets*, BROOKINGS (Apr. 29, 2015), [www.brookings.edu/testimonies/](http://www.brookings.edu/testimonies/)

In 2004, a Jordanian named Abu Musab al-Zarqawi formed the group that would later be known as ISIS.<sup>14</sup> The group itself started as a branch of al-Qaeda,<sup>15</sup> known as al-Qaeda in Iraq (AQI).<sup>16</sup> As the years progressed, al-Zarqawi began to lead a brutal campaign including mass killings of Shia Muslims.<sup>17</sup> He also encouraged vicious tactics, like beheadings, which caused tension with the central leadership of al-Qaeda, who advocated for a more patient strategy in the wake of 9/11, in order to keep a low-profile.<sup>18</sup> The decline of AQI began in 2006, when American forces killed al-Zarqawi in a bomb strike.<sup>19</sup> Between 2007 and 2010, attacks by U.S. troops weakened AQI.<sup>20</sup> This allowed Ibrahim Awwad Ibrahim Ali al-Badri al-Samarra'iyy (known more commonly as Abu Bakr al-Baghdadi) to rise through the ranks of AQI.<sup>21</sup> In 2010, al-Baghdadi became the leader of an umbrella branch of AQI, known as the Islamic State of Iraq (ISI).<sup>22</sup> Soon after taking over, al-Baghdadi rebuilt the weakened group's capabilities by eliminating critics and declaring an expansion of ISI to Syria.<sup>23</sup>

By 2013, al-Baghdadi's ISI was carrying out numerous attacks each month in Iraq, becoming a deadly force.<sup>24</sup> At the same time, the rebellion in Syria against Syrian President Bashar al-Assad was gaining traction, especially with a group known as al-Nusra Front.<sup>25</sup>

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comparing-al-qaeda-and-isis-different-goals-different-targets/. "Zarqawi and his followers also acted with incredible brutality, making their name with gruesome beheading videos—a tactic that its successor organizations would also use to shock and generate publicity." *Id.*

14. STERN & BERGER, *supra* note 8, at xix (giving a timeline of the establishment of ISIS); *What is 'Islamic State'?*, BBC (Dec. 2, 2015), [www.bbc.com/news/world-middle-east-29052144](http://www.bbc.com/news/world-middle-east-29052144).

15. DANIEL L. BYMAN, DEADLY CONNECTIONS: STATES THAT SPONSOR TERRORISM (2005). Al-Qaeda was founded in August 1988, following an uprising in Afghanistan after the Soviet invasion of the country in 1979. *Id.* The small group grew in Afghanistan until 1992, then it spread to Sudan and began developing relationships with Sunni extremist and insurgent groups. *Id.* This is likely where the group began its roots of calling for an American *jihād*, or a war against non-Muslims. *Id.*

16. *Id.* STERN & BERGER, *supra* note 8, at xix; *What is 'Islamic State'?*, *supra* note 14.

17. JOBY WARRICK, BLACK FLAGS: THE RISE OF ISIS 201 (2015).

18. *Id.* There was a point in time where "Osama bin-Laden's top deputy had gently reprimanded Zarqawi for his gratuitous use of violence" followed by, "a much sharper rebuke from one of Osama bin-Laden's closest advisors" after a campaign of violence led by AQI. *Id.*

19. *Id.* at 206-220 (discussing American military actions against AQI, culminating in the death of al-Zarqawi).

20. *What is 'Islamic State'?*, *supra* note 14.

21. STERN & BERGER, *supra* note 8, at 37.

22. *Id.*

23. *Id.* at 37-39.

24. *What is 'Islamic State'?*, *supra* note 14.

25. STERN & BERGER, *supra* note 8, at 41-42. The al-Nusra Front was one of the main groups committed to overthrowing the Assad regime during the Arab Spring. *Id.* Initially, the al-Nusra Front employed brutal tactics. *Id.* In the

Al-Baghdadi, to the dismay and disapproval of al-Qaeda and al-Nusra leaders, captivated some of al-Nusra's members.<sup>26</sup> After former members of al-Nusra joined ISI, the group rebranded itself as ISIS (the Islamic State of Iraq and Syria), in reference to its new Syrian members.<sup>27</sup> At this time, al-Qaeda began to denounce ISIS's heavy handed tactics, leading ISIS to create its own, autonomous entity.<sup>28</sup>

Once ISIS gained notoriety for the beheading of James Foley in 2014, world leaders began working to defeat the group. Under the Obama administration, the United States, in particular, concentrated on employing a series of air and drone strikes against the group.<sup>29</sup> This was an attempt to push back and corner ISIS fighters, as well as to disrupt the infrastructure ISIS put in place in the cities it controlled.<sup>30</sup> Particularly, in April 2016, the group lost its major footholds near Kirkuk and Sinjar—two cities in Iraq.<sup>31</sup> In July 2017, U.S.-backed local forces regained control of the major city of Mosul, Iraq.<sup>32</sup> Mosul had been ISIS's largest stronghold in the

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summer of 2012, however, the group began to align itself with more moderate nationalist groups. *Id.* By the end of 2012, according to Aaron Zelin, the al-Nusra Front was “one of the opposition's best fighting forces, and locals viewed its members as fair arbiters when dealing with corruption and social services.” *Id.*

26. *Id.* (describing that “[o]n April 9, 2013, Baghdadi announced a merger of ISI and al Nusra, calling the new group the Islamic State of Iraq and the Levant (ISIS)... the announcement surprised both Zawahiri [the leader of al-Qaeda] and Jawlani [the leader of al Nusra]”).

27. *Id.*

28. *Id.* at 69 (explaining, “Zawahiri finally played his only remaining card, issuing a statement in February 2014 that publicly disavowed ISIS, essentially firing it from the al Qaeda affiliate network”); Daniel L. Byman, *Will ISIS and al-Qaeda Always Be Rivals?*, BROOKINGS (May 27, 2016), [www.brookings.edu/blog/markaz/2016/05/27/will-isis-and-al-qaida-always-be-rivals/](http://www.brookings.edu/blog/markaz/2016/05/27/will-isis-and-al-qaida-always-be-rivals/). Although al-Qaeda and ISIS both believe that Islamic law should govern the world, the groups differ in the strategies they employ. *Id.* ISIS prioritizes building a state. *Id.* Al-Qaeda, on the other hand, prioritizes striking Western countries and building a state only when the “conditions are ripe.” *Id.*

29. *Obama Appears At Pentagon To Discuss Strategy For Countering ISIS*, PBS (Aug. 4, 2016), [www.pbs.org/newshour/show/obama-appears-pentagon-discuss-strategy-countering-isis](http://www.pbs.org/newshour/show/obama-appears-pentagon-discuss-strategy-countering-isis).

30. *Id.* (mentioning, “the U.S. launched a series of air and drone strikes against the Islamic State's Libyan stronghold, in and around the town of Sirte. The U.S. air campaign comes in support of a Libyan government-backed coalition of brigades and militias fighting ISIS on the ground”); Eyder Peralta, *Listen: Obama Explains His Approach To ISIS In 7 Minutes*, NPR (Mar. 23, 2016), [www.npr.org/sections/thetwo-way/2016/03/23/471601155/listen-obama-explains-his-approach-to-isis-in-7-minutes](http://www.npr.org/sections/thetwo-way/2016/03/23/471601155/listen-obama-explains-his-approach-to-isis-in-7-minutes).

31. Vera Mironova & Mohammed Hussein, *The Downfall of ISIS: Why Foreign Fighters Have Become a Liability*, FOREIGN AFF. (Sept. 26, 2016), [www.foreignaffairs.com/articles/syria/2016-09-26/downfall-isis](http://www.foreignaffairs.com/articles/syria/2016-09-26/downfall-isis). Kirkuk and Sinjar are both located in Iraq. *Id.*

32. Daniel L. Byman, *What Happens When ISIS Goes Underground?*, BROOKINGS (Jan. 18, 2018), [www.brookings.edu/blog/markaz/2018/01/18/what-happens-when-isis-goes-underground/](http://www.brookings.edu/blog/markaz/2018/01/18/what-happens-when-isis-goes-underground/).

country.<sup>33</sup> The last major nail in the coffin was when U.S.-backed forces overtook ISIS's capital city, Raqqa, Syria.<sup>34</sup> This caused the group to retreat underground.<sup>35</sup> Yet at that point, ISIS's ideological impacts had spread much further than the confines of the Middle East.<sup>36</sup>

One noteworthy trend that made ISIS unique was the mobilization of Western foreign fighters who traveled or attempted to travel to the areas that ISIS controlled since its rise in 2014.<sup>37</sup> According to Peter R. Neumann,<sup>38</sup> the total number of foreign fighters that traveled to join ISIS exceeded 20,000 by the beginning of 2015.<sup>39</sup> One-fifth of those fighters were either nationals or inhabitants of Western European countries.<sup>40</sup> The European country with the most foreign fighters who joined ISIS per capita was Belgium.<sup>41</sup>

Equally noteworthy was the group's penchant for using social media to create and spread propaganda in a low-cost and intimate way, because it allowed the propagandists to spread information to users directly.<sup>42</sup> This effectively allowed for "every jihadist [to become] his or her own media outlet, reporting live from the frontline in tweets, offering enticing visions of domestic bliss via short films and images posted to JustPaste.it and Instagram, [and] entering into friendly conversations via Skype."<sup>43</sup> Recent research

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33. *Id.*

34. *Id.*

35. *Id.* Warning that ISIS may "go underground, disrupt politics and foster sectarianism; wage an insurgency; and then come roaring back," like AQI did in the past. *Id.*

36. *Id.* (cautioning, "the Islamic State has nurtured the flame of jihad around the world. Even as the group declines, the ideas it champions—the necessity of a caliphate, the glory of brutality and the evil of Western states—have spread further, as the staggering volume of foreign fighters suggests. The Islamic State's propaganda is extensive and almost ubiquitous").

37. LORENZO VIDINO & SEAMUS HUGHES, GEO. WASH. U. PROGRAM ON EXTREMISM, *ISIS IN AMERICA: FROM RETWEETS TO RAQQA* ix (2015). ISIS foreign fighters have not been as prevalent in America as in other countries. *Id.* However, as of fall 2015, American security forces estimate that 250 Americans have traveled or attempted to travel to join ISIS. *Id.* At that time, security forces were also investigating 900 active cases against ISIS sympathizers across America. *Id.*

38. Peter R. Neumann, *Foreign Fighter Total in Syria/Iraq Now Exceeds 20,000; Surpasses Afghanistan Conflict in the 1980s*, ICSR (Jan. 26, 2015), [www.icsr.info/2015/01/26/foreign-fighter-total-syriairaq-now-exceeds-20000-surpasses-afghanistan-conflict-1980s/](http://www.icsr.info/2015/01/26/foreign-fighter-total-syriairaq-now-exceeds-20000-surpasses-afghanistan-conflict-1980s/). Peter R. Neumann is the Director of the International Center for the Study of Radicalization and Political Violence. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. STERN & BERGER, *supra* note 8, at 149 (explaining, "at its peak, [Twitter] was a formidable force [for ISIS], sending groups of hundreds of tweets at periodic intervals carefully timed to avoid raising red flags with Twitter's automatic antispam protocols").

43. ABDEL BARI ATWAN, *ISLAMIC STATE: THE DIGITAL CALIPHATE* 17-18

has outlined the fact that the internet has made it easier to plan attacks, make weapons, and join like-minded groups.<sup>44</sup> Particularly, lone wolf attackers<sup>45</sup> are able to find resources online that could help them carry out attacks and increase their radical beliefs in forums with like-minded individuals.<sup>46</sup> In fact, over one-third of lone wolf attackers in the U.S. had virtual communication with political activists prior to their attacks.<sup>47</sup>

Foreign fighters and online recruitment have posed significant legal challenges for the United States government. Foreign fighters carry the risk of perpetrating their own attacks in their home country once they have returned.<sup>48</sup> It is impossible to know whether disenchanting foreign fighters are genuine in their deradicalization or if they continue to pose a threat to national security.<sup>49</sup> When combatting online recruitment, the government must balance prosecuting individuals who post terrorist speech on social media with the individual's right to free speech.<sup>50</sup> There is also a risk that imprisonment could further radicalize individuals and only delay future terrorist attacks.<sup>51</sup> This risk of recidivism creates the

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(2015).

44. Katie Cohen, et al., *Detecting Linguistic Markers for Radical Violence in Social Media*, 26 TERRORISM & POL. VIOLENCE 246 (2014).

45. Ramon Spaaij, *The Enigma of Lone Wolf Terrorism: An Assessment*, 33 STUD. IN CONFLICT & TERRORISM 854, 856 (2010). "Lone wolf terrorism" refers to attacks carried out by one person. *Id.* This type of extremism is distinguishable from attacks organized and carried out by terrorist organizations. *Id.*

46. Gabriel Weimann, *Www.Terror.Net: How Modern Terrorism Uses the Internet*, 116 U.S. INST. PEACE 1, 9-10 (2004). Terrorists can use the internet to coordinate attacks, share information on targets, and share other relevant information to help others carry out attacks. *Id.*

47. Paul Gill, et al., *Bombing Alone: Tracing the Motivations and Antecedent Behaviors of Lone-Actor Terrorists*, 59 J. FORENSIC SCI. 425, 430 (2014) (stating, "33.6% of the sample had recently joined a wider group, organization, or movement that engaged in contentious politics. ... A similar number (31.9%) had also become recently exposed to new social movement or terrorism-related media").

48. STERN & BERGER, *supra* note 8, at 98 (noting, "there were unrepentant fighters who returned either of their own accord or at the direction of ISIS, presenting a very high risk that they would carry out terrorist attacks on behalf of the group").

49. *Id.* (theorizing, "[i]t was in the interest of Western governments to see radicals disengage with their extremist causes, but it was impossible to know for certain who was sincere and who presented a risk of future terrorism").

50. Zachary Leibowitz, *Terror on Your Timeline: Criminalizing Terrorist Incitement on Social Media Through Doctrinal Shift*, 86 FORDHAM L. REV. 795, 814 (2017); Alexander Tsesis, *Social Media Accountability for Terrorist Propaganda*, 86 FORDHAM L. REV. 605, 616 (2017) (proposing, "[t]he compelling public interest in preventing mass casualties from terrorist attacks can be furthered by enforcing a narrowly tailored law against knowingly disseminating terrorist content through social media websites").

51. U.N. Security Council Counter Terrorism Comm. Exec. Directorate, *The Challenge of Returning and Relocating Foreign Terrorist Fighters: Research Perspectives* 1, 14 (2018) (hypothesizing, "there is a risk that imprisonment may

possibility for ongoing national security threats.<sup>52</sup>

Despite these legal challenges, between March 2014 and September 2018, 166 individuals in the United States have been charged with “offenses related to the Islamic State.”<sup>53</sup> Of those 166, eighty-nine percent are male.<sup>54</sup> This is likely because the group previously discouraged females from engaging in combat.<sup>55</sup> Recently, however, ISIS advertised the deployment of female fighters.<sup>56</sup> This significant change in stance may pose a substantial counter-terrorism threat because of how easily female terrorists fly below the radar in both counter-terrorism policies and in the media.<sup>57</sup>

### B. The Roles of Women in ISIS

In the 1980s, terrorists created magazines filled with propaganda and delivered them via mail to local audiences.<sup>58</sup> Now, ISIS has revolutionized the recruitment process through their use of social media and the internet.<sup>59</sup> ISIS recruiters often befriend young, vulnerable women on social media.<sup>60</sup> ISIS uses this method

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only delay the threat posed by these individuals, not reduce it. [Foreign fighters] may regard their time in prison as an opportunity to continue the “struggle,” and create new networks or organizational structures with the intent of conducting operational activity upon their release”).

52. *Id.*

53. *GW Extremism Tracker: The Islamic State in America*, GEO. WASH. U. PROGRAM ON EXTREMISM (Sept. 2018), [www.extremism.gwu.edu/sites/g/files/zaxdzs2191/f/September%202018%20Update.pdf](http://www.extremism.gwu.edu/sites/g/files/zaxdzs2191/f/September%202018%20Update.pdf) [hereinafter, “Extremism Tracker Report”]. Of the 166 total individuals, “115 individuals have pleaded or were found guilty.” *Id.*

54. *Id.*

55. Charlie Winter, *ISIS, Women and Jihad: Breaking with Convention*, TONY BLAIR INST. FOR GLOBAL CHANGE 1, 8 (2018), [institute.global/sites/default/files/articles/ISIS-Women-and-Jihad-Breaking-With-Convention.pdf](http://institute.global/sites/default/files/articles/ISIS-Women-and-Jihad-Breaking-With-Convention.pdf).

56. *Id.* at 11.

