

# THROUGH A SCREEN DARKLY: HOLLYWOOD AS A MEASURE OF DISCRIMINATION AGAINST ARABS AND MUSLIMS

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Long before the September 11, 2001 terrorist attacks, Muslims—especially Arab Muslims—had been a stock set of characters in American television shows and movies. As recounted in Jack Shaheen’s exhaustive book, *Reel Bad Arabs*,<sup>1</sup> Hollywood has long stereotyped Arabs as blonde-lusting sheikhs or uncivilized terrorists.<sup>2</sup> Unsurprisingly, since 9/11 there has been an explosion of thriller programs focusing on terrorism, often with Arab and/or Muslim villains.<sup>3</sup>

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1. JACK G. SHAHEEN, REEL BAD ARABS: HOW HOLLYWOOD VILIFIES A PEOPLE (2001) [hereinafter SHAHEEN, REEL BAD ARABS]; see also JACK G. SHAHEEN, GUILTY: HOLLYWOOD’S VERDICT ON ARABS AFTER 9/11 (2008) [hereinafter SHAHEEN, GUILTY].

2. SHAHEEN, REEL BAD ARABS, *supra* note 1, at 14–22. Some representative pre-9/11 examples include TRUE LIES (Twentieth Century Fox 1994) and EXECUTIVE DECISION (Warner Bros. 1996), both of which involved Arab terrorists with plans to use weapons of mass destruction on American soil.

3. See *infra* notes 43–49 and accompanying text.

In this Essay, I examine this glut of new programming to assess how the live action medium of pop culture has changed, with greater awareness of Arab and Islamic cultures in the current national consciousness.<sup>4</sup> The results are mixed. On the one hand, while Arabs and Muslims are still frequently depicted as terrorists, television and movie producers have made greater efforts to show Arab-Americans actively participating in counterterrorism.<sup>5</sup> On the other hand, those “good” Arab roles are still secondary characters whose contributions, though important on-screen, do not do justice to their real-life counterparts.<sup>6</sup> In addition, many of the new programs introduce a sinister new type of terrorist: the “sleeper.” This new archetype is a seemingly normal Arab-American who insidiously plots to carry out terrorist attacks from inside the country.<sup>7</sup>

Television shows and movies are, of course, stylized fiction, and their stereotyped depictions are not the same thing as actual discrimination against Arabs and Muslims. However, as one defender of movies with Arab villains notes, “Hollywood reflects the perceptions and anxieties of the times.”<sup>8</sup> It may be that Hollywood produces movies and television shows with Arab villains because that is what the audience expects.<sup>9</sup>

Pop culture also works itself into more serious matters of national policy and law enforcement. In one widely reported incident, the dean of the United States Military Academy at West Point asked the producers of *24* to either reduce the amount of torture by Jack Bauer or at least show it backfiring, because U.S. military personnel in Iraq were using torture tactics they observed on the show.<sup>10</sup> Television shows and movies about terrorism policy may also influence how viewers perceive the reality of terrorism and counterterrorism policy.

Researchers have found a strong correlation between events depicted on television and public support for change. For example, the portrayals of stalkers on television shows and movies result in harsher anti-stalking laws.<sup>11</sup> The 1970s television drama *Emergency!* led audiences to expect greater availability of emergency services nationwide, and local governments complied.<sup>12</sup> The

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4. I do not discuss terrorism thriller works of fiction, though that could be another vector of analysis. See, e.g., VINCE FLYNN, *CONSENT TO KILL* (2005) (representing a sample of such works).

5. See *infra* notes 90, 92–96 and accompanying text.

6. See *infra* notes 92–94 and accompanying text.

7. See, e.g., *24* (Fox television broadcast 2001–10); *infra* Part II.C.

8. Daniel Mandel, *Muslims on the Silver Screen*, 8 MIDDLE EAST Q. 19, 30 (2001).

9. See *id.* at 28 (“Verisimilitude is the all-important consideration and by that standard Hollywood can be vindicated. . . . There are simply no Jewish versions of Osama bin Laden or black versions of Sheikh Omar Abdul Rahman.”); see also Lawrence Friedman, *Law, Lawyers, and Popular Culture*, 98 YALE L.J. 1579, 1589–90 (1989) (noting that television shows evolved to show more African-American characters in general and more women appearing as more than “sex objects, or as simpering, servant-like creatures” because “[t]elevision companies, their writers, and their advertisers, have merely reacted to what one part of the audience demands and another part respects or allows”).

