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Seditious Conspiracy Charges in the American Terrorism Study (ATS)

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Seditious Conspiracy Charges in the American Terrorism Study (ATS)

Katie Ratcliff

BACKGROUND

In January 2022, the U.S. Department of Justice announced Seditious Conspiracy charges against members of the anti-government extremist group Oath Keepers in connection to the January 6th (2021) siege of the U.S. Capitol Building. Several have entered not guilty pleas and a trial is expected in July 2022.

To provide context, this brief offers an overview of 11 Seditious Conspiracy cases included in the American Terrorism Study (ATS) since 1980. In total, these cases involve nine groups (a.k.a. "cells" or "plots") and 78 defendants charged with Seditious Conspiracy (18 USC § 2384), a relatively rare charge that comprises less than one half percent of the over 18,000 counts accounted for in the ATS database and differs from the more common charge of conspiracy (18 USC § 371).

USAGE OF THE STATUTE

The number of persons charged with Seditious Conspiracy has generally been in decline over the last forty years, though there were several cases in the early 2000s. In the 1980s, roughly half of Seditious Conspiracy charges resulted in convictions against thirty-three defendants, but those not convicted of Seditious Conspiracy were ultimately not convicted on any charge. This included a high profile case of 10 white supremacists acquitted of all charges in a 1988 trial in Fort Smith, Arkansas.

In some of these early cases, defendants were already serving prison time for convictions associated with their alleged conspiracies, leading some to suggest they were being prosecuted for the same crimes twice. Prior to 2022, the charge was most recently filed against nine members of the Michigan-based Hutaree Militia. This case resulted in two thirds of defendants being acquitted of all charges or having their cases dismissed, and no Seditious Conspiracy convictions.

Previous ATS research has found that federal prosecutors may pay a price in the form of lower conviction rates for invoking explicitly political labels against defendants. They may have little incentive to complicate cases by charging defendants with Seditious Conspiracy if they believe they can successfully obtain convictions and appropriate sentences based on conventional criminal statutes (e.g., weapons-related or murder charges). In addition, Seditious Conspiracy legally requires collaboration between multiple individuals, while terrorists and violent extremists have increasingly turned to "lone actor" tactics over the last few decades.

18 USC § 2384 SEDITIONOUS CONSPIRACY



2 or more people subject to U.S. jurisdiction

CONSPIRE TO...

- overthrow,
- put down,
- levy war against, or
- use force to: destroy, oppose authority of, prevent/hinder/delay execution of any law, seize/take/possess U.S. property contrary to authority of



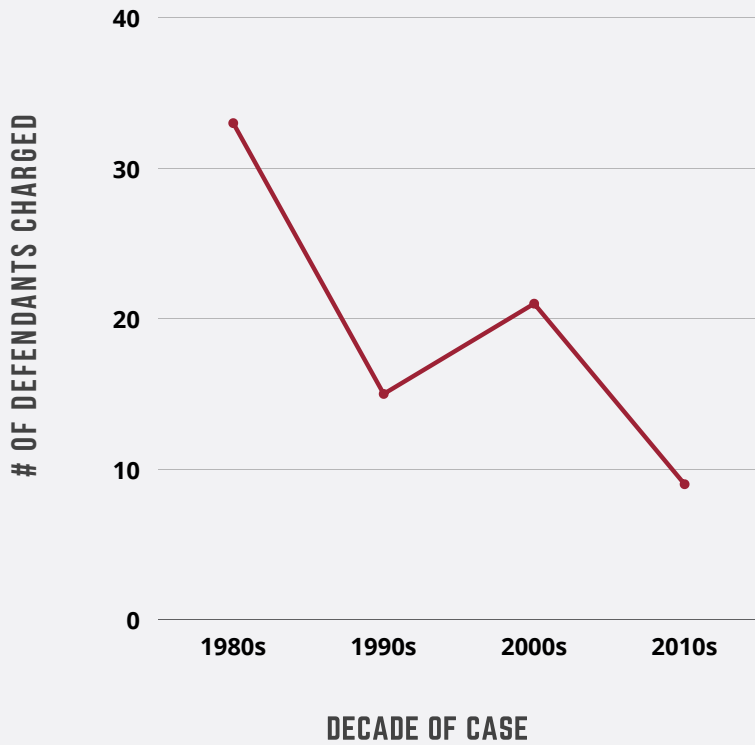
...THE U.S. GOVERNMENT.