57. *Id.* at 13 (noting, “[e]ven if ISIS’s recent [depiction of female fighters] does not manifest in a mass mobilisation of female fighters, it is likely to have a long-term impact.... In view of that, counter-terrorism practitioners must not disregard the potential threat posed by female jihadis; indeed, it could be significantly more substantial than the conventional wisdom states”).

58. STERN & BERGER, *supra* note 8.

59. ABDEL-BARI ATWAN, *ISLAMIC STATE: THE DIGITAL CALIPHATE* 17-18 (2015). The ISIS fighters act as a sort of “media outlet, reporting live from the frontline in tweets, offering enticing visions of domestic bliss via short films and images posted to JustPaste.it and Instagram, entering into friendly conversations via Skype.” *Id.* This allows potential recruits to get a compelling glimpse into the life of an ISIS fighter. *Id.*

60. Rukmini Callimachi, *ISIS and the Lonely American*, N.Y. TIMES (June 27, 2015), [www.nytimes.com/2015/06/28/world/americas/isis-online-recruiting-american.html](http://www.nytimes.com/2015/06/28/world/americas/isis-online-recruiting-american.html); Anna Erelle, *Skyping With The Enemy: I Went Undercover as a Jihadi Girlfriend*, GUARDIAN (May 26, 2015), [www.theguardian.com/world/2015/may/26/french-journalist-poses-muslim-convert-isis-anna-erelle](http://www.theguardian.com/world/2015/may/26/french-journalist-poses-muslim-convert-isis-anna-erelle).

to gradually introduce extremist beliefs to women before convincing them to join their fight abroad.<sup>61</sup>

### 1. Recruiters

Once recruited, women fill a variety of roles within ISIS. One of the most significant roles is disseminating propaganda and acting as recruiters.<sup>62</sup> There are numerous women, known as Umms — a honorific name — who post content outside of the conflict zones.<sup>63</sup> These women work to broadcast ISIS propaganda and generate content that blends “jihadist rhetoric and the Internet speak of millennials” to attract Western followers.<sup>64</sup> For example, one woman known as “Shams”<sup>65</sup> posted: “When is winter in Syria? Do they have snow in Tabqah? I want to make a snow man & [sic] myself will become Elsa the Snow Queen! #disney #IS #joke.”<sup>66</sup> The post included a reference to the Disney film *Frozen*, indicating to her followers that it was also popular in Syria.<sup>67</sup> Another account, run by recruiter the Abu Dujana al-Muhajir, or @AbuDujanaBritani, resembled the popular “Dear Abby” column and aimed to answer questions from Western recruits about what life was like in the Islamic State.<sup>68</sup>

### 2. Auxiliary Roles

Additionally, women tend to fill traditional auxiliary roles, such as wives and mothers. Once women arrive in ISIS territory,

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61. William A. Costanza, *Adjusting Our Gaze: An Alternative Approach to Understanding Youth Radicalization*, 8 J. STRATEGIC SECURITY 1, 11 (2015) (explaining, “[t]he aim of the recruiter is to move the individual to increasingly more extreme positions and perhaps eventual recruitment into the extremist organization”).

62. DAVIS, *supra* note 1 (explaining “[m]any of ISIL’s most vehement supporters online are women and they work to spread the group’s message. The women who have traveled overseas to join the group are also using social media to encourage others to join”).

63. Jytte Klausen, *Tweeting the Jihad: Social Media Networks of Western Foreign Fighters in Syria and Iraq*, 38 STUD. IN CONFLICT & TERRORISM 1, 16 (2015). Many women fill the vital role of propagandists in the larger social media networks that are linked to ISIS. *Id.*

64. *Id.*

65. Atika Shubert, *The Women of ISIS: Who Are They?*, CNN (May 29, 2015), [www.cnn.com/2015/05/29/middleeast/who-are-the-women-of-isis/index.html](http://www.cnn.com/2015/05/29/middleeast/who-are-the-women-of-isis/index.html).

Shams is the pseudonym for a woman who runs the *Diary of a Muhajirah* blog, which tracks the life of one woman in ISIS. *Id.* She is believed to be a Malaysian doctor, though this information has not been verified. *Id.* The blog focuses on Sham’s love life, the benefits of joining ISIS, and tips for new recruits. *Id.*

66. Ellie Hall, *An ISIS Love Story: “Till Martyrdom Do Us Part,”* BUZZFEED (Sept. 17, 2014), [www.buzzfeednews.com/article/ellievhall/an-isis-love-story-till-martyrdom-do-us-part](http://www.buzzfeednews.com/article/ellievhall/an-isis-love-story-till-martyrdom-do-us-part).

67. *Id.*

68. Klausen, *supra* note 63, at 8.

they are quickly married off to become brides and mothers.<sup>69</sup> In fact, forty-eight percent of women have primary roles as wives in ISIS.<sup>70</sup> This is an integral role because they help nurture and raise the next generation of extremists. Unlike other terrorist groups, like al-Qaeda, ISIS aims to establish a caliphate and a functioning state in addition to conquering the territory.<sup>71</sup> This makes raising the next generation of fighters and establishing a community to rule over, a necessary task for the group. Certain women are also called upon to become teachers and medical providers.<sup>72</sup> Although these women do not play an active role in fighting, their role in operations is still vital to the success of the group overall.

### 3. *Fighters*

As noted previously, women are now actively participating as fighters in the group, however, this is not a new phenomenon.<sup>73</sup> During its first incarnation as AQI, the group notoriously used suicide bombs as their signature mode of attack.<sup>74</sup> According to some estimates, between 2000 and 2009, the predecessors of ISIS deployed 834 suicide bombs.<sup>75</sup> The Women in Terrorism dataset reveals that since 2003, sixty-two of those suicide attacks were carried out by women.<sup>76</sup>

Over time, the role of women as fighters has diminished significantly from when they were used by AQI; women were discouraged from fighting in jihad unless there was a significant threat or lack of male fighters.<sup>77</sup> However, in July 2017, ISIS released its official magazine and indicated that the time had come for women to “rise with courage and sacrifice in this war” and go to battle “not because of the small number of men but rather, due to

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69. Audrey Alexander, *Cruel Intentions: Female Jihadists in America*, GEO. WASH. U. PROGRAM ON EXTREMISM 1, 2 (2016) [extremism.gwu.edu/sites/g/files/zaxdzs2191/f/downloads/Female%20Jihadists%20in%20America.pdf](http://extremism.gwu.edu/sites/g/files/zaxdzs2191/f/downloads/Female%20Jihadists%20in%20America.pdf)

70. Amanda N. Spencer, *The Hidden Face of Terrorism: An Analysis of the Women in Islamic State*, 9 J. STRATEGIC SECURITY 74, 90 (2016). In a study of seventy-two female ISIS operatives, forty were “playing the role of a jihadist wife.” *Id.*

71. Elizabeth Pearson, *The Case of Roshonara Choudhry: Implications for Theory on Online Radicalization, ISIS Women, and the Gendered Jihad*, 8 POLY & INTERNET 1, 5 (2015).

72. Winter, *supra* note 55, at 8.

73. DAVIS, *supra* note 1.

74. *Id.*

75. *Id.*

76. *Id.*

77. Charlie Winter & Devorah Margolin, *The Mujahidat Dilemma: Female Combatants and the Islamic State*, 10 CTC SENTINEL 23, 25 (2017). “[J]ihadis have tended to coalesce around the view that women... should not engage in combative jihad — unless, that is, extenuating circumstances demand otherwise.” *Id.* at 24.

their love for jihad, their desire to sacrifice for the sake of Allah, and their desire for Jannah.”<sup>78</sup> This, however, is misleading, as the number of male fighters has dwindled since ISIS began to lose territory.<sup>79</sup> The Radicalization Awareness Network estimated in July 2017 that approximately thirty percent of the 5,000 European Union foreign fighters returned to their home countries.<sup>80</sup> Nevertheless, the deadly nature of the call to arms is in stark contrast to the narratives perpetuated by the media.

### C. Framing Narratives

Women are often seen as less suspicious than men because they are typically seen as nurturing and nonviolent.<sup>81</sup> Because the goals of destruction inherent in terrorism contrast so sharply with the traditional image of femininity, attacks carried out by females often generate more publicity for the terrorist organization.<sup>82</sup> However, Western media reports of these women often focus on their personal life rather than on their larger political goals.<sup>83</sup>

One example of a woman whose actions were diminished by the media was Muriel Degauque.<sup>84</sup> Degauque made headlines in 2005 when she completed a suicide bombing attack after converting to a radical form of Islam.<sup>85</sup> Notably, she was a Belgian-born woman — making her the “first European Muslim woman to stage a suicide attack.”<sup>86</sup> In English newspapers she was described as being “brainwashed” by her husband, and discredited because of her

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78. *Id.* at 23-24. The statements “seemed to suggest that the caliphate had at least rhetorically lifted its moratorium on female combatants.” *Id.*

79. RICHARD BARRETT, SOUFAN CTR. BEYOND THE CALIPHATE: FOREIGN FIGHTERS AND THE THREAT OF RETURNEES 1, 9 (Oct. 2017) (analyzing the threat of foreign fighters, specifically after ISIS began to retreat and lose territory in 2017).

80. *Id.* at 10 (noting, “[i]n some cases, for example in Denmark, Sweden and the United Kingdom, the number was closer to half. Earlier that year, in February, President Putin said that 10% of the 9,000 foreign fighters from Russia and former republics of the Soviet Union had returned”).

81. Christine Sixta, *The Illusive Third Wave: Are Female Terrorists the New “New Women” in Developing Societies?*, 29 J. WOMEN, POL. & POL’Y 261 (2008).

82. *Id.* News sources tend to flock to these female terrorists because the image of a young woman, who is supposed to be nurturing and peaceful, choosing to kill herself and others is particularly heinous to society. *Id.*

83. Nacos, *supra* note 4, at 438-39.

84. Katherine E. Brown, *Muriel’s Wedding: News Media Representations of Europe’s First Female Suicide Terrorist*, 14 EUR. J. CULTURAL STUD. 705, 710 (2011) (arguing, “in news reporting female suicide terrorists are frequently denied agency in the public sphere and become the ‘pawns’ of men”).

85. Nicholas Watt, *From Belgian Cul-de-sac to Suicide Bomber in Iraq*, GUARDIAN (Dec. 2, 2005), [www.theguardian.com/world/2005/dec/02/iraq.islam](http://www.theguardian.com/world/2005/dec/02/iraq.islam); Craig S. Smith, *Raised as Catholic in Belgium, She Died as a Muslim Bomber*, N.Y. TIMES (Dec. 6, 2005), [www.nytimes.com/2005/12/06/world/europe/raised-as-catholic-in-belgium-she-died-as-a-muslim-bomber.html](http://www.nytimes.com/2005/12/06/world/europe/raised-as-catholic-in-belgium-she-died-as-a-muslim-bomber.html).

86. Smith, *supra* note 85.

history of drug abuse, failed relationships, and sexual escapades.<sup>87</sup> Furthermore, she was frequently infantilized by the media.<sup>88</sup>

This portrayal is not unusual. Women who carry out terrorist attacks have been described as “lipstick martyrs”<sup>89</sup> and portrayed as only joining terrorist groups because their husbands or boyfriends did.<sup>90</sup> Reports of these women often focus on their personal life, rather than their larger political goals.<sup>91</sup> More recently, the women who join ISIS have been repeatedly referred to by Western media sources as “Jihadi Brides.”<sup>92</sup> Yet, research demonstrates the notion that romance and sex is the primary motive for female ISIS recruits simply holds no water.<sup>93</sup>

The media’s impact on society’s perception may be reflected through judges and lawyers, who are tasked with charging the females who commit terrorist attacks. Thus, an exploration of the sentencing and narratives behind the sentences is necessary to gain an understanding of the factors behind each sentence. In order to effectively understand the impact of the narratives, it is important to discuss the types of charges that terrorists face.

#### *D. Charges and Sentencing*

While everyone remembers the act of violence, lost in translation throughout all the chaos, are the charges that terrorists face after being intercepted by authorities. Two charges commonly overlooked by the public are (1) Providing Material Support to Terrorist Groups<sup>94</sup> and (2) Making False Material Statements.<sup>95</sup>

87. Brown, *supra* note 84, at 710.

88. *Id.* For instance, the media often focused on Degaugue’s husband and his involvement in her radicalization. *Id.* at 711. This implies that Degaugue’s actions were “the responsibility of a man” rather than of an autonomous woman. *Id.*

89. RABAB IBRAHIM ABDULHADI, ET AL., ARAB AND ARAB AMERICAN FEMINISMS: GENDER, VIOLENCE, AND BELONGING 44 (2011). The term “lipstick martyr” was coined by Western Media to refer to female suicide bombers. *Id.* The term has sexual connotations because the media seemed “more interested in the woman’s ‘plucked eyebrows’ and ‘ruby lips’ than in the causes and consequences of [the attack].” *Id.*

90. Nacos, *supra* note 4, at 438-41.

91. *Id.*

92. Meredith Loken & Anna Zelenz, *Explaining Extremism: Western Women in Daesh*, 3 EUR. J. INT’L SECURITY 45, 50 (2017) (explaining, “the media, frequently painting the *muhajirat* as ‘jihadi brides’, encourages this narrative. One Quilliam Foundation researcher notes that some women may view joining [ISIS] as a ‘romantic adventure’ where they have more options in choosing a like-minded partner than if they remained at home”).

93. *Id.* at 57 (noting, “[f]emale recruits acknowledge and reject Western governments’ and the media’s sexualisation of them. They firmly deny a ‘sexual jihad’ and chide Western commentators for accusing them of extramarital sex”).

94. Providing Material Support to Terrorists, 18 U.S.C. § 2339A (2018); Providing Material Support or Resources to Designated Foreign Terrorist Organizations, 18 U.S.C. § 2339B (2018).

95. Statements or Entries Generally, 18 U.S.C. § 1001 (2018).

### 1. *Material Support to Terrorist Groups*

A person commits the crime of providing material support to terrorist groups when they provide measures of aid to a terrorist organization.<sup>96</sup> Mere association or membership in a terrorist organization is not enough to be charged;<sup>97</sup> however, the statute does criminalize “aid that makes the [terrorist] attacks more likely to occur.”<sup>98</sup> This can encompass a variety of activities, from providing small monetary donations to a terrorist group<sup>99</sup> or committing a violent attack on behalf of the group.<sup>100</sup> Material support statutes have been the primary mode of terrorism prosecution for the U.S. Department of Justice since the September 11, 2001, terrorist attacks.<sup>101</sup> Judicial discretion is key in terrorism sentencing as the sentencing range itself is wide, from no mandatory minimum to a “maximum prison sentence of 20 years per count,” or life in prison if the offense caused a death.<sup>102</sup>

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96. 18 U.S.C. § 2339A (2018). “Material Support” is defined as providing “property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials” to terrorist organizations. *Id.*

97. *Holder v. Humanitarian Law Project*, 561 U.S. 1, 26 (2010) (reasoning that § 2339B does not violate the First Amendment because “[t]he statute does not prohibit independent advocacy or expression of any kind. Section 2339B also does not prevent [plaintiffs] from becoming members of the [terrorist organizations] or impose any sanction on them for doing so”) (internal quotations omitted).

98. *Id.* at 35.

99. Kelly Berkell, *Risk Reduction in Terrorism Cases: Sentencing and the Post-Conviction Environment*, 13 J. DERADICALIZATION 276, 286 (2017) (identifying, “individual efforts to raise small amounts of money to contribute to [a foreign terrorist organization], whether successful or not, would constitute material support violations”); George D. Brown, *Notes on a Terrorism Trial—Preventive Prosecution, “Material Support” and The Role of The Judge after United States v. Mehanna*, 4 HARV. NAT’L. SEC. J. 1, 3 (2013) (noting, “the problem is that the defendants found at one end of this spectrum will not have done all that much”).

100. Berkell, *supra* note 99, at 286 (explaining, “[o]n the opposite end of the spectrum, material support violations may involve more direct links to violence, and more extensive cooperation with violent extremist individuals or groups”).

101. David Cole, *Out of the Shadows: Preventive Detention, Suspected Terrorists, and War*, 97 CALIF. L. REV. 693, 723 (2009) (elaborating, “[a]lthough rarely enforced before 9/11, [§ 2339B] has since become a principal tool in the Justice Department’s ‘terrorism’ prosecutions”).