10. Jane Mayer, *Whatever It Takes: The Politics of the Man Behind “24,”* NEW YORKER, Feb. 19, 2007, at 66.

11. See generally ORI KAMIR, *EVERY BREATH YOU TAKE: STALKING NARRATIVES AND THE LAW* (2001).

12. Paul Bergman, *Emergency!: Send a TV Show to Rescue Paramedic Services!*, 36 U. BALT. L. REV. 347, 347–48 (2007).

television show *Perry Mason*, among others, “changed . . . the public’s perception of lawyers, the police, and the legal system.”<sup>13</sup> Where crime dramas are concerned, the findings are even more specific: some viewers (1) develop a distorted view that violent crime is far more pervasive than it really is, with concomitant increase in support for harsh treatment of criminals;<sup>14</sup> (2) perceive whites to be far more likely to be homicide victims than in reality, and thereby “discount[] the tidal wave of death and injury suffered by African-Americans at the hands of criminals”;<sup>15</sup> (3) come to accept the views of law enforcement protagonists that civil rights merely get in the way of crime control;<sup>16</sup> and, (4) if serving as jurors in criminal trials, develop unrealistically high expectations for forensic evidence in what some have dubbed the “CSI effect,” after the popular CBS drama.<sup>17</sup> In short, television and movies matter.

In the first part of this Essay, I identify a number of movies and television shows that dramatize fictional counterterrorism efforts, both pre- and post-9/11, with Arab villains. My aim is not to provide detailed synopses of the programs in question, but rather to highlight how Arabs and Muslims are depicted. In the second section, I consider how those depictions can reflect, as well as inflame, prejudice and discrimination against Arabs and Muslims. I focus on three distinct issues. First, I observe that the increase in Arab characters on television and in the movies does not appear to have translated into a bonanza for Arab-American actors. Second, I follow up on complaints that Arab-American advocates have raised about the paucity of positive images of Arab-Americans in these sorts of programs. I then identify two real-life Arab-American agents who have played primary (as opposed to supporting) roles in counterterrorism efforts, including against al Qaeda, in recent years. Hollywood’s consistent failure to mirror reality not only disparages the efforts of these Arab-Americans, but also may harm national security by glossing over the problems posed by having too few Arabic-speaking agents. Finally, I consider the recent trend of cinematic villains who are not just Arab but also members of “sleepers.” I compare these characters to their real-life counterparts, various American citizens and residents who have been convicted of terrorism-related offenses after the 9/11 attacks. For the most part, the real life “sleepers” have not had the sophistication or the level of intended lethality that is commonly depicted in the movies or on television.

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13. Steven D. Stark, *Perry Mason Meets Sonny Crockett: The History of Lawyers and the Police as Television Heroes*, 42 U. MIAMI L. REV. 229, 230 (1987).

14. See David A. Harris, *The Appearance of Justice: Court TV, Conventional Television, and Public Understanding of the Criminal Justice System*, 35 ARIZ. L. REV. 785, 813 (1993); Simon A. Cole & Rachel Dioso-Villa, *Investigating the “CSI Effect” Effect: Media and Litigation Crisis in Criminal Law*, 61 STAN. L. REV. 1335, 1335 (2009).

15. Harris, *supra* note 14, at 814–15.

16. *Id.* at 815.

17. Cole & Dioso-Villa, *supra* note 14.

## I. ARABS AND MUSLIMS AS TERRORISTS IN HOLLYWOOD

## A. Before 9/11

The United States had been the target of successful terrorist attacks well before 9/11. Some of these include the 1983 truck bombing of the Marine barracks in Lebanon,<sup>18</sup> the 1996 bombing of the Khobar Towers housing facility in Dhahran, Saudi Arabia,<sup>19</sup> the 1998 bombings of our embassies in Kenya and Tanzania,<sup>20</sup> and the 2000 bombing of the *U.S.S. Cole* in a Yemen port.<sup>21</sup> These attacks all took place overseas—indeed, on the other side of the planet—so they did not engender the same degree of apprehension and terror as did the 9/11 attacks.<sup>22</sup> Of course, there were also two major terrorist incidents in the 1990s within the United States: the 1993 truck bombing of the World Trade Center,<sup>23</sup> and the 1995 bombing of the Murrah Federal Building in Oklahoma City.<sup>24</sup>

Hollywood apparently found these incidents lacking in dramatic tension. The terrorism thrillers of the 1990s, in contrast, concocted seemingly fantastic scenarios, usually involving plots to use chemical or nuclear weapons on U.S. soil.<sup>25</sup> Among the major releases with Arab villains were *Navy SEALs* in 1990,<sup>26</sup> *True Lies* in 1994,<sup>27</sup> *Executive Decision* in 1996,<sup>28</sup> and *The Siege* in 1998.<sup>29</sup>

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18. NAT'L COMM'N ON TERRORIST ATTACKS UPON THE UNITED STATES, THE 9/11 COMMISSION REPORT 61 (2004) [hereinafter 9/11 COMMISSION REPORT], available at <http://www.9-11commission.gov/report/911Report.pdf>.

19. *Id.* at 60.

20. *Id.* at 68–70.

21. *Id.* at 190–97.