Source: Legal Information Institute



Punishable by up to 20 years of imprisonment and/or a fine.

OVERVIEW OF SEDITIOUS CONSPIRACY CASES AND DEFENDANTS



11
COURT CASES

78
DEFENDANTS

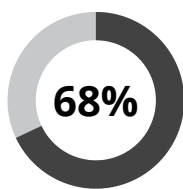
- 1980s**
Fuerzas Armadas Liberación Nacional, United Freedom Front, Fort Smith Sedition Trial
- 1990s**
New York City Landmark plots
- 2000s**
Portland Seven, Virginia Jihad Network, Jam'iyyat Ul-Islam Is-Saheeh, Liberty City Seven
- 2010s**
Hutaree Militia Members

CASE OUTCOMES

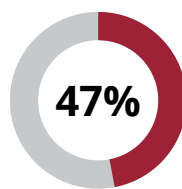
The outcomes of Seditious Conspiracy cases are varied. While those federally prosecuted for conventional crimes negotiate a guilty plea by a wide margin (roughly 90 percent), previous ATS research has shown that terrorism-related defendants are more likely to receive a jury trial, and Seditious Conspiracy defendants are no exception. Around one third of defendants either had their charges voluntarily dismissed or pleaded guilty, while the remainder went to trial.

Of the 78 defendants examined for this research brief, each charged with one count of Seditious Conspiracy, 68% were ultimately convicted, but roughly 30% of those convictions were obtained via other counts. Convictions were more likely when the defendants were connected to a foreign ideology, rather than domestic movements. While most received the maximum prison sentence once convicted, with the average penalty being approximately 17 years, one defendant charged in connection with the Puerto Rican Independence group Fuerzas Armadas de Liberación Nacional received only probation.

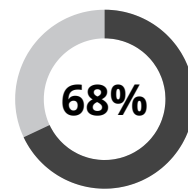
OF SEDITIOUS CONSPIRACY DEFENDANTS...



... ultimately went to trial (case not dismissed and no guilty plea).



... were convicted on the charge of Seditious Conspiracy.



... were ultimately convicted on any charged count.

ABOUT THE TERRORISM RESEARCH CENTER

The Terrorism Research Center (TRC) is a non-partisan research organization located in Fulbright College's Department of Sociology and Criminology at the University of Arkansas. Their mission is to use the tools of social science and data analytics to promote safer communities, inform evidence-based policies, and train the next generation of researchers and law enforcement professionals. The TRC houses the American Terrorism Study (ATS), a collection of federal terrorism and terrorism-related court records dating back to the 1980s. More than 1,600 court cases and nearly 3,000 offenders are included in the ATS. Variables include legal and demographic measures, as well as geospatial and temporal markers of terrorism incidents and preparatory activities.

The TRC also houses the Bias Homicide Database (BHDB) and Human Trafficking Study (HTS) Database, collaborating with students and researchers at institutions across the country to study issues of terrorism and various forms of extremism.

The TRC introduced the [Crime and Security Data Analytics Lab \(CASDAL\)](#) in 2020 to promote multidisciplinary research projects relating to crime and security issues, research partnerships with private and public agencies, and to train students in methods of crime analysis.

For more information about the TRC and our work, please visit terrorismresearch.uark.edu.

ATS DEFINITIONS AND INCLUSION CRITERIA

ATS case inclusion is based on one or more of the following: 1) official designation by FBI or other federal agency as a terrorism or terrorism-related indictment, 2) investigation into the case by the Joint Terrorism Task Force (JTTF), or 3) publicly known case details align with the FBI definition of terrorism: "The unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives."

Additional definitions of ATS variables can be found at terrorismresearch.uark.edu.

ABOUT THIS RESEARCH BRIEF

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