102. Berkell, *supra* note 99, at 310.

## 2. False Material Statements

The crime of making false material statements involves conveying deceptive or fraudulent statements to federal officials.<sup>103</sup> A statement is material if it could have influenced or misdirected a government investigator.<sup>104</sup> This particular charge is used to prosecute a variety of crimes, including white-collar offenses and, as analyzed here, terrorism offenses.<sup>105</sup> The charge itself has been used in terrorism-related offenses since the late 1990s, even though the maximum sentence at that time was five years.<sup>106</sup> In 2004, Congress expanded the maximum sentence for terrorism-related offenses under this charge to eight years, although federal courts have often maintained the maximum at five years — as dictated under the statute.<sup>107</sup>

Based on sentencing databases, these charges are among the most common charges that both males and females accused of terrorism face.<sup>108</sup> Thus, by analyzing the sentencing data surrounding the charges, the sentencing disparities between males and females will become clearer.

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103. *United States v. Mehanna*, 735 F.3d 32, 54 (1st Cir. 2013) (explaining that § 1001 “criminalizes [the act of] knowingly and willfully making any materially false, fictitious, or fraudulent statement to federal officials”).

104. *Id.* “To satisfy the materiality requirement of section 1001(a)(2), a statement must have a natural tendency to influence, or be capable of influencing, a governmental function. But the statement need not actually have influenced the governmental function. It is enough that the statement could have provoked governmental action.” *Id.* (internal citations omitted).

105. Andrea C. Halverson & Eric D. Olson, *False Statements and False Claims*, 46 AM. CRIM. L. REV. 555, 558 (2009). § 1001 has been used to prosecute government officials, health care executives, and terrorists. *Id.* (citing Dan Eggen & Julie Tate, *U.S. Campaign Produces Few Convictions on Terrorism Charges; Statistics Often Count Lesser Crimes*, WASH. POST (June 12, 2005), [www.washingtonpost.com/wpdyn/content/article/2005/06/11/AR2005061100381.html](http://www.washingtonpost.com/wpdyn/content/article/2005/06/11/AR2005061100381.html)).

106. Jeff Breinholt, *A Crime for All Seasons: 18 U.S.C. § 1001 and Counterterrorism*, 84 TENN. L. REV. 603, 608 (2017). For example, Ahmed Ressam was charged under § 1001 in late 1999. *Id.* He gave a false name to authorities after trying to enter the U.S. from Canada. *Id.* Authorities also found explosives in his car. *Id.*

107. *Id.* at 604-05 (explaining, “even though Congress has made those § 1001 violations involv[ing] international or domestic terrorism into a crime with an eight-year (as opposed to five-year) maximum sentence, courts seem to have not been shy about scrutinizing this enhancement when sought by prosecutors”) (internal quotations omitted).

108. *The Cases*, GW PROGRAM ON EXTREMISM, [www.extremism.gwu.edu/cases](http://www.extremism.gwu.edu/cases) (last visited Oct. 30, 2018); Trevor Aaronson & Margot Williams, *Trial and Terror*, INTERCEPT (Dec. 2019), [trial-and-terror.theintercept.com](http://trial-and-terror.theintercept.com).

### III. ANALYSIS

This section will analyze the sentencing data of both males and females charged with Material Support (18 U.S.C. § 2339A or § 2339B) and Making False Statements (18 U.S.C. § 1001). First, the section will begin by describing the process by which the sentencing data was obtained. Next, it will analyze the results of the data, generally. Then, it will evaluate cases of specific women and men who were convicted under these statutes and the comments that their attorneys, prosecutors, or judges made during the course of the sentencing. This will culminate in a comparison and analysis of the framing narratives revealed through the statements. This section will conclude with a discussion of the policy implications that arise from the findings.

#### A. Methodology

To begin the analysis of the sentencing data, this author researched the profiles and cases of 166 individuals charged with terrorism offenses in the U.S. between March 2014 and September 2018.<sup>109</sup> Of these 166 individuals, 10 were female offenders, and the rest were male.<sup>110</sup> First, the data set was narrowed to only include individuals who were charged under 18 U.S.C. § 1001 or 18 U.S.C. § 2339A or 2339B, the two most common charges.<sup>111</sup> Then, all offenders who had: (1) not been sentenced, (2) received only probation, and (3) were sentenced as juveniles were removed. Next, the data was narrowed to include only the offenders who pled guilty, as opposed to being found guilty or innocent by the jury. This was done because only one female, Noor Zahi Salman,<sup>112</sup> went before a jury, but she was acquitted.<sup>113</sup> The purpose of narrowing the data was to gain a more equitable data set. The resulting data set included 62 individuals total. Of those 62 individuals, nine were female. The final data set is as follows:

**Table: Sentencing Statistics Based on Sex and Charge**

Name	Sex	Months Sentenced	Charge
Abood, Bilal <sup>114</sup>	M	48	1001

109. *The Cases*, *supra* note 108.

110. *Id.*

111. 18 U.S.C. § 1001 (2018); 18 U.S.C. § 2339B (2018); *see id.* (listing all offenses).

112. Indictment, *United States v. Salman*, 6:17-cr-00018-ORL-40KRS 1 (M.D. Fla. Jan. 12, 2017); *The Cases*, *supra* note 108.

113. *The Cases*, *supra* note 108.

114. Criminal Complaint, *United States v. Abood*, 3-15-MJ-316 (N.D. Tex. May 13, 2015); *The Cases*, *supra* note 108.

Ahmed, Hamza Naj <sup>115</sup>	M	120	1001
Ali, Mohommad <sup>116</sup>	M	12	1001
Ali, Sumiya <sup>117</sup>	F	30	1001
Ali-Skelton, Abdul Raheem Habil <sup>118</sup>	M	38	1001
Castelli, Marie <sup>119</sup>	F	90	1001
Coffman, Heather Elizabeth <sup>120</sup>	F	54	1001
Greene, Daniela <sup>121</sup>	F	24	1001
Jackson, Robert Blake <sup>122</sup>	M	36	1001
Kodaimati, Mohamad Saeed <sup>123</sup>	M	96	1001
Patel, Shivam <sup>124</sup>	M	60	1001
Cornell, Christopher Lee <sup>125</sup>	M	360	2339
Queen, Michael <sup>126</sup>	M	24	1001
Blair, Alexander <sup>127</sup>	M	15	2339
Booker, John T. <sup>128</sup>	M	360	2339

115. Criminal Complaint, *United States v. Ahmed*, 15mj95 (SER) (D. Minn. Feb. 2, 2015); *The Cases*, *supra* note 108.

116. Information, *United States v. Ali*, 4:17 CR 87 (E.D. Tex. May 17, 2017); *The Cases*, *supra* note 108.

117. Information, *United States v. Ali*, 4:17 CR 86 (E.D. Tex. May 17, 2017); *The Cases*, *supra* note 108.

118. Criminal Complaint, *State of Minnesota v. Ali-Skelton*, 16A35047 (Minn. Mar. 29, 2016); *The Cases*, *supra* note 108.

119. Indictment, *United States v. Castelli*, 16-33-ART-CJS (E.D. Ky. Sept. 8, 2016); *The Cases*, *supra* note 108.

120. Criminal Complaint, *United States v. Coffman*, 3:14-mj-00369-DJN (E.D. Va. Nov. 14, 2014) [hereinafter *Coffman Criminal Complaint*]; *The Cases*, *supra* note 108.

121. Motion to Unseal and to Substitute Redacted Versions of Some Documents, *United States v. Greene*, 14-230(RC) (D. D.C. Apr. 17, 2015); *The Cases*, *supra* note 108.

122. Criminal Complaint, *United States v. Jackson*, 3:16mj143 (N.D. Fla. July 25, 2016); *The Cases*, *supra* note 108.

123. Criminal Complaint, *United States v. Kodaimati*, 15MJ1257 (S.D. Cal. Apr. 23, 2015); *The Cases*, *supra* note 108.

124. Criminal Complaint, *United States v. Patel*, 2:17mj354 (E.D. Va. June 30, 2017); *The Cases*, *supra* note 108.

125. Criminal Complaint, *United States v. Cornell*, 1:15mj-024 (S.D. Ohio, Jan. 14, 2015); *The Cases*, *supra* note 108.

126. Indictment, *United States v. Amri*, 1:17-cr-50 (E.D. Va. Apr. 18, 2017) [hereinafter *Amri Indictment*]; *The Cases*, *supra* note 108.

127. Criminal Complaint, *United States v. Blair*, 15-mj-5040-KGS (D. Kan. Apr. 10, 2015); *The Cases*, *supra* note 108.

128. Criminal Complaint, *United States v. Booker*, 15-mj-5039-KGS (D. Kan. Apr. 10, 2015); *The Cases*, *supra* note 108.

Brown, Avin Marsalis <sup>129</sup>	M	92	2339
Jordan, Akba Jihad <sup>130</sup>	M	108	2339
Juraboev, Abdurasul Hasanovich <sup>131</sup>	M	180	2339
Saidakhmetov, Akhror <sup>132</sup>	M	180	2339
Saleh, Munther Omar <sup>133</sup>	M	216	2339
Amin, Ali Shukri <sup>134</sup>	M	72	2339
Aziz, Jalil ibn Ameer <sup>135</sup>	M	160	2339
Conley, Shannon Maureen <sup>136</sup>	F	48	2339
Dakhlalla, Muhammad Oda <sup>137</sup>	M	96	2339
Daniels, Aaron T. <sup>138</sup>	M	80	2339
Davis, Leon Nathan, III <sup>139</sup>	M	180	2339
Edmonds, Hasan <sup>140</sup>	M	360	2339
Edmonds, Jonas <sup>141</sup>	M	252	2339
Farah, Adnan Abdihamid <sup>142</sup>	M	120	2339

129. Criminal Complaint, United States v. Brown, 5:14-MJ-1181-WW (E.D. N.C. Mar. 20, 2014); *The Cases, supra* note 108.

<sup>130</sup> Criminal Complaint, United States v. Brown, *supra* note 129; *The Cases, supra* note 108.

131. Criminal Complaint and Affidavit in Support of Arrest Warrant, United States v. Juraboev, 15MO172 (E.D. N.Y. Feb. 24, 2015); *The Cases, supra* note 108.

132. Criminal Complaint and Affidavit in Support of Arrest Warrant, United States v. Juraboev, *supra* note 131; *The Cases, supra* note 108.

133. Complaint, United States v. Saleh, 15M543 (E.D. N.Y. June 13, 2015); *The Cases, supra* note 108.

134. Sentencing, United States v. Amin, 1:15-cr-164-CMH (E.D. Va. Aug. 28, 2015); *The Cases, supra* note 108.

135. Criminal Complaint, United States v. Aziz, 1:15-MJ-81 (M.D. Pa. Dec. 17, 2015); *The Cases, supra* note 108.

136. Criminal Complaint, United States v. Conley, 14-mj-01045-KLM (D. Colo. 2014) [hereinafter *Conley Criminal Complaint*]; *The Cases, supra* note 108.

137. Criminal Complaint, United States v. Young, 3:15MJ32-SAA (E.D. Va. Aug. 2, 2016) [hereinafter *Young Complaint*]; *The Cases, supra* note 108.

138. Criminal Complaint, United States v. Daniels. 2:16-mj-534 (S.D. Ohio Nov. 7, 2016); *The Cases, supra* note 108.

139. Indictment, United States v. Davis, CR 115-059 (S.D. Ga. May 27, 2015); *The Cases, supra* note 108.

140. Criminal Complaint, United States v. Edmonds, 15 CR 149 (N.D. Ill. Mar. 25, 2015); *The Cases, supra* note 108.

141. Criminal Complaint, United States v. Edmonds, *supra* note 140; *The Cases, supra* note 108.

142. Superseding Indictment, United States v. Ahmed, 15-49 (MJD/FLN) (D. Minn. Apr. 4, 2015) [hereinafter *Ahmed Superseding Indictment*]; *The Cases, supra* note 108.

Farrokh, Joseph Hassan <sup>143</sup>	M	102	2339
Jalloh, Mohamed Bailor <sup>144</sup>	M	132	2339
Khan, Mohammed Hamza <sup>145</sup>	M	40	2339
Lutchman, Emanuel <sup>146</sup>	M	240	2339
Musse, Hanad Mustafe <sup>147</sup>	M	120	2339
Natsheh, Islam Said <sup>148</sup>	M	60	2339
Qamar, Haris <sup>149</sup>	M	102	2339
Sayyed, Aziz <sup>150</sup>	M	180	2339
Teausant, Nicholas <sup>151</sup>	M	144	2339
Thomas, Keonna <sup>152</sup>	F	96	2339
Elshinawy, Mohamed <sup>153</sup>	M	240	2339, 1001
Al Hardan, Omar Faraj Saeed <sup>154</sup>	M	192	2339, 1001
Saadeh, Alaa <sup>155</sup>	M	180	2339
Rovinski, Nicholas <sup>156</sup>	M	180	2339
Christian, Dayne Atani <sup>157</sup>	M	96	2339

143. Criminal Complaint, United States v. Farrokh, 1:16-mj-24 (E.D. Va. Jan. 15, 2016); *The Cases, supra* note 108.

144. Criminal Complaint, United States v. Jalloh, 1:16-mj-296 (E.D. Va. July 3, 2016); *The Cases, supra* note 108.

145. Criminal Complaint, United States v. Khan, H15-712m (N.D. Ill. Oct. 6, 2014); *The Cases, supra* note 108.

146. Criminal Complaint, United States v. Lutchman, 15-mj-4212 (W.D. N.Y. Dec. 30, 2015); *The Cases, supra* note 108.

147. Superseding Indictment, United States v. Ahmed, *supra* note 142; *The Cases, supra* note 108.

148. Criminal Complaint, United States v. Natsheh, CR 16 166 (N.D. Cal. Apr. 10, 2016); *The Cases, supra* note 108.

149. Criminal Complaint, United States v. Qamar, 1:16mj-300 (E.D. Va. July 7, 2015); *The Cases, supra* note 108.

150. Criminal Complaint, United States v. Sayyed, DC17-3663 (D. Ala. June 15, 2017); *The Cases, supra* note 108.

151. Criminal Complaint, United States v. Teausant, 2:14-mj-0064 (E.D. Cal. Mar. 17, 2014); *The Cases, supra* note 108.

152. Criminal Complaint, United States v. Thomas, 15-417-m (E.D. Pa. Apr. 3, 2015); *The Cases, supra* note 108.

153. Criminal Complaint, United States v. Elshinawy, 15-2716 TJS (D. Md. Dec. 11, 2015); *The Cases, supra* note 108.

154. Indictment, United States v. Hardan, 16 CR 003 (S.D. Tex. Jan. 6, 2016); *The Cases, supra* note 108.

155. Criminal Complaint, United States v. Saadeh, 15-7200 (CLW) (D. N.J. Aug. 1, 2015); *The Cases, supra* note 108.

156. Superseding Indictment, United States v. Wright, 15-10153-WGY (D. Mass. Apr. 21, 2016); *The Cases, supra* note 108.

157. Criminal Complaint, United States v. Hubbard, 16-3010-CMM (S.D. Fla. July 22, 2016); *The Cases, supra* note 108.

Hubbard, Gregory <sup>158</sup>	M	144	2339
Amri, Soufian <sup>159</sup>	M	24	1001
McCain, Marchello Dsaun <sup>160</sup>	M	120	1001
McCollum, Robert <sup>161</sup>	M	192	2339
Ramic, Jasminka <sup>162</sup>	F	36	2339
Elfgeeh, Mufid <sup>163</sup>	M	270	2339
Elhassan, Mahmoud Amin Mohamed <sup>164</sup>	M	132	2339
Abdurahman, Zacharia Yusuf <sup>165</sup>	M	120	2339
Topaz, Samuel Rahamin <sup>166</sup>	M	96	2339
Van Haften, Joshua Ray <sup>167</sup>	M	120	2339
Warsame, Abdirizak <sup>168</sup>	M	30	2339
Williams, Lionel Nelson <sup>169</sup>	M	240	2339
Wolfe, Michael Todd <sup>170</sup>	M	82	2339
Yassin, Safya Roe <sup>171</sup>	F	108	2339
Young, Jaelyn Delshaun <sup>172</sup>	F	144	2339

158. Criminal Complaint, United States v. Hubbard, *supra* note 157; *The Cases, supra* note 108.

159. *Amri Indictment, supra* note 126; *The Cases, supra* note 108.

160. Indictment, United States v. McCain, 15CR0174W (S.D. Cal. Jan. 15, 2016); *The Cases, supra* note 108.

161. Indictment, United States v. Al-Ghazi, 1:15 CR 268 (E.D. Ohio July 16, 2015); *The Cases, supra* note 108.

162. Indictment, United States v. Hodzic, 4:15CR00049 CDP/DDN (E.D. Mo. Feb. 5, 2015); *The Cases, supra* note 108.

163. Application for a Search Warrant, In the Matter of the Search of WhatsApp Messenger, 14-MJ-635 (W.D. N.Y. Aug. 6, 2014); *The Cases, supra* note 108.