22. Compare RICHARD A. CLARKE, AGAINST ALL ENEMIES: INSIDE AMERICA'S WAR ON TERROR 112–13 (2004) (discussing the reaction to the attacks on the Khobar Towers), *id.* at 181–87 (discussing the reaction to the embassy bombings in Tanzania and Kenya), and *id.* at 222–23 (discussing the reaction to the attack on the *U.S.S. Cole*), with *id.* at 1–34 (discussing the response to the 9/11 attacks. In addition, life in the United States following the earlier attacks proceeded normally for the most part, whereas after the 9/11 attacks, air traffic across the country and the stock markets were shut down, and military fighter planes flew combat air patrols over U.S. skies for days). See 9/11 COMMISSION REPORT, *supra* note 18, at 327; Tom Bowman, *Pilots defending U.S. Take On Grim Mission*, BALTIMORE SUN, Sept. 30, 2001, at A1.

23. See CLARKE, *supra* note 22, at 73.

24. See generally LOU MICHEL & DAN HERBECK, AMERICAN TERRORIST: TIMOTHY MCVEIGH & THE OKLAHOMA CITY BOMBING (2001).

25. Ironically, at least two of the pre-9/11 attacks subsequently became the basis of major movies: *BLACK HAWK DOWN* (Revolution Studios 2001), based on Mark Bowden's 1999 book of the same title, depicted the 1993 ambush of ninety-nine U.S. soldiers in Somalia, in which al Qaeda is now believed to have been involved, and 2008 saw the release of *THE KINGDOM* (Universal Pictures 2007), a fictionalized version of the Khobar Barracks bombing.

26. *NAVY SEALS* (Orion Pictures 1990).

27. *TRUE LIES*, *supra* note 2.

28. *EXECUTIVE DECISION*, *supra* note 2.

29. *THE SIEGE* (Bedford Falls Prod. 1998). Of course, not all terrorism thrillers of this time period had Arab or Muslim villains. In *THE ROCK* (Hollywood Pictures 1996), for example, it is a group of U.S. military and ex-military personnel who take hostages on Alcatraz Island and demand millions of dollars from the U.S. government on threat of launching nerve gas-equipped missiles into the San Francisco Bay Area. Other films of recent vintage include *DIE HARD* (Twentieth Century Fox 1988) (eastern European terrorists who take over a Los Angeles office tower), *DIE HARD 3: DIE HARD WITH A VENGEANCE* (Twentieth Century Fox 1995) (also eastern European terrorists setting off bombs in New

The villains in these films are openly or subtly identified as Arabs from specific Middle Eastern nations such as Lebanon,<sup>30</sup> the Palestinian territory,<sup>31</sup> or Iraq,<sup>32</sup> though they may also appear “generically” Arab.<sup>33</sup> In many instances, elite U.S. Special Forces soldiers or secret agents stop these terrorists from crashing a chemical weapon-loaded hijacked plane,<sup>34</sup> setting off stolen nuclear weapons,<sup>35</sup> and using stolen ground-to-air missiles against commercial aviation.<sup>36</sup>

Unlike the other movies, *The Siege* depicts U.S. counterterrorism agents in a negative as well as a positive light.<sup>37</sup> In responding to a series of conventional bombing attacks in New York, the U.S. military rounds up and detains all young Arab men in Brooklyn based simply on their race and religion, and a U.S. general tortures a suspect to death before discovering that the suspect was innocent.<sup>38</sup>

The terrorists in these films are not only all Arabs, but also clearly depicted as Muslims, frequently invoking the Koran to justify their actions, praying toward Mecca, and calling out to Allah.<sup>39</sup> With the exception of *The Siege*, little to no explanation is given as to why the terrorists are engaged in such horrific actions.<sup>40</sup> This is not to say that terrorism can be justified, especially given the time limitations of a 90–120 minute action movie. However, even the reprehensible tactic of using Palestinian suicide bombers to attack buses, theaters, and other soft targets in Israel is rooted in an understandable conflict between the Palestinians and Israelis about sovereignty over the West Bank, Gaza Strip, the city of Jerusalem, and the rest of Israel. That suicide bombing attacks are used for liberation and overthrow of what some consider a foreign, illegal occupation has led numerous commentators to justify the tactic.<sup>41</sup> Rarely does Hollywood provide even such a basic level of explanation of the antagonists’ motivations.

## B. After 9/11

In the fall of 2001, three of the four major networks were set to debut terrorism-related programs: *24*, *Alias*, and *The Agency*.<sup>42</sup> Although *Alias* never

York), and *THE PEACEMAKER* (Dreamworks 1997) (Serbian terrorist planning to set off nuclear device in Manhattan).

30. *NAVY SEALS*, *supra* note 26.

31. *EXECUTIVE DECISION*, *supra* note 2.

32. *THE SIEGE*, *supra* note 29.

33. *TRUE LIES*, *supra* note 2. I say “generically” in the sense that they may dress in Middle Eastern garb or invoke “Allah.”

34. *EXECUTIVE DECISION*, *supra* note 2.

35. *TRUE LIES*, *supra* note 2.

36. *NAVY SEALS*, *supra* note 30.

37. *THE SIEGE*, *supra* note 29.

38. *Id.*

39. See *SHAHEEN*, *REEL BAD ARABS*, *supra* note 1, at 11.

40. See *EXECUTIVE DECISION*, *supra* note 2; *NAVY SEALS*, *supra* note 26; *TRUE LIES*, *supra* note 2.

41. See, e.g., AMNESTY INTERNATIONAL, *WITHOUT DISTINCTION: ATTACKS ON CIVILIANS BY PALESTINIAN ARMED GROUPS 6* (2002), available at <http://www.unhcr.org/refworld/country,,AMNESTY,,PSE,4562d8cf2,3d2eea8e4,0.html>.

42. None of the three was inspired by the 9/11 attacks, since each had been bought by its respective network well before September 2001.

depicted significant Arab characters<sup>43</sup> and *The Agency* aired for only two seasons,<sup>44</sup> *24* became a mainstay of Fox Network's primetime lineup.<sup>45</sup> Its success likely inspired subsequent waves of terrorism thrillers such as *Sleeper Cell*<sup>46</sup> and *The Grid*,<sup>47</sup> both of which focused directly on Arab terrorism, as well as other counterterrorism programs such as *Threat Matrix*<sup>48</sup> and *E-Ring*.<sup>49</sup> More recently, the big budget thriller *The Kingdom* depicted a heavily fictionalized account of the Khobar Barracks bombing.<sup>50</sup>

As with the pre-9/11 thrillers, the post-9/11 television shows often depict apocalyptic threats to the United States by terrorists armed with chemical, nuclear, or biological weapons.<sup>51</sup> Sometimes the terrorists are based outside the United States, as in *The Grid*, where a joint American and British counterterrorism task force is formed to respond to a terrorist cell whose goal is to attack the financial foundation of the Western world—oil shipping.<sup>52</sup> But other post-9/11 shows presented even more sinister terrorism plots that marry domestic terrorism (such as the 1993 truck bombing of the World Trade Center and the 1995 bombing of the World Trade Center) with weapons of mass destruction.<sup>53</sup> *24*'s ruthless counterterrorism agent, Jack Bauer, disrupts plots to use nuclear, chemical, and biological weapons by both Arabs from unspecified Middle Eastern countries, as well as eastern Europeans and greedy Americans (including in one memorable season, the president), all living in the United States.<sup>54</sup>

## II. HOLLYWOOD AND ARABS: DISCRIMINATORY IMPACT?

### A. Constructive Refusal to Hire Arab-American Actors?

Given this increased emphasis on television shows and movies with Arab villains, one might at least expect the increased employment of actors of Arab descent as a silver lining.<sup>55</sup> But it appears there has been no such increase. In pre-

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43. *Alias* (ABC television broadcast 2001–06).

44. *The Agency* (CBS television broadcast 2001–03).

45. See, e.g., Michael Schneider, *Clock Winds Down For "24,"* VARIETY, Mar. 10, 2010, (noting that *24* was one of the Fox shows that helped the network capture the #1 spot in the 18–49 demographic), available at <http://www.variety.com/article/VR1118016256.html?categoryid=14&cs=1>.

46. *Sleeper Cell* (Showtime television broadcast 2005–06).

47. *The Grid* (TNT television broadcast 2004).

48. *Threat Matrix* (ABC television broadcast 2003–04).

49. *E-Ring* (NBC television broadcast 2005–06).

50. *THE KINGDOM*, *supra* note 25.

51. Cf. JOHN MUELLER, *ATOMIC OBSESSION: NUCLEAR ALARMISM FROM HIROSHIMA TO AL-QAEDA* 11–13 (2009) (arguing that chemical and biological weapons fall well short of the killing potential of nuclear or even conventional weapons).

52. *The Grid*, *supra* note 47.

53. *Threat Matrix*, *supra* note 48; *24*, *supra* note 7; *The Agency*, *supra* note 44.

54. *24*, *supra* note 7.