164. Criminal Complaint, United States v. Elhassan, 1:16-mj-25 (E.D. Va. Jan. 16, 2016) [hereinafter *Elhassan Complaint*]; *The Cases, supra* note 108.

165. *Ahmed Superseding Indictment, supra* note 142; *The Cases, supra* note 108.

166. Criminal Complaint, United States v. Topaz, 15-7189 (CLW) (D. N.J. June 18, 2015); *The Cases, supra* note 108.

167. Complaint for Violation of Title 18, United States Code, Section 2339B, United States v. Haften, 14-mj-130 (W.D. Wis. Oct. 28, 2014); *The Cases, supra* note 108.

168. Criminal Complaint, United States v. Warsame, 15-mj-978 HB (D. Minn. Dec. 9, 2015); *The Cases, supra* note 108.

169. Superseding Indictment, United States v. Williams, 2:17cr1 (E.D. Va. July 6, 2017); *The Cases, supra* note 108.

170. Criminal Complaint, United States v. Wolfe, A-14-M-288 (W.D. Tex. June 18, 2014); *The Cases, supra* note 108.

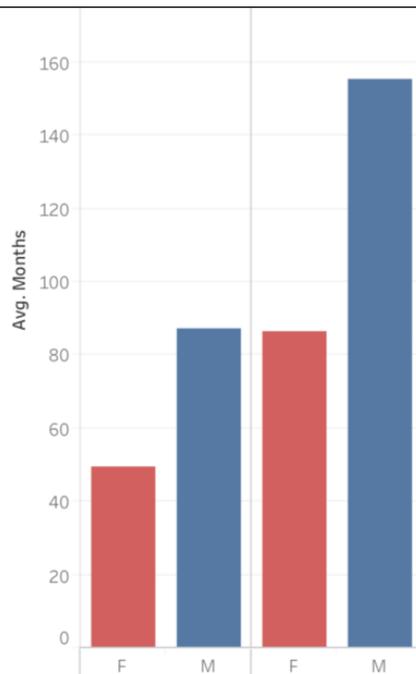
171. Criminal Complaint, United States v. Yassin, 16-mj-2009 DPR (W.D. Mo. Feb. 17, 2016); *The Cases, supra* note 108.

172. *Young Complaint, supra* note 137; *The Cases, supra* note 108.

Yusuf, Abdullahi <sup>173</sup>	M	22	2339
Raishani, Saddam <sup>174</sup>	M	240	2339

### B. Data Analysis

**Graph: Visualizing Sentencing Averages Based on Sex and Charge**



Although the data set is rather skewed due to the greater number of males in the set, it is crucial to note that the disparities in sentencing are stark, even when comparing males and females who committed similar crimes. The average sentence for females was 49.5 months for 18 U.S.C. § 1001 offenses. The average sentence for males was 87.2 months for 18 U.S.C. § 1001 offenses. The total average disparity is 34.7 months. The average sentence for females for §2339 offenses is 86.4 months. The average sentence for males

under §2339 is 155.2 months. The total average disparity is 68.8 months.

### C. Narratives

After the analysis was completed, several descriptions surrounding the women demonstrated the prevalence of framing narratives within the legal field when it comes to female terrorists. In particular, three primary narratives come to light when

173. Criminal Complaint, *United States v. Yusuf*, 14-MJ-1024 (JSM) (D. Minn. Nov. 24, 2014); *The Cases*, *supra* note 108.

174. Complaint, *United States v. Raishani*, 17-MAG-4763 (S.D. N.Y. June 22, 2017) [hereinafter *Raishani Complaint*]; *The Cases*, *supra* note 108.

examining the rhetoric: infantilization, reliance on male ISIS members, and parental responsibilities.

### 1. *Infantilization*

First, women who commit terrorism offenses are often infantilized. Infantilization refers to the practice of comparing women to children.<sup>175</sup> According to sociological research, the term “girl” evokes a “cutesy, submissive quality, whereas ‘woman’ seems to embody responsibility and independence.”<sup>176</sup> The effect of infantilization denies the female offenders’ autonomy for their actions.<sup>177</sup> Instead, the rhetoric surrounding the offenses invokes a conception of an immature, rash individual, rather than one who is able to understand the consequences of her actions.<sup>178</sup>

### 2. *Reliance on Male ISIS members*

Second, the women are described as being motivated by nothing more than a search for love, or a desire to end their isolation. Much like the infantilization discussed previously, the representation of females as naïve strips them of their autonomy. As noted earlier, there is a common misperception that women who join ISIS are motivated “only by love and marriage.”<sup>179</sup> Essentially, this means that they are perceived as “victims in need of protection rather than aggressors to be punished,” because the women are framed as being duped by a smooth-talking male terrorist.<sup>180</sup> Additionally, this has the effect of making the female offenders appear non-threatening or less likely to commit violence in the

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175. Robin Lakoff, *Language, Gender, and Politics: Putting “Women” and “Power” in the Same Sentence*, in HANDBOOK LANGUAGE & GENDER 161, 173 (Janet Holmes & Miriam Meyerhof eds., 2003). Women are often compared to “children and airheads, interested not in issues but in clothes, sex, and childish things.” *Id.*

176. Chelsae R. Huot, *Language as a Social Reality: The Effects of the Infantilization of Women*, 72 ELECTRONIC THESES & DISSERTATIONS 1, 40 (2013).

177. See Brown, *supra* note 84, at 170 (describing the effect of Muriel Degaugue’s infantilization by the media).

178. Hout, *supra* note 176, at 44 (addressing the fact that “[t]he term ‘girl’ reminded people of youth and immaturity, whereas ‘woman’ reminded people of an older, mature adult”).

179. Jamie Grierson, *ISIS Women Driven by More than Marriage, Research Shows*, GUARDIAN (Nov. 3, 2019), [www.theguardian.com/uk-news/2019/nov/03/isis-women-driven-by-more-than-marriage-research-shows](http://www.theguardian.com/uk-news/2019/nov/03/isis-women-driven-by-more-than-marriage-research-shows) (describing a recent guidance compiled by the counter-extremist think tank, the Institute for Strategic Dialogue, on the motivations of female terrorists).

180. Rachael E. Collins, *‘Beauty and Bullets’: A Content Analysis of Female Offenders and Victims in Four Canadian Newspapers*, 52 J. SOC. 296, 298 (2014).

future than their male counterparts.<sup>181</sup> This portrayal is also exacerbated by the dramatized representation of women as “jihadi brides” or “black widows” in the media.<sup>182</sup> By depicting women as being duped by their lovers, the Western news significantly undercuts the participation of these women. In turn, “the policies that many Western governments and judicial institutions pursue impress upon the public that migration is not a choice Western woman would voluntarily make.”<sup>183</sup> The narrative that women are pawns of men frequently denies their agency and undermines the consequences of their actions.<sup>184</sup>

### 3. Parental Responsibilities

The third common framing device is that of parental responsibilities—or the abandonment of those responsibilities. Parental responsibilities are often seen among the most important roles of a woman in society, so much so that motherhood becomes an “enforced identity and political institution.”<sup>185</sup> Interestingly, “[m]otherhood, like sexuality, plays a critical role in women’s subordination,” in society, because mothers are expected to be completely selfless.<sup>186</sup>

Generally, parental responsibilities impact sentencing in two main ways. First, courts are “reluctant to deprive children of a provider or caregiver.”<sup>187</sup> Second, and in contrast, the criminal justice system often punishes women who “deviate from appropriate female behavior.”<sup>188</sup> This is particularly relevant because women are often expected to be nurturing and non-violent.<sup>189</sup>

Overall, the combination of these narratives disparagingly contribute to the relative lack of consequences for women who commit terrorism crimes. Not only do the narratives undermine the criminal justice system due to their propensity to decrease the

181. *Id.* at 307.

182. Mia Bloom, *Bombshells: Women and Terrorism*, 28 GENDER ISSUES 1 (2011); Maura Conway & Lisa McNerney, *What’s Love Got to Do With it? Framing ‘JihadJane’ in the US Press*, 5 MEDIA, WAR, & CONFLICT 6 (2012).

183. Meredith Loken & Anna Zelenz, *Explaining Extremism: Western Women in Daesh*, 3 EUR. J. INT’L SECURITY 45, 49 (2017).

184. See Nacos, *supra* note 4 (describing the media’s portrayal of Degauque).

185. Dorothy E. Roberts, *Motherhood and Crime*, 79 IOWA L. REV. 95, 96-97 (1993).

186. *Id.* at 96-103; see also Brittanie Aiello & Krista McQueeney, “How Can You Live Without Your Kids?”: *Distancing from and Embracing the Stigma of ‘Incarcerated Mother,’* 3 J. PRISON EDUC. & REENTRY 32, 34 (2016) (explaining the concept of “intensive mothering,” which describes the “impossible expectations placed on mothers.” The demands placed on mothers include being “personally selfless, financially expensive, and emotionally consuming caregiving”).

187. Roberts, *supra* note 185, at 105.

188. *Id.* at 107.

189. Sixta, *supra* note 81.

agency of a large sub-set of offenders, the disparities also create a flaw in counterterrorism and deradicalization efforts.

### *D. Individual Profiles*

In order to identify why sentences for females who committed the same exact crimes as males are lower, the rhetoric of the legal professionals involved in these cases must be examined. This is because the motives and reasoning behind the sentence can only be determined by analyzing the rationale mentioned by the prosecutors, defense attorneys, and judges who were assigned to the case.

In order to gain this understanding, documents and statements made by the legal professionals were analyzed for four of the women—Heather Elizabeth Coffman, Daniela Greene, Shannon Maureen Conley, and Keonna Thomas. These women were chosen based on the accessibility of the aforementioned statements. Additionally, men with similar charges were also analyzed alongside the women, specifically Mahmoud Amin Mohamed Elhassan, Ikaika Erik Kang, Hamza Naj Ahmed, and Saddam Raishani. These men were chosen based on their cases' factual similarities to the female offenders' cases.

This section will explore the cases individually, then it will discuss the sentencing disparities between the pairs. In the discussion of sentencing disparities, this section will also provide insight into which narratives played a role in the sentences of the individuals.

#### *1. Comparison: Heather Coffman & Mahmoud Amin Mohamed Elhassan*

##### *a. Heather Coffman*

Heather Elizabeth Coffman was a thirty-year-old Virginia resident who was charged with making false statements.<sup>190</sup> She caught the eye of agents in the Federal Bureau of Investigation (FBI) when she began posting pro-ISIS messages on her Facebook account.<sup>191</sup> When an undercover agent made contact with her, Coffman “indicated that she had legitimate ISIS facilitator contacts, capable of arranging for training and entry into Syria to join the

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190. *Coffman Criminal Complaint*, *supra* note 120, at 2; Defendant's Position on Sentencing at 6, United States v. Coffman, 3:15-cr-00016-JAG (E.D. Va. Apr. 27, 2015) [hereinafter *Coffman Defendant's Position on Sentencing*].

191. *Coffman Criminal Complaint*, *supra* note 120, at 3-4 (for example, Coffman posted “two images with the word ‘WE ARE ALL ISIS, ISLAMIC STATE OF IRAQ & SHAM’” on June 23, 2014 and when asked about the pro-ISIS photos on her page by another Facebook user, she responded “I love ISIS!”).

ISIS cause.”<sup>192</sup> She then offered to share her contact’s information with the undercover agent.<sup>193</sup> The criminal complaint also focused on her relationship with “N.A.,” a man that she claimed to be married to.<sup>194</sup> On November 13, 2014, Coffman was caught lying to FBI agents about her communications with the undercover agent.<sup>195</sup>

Coffman’s defense attorney, Mary E. Maguire, made the argument that “it is evident from a review of her childhood that she embraced various trends and that she has always been attracted to ‘bad-boys.’”<sup>196</sup> Maguire explained that the “love” Coffman felt for N.A. and “her efforts to support and please” him explained why she protected N.A. by making false statements to the federal agents.<sup>197</sup> Coffman, according to her defense attorney, was “isolated from the ‘real world’” due to her social media and video game habits; she was in search of “a genuine friend.”<sup>198</sup> Perhaps most striking was Maguire’s description that “the essence of this crime reflects a young, naïve woman who got caught up in a cause and acted and spoke without appreciating the seriousness of her actions.”<sup>199</sup> Maguire elaborated that Coffman “became obsessed with ISIS like she had become obsessed with the preppy and goth trends.”<sup>200</sup> At sentencing, Maguire stated her argument clearly: “I think she never understood the gravity of what she was doing until it was too late.”<sup>201</sup>

Likewise, prosecutors implied that while Coffman was hardly a casual ISIS supporter,<sup>202</sup> her primary motivation, at least in the

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192. *Id.* at 7.

193. *Id.* at 8.

194. *Id.* at 5 (noting that “[o]n July 25, 2014 a confederate referred to hereafter as N.A., with whom Coffman claimed to be married to, posted that he hoped their future son would be ‘Mujahedeen.’ COFFMAN said that this son would ‘go with’ N.A. and that COFFMAN supports N.A. ‘whutever you want to do’”).

195. *Id.* at 10 (specifying that “COFFMAN was asked whether UC supported ISIS or Al-Qaeda. COFFMAN told the FBI special agents ‘We don’t talk about things like that’” among other false statements).

196. *Coffman Defendant’s Position on Sentencing*, *supra* note 190, at 6.

197. *Id.* at 8-9 (explaining that for Coffman and N.A. the common interest in joining ISIS “meant they were in love . . . In her efforts to support and please the man she thought would one day be her husband, Ms. Coffman sent approximately \$1,500 to N.A. for personal and family expenses, which depleted her financially”).

198. *Id.* at 6.

199. *Id.* at 9.

200. *Id.* at 9.

201. Frank Green, *Henrico Woman, Ex-ISIS Supporter, Sentenced for Lying to FBI*, RICHMOND TIMES-DISPATCH (May 11, 2015), [www.richmond.com/news/local/crime/henrico-woman-ex-isis-supporter-sentenced-for-lying-to-fbi/article\\_a79fcb93-ecdd-5547-84a8-11b095bbe207.html](http://www.richmond.com/news/local/crime/henrico-woman-ex-isis-supporter-sentenced-for-lying-to-fbi/article_a79fcb93-ecdd-5547-84a8-11b095bbe207.html).

202. Position of the United States on Sentencing, *United States v. Coffman*, 3:15-cr-00016-JAG at 3 (E.D. Va. Apr. 27, 2015) [hereinafter *Coffman Position of the United States on Sentencing*] (arguing, “[t]he defendant’s online activities were neither casual nor infrequent. Her online presence was significant. She had at least 10 separate Facebook accounts with male and female pseudonyms

beginning, was her lust for N.A.<sup>203</sup> The government emphasized that Coffman’s “online activities were not mere fantasy or role-playing,” and that she was trying to lend support to ISIS through her “online, romantic relationship.”<sup>204</sup> In its sentencing memorandum, the government also noted that Coffman “has a seven year-old son from a prior relationship” but that her mental health was concerning.<sup>205</sup> Due to her cooperation, the government requested a sentence of 57 months.<sup>206</sup>

During sentencing, Judge John A. Gibney chastised Coffman for lying, stating “her lies were just as blatant and as two-faced as you can imagine,” before expressing his hope that she “has learned her lesson from this.”<sup>207</sup> He also stated that her lies were “not like lying to your parents about who broke the lamp.”<sup>208</sup> In the end, Coffman was sentenced to fifty-four months imprisonment for her false statements.<sup>209</sup>

Notably, upon her release, Coffman quickly took up social media again.<sup>210</sup> Her first post was, “I’m home.”<sup>211</sup> This was later followed up by several images and messages — some identified as ISIS propaganda — which advocated for women to dress more conservatively.<sup>212</sup>

#### b. Mahmoud Amin Mohamed Elhassan

Mahmoud Amin Mohamen Elhassan was a twenty-five-year-old resident of Virginia when he was arrested and charged with providing material support.<sup>213</sup> Elhassan first caught the attention of the FBI when he began corresponding with a confidential informant who he believed was connected with ISIS.<sup>214</sup> Elhassan

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and each time Facebook terminated an account for violating the terms of service, she created a new one”).

203. *Id.* at 5 (explaining how Coffman engaged in a romantic relationship with N.A., an ISIS militant, convinced his family to approve of his plans to be a martyr, and facilitated his travels to Syria until he backed out).

204. *Id.*

205. *Id.* at 8.

206. *Id.* at 11.

207. Green, *supra* note 201.

208. *Virginia Woman Sentenced for Lying about ISIS Bomb Plot*, CBS (May 11, 2015), [www.cbsnews.com/news/virginia-woman-sentenced-for-lying-about-isis-bomb-plot/](http://www.cbsnews.com/news/virginia-woman-sentenced-for-lying-about-isis-bomb-plot/).