55. I use "Arab" here in the sense of referring to countries that are full members of the Arab League (Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, Syria, Yemen, Sudan, Libya, Morocco, Tunisia, Kuwait, Algeria, Bahrain, Qatar, Oman, United Arab Emirates, Mauritania, Somalia, Palestine, Djibouti, and Comoros). To determine the racial/ethnic backgrounds of the actors, I checked their entries on IMDb.com and, when available, the actor's personal webpage and news stories. It is

9/11 movies, Arab villains have been portrayed largely by actors not of Arab descent.<sup>56</sup> This trend has continued throughout post-9/11 films and television shows, with Arab villains played by actors of a wide variety of ethnic/racial backgrounds—Greek, Pakistani, Israeli/Jewish, Latino, South African, Iranian, Indian, and Cuban.<sup>57</sup>

Does it matter if the characters are not played by actors of Arab descent? After all, some Americans cannot tell the difference between Arabs and Indian Sikhs.<sup>58</sup> It may seem that the question places too much emphasis on an actor's ethnicity. However, these movies and television shows have made the race of the characters relevant by identifying them as Middle Eastern. This use of non-Arab actors to play Arab characters is reminiscent of the insulting practice in the early to mid-Twentieth Century of having Caucasian actors playing Asian characters.<sup>59</sup> Hollywood has long moved past such practices for Asian, African-American, and Native American characters; why does this practice remain in place for Arab-American characters?<sup>60</sup>

The overwhelming trend of employing non-Arab actors to portray Arab characters invites a number of explanations: (1) that there are insufficient numbers of Arab-American actors to satisfy these roles; (2) that there are Arab-American actors available, but they "aren't good enough" to play the villains; or (3) that there are Arab-American actors available but they don't want to take these parts. Explanation One—that there are insufficient Arab-American actors—strikes me as unbelievable. Prominent American actors of at least partial Arab descent include Wentworth Miller, Alexander Siddig, Tony Shalhoub, Vince Vaughn,<sup>61</sup> F. Murray Abraham, Jamie Farr, Salma Hayek,<sup>62</sup> and Michael Nouri.<sup>63</sup>

possible, of course, that a given actor may have concealed his or her Arab background, in which case my research would not have identified the actor accurately. On the other hand, that an actor felt it necessary to conceal his or her Arab background is, in a sense, evidence of subjective belief that discrimination against Arab-American actors exists.

56. See Appendix 1.

57. See Appendix 2.

58. See, e.g., Laurie Goodstein & Tamar Lewin, *A Nation Challenged: Violence and Harassment; Victims of Mistaken Identity, Sikhs Pay a Price for Turbans*, N.Y. TIMES, Sept. 19, 2001, at A1 (describing how an Arizona man shot an Indian Sikh, erroneously believing him to be a follower of the Taliban).

59. See generally Keith Aoki, "Foreign-ness" & Asian-American Identities: *Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes*, 4 ASIAN PAC. AM. L.J. 1 (1996). To be sure, some of the actors cast as villains can trace their racial background to predominantly Islamic countries such as Iran or Pakistan.

60. See, e.g., Valerie Kuklenski, *Latinos Lag, Blacks Gain in TV, Films*, DAILY NEWS OF LOS ANGELES, Sept. 20, 1997 (noting that Latinos were losing out on roles they used to get playing American Indians, Jews, or Pacific Islanders because of "political correctness").

61. IMDb.com, Biography for Vince Vaughn, <http://www.imdb.com/name/nm0000681/> (last visited Mar. 20, 2010) ("[Vaughn] is of Lebanese, Italian, Irish, English, and German ancestry.").

62. IMDb.com, Biography for Salma Hayek, <http://www.imdb.com/name/nm0000161/bio> (last visited Mar. 20, 2010) ("Hayek's] father was born in Lebanon.").

63. See SHAHEEN, GUILTY, *supra* note 1, at 60 (noting Arab backgrounds of Siddig, Abraham, and Farr); Nick Paumgarten, *The Race Card*, THE NEW YORKER, Nov. 10, 2003, at 44 (noting Miller's descent on mother's side as Russian-Dutch-French-Syrian-Lebanese). Some of these actors may be too old to play certain roles, and others are known primarily as comedy actors and might seem unsuitable for thrillers. On the other hand, there have been comics and comedy actors who have played serious roles in thrillers, such as Paul Reiser in "Aliens" and Mary-Lynn Rajskub in 24. See Sheila Benson, "Aliens" Blasts Off with Weaver in Command, L.A. TIMES, July 18, 1986, at 1 (noting that Reiser was an

In addition, that there have been actors of Arab descent cast in usually non-speaking, background roles (usually identified in credits simply as “Terrorist” or “Terrorist #4”) is further evidence against Explanation One.<sup>64</sup>

It is hard to know how to assess the validity of Explanation Two—that Arab-American actors aren’t “good enough” to play major characters. Whether a given actor is good enough for a role is inevitably a subjective question, though at the extremes it is hard to imagine that anyone would equate Denise Richards’s acting with, say, Meryl Streep’s. In any event, the Arab-American actors identified above have been deemed “good enough” to carry television shows and movies such as Fox’s *Prison Break* (Wentworth Miller), USA Network’s *Monk* (Tony Shalhoub), and the various films starring Vince Vaughn.