209. *The Cases*, *supra* note 108.

210. Jessica Donati, *U.S. Prisons Allow Extremism to Fester, Study Warns*, WALL ST. J. (Feb. 6, 2018), [www.wsj.com/articles/u-s-prisons-allow-extremism-to-fester-study-warns-1517930107](http://www.wsj.com/articles/u-s-prisons-allow-extremism-to-fester-study-warns-1517930107).

211. *Id.*

212. *Id.*

213. *Elhassan Complaint*, *supra* note 164, at 3.

214. *Id.* at 4 (noting that Elhassan began corresponding with the confidential informant in August 2015 and that the conversations were corroborated by “electronic and other means”).

was searching for someone to help his friend travel to Syria.<sup>215</sup> Elhassan stated that he knew that his friend was intending to join ISIS.<sup>216</sup> When FBI agents confronted him, Elhassan told them that his friend was going to California to attend a funeral and would be gone for two weeks.<sup>217</sup> He was eventually sentenced to 132-months imprisonment.<sup>218</sup>

During a court hearing, United States Magistrate Judge Ivan D. Davis referred to Elhassan as someone who exhibited a “complete lack of honesty.”<sup>219</sup> To the same point, the government stated in its sentencing memorandum that Elhassan “chose allegiance to the Islamic State cause over allegiance to the truth.”<sup>220</sup> In describing him, the government invoked imagery of other terrorist attacks by pointing out the U.S. “has seen firsthand the horrific carnage wrought by ‘lone wolf’ criminals acting in the name of Islamic terrorism.”<sup>221</sup> This statement fits with the government’s characterization that Elhassan’s “pattern of criminal, anti-social activity” demonstrates that he “has no respect for the rule of law.”<sup>222</sup>

In contrast to the government, Elhassan’s attorneys, Thomas Durkin and Stuart Spears, focused on the “extraordinary emotional upheaval” Elhassan faced to explain why he was “was drawn in his crisis and despair to ISI[S]’s simplistic credo.”<sup>223</sup> In particular, the attorneys argued that his abusive upbringing—and resulting depression and post-traumatic stress disorder—shaped Elhassan’s worldview, culminating in the “terribly misguided decision.”<sup>224</sup> In

215. *Id.* (describing that specifically, Elhassan was searching for someone to help his friend get to “Dawlah”—which referred to ISIS).

216. *Id.* at 10 (explaining that “Elhassan knew of Farrokh’s plans to travel to Syria to join ISIL. Elhassan made statements acknowledging that Farrokh was falsely telling his family that he intended to travel to Saudi Arabia to study”).

217. *Id.* at 12 (explaining that “Elhassan verbally acknowledged to the interviewing agents more than once that he knew it was illegal to knowingly lie to federal agents. He then proceeded to make a number of false statements in response to the agents’ questions”).

218. *The Cases*, *supra* note 108.

219. Matt Zapotosky, *Judge Threatens To Jail Lawyer For Va. Man Accused In Friend’s Bid To Join ISIS*, WASH. POST (Jan. 27, 2016), [www.washingtonpost.com/local/public-safety/judge-threatens-to-jail-lawyer-at-hearing-for-virginia-man-accused-in-plot-to-help-friend-join-isis/2016/01/27/3afe1ef0-c524-11e5-a4aa-f25866ba0dc6\\_story.html](http://www.washingtonpost.com/local/public-safety/judge-threatens-to-jail-lawyer-at-hearing-for-virginia-man-accused-in-plot-to-help-friend-join-isis/2016/01/27/3afe1ef0-c524-11e5-a4aa-f25866ba0dc6_story.html) (clarifying that the magistrate judge concluded, “that while Elhassan might not be a danger to the community, he had demonstrated a ‘complete lack of honesty’ and was a risk not to show up at future court hearings”).

220. United States’ Memorandum in Aid of Sentencing, *United States v. Elhassan*, 1:16cr00064 (AJT) at 20 (E.D. Va. Feb. 21, 2017) [hereinafter *Elhassan Government Sentencing Memorandum*].

221. *Id.* at 2.

222. *Id.* at 5.

223. Defendant’s Position Paper & Commentary on Sentencing Factors, *United States v. Elhassan*, 1:16-cr-00064 at 14 (E.D. Va. Feb. 17, 2017) [hereinafter *Elhassan Defendant’s Sentencing Memorandum*].

224. *Id.* at 2-8.

response to the stress of his youth, Elhassan turned to the “faith community [which] provided Mr. Elhassan with a much needed sense of purpose and comradery,” but that did nothing to “resolve his increasingly severe depression,” according to the attorneys.<sup>225</sup> In sum, the defense attorneys, like Coffman’s attorney, emphasized Elhassan’s isolation and desperation for understanding.<sup>226</sup>

c. Sentence Comparison

It is important to note the similarities between Coffman and Elhassan. Both were facilitating their friends’ travels, and both made false statements to federal agents. Neither made any attempts to travel on their own. However, Elhassan was charged with the crime of material support and received over double the sentence that Coffman received. The resulting disparity is seventy-eight months, or six and a half years.

One factor behind this disparity could be the role of the infantilization narrative. Coffman was described as “young” and her attorney made several remarks about how she acted like a teenager in that she was looking for a new “trend” to follow.<sup>227</sup> Her attorney also emphasized that Coffman did not seem to understand the seriousness of her actions.<sup>228</sup> The judge even compared her case to children lying to their parents.<sup>229</sup> The effect of this infantilization is that Coffman is portrayed as immature and childlike, someone who cannot appreciate the consequences of her actions.

The infantilizing effect is evident when compared to her counterpart, Mahmoud Elhassan. Often, his case was described using violent imagery and comparisons to other deadly attacks.<sup>230</sup> More importantly, he was described as someone who “*chose* allegiance to the Islamic State cause over allegiance to the truth.”<sup>231</sup> In stark contrast to Coffman, Elhassan’s actions were a *choice* rather than a product of immaturity. In other words, Elhassan was given more autonomy and responsibility over his actions.

In this light, the additional six-and-a-half-year sentence disparity is understandable because his “adult” choices are more serious than those of Coffman, who is treated as though she simply does not know any better. This infantilizing rhetoric does nothing but detract from the agency of Coffman.

The theme of searching for a relationship appears frequently in the rhetoric used in the cases of women. Coffman was framed as a lovesick girl who was attracted to “bad boys,” but her habits made

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225. *Id.* at 12.

226. *Id.* at 14.

227. *Coffman Defendant’s Position on Sentencing*, *supra* note 190, at 6-9.

228. Green, *supra* note 201.

229. *Id.*

230. *Elhassan Government Sentencing Memorandum*, *supra* note 220, at 2.

231. *Id.* at 20.

her “isolated from the ‘real world.’”<sup>232</sup> This seemingly led to her willingness to play a supportive role for N.A., with whom she was romantically involved.<sup>233</sup> Later, her isolation made her help the undercover FBI agent because she was in search of a “genuine friend.”<sup>234</sup> The isolation, in other words, operated as a scapegoat for her actions.

Interestingly, a variant of this narrative appeared in Elhassan’s framing, when it was argued that his faith community seemed to give him “a much-needed sense of purpose and comradery,” as a way of showing that he had positive relationships in his life.<sup>235</sup> On the other hand, however, the government countered this assertion by pointing out his isolation, or “anti-social activity,” as evidence of his dangerous character.<sup>236</sup> In fact, the isolation added to the government’s earlier invocation of lone wolf attacks on American soil.<sup>237</sup>

Unwittingly, the framing of women as being reliant on males appears to provide a significant strategic advantage for female terrorists. By the very virtue of being woman, the female terrorists are subject to much less scrutiny.<sup>238</sup> Because they are unassuming and arouse less suspicion than males, women are easily able to smuggle weapons to a terrorist group or conceal bombs during a suicide attack.<sup>239</sup> More than that, it allows female offenders the opportunity to recidivate without much scrutiny — as demonstrated by Coffman’s post-imprisonment Facebook posts.<sup>240</sup>

## 2. *Comparison: Daniela Greene & Ikaika Erik Kang*

### a. Daniela Greene

Daniela Greene was a married FBI contract linguist from Czechoslovakia working in Detroit in 2014.<sup>241</sup> She was thirty-eight years old and fluent in German.<sup>242</sup> Her mission was to investigate

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232. *Coffman Defendant’s Position on Sentencing*, *supra* note 190, at 6-9.

233. *Id.*

234. *Id.* at 6.

235. *Elhassan Defendant’s Sentencing Memorandum*, *supra* note 223.

236. *Elhassan Government Sentencing Memorandum*, *supra* note 220, at 5.

237. *Id.* at 2.

238. Nacos, *supra* note 4.

239. Sixta, *supra* note 81; Deborah M. Galvin, *The Female Terrorist: A Socio-Psychological Perspective*, 1 BEHAV. SCI. & L. 19 (1983).

240. Donati, *supra* note 210.

241. *FBI Woman Went To Syria To Wed IS Recruiter She Investigated*, BBC (May 2, 2017), [www.bbc.com/news/world-us-canada-39783511](http://www.bbc.com/news/world-us-canada-39783511); Affidavit in Support of Criminal Complaint, United States v. Greene, 1:14-cr-00230-RC at 4 (2015) [hereinafter *Greene Supporting Affidavit*].

242. *FBI Woman Went To Syria To Wed IS Recruiter She Investigated*, *supra* note 241.

German rapper and ISIS recruiter, Denis Cuspert.<sup>243</sup> Cuspert had appeared in at least one ISIS propaganda video holding a “freshly decapitated human head.”<sup>244</sup> About six months later, Greene went to Syria to marry him.<sup>245</sup> She ultimately lied to FBI agents about where she was traveling to and told Cuspert that he was the subject of an FBI investigation.<sup>246</sup> Shortly thereafter, Greene got cold feet and decided to return to the U.S.<sup>247</sup> She was charged with making false statements and was sentenced to twenty-four months imprisonment.<sup>248</sup>

As one reporter noted, the “Justice Department prosecutors... charged her with a relatively minor offense, then asked a judge to give her a reduced sentence in exchange for her cooperation,” despite the national security threat that Greene’s actions posed.<sup>249</sup> Her defense attorney, Shawn Moore, described Greene as “smart, articulate and obviously naïve.”<sup>250</sup> He followed that statement up by saying that “[s]he was just a well-meaning person that got up in something way over her head.”<sup>251</sup> The government, in its sentencing memorandum, described how “[h]er escape from the area unscathed, and with much of [her national security knowledge] undisclosed, appears to be a stroke of luck or measure of the lack of savvy on the part of the terrorists with whom she interacted.”<sup>252</sup>

#### b. Ikaika Erik Kang

Before he was charged with providing material support to a terrorist organization, Ikaika Erik Kang was a Sergeant First Class in the United States Army.<sup>253</sup> He was charged with providing

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243. *Id.*

244. *Id.*

245. *Id.*

246. Scott Glover, *The FBI Translator Who Went Rogue and Married An ISIS Terrorist*, CNN (May 1, 2017), [www.cnn.com/2017/05/01/politics/investigates-fbi-syria-greene/index.html](http://www.cnn.com/2017/05/01/politics/investigates-fbi-syria-greene/index.html); *Greene Supporting Affidavit*, *supra* note 241, at 4 (explaining, “GREENE told her FBI supervisor and the Chief Security Officer at the Indianapolis Division of the FBI that she intended to travel to Germany to see her family on June 21, 2014”).

247. *Greene Supporting Affidavit*, *supra* note 241, at 6. Greene wrote, “[s]ometimes I wish I could just come back I wouldn’t even know how to make it through if I tried to come back.” *Id.*

248. *The Cases*, *supra* note 108.

249. Glover, *supra* note 246.

250. *Id.*

251. *Id.*

252. Government’s Motion for Departure and Memorandum in Aid of Sentencing, *United States v. Greene*, 14-CR-230 at 8 (D.D.C. Apr. 17, 2015) [hereinafter *Greene Government’s Sentencing Memorandum*]. Ultimately, the government recommended that Greene should get a downward departure from the maximum sentence. *Id.*

253. Affidavit in Support of Criminal Complaint, *United States v. Kang*, Mag. No. 17-00767 KJM at 4 (D. Haw. July 10, 2017) [hereinafter *Kang Supporting Affidavit*]. Kang was “a trained air traffic controller and his career

material support to ISIS.<sup>254</sup> He provided “classified... and other sensitive but unclassified military documents” to someone he believed was member of ISIS, purchased a drone to be used by ISIS, trained a purported ISIS member in combat, and videotaped the training so it could be disseminated to other ISIS members.<sup>255</sup> Although he expressed interest in traveling to the ISIS consulate in Turkey, he never did so because he feared being arrested.<sup>256</sup> Nevertheless, the documents he provided assisted ISIS fighters in combat techniques.<sup>257</sup> Ultimately, Kang did plead guilty to the offense.<sup>258</sup> Kang was sentenced to 300-months imprisonment.<sup>259</sup>

Turning to the narratives surrounding Kang, Assistant Attorney General for National Security John C. Demers stated, “Kang swore to defend the United States as a member of our military, but betrayed his country by swearing allegiance to ISIS and attempting to provide material support to the foreign terrorist organization.”<sup>260</sup> Meanwhile, his defense attorney, Birney Bervar stated, “[i]t would appear that Sgt. Kang, a decorated veteran of two deployments to the Middle East, may suffer from service-related mental health issues, which the government was aware of but neglected to treat.”<sup>261</sup>

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field within the military, known as a Military Operational Specialty, [was] 15-Q Air Traffic Control Operator.” *Id.* Additionally, Kang had “achieved ‘Level IV Tactical Combat Instructor’ status,” giving him “the ability to serve as an instructor in combatives to other soldiers.” *Id.*

254. Criminal Complaint, *United States v. Kang*, Mag. No. 17-00767 KJM 1 (D. Haw. July 10, 2017) [hereinafter *Kang Criminal Complaint*].

255. *Kang Supporting Affidavit*, *supra* note 253, at 5 (noting that the documents would “assist ISIS, including with fighting and military tactics” and that Kang “mentioned repeatedly through the investigation to multiple persons that he wanted to provide training for ISIS fighters”).

256. *Id.* at 9. Kang revealed this to undercover FBI agents during a training course. *Id.*

257. *Id.* at 15. Specifically, Kang aimed to help ISIS fighters by teaching them “how to ‘react to contact’ and communicate” while fighting.” *Id.*

258. *The Cases*, *supra* note 108.

259. *U.S. Soldier Sentenced to 25 Years in Prison for Attempting to Provide Material Support for ISIS*, DEPT JUSTICE (Dec. 4, 2018), [www.justice.gov/opa/pr/us-soldier-sentenced-25-years-prison-attempting-provide-material-support-isis](http://www.justice.gov/opa/pr/us-soldier-sentenced-25-years-prison-attempting-provide-material-support-isis). Kang’s sentence is not included in the dataset because the sentencing hearing occurred after this comment was initially written. Because of the unique similarities between his case and Greene’s, however, the profile was included.

260. Kate Sullivan, *US Soldier Pleads Guilty To Attempting To Provide Support To ISIS*, CNN (Aug. 29, 2018), [www.cnn.com/2018/08/29/politics/us-soldier-guilty-plea-isis-support/index.html](http://www.cnn.com/2018/08/29/politics/us-soldier-guilty-plea-isis-support/index.html) (describing Demer’s statement in regards to the plea deal that was struck).

261. HNN Staff, *Hawaii Soldier Remains in Federal Custody, Accused of Trying to Help ISIS*, HAW. NEWS NOW (Aug. 10, 2017), [www.hawaiinewsnow.com/story/35850537/hawaii-soldier-arrested-for-alleged-ties-to-terrorist-group/](http://www.hawaiinewsnow.com/story/35850537/hawaii-soldier-arrested-for-alleged-ties-to-terrorist-group/) (identifying a variety of reactions from family members, friends, and Bervar to the charges against Kang).

### c. Sentence Comparison

Like Greene, Kang had access to, and revealed, classified materials to actual or purported ISIS fighters. A major difference between the two, however, is the fact that prosecutors believed that Greene displayed remorse or regret after traveling to ISIS territory. Still, Greene was only charged with making false statements rather than providing material support. Ultimately this resulted in a sentencing disparity of 276 months, or twenty-three years.

Just like the infantilization narrative in Coffman's case, the infantilizing rhetoric also detracts from the education and skill of Greene. To illustrate, when Greene was arrested she was thirty-eight, working as a linguist for the FBI, and fluent in German—she was clearly intelligent.<sup>262</sup> However, she was described as “obviously naïve.”<sup>263</sup> Her attorney characterized her as “in over her head,” much like the younger Coffman.<sup>264</sup> This culminated in the framing of her escape from ISIS as merely “a stroke of luck.”<sup>265</sup> The reliance narrative, too, appeared in Greene's case; Greene's attraction to Cuspert<sup>266</sup> was used as evidence of the aforementioned apparent naivety.