Finally, there is some anecdotal evidence to support Explanation Three—that Arab-American actors have rejected these villainous roles. Shaheen recounts numerous interviews with Arab-American actors who either declined to take roles as Arab terrorists or took them reluctantly, because there were no other roles to be had.<sup>65</sup> Lebanese-American actor Tony Shalhoub has reportedly refused to play Arab terrorists or criminals.<sup>66</sup> Other actors reported taking steps to de-emphasize or even conceal their Arab background.<sup>67</sup> One Arab-American actor explained, “I want to play parts where I am not killing people.”<sup>68</sup>

It may also be that many of these Arab villain roles are not much fun to portray, despite conventional wisdom that playing the antagonist is often more interesting than playing the protagonist.<sup>69</sup> In *24*, for example, the Arab terrorists are almost invariably grimly efficient and highly competent, but also somewhat

ex-comic); Mark de la Vina, *SF Sketchfest Rolls Out the Laughs*, SAN JOSE MERCURY NEWS, Jan. 10, 2008, at 15 (noting Rajskub’s background with Comedians of Comedy). To be sure, some of the actors in the list, such as Wentworth Miller and Vince Vaughn, are of mixed racial ancestry. But while we do not have an official “one drop” rule any more, society still often proceeds under that assumption with regard to actors. Simply consider the controversy over *Saturday Night Live*’s selection of cast member Fred Armisen to play Barack Obama in skits. Obama is half-black, half-white; Armisen also has mixed ancestry, though he is not black. Therefore, he matches Obama in being part-white. Yet, critics assailed the choice, suggesting that “SNL” should have hired a black actor/comedian to portray Obama. See, e.g., *Irrelevant comedy Show Suddenly Enters the Race for the Presidency*, S.F. CHRON., Mar. 7, 2008, at E1 (stating that the “Armisen hire was wrong”).

64. For a full cast list for *Executive Decision*, where the “Terrorist” and “Terrorist #4” examples are drawn, see <http://www.imdb.com/title/tt0116253/fullcredits#cast>.

65. SHAHEEN, GUILTY, *supra* note 1, at 59–60.

66. Karen Heller, “Siege” Director Defends Film Against Criticism, MOBILE REG. (Ala.), Nov. 9, 1998, at D5; see also Tony Shalhoub Counters Negative Stereotypes in Hollywood, VOICE OF AM., Sept. 9, 2009, available at <http://www1.voanews.com/english/news/a-13-2009-09-09-voa34-68709247.html> (“Throughout his movie career, spanning over 20 years, Tony Shalhoub has turned down scripts when he felt there were negative or racist overtones in the story line”).

67. SHAHEEN, GUILTY, *supra* note 1, at 60 (noting examples of actors who Anglicized their names).

68. *Id.* at 60–61 (quoting Karim Saleh).

69. See, e.g., Carolyn Sayre, *10 Questions*, TIME, Feb. 11, 2008, at 8 (quoting actress Susan Sarandon as saying “[i]t is always more fun to be bad. All the mean things that you would love to say, you suddenly have license to do.”); Miriam Di Nunzio, *Screen Villains Cherish Their Bond with 007*, CHI. SUN TIMES, Dec. 15, 2006, at 08 (quoting actor Sean Bean as saying “[i]t’s more fun to play the bad guy”); Andrew Fenton, *Stars Turn to the Dark Side*, ADVERTISER (Austl.), Aug. 2, 2007, at 42 (quoting Harrison Ford, Michelle Pfeiffer, and Robin Williams as saying that they enjoyed playing villains).

boring.<sup>70</sup> Not all 24 villains are such bland automatons, however. The non-Arab villains in 24 have been played with scene-chewing gusto by actors and well-known movie stars such as Dennis Hopper, Joaquim de Almedia, Tzi Ma, and Jon Voight.<sup>71</sup> Frequent television character actor Gregory Itzen was given enough material, as the devious and loathsome President Logan, to have earned an Emmy nomination.<sup>72</sup>

Is there something setting these enemies apart from the Arab villains? One notable difference is that these other villains are given at least some nominal motivation for their horrific acts.<sup>73</sup> Tzi Ma's character, for example, first was driven by his sincere belief that Jack Bauer was responsible for the death of his country's consular officer and therefore needed to be brought to justice.<sup>74</sup> Later, in seeking to blackmail Bauer to steal a secret Russian microchip, he aspired to bolster China's national security vis-à-vis Russia.<sup>75</sup>

That there are Arab roles available that are so unsatisfying that actors of Arab descent would pass them up is reminiscent of constructive discharge in employment law. Under this doctrine, an employer that makes working conditions so intolerable that an employee quits can be liable without actually firing the employee,<sup>76</sup> preventing the employer from doing indirectly what it is forbidden from doing directly.<sup>77</sup> Similarly, Hollywood's treatment of Arab-American actors could be seen as discriminatory due to its making the roles so unpalatable that few, if any, such actors would want them. To be sure, I am not suggesting that these casting matters should be subject to litigation.<sup>78</sup> My point is more limited: the absence of Arab-American actors portraying Arab characters may be in part a reflection of a dismissive attitude toward Arab and Muslim cultures.

The question remains: why does Hollywood create such unappealing Arab characters? Other racial groups such as Asians, African-Americans, Native Americans, and Latinos have not appeared as monolithic terrorists; in fact, after Arabs and Muslims, it seems like disgruntled U.S. military soldiers and undercover agents are the next most frequent category of terrorists in movies and television shows.<sup>79</sup> One immediate response, of course, might be that Arabs

70. See 24, *supra* note 7.

71. *Id.*

72. Gillian Flynn, *Time Zoned*, EW.com, July 6, 2006, <http://www.ew.com/ew/article/0,,1209866,00.html>.

73. 24, *supra* note 7. For a discussion of the significance of motivation for terrorist characters, see Tung Yin, *Jack Bauer Syndrome: Hollywood's Depiction of National Security Law*, 17 S. CAL. INTERDISCIPLINARY L.J. 279, 293-95 (2008) [hereinafter Yin, *Jack Bauer Syndrome*].

74. 24, *supra* note 7.

75. *Id.*

76. See, e.g., *Watson v. Nationwide Ins. Co.*, 823 F.2d 360, 361 (9th Cir. 1987); see also Martha Chamallas, *Title VII's Midlife Crisis: The Case of Constructive Discharge*, 77 S. CAL. L. REV. 307, 314-22 (2004).

77. See *Watson*, *supra* note 76; *Chamallas*, *supra* note 76.

78. But see Russell K. Robinson, *Casting and Caste-ing: Reconciling Artistic Freedom and Antidiscrimination Norms*, 95 CAL. L. REV. 1, 18-24 (2007).

79. See *THE ROCK*, *supra* note 29 (concerning soldiers); *BROKEN ARROW* (Twentieth Century-Fox Film Corp. 1996) (concerning an Air Force pilot); *DIE HARD 2* (Gordon Co. 1990) (concerning former soldiers); *UNDER SIEGE* (Warner Bros. Pictures 1992) (concerning an ex-CIA operative and a naval

have committed most of the terrorism directed against American interests since 1980. Daniel Mandel, in defending the portrayal of Arabs as terrorists in films, has argued that audiences expect “verisimilitude” in films, and that having fictional Jewish or African-American terrorists would be silly.<sup>80</sup> But of course, one is hard-pressed to identify any real-life terrorism involving high-level military commanders and their underlings, yet movies like *The Rock* and *Die Hard 2* have succeeded with such fictional villains.<sup>81</sup> Moreover, it is not as if there are no African-American, Latino, or Asian terrorists in any of these movies; three of the Marines in *The Rock* who take hostages on Alcatraz Island are African-American,<sup>82</sup> and the leader of the military strike force that turns out to be in cahoots with the terrorists in *Die Hard 2* is African-American.<sup>83</sup> The difference is that in those movies, the particular terrorists are identified as rogue soldiers because that is what unites them with their fellow criminals. In contrast, the terrorists in *Navy SEALs*, *True Lies*, *Executive Decision*, and *The Siege* are all defined exclusively by their Arab background.<sup>84</sup>

“Verisimilitude” means that Hollywood is producing movies with villains that audiences will accept, and therefore Hollywood reflects general societal views and biases. This is a self-perpetuating problem: what Hollywood produces impacts what the audience believes, and what the audience believes in turn influences, if not dictates, what Hollywood produces. It is fair to say that Hollywood and audiences seem comfortable with depictions of terrorist groups that are monolithically Arab in a way that they are not with other identifiable minority racial groups.

## B. Insufficient Positive Depictions of Arab-Americans or Muslim-Americans

Another complaint raised by Arab-American advocates—even before 9/11—was that movies with Arab terrorists rarely, if ever, depicted Arab-Americans or Muslims in a positive light.<sup>85</sup> In *Executive Decision* and *Navy SEALs*, for example, the U.S. assault teams are positively multicultural—except there are no Arab-American soldiers.<sup>86</sup> In *True Lies*, the protagonists fight off all of the Arab terrorists virtually single-handedly, with a very small bit of assistance from an Arab-American code breaker.<sup>87</sup>

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commander); *UNDER SIEGE 2: DARK TERRITORY* (Warner Bros. Pictures 1995) (concerning an ex-defense industry scientist and an ex-military soldier).

80. Mandel, *supra* note 8, at 29.

81. *Die Hard 2* was the eighth highest grossing movie domestically and seventh in the world in 1990. Boxofficemojo.com, *Die Hard 2*, <http://www.boxofficemojo.com/movies?id=diehard2.htm> (last visited Mar. 26, 2010). *The Rock* was the seventh highest grossing movie domestically and 4th in the world in 1996. Boxofficemojo.com, *The Rock*, <http://www.boxofficemojo.com/movies?id=rock.htm> (last visited Mar. 26, 2010).