Meanwhile, Kang was admonished by prosecutors for single-handedly jeopardizing national security.<sup>267</sup> His act was a “betrayal” to his whole country because of his status as a military member.<sup>268</sup> The rhetoric employed by the attorneys in Greene's case may lead a reader to believe that she did not make much of a choice to join ISIS at all; that she just ended up there through happenstance and made it out because of “luck.” Moreover, the narrative used by her attorneys did not mention her experience or training. Likewise, the rhetoric used in Kang's case makes him appear to be a bigger threat than Greene. It also applies a more political motive to his actions because he is seen as making a conscious, and well-thought out choice.

While the reliance rhetoric is not prominent for male offenders, the mental health narrative is often discussed. This framing strategy provides a motive for extremists' actions in a way that may oversimplify the case, while placing the blame on the offender for not seeking mental health treatment.<sup>269</sup> In contrast, the focus on

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262. *FBI Woman Went To Syria To Wed IS Recruiter She Investigated*, *supra* note 212.

263. *Id.*

264. Glover, *supra* note 246.

265. *Greene Government's Sentencing Memorandum*, *supra* note 252.

266. Glover, *supra* note 246.

267. Sullivan, *supra* note 260.

268. *Id.*

269. See Jaime Ducharme, *Stop Blaming School Shootings on Mental Illness, Top Psychologist Warns*, TIME (Feb. 16, 2018), [www.time.com/5162927/mass-shootings-mental-health-apa/](http://www.time.com/5162927/mass-shootings-mental-health-apa/) (citing a warning from American Psychological Association President Jessica Henderson Daniel that blaming

intelligence and naiveté for female extremists is more like a personality trait that cannot be changed. The mental health narrative was prominent in Kang’s case in that his “service-related mental health issues” were offered as an explanation for his behavior.<sup>270</sup> The difference between the two narratives is that mental health issues are viewed as diagnosable and treatable, while loneliness is framed as a ploy for attention.

### 3. *Comparison: Shannon Maureen Conley & Hamza Naj Ahmed*

#### a. Shannon Maureen Conley

Shannon Conley was twenty-three years old when she tried to leave Colorado to join ISIS.<sup>271</sup> She was a Certified Nurse’s Assistant and aspired to become a nurse for those fighting the Jihad.<sup>272</sup> During an interview with FBI agents, Conley “stated that if she is not allowed to fight because she is a woman, she will use her medical training to aid Jihadi fighters . . . . If she cannot fight or be a nurse for Jihad, Conley stated she will assist Jihadi fighters in whatever manner is needed.”<sup>273</sup> Conley had met a suitor online — a thirty-two-year-old Tunisian man who she planned to marry in Syria.<sup>274</sup> In furtherance of that plan, she booked a flight to Turkey on April 8, 2014 and planned to cross over to Syria through Turkey.<sup>275</sup> She described this plan to covert FBI agents and stated that nothing would change her mind.<sup>276</sup> Conley was arrested on April 8, 2014 at

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instances of violence on mental conditions may “oversimplify the issue of mass violence and stigmatize those struggling with mental health issues”); Rachel Nuwer, *Is There a Link Between Mass Shootings and Mental Illness?*, BBC (May 10, 2018), [www.bbc.com/future/story/20180509-is-there-a-link-between-mass-shooting-and-mental-illness](http://www.bbc.com/future/story/20180509-is-there-a-link-between-mass-shooting-and-mental-illness) (quoting Professor Renee Binder as saying, “while something is clearly wrong with [perpetrators of violence], it’s often not a serious mental illness”).

270. See HNN Staff, *supra* note 261 (describing Kang’s potential mental health issues).

271. *Trial and Terror: Shannon Maureen Conley*, INTERCEPT (last visited Oct. 31, 2018), [trial-and-terror.theintercept.com/people/0ce778e7-c4fe-4638-96d5-abad3cd5a142](http://trial-and-terror.theintercept.com/people/0ce778e7-c4fe-4638-96d5-abad3cd5a142).

272. *Conley Criminal Complaint*, *supra* note 136, at 4.

273. *Id.*

274. *Id.* at 10 (elaborating that “[the suitor] is a 32-year-old Tunisian male... Conley told [her father] that [the suitor] claimed to be in Syria fighting on behalf of “ISIS.” ... Conley and [the suitor] asked for [her father]’s blessing for Conley and [the suitor] to marry and for [her father] to send Conley to Syria to marry [the suitor] as soon as possible. [Her father] declined both requests, which appeared to surprise both Conley and [the suitor]”).

275. *Id.* at 9.

276. *Id.* at 8-9 (first describing that “Conley stated that she was aware that her plans were potentially illegal and she could possibly get arrested, and therefore she has no intention to return to the US.” Later adding that her

the airport in Denver “as she walked down the jet way to board the flight.”<sup>277</sup> She was charged with providing material support and sentenced to forty-eight months imprisonment.<sup>278</sup>

Perhaps the most striking comments made about Conley came from the judge himself. During her sentencing, Judge Raymond P. Moore noted that she “has no history in the criminal justice system. She is very young . . . Teenagers make dumb decisions a lot.”<sup>279</sup> Those factors, and her propensity to consider “marrying somebody that [she] only met on the internet,” led Judge Moore to state that “this is a history of events that would make for a bad movie.”<sup>280</sup> The judge characterized Conley as a “bit of a mess” and described her as a “look at me girl” who is “drawn to attention” and just “doesn’t get it.”<sup>281</sup>

Her defense attorney, Robert W. Pepin, emphasized her youth in the Motion for Release on Bond.<sup>282</sup> He argued to the court that,

Ms. Conley has been thoroughly humbled. Before her arrest the possibility of incarceration for committing the offense to which she has pleaded guilty was no more than a vague notion in the life of an 18 year old eager to be married . . . Now, she has... borne the frustration and indignities experienced by every prisoner, and had every single facet of her life controlled twenty four hours a day.<sup>283</sup>

During her sentencing hearing, attorney Pepin also compared her to his nineteen-year-old daughter in the context of telling her to control her frustrations after she “kind of gave a little hissy” when she discussed an issue with the Assistant U.S. Attorney on her case.<sup>284</sup> Later, he also advocated for an alternative to prison because of her history of being vulnerable and “susceptible to influences of

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parents “were advised their daughter had expressed, to overt FBI agents, her intention to travel overseas and commit violent Jihad”).

277. *Id.* at 11.

278. *The Cases*, *supra* note 108.

279. Michael Martinez et al., *Colorado Woman Gets 4 Years for Wanting to Join ISIS*, CNN (Jan. 24, 2015), [www.cnn.com/2015/01/23/us/colorado-woman-isis-sentencing/](http://www.cnn.com/2015/01/23/us/colorado-woman-isis-sentencing/).

280. Reporter’s Transcript: Sentencing Hearing, *United States v. Conley*, 14-cr-163 at 33 (D. Colo. Jan. 23, 2015) [hereinafter *Conley Sentencing Hearing*] (noting that her time at a teen police academy contrasts with the events leading to her arrest and that clearly Conley “is in need of psychiatric help”).

281. *Id.* at 66-68; Martinez, et al., *supra* note 279. Later, the Judge also described her as being “attracted to attention like a moth to flame.” *Conley Sentencing Hearing*, *supra* note 280, at 70-71. He also asserts that the psychologists and psychiatrist also agree with that characterization. *Id.* This discussion came after he expressed concern that her disavowal of ISIS after her arrest was disingenuous because of its timing and her continued support for the man she met online and “knew for maybe a month or two on skype.” *Id.* at 60-73.

282. Motion for Release on Bond, *United States v. Conley*, 14-cr-00163-RM (D. Colo. Sept. 10, 2014) [hereinafter *Conley Bond Motion*].

283. *Id.* at 4.

284. *Conley Sentencing Hearing*, *supra* note 280, at 54.

whatever flavor.”<sup>285</sup>

Assistant U.S. Attorney Gregory Holloway began his discussion of Conley’s crime by telling the court, “this is a first for me, in doing a case where a defendant, essentially, forced us to arrest [her]” by ignoring the government’s warnings.<sup>286</sup> Holloway consistently emphasized that, “on the one hand, she is engaging and intelligent, and on the other . . . the best way I can describe it is pathologically naïve. The idea that she would go over to Syria and it would be all moonbeams and gumdrops is—is absurd.”<sup>287</sup>

In imposing her sentence, Judge Moore told her: “I know that you are young. I know that you are naïve. I know that you are uncomfortable with yourself,” but told her that he was still concerned with the seriousness of her support for ISIS and the potential danger she poses.<sup>288</sup> The Judge concluded by stating: “I have to send a message that deters others.”<sup>289</sup>

#### b. Hamza Naj Ahmed

Hamza Naj Ahmed, nineteen, was slightly younger than Conley at the time of his offense.<sup>290</sup> Ahmed was initially charged with making a false statement,<sup>291</sup> but ultimately was sentenced for providing material support and received a sentence of 180-months imprisonment.<sup>292</sup> His sentence was reduced to ten years due to issues surrounding his plea agreement.<sup>293</sup> Ahmed, along with six

285. *Id.* at 87 (arguing that the best way to ensure that she does not attempt to commit the same crime again in the future is to focus on her mental health).

286. *Id.* at 23.

287. *Id.* at 39.

288. *Id.* at 102.

289. *Id.* at 105.

290. U.S. Attorney’s Office, Dist. of Minn., *Three More Twin Cities Men Sentenced for Providing Material Support to ISIL: Six Co-conspirators Have Been Sentenced*, DEPT JUSTICE (Nov. 15, 2016), [www.justice.gov/usao-mn/pr/three-more-twin-cities-men-sentenced-providing-material-support-isil](http://www.justice.gov/usao-mn/pr/three-more-twin-cities-men-sentenced-providing-material-support-isil) [hereinafter *USAO, Dist. of Minn.*].

291. Criminal Complaint, United States v. Ahmed, 15-mj-95(SER) 1 (2015) [hereinafter *Ahmed Criminal Complaint*].

292. USAO, Dist. of Minn., *supra* note 290.

293. Second Declaration in Support of Motion to Amend/Correct for Concurrent Sentencing, United States v. Ahmed, 15-CR-49 (MJD/FLN) at 1 (D. Minn. Nov. 29, 2016) [hereinafter *Ahmed Second Declaration in Support*] (explaining that the defense attorney, JaneAnne Murray, “was unaware of several of the issues... including the circumstances surrounding Ms. Fathia’s direction to Mr. Ahmed to reject the initial plea offer, as well as the information reported in the Star Tribune that Hassan Jami was providing financial support to the families of the defendants”); Laura Yuen, *Here’s Why Judge Cut Minnesota ISIS Defendant’s Sentence*, MPR NEWS (Nov. 30, 2016), [www.mprnews.org/story/2016/11/30/minnesota-isis-hamza-ahmed-reduced-sentence-explained](http://www.mprnews.org/story/2016/11/30/minnesota-isis-hamza-ahmed-reduced-sentence-explained) (noting, “Kenneth Udoibok, an attorney representing Adnan Farah, said he believes [Hassan] Mohamud,” an imam representing another co-conspirator, “influenced at least three families in an effort to dissuade their sons

other young males, attempted to travel to Syria to join ISIS.<sup>294</sup> Ahmed denied knowing all of the other travelers.<sup>295</sup> His Twitter account and surveillance videos, however, directly contradicted that assertion.<sup>296</sup>

Ahmed's defense attorney, JaneAnne Murray, argued that upon being intercepted, Ahmed "ceased tweeting, returned to school, and resumed his role as dutiful son caring for his younger siblings" before being charged.<sup>297</sup> Before his sentencing, she also expressed hope that Ahmed's life would not be disrupted because of "youthful and idealistic choices."<sup>298</sup> At Ahmed's sentencing, Ahmed told the judge about his deradicalization process.<sup>299</sup> He stated, "I want you to understand I am not completely changed... I'm in the process, but nobody changes overnight. I'm trying every day. I want to reach that point."<sup>300</sup> Judge Michael Davis, in response, encouraged Ahmed to continue changing his ideology by stating, "[t]here is an opening for you," and then using his fingers to demonstrate a small space.<sup>301</sup>

### c. Sentence Comparison

Both Ahmed and Conley attempted, but failed, to travel abroad to join ISIS. Even with the reduction, Ahmed's sentence is more than double the sentence that Conley received. The total disparity between the sentences is 132 months, or six years.

This pair is an outlier for the infantilization analysis, because both Conley and Ahmed were framed as being immature. Although Conley was twenty-three at the time of the offense, Judge Moore

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from pleading guilty, much to the young men's detriment").

294. Affidavit in Support of a Criminal Complaint and Arrest Warrant, *United States v. Ahmed*, 15-mj-95(SER) at 2-3 (2015) [hereinafter *Ahmed Supporting Affidavit*]. Ahmed booked a flight to Istanbul and then a second flight to Madrid, Spain to avoid detection. *Id.*

295. *Id.* at 5. Ahmed told FBI agents, "the truth is I really don't know these people," after they inquired about whether he knew the other travelers. *Id.*

296. *Id.* at 6. On the Twitter account, there was a series of messages, including one in which Ahmed wrote "Lol my bro I love you." *Id.*

297. Declaration in Support of Motion to Amend/Correct for Concurrent Sentencing, *United States v. Ahmed*, 15-CR-49 (MJD/FLN) at 7 (D. Minn. Nov. 28, 2016) [hereinafter *Ahmed First Declaration in Support*] (arguing that Ahmed is less culpable for the crime than his co-defendants by virtue of his return to normalcy upon being intercepted).

298. Matt Sepic, *Sixth Minnesota ISIS Suspect Pleads Guilty as Trial Date Nears*, MPR NEWS (Apr. 25, 2016), [www.mprnews.org/story/2016/04/25/sixth-mn-isis-suspect-pleads-guilty-as-trial-date-nears](http://www.mprnews.org/story/2016/04/25/sixth-mn-isis-suspect-pleads-guilty-as-trial-date-nears).

299. Stephen Monemayor & Faiza Mahamud, *Amid Tears and Confession, 3 More ISIL Defendants are Sentenced to Prison*, STAR TRIB. (Nov. 16, 2016), [www.startribune.com/three-more-would-be-isis-fighters-due-in-minneapolis-federal-courtroom-for-sentencing-tuesday/401206765/](http://www.startribune.com/three-more-would-be-isis-fighters-due-in-minneapolis-federal-courtroom-for-sentencing-tuesday/401206765/).

300. *Id.*

301. *Id.*

still referred to her as a “girl” and a “teenager” who was “young” and “naïve.”<sup>302</sup> Her attorney compared Conley to his nineteen-year-old daughter and described her anger as “a little hissy.”<sup>303</sup> He also referred to Conley as being impressionable to “influences of whatever flavor.”<sup>304</sup> Likewise, the U.S. Attorney characterized her as “pathologically naïve” and described her vision of Syria as containing “moonbeams and gumdrops.”<sup>305</sup> Ahmed was also defined by his “youthful and idealistic” choices.<sup>306</sup> This is likely because he was nineteen when he was charged—younger than Conley.<sup>307</sup> Yet, at the same time he was also described as “dutiful” and “mature” because he took care of his siblings.<sup>308</sup>

At first glance, the rhetoric might seem to diminish both actors’ autonomy equally. However, the contrast lies in the relative maturity of each actor. Although Ahmed is younger, his actions are framed in a way that makes them seem more responsible, which is further emphasized by the judge’s remarks that Ahmed can change his behavior.<sup>309</sup> Meanwhile, the childlike imagery of moonbeams, gumdrops, and hissy fits allows Conley to be seen as a “girl.”<sup>310</sup> The youthful and immature characterization made her appear less capable of change because it allowed her attention-seeking behavior to be seen as an intrinsic character trait.<sup>311</sup> The relative level of responsibility may have ultimately contributed to the more serious charge being applied to Ahmed’s case because, while Conley was charged with making false statements, he was charged with the more serious crime of providing material support.

As mentioned briefly in the preceding comparison, there is also a difference that appeared between males and females when it came to court officials describing the issues of mental health and, in contrast, the motive of loneliness. The difference is particularly evident in the court’s treatment of Conley during her sentencing hearing.<sup>312</sup> While the court begins by stating, “[Conley] is in need of psychiatric help,” before clarifying and saying that it is “not saying that her decisions here were the direct product of a mental illness . . . . But she is a bit of a mess.”<sup>313</sup> Notably, the narrative of reliance on other male fighters did not show up with Ahmed, who had

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302. Martinez et al., *supra* note 279; *Conley Sentencing Hearing*, *supra* note 280, at 102.

303. *Conley Sentencing Hearing*, *supra* note 280, at 54.

304. *Id.* at 87.

305. *Id.* at 39.

306. Sepic, *supra* note 298.

307. *Ahmed Criminal Complaint*, *supra* note 291.

308. *Ahmed First Declaration in Support*, *supra* note 297.

309. Monemayor & Mahamud, *supra* note 299.

310. Martinez, et al., *supra* note 279.

311. *Conley Sentencing Hearing*, *supra* note 280, at 73.

312. *Conley Sentencing Hearing*, *supra* note 280, at 33.

313. *Id.*

several co-conspirators,<sup>314</sup> and who seemed to be primed for commentary about his being potentially influenced by those co-conspirators.

#### 4. *Comparison: Keonna Thomas & Saddam Mohamed Raishani*

##### a. Keonna Thomas

“I was, I guess at one point, impressionable.”<sup>315</sup> This was the justification that Keonna Thomas, then thirty-four, gave just before being sentenced to 96-months imprisonment after pleading guilty to providing material support.<sup>316</sup> Thomas ran a Twitter account where she frequently posted pro-ISIS propaganda.<sup>317</sup> Through her online activities, she met an ISIS fighter and married him online.<sup>318</sup> Then, she began to make preparations to travel to Syria, indirectly, by flying in through Spain.<sup>319</sup>

Both the prosecution and defense emphasized Thomas’s role as a mother to two children. The prosecution focused on the idea that “had the government not arrested Thomas, she would have followed through with her plan to travel to Syria to join ISI[S], risking her own life and leaving her two young children behind in Philadelphia without their mother.”<sup>320</sup> As well as stating, “[s]he apparently intended to leave her two young children behind when she fled without warning.”<sup>321</sup>

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314. *Ahmed Criminal Complaint*, *supra* note 291.

315. Jeremy Roebuck, *North Philly Woman Gets 8-Year Term For Plan To Leave Kids, Marry IS Soldier*, PHILA. INQUIRER (Sept. 6, 2017), [www.philly.com/philly/news/pennsylvania/philadelphia/north-philly-mom-gets-8-year-term-for-plan-to-leave-kids-marry-isis-soldier-20170906.html](http://www.philly.com/philly/news/pennsylvania/philadelphia/north-philly-mom-gets-8-year-term-for-plan-to-leave-kids-marry-isis-soldier-20170906.html).

316. *Id.*

317. Affidavit of Martin McDonald, *United States v. Thomas*, 15-417-M at 2 (E.D. Pa. Apr. 3, 2015) [hereinafter *Thomas Supporting Affidavit*]. For example, she “re-posted on Twitter a photograph of a young male child wearing firearm magazine pouches and camouflage attire, with the following caption: ‘Ask yourselves, while this young man is holding magazines for the Islamic State, what are you doing for it? #ISIS.’” *Id.*

318. Government’s Sentencing Memorandum, *United States v. Thomas*, 15-171 at 2 (E.D. Pa. Sept. 1, 2017) [hereinafter *Thomas Government’s Sentencing Memorandum*]. Further communications between Thomas and her husband, Abu Khalid Al-Amriki, included the following exchange: “Al-Amriki sent an electronic communication to Thomas stating, ‘U probably want to do Istishadee [martyrdom operations] with me.’” *Id.* In response, Thomas stated, ‘that would be amazing.... a girl can only wish.’” *Id.* Al-Amriki then responded, ‘I can make that wish come true.’” *Id.* at 3.

319. *Thomas Supporting Affidavit*, *supra* note 317, at 5.

320. Government’s Sentencing Memorandum, *United States v. Thomas*, 15-171 at 3 (E.D. Pa. Sept. 1, 2017) [hereinafter *Thomas Government’s Sentencing Memorandum*].

321. Transcript of Probable Cause Hearing, *United States v. Thomas*, 2:15-

Defense counsel rebutted that statement by emphasizing that she did care for her two children by telling the court that she was arrested while “cooking breakfast for her two children.”<sup>322</sup> Defense counsel also mentioned that “[Thomas] carries significant guilt, finding it difficult to fathom how she could ever have considered abandoning her children.”<sup>323</sup> Later, the defense counsel noted that, “Ms. Thomas was a lonely, depressed, anxiety-ridden mother who spent too much time on the internet . . . she never gave ISI[S] anything of value—except her love.”<sup>324</sup>

The court noted that the two sides framed her communications with ISIS as either “some kind of flirtation” or “conspiratorial in terms of being interested in martyrdom.”<sup>325</sup> During that same hearing, the court emphasized that “it doesn’t take a lot of imagination for a lawyer to want to argue” to a jury that “Ms. Thomas was interested in being a suicide bomber.”<sup>326</sup>

#### b. Saddam Mohamed Raishani

“I no longer hold the same views that I had when I came in,” Saddam Mohamed Raishani read as he appeared for his sentencing hearing.<sup>327</sup> At thirty-two years old, Raishani pled guilty to attempting to provide material support for terrorism and was sentenced to 240-months imprisonment.<sup>328</sup> He was arrested by officers at an airport while attempting to board a flight to Turkey, which he hoped would ultimately bring him to his final destination: ISIS-controlled Syrian territory.<sup>329</sup> Prior to his attempted trip, Raishani watched ISIS propaganda videos and messaged “a

mj-00417-1 at 36 (E.D. Pa. Apr. 9, 2015) [hereinafter *Thomas Probable Cause Hearing*].

322. *Id.* at 43.

323. Defendant’s Sentencing Memorandum, *United States v. Thomas*, 15-171 at 3 (E.D. Pa. Aug. 30, 2017) [hereinafter *Thomas Defendant’s Sentencing Memorandum*].

324. *Id.* at 9. Defense counsel also explained, “[o]ver the course of two years, her engagement with various Islamic websites and online religious fora led her to seek a faithful, Muslim husband, which she believed she had found in unindicted co-conspirator number two—a member of ISIL in Raqqa, Syria. Ms. Thomas’s intention was to become his wife.” *Id.* at 5.

325. Hearing, *United States v. Thomas*, 15-CR-171-1 at 8 (E.D. Pa. May 12, 2016) [hereinafter *Thomas Hearing*].

326. *Id.*

327. Kalyan Kuman, *ISIS In New York? Man Sentenced 20 Years For Providing Support To Terrorism*, INT’L BUS. TIMES (Apr. 2, 2019), [www.ibtimes.com/isis-new-york-man-sentenced-20-years-providing-support-terrorists-2782466](http://www.ibtimes.com/isis-new-york-man-sentenced-20-years-providing-support-terrorists-2782466).

328. *Id.* (noting that he was “sentenced to 20 years in prison with a top-up of another 20 years on supervised release”); *Raishani Complaint*, *supra* note 174; The Government’s Sentencing Memorandum, *United States v. Raishani*, 17 Cr. 421 (RA) at 1 (S.D. N.Y. Mar. 26, 2019) [hereinafter *Raishani Government Sentencing Memorandum*].

329. *Raishani Government Sentencing Memorandum*, *supra* note 328, at 2.

purported ISIS affiliate who could help facilitate Raishani's travel to ISIS-controlled territory once he reached Turkey," but did not post the videos to social media.<sup>330</sup> He intended to travel without his wife or their young son.<sup>331</sup>

As in Thomas' case, family became a central theme for both parties. Defense counsel also focused on Raishani's family, emphasizing that Raishani does care about his wife, but that recent hardships took a toll on his mental health.<sup>332</sup> The defense quoted his wife's statement, in which she stated that she believed the catalyst for his radicalization was that,

following harassing incidents at work due to Raishani's religion, he became sad. She reportedly witnessed him crying alone and when asked what was wrong, he would not say why he was crying. Ms. Al Samet [Raishani's wife] believes that it may have been sometime after losing his job at the hospital, that the defendant began initiating a plan to leave the U.S.<sup>333</sup>

Defense counsel then emphasized Raishani's history of anxiety and feelings of isolation due to a history of bullying during primary school.<sup>334</sup>

Likewise, the prosecutors in Raishani's case emphasized his role as a father, stating, "Raishani was willing to give up everything—his job, his family, and his life—to further ISIS's mission of hate, terror, and violence."<sup>335</sup> The prosecution went on to say that he "abandoned" his family—emphasizing that "[h]is devotion to ISIS was so fervent, so complete, that he chose it over his family."<sup>336</sup> The prosecution described him as "cold, calculating, and terrifying."<sup>337</sup>

In response to the government, defense counsel argued that "the Government wants Raishani to spend twenty-five years in jail for trying to join ISIS to provide medical services," referencing Raishani's background as a nurse.<sup>338</sup> Defense counsel characterized the government's sentencing memorandum as "both xenophobic and

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330. *Id.* at 4-5.

331. *Id.* at 6.

332. Sentencing Memorandum on Behalf of Defendant Adam Raishani, United States v. Raishani, 17 Cr. 421 (RA) at 3 (S.D. N.Y. Mar. 18, 2019) [hereinafter *Raishani Defense Sentencing Memorandum*] (nothing that "[n]otwithstanding that it was an arranged marriage, defendant described his wife as a "sweet, beautiful and supportive" person and stated that they share a good relationship").

333. *Id.* at 3 (quoting the probation report).

334. *Id.* at 4.

335. *Raishani Government Sentencing Memorandum*, *supra* note 328, at 13.

336. *Id.* at 16.

337. *Id.*

338. Letter to The Honorable Ronnie Abrams from Gerald J. McMahon, United States v. Raishani, 17 Cr. 421 (RA) at 2-3 (S.D. N.Y. Mar. 27, 2019) (written in response to the Government's Sentencing Memorandum) [hereinafter *Raishani Letter*]. See *Raishani Defense Sentencing Memorandum*, *supra* note 332, at 5 (referencing his career as a nurse).

tingoistic.”<sup>339</sup> This was argued because the government’s sentencing memorandum focused on sentencing “Raishani for how bad ISIS is; not for how bad Raishani is.”<sup>340</sup> Defense counsel went on to emphasize that “in the eyes of history, one person’s terrorist organization is another person’s freedom-fighting army,” before describing two organizations that portray how “[t]oday’s terrorist may be tomorrow’s statesman.”<sup>341</sup> The judge, in response, stated, “[i]t’s not about culture, it’s not about religion. But it is about terrorism.”<sup>342</sup>

### c. Sentence Comparison

Both Thomas and Rashini attempted to join ISIS abroad, but were arrested before their plans came to fruition. Despite the emphasis on parenting and mental health for both, the total sentencing disparity was 144 months, or twelve years.

As mentioned previously, both the prosecution and defense focused on Thomas’ role as a mother when discussing the appropriate sentence for her.<sup>343</sup> The government framed her attempt to join ISIS as an abandonment of her two young children.<sup>344</sup> In contrast, her attorney argued that she still cared for her children, up to the day that she was arrested and taken away from them.<sup>345</sup> She was still given a lesser sentence than Raishani, who was also portrayed as abandoning his wife and kids by “choosing [ISIS] over his family.”<sup>346</sup>

Raishani, as well, provides an example of politics being used as a foil for infantilization. His attorney frequently described his actions by comparing his beliefs and political motivations to other terrorist groups—suggesting that he might be a freedom fighter.<sup>347</sup> Meanwhile, Thomas’ communications with ISIS members was described as “flirtation” by the court.<sup>348</sup> This is significant because the political motivations reinforce the mainstream notion that men have more nuanced and serious reasons for committing attacks than women, who are seen as naïve and vulnerable to suave male propagandists.<sup>349</sup>

Interestingly, Thomas was sentenced to eight years imprisonment, which was the highest of the four women

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339. *Raishani Letter*, *supra* note 338, at 1.

340. *Id.*

341. *Id.* at 1-2.

342. Kuman, *supra* note 327.

343. *Thomas Probable Cause Hearing*, *supra* note 321, at 36; *Thomas Defendant’s Sentencing Memorandum*, *supra* note 323, at 43.

344. *Thomas Probable Cause Hearing*, *supra* note 321, at 36.

345. *Id.*

346. *Raishani Government Sentencing Memorandum*, *supra* note 328, at 13.

347. *Raishani Letter*, *supra* note 338, at 1.

348. *Thomas Hearing*, *supra* note 325.

349. Nacos, *supra* note 4.

analyzed.<sup>350</sup> Thus, although it may not seem to have as great of an effect as the other framing narratives on the disparity between opposing genders, the familial narrative may provide insight into the sentences given to women, generally.

#### IV. PROPOSAL

The gendered narratives surrounding women who join ISIS presents a unique problem to the criminal justice system. These narratives have the effect of causing disproportionate sentences between men and women convicted for the same charges. There are three potential solutions to combat this issue: addressing the narratives, addressing the sentences, or addressing the underlying goal behind the convictions—preventing future crimes.

##### A. Addressing Narratives

The first potential solution to the issue is addressing the underlying narratives behind the sentences. This process has to take place within the media and the courtroom in order to be effective. Numerous studies have demonstrated that the framing of women in the media influences how the public perceives female terrorists.<sup>351</sup> Likewise, prior research has noted that lenient sentences in favor of women tend to reflect a pattern of “chivalry” and “paternalism” among the male judiciary and prosecutors.<sup>352</sup> This pattern also stems from a pattern of infantilizing women and perceiving female offenders as “childlike and dependent.”<sup>353</sup> Combined, these two factors may influence the perception of women, such that framing narratives become prevalent across a variety of cases.

To address these underlying framing narratives, both the media and the legal profession need to be educated on the reality of female terrorists and their capabilities for deadly and dangerous attacks. By the same token, the same media and legal professionals must be educated on the motivating factors of male terrorists. This is because the disparity is present for both male and female offenders. Therefore, it follows that taking a more understanding approach may lower sentences for male offenders, as well, which will effectively equalize the sentencing disparities. This will remedy the disparity without overburdening the criminal justice system with higher sentences for all offenders. Afterwards, those lessons

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350. *The Cases*, *supra* note 108.

351. *Id.*

352. Ann M. Stacey, *Gender and the Social Costs of Sentencing: An Analysis of Sentences Imposed on Male and Female Offenders in Three U.S. District Courts*, 11 BERKELEY J. CRIM. L. 43, 47 (2006).

353. *Id.* at 48.

must begin to be reflected in the conversations and comments that both journalists and legal professionals make when referring to offenders. This multi-faceted approach is the only way to ensure that perceptions continue to evolve in a uniform way.

The main issue with this proposal is that it is impractical to suggest that these narratives can be addressed in the legal system and in the media. It would require a system that addresses underlying sexist narratives in most facets of society, which is, unfortunately, unrealistic. Until this change occurs, the same deep-seated and prevalent social attitudes and perceptions will continue to be widespread. A more attainable alternative is to rethink the place of lawyers and judges in the criminal justice system when they demonstrate an unwillingness to address the underlying framing narratives and misconceptions behind the disparities.<sup>354</sup> However, that, too, cannot be implemented on a large-scale. Regardless of the approach, a proposal to address framing narratives cannot be implemented in a cost-effective and efficient way. Moreover, the multi-faceted changes that need to occur are too pervasive to be able to apply quickly.

### B. Addressing Sentences

The second proposed solution is to modify the sentencing guidelines such that there is more uniformity, regardless of gender. One proposal that has been suggested is to categorize the sentences based on the roles the terrorists play in the plot.<sup>355</sup> As was noted earlier, the women who join ISIS play a variety of roles—recruiter, auxiliary, and fighter. Sentencing guidelines could be modified in order to reflect the “level” of involvement with the group. Particularly, these categories would carry the same weight for both male and female terrorists. This approach reinforces the traditional notions of fairness in the legal system.<sup>356</sup> This is because “[p]unishing offenders to a degree inconsistent with the nature of

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354. Sonja B. Starr, *Estimating Gender Disparities in Federal Criminal Cases*, 17 (U. of Mich. L. & Econ. Working Paper Series, Paper No. 57, 2012) repository.law.umich.edu/cgi/viewcontent.cgi?article=1164&context=law\_econ\_current. This remedy was proposed earlier by Prof. Starr, who wrote, “[i]f prosecutors, judges, and legislators are comfortable with those factors playing a role in the sentencing of women, then perhaps it is worth explicitly reconsidering their place in criminal sentencing more generally.” *Id.*

355. David Dagan, *Women Aren't Always Sentenced By the Book. And Maybe They Shouldn't Be*, FIVETHIRTYEIGHT (Mar. 30, 2018), www.fivethirtyeight.com/features/women-arent-always-sentenced-by-the-book-maybe-men-shouldnt-be-either/. This proposal was originally given in the context of drug-dealing. *Id.*

356. Ilene H. Nagel & Barry L. Johnson, *The Role of Gender in a Structured Sentencing System: Equal Treatment, Policy Choices, and the Sentencing of Female Offenders under the United States Sentencing Guidelines*, 85 J. CRIM. L. & CRIMINOLOGY 181, 196 (1994).

their crimes and the level of culpability is unjust.”<sup>357</sup> Instead, the same crime should hold the same punishment, without regard to the gender of the offender.

The first issue with this proposal is that it reduces the discretion of judges by taking away the ability to assess the individual characteristics of the terrorists.<sup>358</sup> For instance, even if a terrorist only had a minor role in the operation initially, he or she could have aspirations of playing a larger role one day.<sup>359</sup> On the other hand, the United States Supreme Court has ruled that judges are not bound by sentencing guidelines.<sup>360</sup> Therefore, even if these sentencing guidelines were imposed, the judges would not be strictly bound by the guidelines, and the same disparities could continue. Another problem with this proposal is that longer prison sentences could also have the potential to increase radicalization and undermine national security goals.<sup>361</sup> This is because “[l]ong prison sentences and stripped citizenship will contribute to the ‘othering’ of foreign fighters and further impede rehabilitation,” which can lead to recidivism upon release.<sup>362</sup> Regardless of gender, there is still the underlying concern that the individual will pose a risk of recidivism.

Therefore, although this proposal is more realistic than addressing framing narratives, revising sentencing guidelines may not be an effective way to address the disparities between male and female offenders.

### C. Addressing Recidivism

A final approach would be to revise the sentencing surrounding all people convicted of terrorism offenses, regardless of their gender, by modifying their sentence to include judicially mandated programming on deradicalization, rehabilitation, and reintegration. This would ensure that regardless of the length of the sentence, both males and females will have the same type of deradicalization

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357. *Id.*

358. Kelly Berkell, *Risk Reduction in Terrorism Cases: Sentencing and the Post-Conviction Environment*, 13 J. DERADICALIZATION 276, 321 (2017) (describing a potential plan to create uniform sentencing guidelines but noting that “such provisions would tend to reduce judicial discretion in handling unique cases and fact patterns”).

359. *Conley Criminal Complaint*, *supra* note 136, at 4. Conley stated that she wanted to be a nurse, however she was open to the idea of being a fighter, too. *Id.*

360. Charles Lane, *Sentencing Standards No Longer Mandatory*, WASH. POST (Jan. 13, 2005), [www.washingtonpost.com/wp-dyn/articles/A3336-2005Jan12.html](http://www.washingtonpost.com/wp-dyn/articles/A3336-2005Jan12.html).

361. Ester E. J. Strommen, *Jihadi Brides or Female Foreign Fighters? Women in Da’esh from Recruitment to Sentencing*, 2017 PRIO CTR. GENDER, PEACE, & SECURITY 1, 4.

362. *Id.*

programs. Ultimately, the deradicalization approach addresses the underlying concern of recidivism.

As demonstrated by Conley's Facebook post,<sup>363</sup> once people who are convicted of terrorism are released, they pose a significant risk of recidivism.<sup>364</sup> Even with the sentencing disparities, this issue is common among all people convicted of terrorism and should therefore be the focus of any remedy. Additionally, unlike the other proposals, this approach is more realistic.

This particular approach is vital because it addresses the primary concern of reintegration with society.<sup>365</sup> As Conley demonstrated with her post-imprisonment Facebook activity, incarceration does not properly address the underlying counter-violent extremism needs.<sup>366</sup> In fact, post-9/11 congressional hearings noted that extremists will often plan attacks, radicalize other individuals, or meet similar-minded radicalized individuals from within prison walls.<sup>367</sup> To address this problem, the individuals must be deradicalized while serving their sentences. This is particularly imperative as over eighty individuals convicted of terrorism will be released by 2024 alone.<sup>368</sup> Ultimately, a deradicalization program will have a more positive impact on counter-violent extremism than any mandatory prison sentence restriction initiative ever could.

There are several factors that determine how effective a deradicalization program may be, such as the motive behind radicalization, whether disengagement from the group was voluntary, and the willingness to cooperate with law enforcement officials.<sup>369</sup> These programs can be structured in a variety of ways. The most common approach is a "government sponsored, comprehensive approach, which includes controlled levels of

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363. Martinez, et al., *supra* note 279.

364. U.N. Security Council Counter Terrorism Council Comm. Exec. Directorate, *supra* note 51.

365. GEORGIA HOLMER & ADRIAN SHTUNI, U.S. INST. PEACE RETURNING FOREIGN FIGHTERS AND THE REINTEGRATION IMPERATIVE 2 (2017) (noting, "[r]eintegration refers to the reestablishment of social, familial, and community ties and positive participation in society. Developing successful reintegration programs is crucial not only to preventing recidivism among returnees but also to mitigating further radicalization among the youth population and building overall community-level resilience to violent extremism").

366. Donati, *supra* note 210.

367. Bennett Clifford, *Rethinking "Prison Radicalisation"—Lessons from the U.S. Federal Correctional System*, INT'L CTR. COUNTER-TERRORISM—THE HAGUE (Nov. 16, 2018), [icct.nl/publication/rethinking-prison-radicalisation-lessons-from-the-u-s-federal-correctional-system/](https://icct.nl/publication/rethinking-prison-radicalisation-lessons-from-the-u-s-federal-correctional-system/). While this form of radicalization has been discussed among elected officials and government employees, attacks from these individuals have "so far failed to materialize on a large scale." *Id.*

368. *Id.*

369. Order, United States of America v. John Doe, 14-CR-00612-001 1, 17 (2018) (quoting Seamus Hughes as he highlighted the various factors that play a role in deradicalization and disengagement).

amnesty, psychological and ideological support, financial support, and extensive after-care in the form of education and job assistance” which can take place over several months or several years.<sup>370</sup>

In Europe, “Exit Programs” have been successful in deradicalizing far-right individuals.<sup>371</sup> Specifically, in Germany, 500 individuals have gone through the program since 2000 with only a three percent recidivism rate.<sup>372</sup> These programs focus on rebuilding positive family ties, finding a job, increasing community relationships, and potentially relocating the individual.<sup>373</sup>

One judge in Minnesota is attempting to tackle deradicalization through counseling, where the radicalized individual is given a reading list that includes philosophy, biographies, and other literature in an effort to help him rehabilitate his ideology and life choices.<sup>374</sup> Additionally, the individual is placed in a halfway house where he meets with religious figures, legal professionals, and program staff.<sup>375</sup>

Saudi Arabia has also had success with a similar deradicalization program, with only a ten to twenty percent recidivism rate.<sup>376</sup> One scholar notes that this program is successful because of the “three-pronged effort to break and replace all levels of an individual’s commitment to a violent extremist group,

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370. Stefanie Mitchell, *Deradicalization: Using Triggers for the Development of a US Program*, 9 J. DERADICALIZATION 101, 105 (2016).

371. *Id.* (noting, “[t]hese programmes not only break down movements themselves, they also offer good value for money: they prevent criminal action and violent action, undercut the costs of incarceration, and ensure individuals who would otherwise be entrenched in lives of criminality become productive members of society”).

372. *Id.* In comparison, the average European recidivism rate for all crimes was about 67.8% between 2005-2010. *Id.* at 105-06.

373. HOLMER & SHTUNI, *supra* note 365, at 1 (elaborating that the program uses “psychosocial modalities and rel[ies] on individual mentoring and personalized interventions, coupled with efforts to repair family ties and community relationships and build technical job-relevant skills . . . . In some cases, when separation from the violent group is deemed a physical threat, these programs help relocate an individual or provide other forms of security”).

374. Joanna Walters, *An Incredible Transformation: How Rehab, Not Prison, Worked for a US ISIS Convert*, GUARDIAN (Jan. 4, 2018), [www.theguardian.com/us-news/2018/jan/04/american-isis-abdullahi-yousuf-rehabilitation](http://www.theguardian.com/us-news/2018/jan/04/american-isis-abdullahi-yousuf-rehabilitation) (quoting one of his lawyers as stating, “[h]is transformation has been incredible. He went from being a surly, closed-down kid to this really open, warm, intelligent, thoughtful, introspective young man, who recognizes why he’d been attracted to Isis and why there are so many other options for him”).

375. Mitchell, *supra* note 370, at 108 (describing how this was the first initiative of its kind within the United States).

376. Jessica Stern, *Mind Over Martyr: How to Deradicalize Islamist Extremists*, FOREIGN AFF. (Jan./Feb. 2010), [www.foreignaffairs.com/articles/saudi-arabia/2009-12-21/mind-over-martyr](http://www.foreignaffairs.com/articles/saudi-arabia/2009-12-21/mind-over-martyr) (emphasizing, “[t]he Saudi government has not disclosed the total number of people who have completed its program, but as of 2009, 11 graduates had ended up on the country’s most-wanted terrorist list. Still, according to official statistics, the rate of recidivism is 10-20 percent, far lower than that for ordinary criminals”).

including affective (defined by social factors such as emotional support, sense of community, and social obligation), pragmatic (logistical factors such as financial stability, education, vocational training, and skill-building), and ideological bonds.<sup>377</sup> Implementing a wide-scale deradicalization and reintegration program within the United States will combat the risk of recidivism. This system should be modeled to address four main issues that individuals face: grievances,<sup>378</sup> ideology,<sup>379</sup> networks,<sup>380</sup> and environment.<sup>381</sup>

First, the program must address the underlying socioeconomic or political grievances of individuals. Grievances are feelings of strain and resentment due to a perceived wrongfulness or unfair treatment.<sup>382</sup> For example, grievances can be triggered by losing a job,<sup>383</sup> feeling unwelcomed in society,<sup>384</sup> or emotional struggles. This can be addressed by teaching marketable job skills and reintroducing Western philosophy and history in a way that promotes pro-social feelings. The aim in these particular cases should be to decrease instances of strain due to a feeling that being

377. HOLMER & SHTUNI, *supra* note 365, at 8 (describing that “these components, when combined, may facilitate reentry of former detainees into society, reduce social alienation, foster stability, and reduce the likelihood of recidivism. In this way, these early efforts emphasized the critical role of social and community relations in a person’s entry and exit into a violent extremist group or movement”).

378. John Horgan, *From Profiles to Pathways and Roots to Routes Perspectives Form Psychology on Radicalization into Terrorism*, 618 THE ANNALS OF THE AM. ACAD. OF POL. & SOC. SCI. 80 (2008). There is a noteworthy trend that various social factors that may add strain to an individual, which ultimately compels them to commit an act of terrorism. *Id.*

379. Alex S. Wilner & Claire-Jehanne Dubouloz, *Transformative Radicalization: Applying Learning Theory to Islamic Radicalization*, 34 STUD. IN CONFLICT & TERRORISM 418, 422 (2011). After experiencing a grievance, and individual may accommodate their worldview wo regain an “understanding of events...which allows them to regain a sense of self-coherence and competence.” *Id.*

380. Mohammed Hafez & Creighton Mullins, *The Radicalization Puzzle: A Theoretical Synthesis of Empirical Approaches to Homegrown Extremism*, 38 STUD. IN CONFLICT & TERRORISM 958, 964 (2015). “[P]reexisting friendship and kinship ties facilitate recruitment” into terrorist groups. *Id.*

381. Horgan, *supra* note 378, at 88 (noting “the social setting (implicit or explicit approval from peers and family) appeared to be the source of the greatest apparent positive quality for joining”).

382. See GEORGE B. VOLD, THOMAS J. BERNARD, & JEFFREY B. SNIPES, THEORETICAL CRIMINOLOGY 173 (4th ed. 1998) (noting that strain arises during “a situation in which the social structure fails to provide legitimate means to achieve what the culture values”).

383. See Council on Hemispheric Affs., *FARC—Rebels With a Cause?*, COHA (July 6, 2010), [www.coha.org/farc---rebels-with-a-cause/](http://www.coha.org/farc---rebels-with-a-cause/) (noting that many women claimed that they joined the terrorist group known as the Revolutionary Armed Forces of Colombia [FARC] to maintain a level of financial stability that is comparable to males in Colombia).

384. Hafez & Mullins, *supra* note 380, at 962.

Muslim and American is incompatible.<sup>385</sup> This must be paired with individual or group counseling in order for the individualized grievances to be addressed properly and for maximum benefit to the individual.

Second, the program must address underlying ideological beliefs by introducing the individual to less radical and violent Muslim ideology. Particularly, young radicals may become radicalized after speaking to a well-spoken radical who quotes scripture in a way that advocates for the use of violence in a charismatic and persuasive way.<sup>386</sup> It is noteworthy that studies have indicated that religion is not the root cause of terrorism, but rather the propaganda being taught to the individuals.<sup>387</sup> This is particularly important when considering the impressionability of young people or those impacted by the aforementioned grievances. This portion of radicalization can be mitigated by incorporating moderate religious leaders into the program and allowing the radicalized individual to understand that there is more to religion than violence. The aim of this should be to introduce positive ideologies to the individuals.

Next, the program should work on strengthening positive networks and community connections. Particularly, this should increase a feeling of strong positive social connections and support, as well as promote a sense of community involvement. Successful programs should also consider pairing a radicalized individual with a successfully deradicalized individual as part of a mentorship program. This will allow the radicalized individual to feel that rehabilitation is achievable and beneficial.

Finally, if the individual's environment is incompatible with rehabilitation—for instance because there is evidence of a larger network of radicalized individuals—then a relocation program should be put in place. The importance of this aspect cannot be understated. In complex situations, such as periods of social change or when experiencing grievances, individuals may conform to the behaviors of the people that they are surrounded by.<sup>388</sup> This analysis is vital in understanding how even one extremist mentality can have effects on an entire group or cell of people. After all, recent studies have demonstrated that “80 percent of new recruits to the

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385. *Id.* In some cases “xenophobia combines with Islamophobia to create a hostile environment for those that embrace the Islamic identity” creating a feeling that being Muslim and American is incompatible. *Id.*

386. Wilner & Dubolouz, *supra* note 379, at 428.

387. *Id.* Ed Husain, writer of the Islamist and former radical, noted that the mosque he attended was “buzzing with young, trim-bearded English-speaking activists” who made the prospect of radical Islam seem attractive and modern—especially when compared to the old, rambling Imams at his mosque. *Id.* This dynamic at the mosque was what convinced him to start his path toward radicalization. *Id.*

388. DUNCAN J. WATTS, SIX DEGREES: THE SCIENCE OF A CONNECTED AGE 209 (2003).

global Salafi jihad become disaffected and are radicalized within their diaspora communities.”<sup>389</sup> By removing the individual from this environment, the program will attempt to ensure that the individual is not trapped in a toxic environment that would lead to recidivism.

One major drawback to this approach is that it does not directly address the sentencing disparities. However, this approach does go towards the ultimate issue of recidivism. Regardless of the sentence, if the individual is released back into society and still poses a security threat, then the criminal justice system would not be effectively addressing the issue of extremism. An additional benefit of this particular structure is that it addresses the four major reasons that researchers have noticed that people often commit these acts.<sup>390</sup> This is particularly important because approaching the sentences by focusing on reducing recidivism necessitates addressing the underlying issues. Therefore, although the approach does not address the overall issue of the existence of sentencing disparities, the approach is more realistic and attainable than the other approaches.

## V. CONCLUSION

The sentencing disparities between males and females convicted of terrorism offenses since the rise of ISIS in America are stark. Females tend to get lesser sentences than their male counterparts. The rhetoric of the legal professionals involved in the cases demonstrate that the sentencing disparities are due to the notions that women are more naïve, lonely, or innocent than males when it comes to such violent crimes. Addressing the narratives surrounding women would require an upheaval of social norms in the legal system, mass media, and society as a whole. This is unrealistic. Longer prison sentences themselves are problematic as well, because they decrease judicial autonomy and may increase recidivism.

Thus, the focus must be on creating a viable rehabilitation program that is required for all individuals, regardless of gender. Ideally, this mandated program will address the root causes of extremism and radicalization such that when the individual does complete their sentence, they will be able to reintegrate back into society as a deradicalized individual. This type of program will address the greater concerns of national security even with the sentencing disparities in place.

In general, it is important to keep in mind the framing

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389. Jerrold M. Post & Gabriel Sheffer, *Risk of Radicalization and Terrorism in U.S. Muslim Communities*, 13 BROWN J. WORLD AFFAIRS 101, 110 (2007).

390. Horgan, *supra* note 378.

narratives that surround the sentencing disparities between males and females. Understanding and recognizing those narratives will also have a positive impact on how the judicial system combats extremism. The more cognizant legal officials are of these narratives, the more effective our counter-violent extremism approaches can be.