82. *THE ROCK*, *supra* note 29.

83. *DIE HARD 2*, *supra* note 79.

84. To be sure, having multicultural terrorists cannot be the simple solution in all cases; the plots of *Navy SEALs* and *The Siege*, for example, would be rendered incoherent by such a fix.

85. See generally SHAHEEN, *REEL BAD ARABS*, *supra* note 1.

86. *EXECUTIVE DECISION*, *supra* note 2; *NAVY SEALs*, *supra* note 26.

87. *TRUE LIES*, *supra* note 2.

A requirement that every Hollywood terrorism thriller with Arab villains include an Arab-American soldier or agent would no doubt be ridiculed as imposing a “quota.” But it does seem odd that the *Executive Decision* and *Navy SEALs* producers appeared to prioritize diverse casting of the assault teams yet failed to create Arab-American characters. After all, from a narrative standpoint, there would be clear advantages to having Arabic-speakers on the teams in case the enemies were communicating amongst themselves in Arabic. In contrast, *The Siege* had a key Arab-American Federal Bureau of Investigation (“FBI”) agent, played by Tony Shalhoub, who got caught up in the drama when his own son was swept into the detention dragnet.<sup>88</sup>

The mere presence of a single “good” Arab-American might be seen as tokenism, much in the same way, as Jack Shaheen argues, that Tonto’s presence hardly dispelled the offensive images of all the remaining Native Americans in the *Lone Ranger* films.<sup>89</sup> While Jack Shaheen acknowledges the positive portrayal of Shalhoub’s character in *The Siege*, he ultimately dismisses the impact of Agent Haddad when weighed against “the movie’s violent, monolithic view of Arabs and Muslims.”<sup>90</sup> Indeed, there is reason to believe that negative images of groups influence viewers more than positive ones do.<sup>91</sup>

Since 9/11, government-agent characters who are Arab or practicing Muslims have become more prevalent. The counterterrorism team on ABC’s *Threat Matrix* included a character who downplayed his Islamic faith until one episode, which ended with his praying toward Mecca on-screen.<sup>92</sup> In the television mini-series *The Grid*, there was an Arab-American Central Intelligence Agency (“CIA”) analyst who helps the joint U.S.–British counterterrorism team understand the culture of the cell that they are operating against.<sup>93</sup> Even *24* adapted to the times and introduced a Palestinian-American Counter Terrorism Unit (“CTU”) analyst in the sixth season who was promoted to the acting head of CTU Los Angeles by the end of the day.<sup>94</sup>

On this score, then, Hollywood appears to have improved incrementally. Whereas *The Siege* stood out for having even a token Arab-American agent, producers in the post-9/11 era seem to accept that if they depict Arabs as the villains, they need to have an Arab-American counterterrorism agent.<sup>95</sup> But it must also be said that *Sleeper Cell* stood out for having a *protagonist* who was a practicing Muslim.<sup>96</sup>

How does Hollywood’s marginally improved positive portrayals of Arab-Americans or American Muslims compare to real life? Sadly, Hollywood tokenism in some ways reflects reality. At the time of the 9/11 attacks, there were

88. THE SIEGE, *supra* note 29.

89. SHAHEEN, REEL BAD ARABS, *supra* note 1, at 431.

90. *Id.*

91. See Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533, 560 (2000) (citing studies indicating that negative images of groups influence viewers more than positive images).

92. *Threat Matrix*, *supra* note 43, “Patriot Acts” (Oct. 16, 2003).

93. *The Grid*, *supra* note 47.

94. *24*, *supra* note 7 (2006).

95. See *supra* text accompanying note 84.

96. *Sleeper Cell*, *supra* note 46.

only eight Arabic-speaking FBI agents in the entire country.<sup>97</sup> The scarcity of Arabic-speaking agents may be due to a combination of factors ranging from the relatively small Arab-American population in the country, 0.4%,<sup>98</sup> to an insular counterterrorism culture that eyed Arab-Americans with suspicion.<sup>99</sup> Indeed, Hollywood may unwittingly be illuminating the dearth of Arab-American federal agents, though audiences are likely to miss its significance in the absence of any plotlines that turn on that fact.

The fictional Arab-American agents tend to play a supporting role, at times offering some insights into Islamic or Arabic culture or translating from Arabic to English. In *24*, for example, it is Jack Bauer who actually extracts vital information from captured terrorists by negotiating immunity agreements (occasionally, and only for female terrorists)<sup>100</sup> or torturing them (much more frequently).<sup>101</sup>

There are no Jack Bauers in reality, but a good real-life approximation is Ali Soufan, a Lebanese-American FBI agent whose interrogation of captured al Qaeda members such as Abu Zubaydah led to (1) the discovery that Khalid Sheikh Mohammed was the primary planner of the 9/11 attacks; (2) the discovery that Jose Padilla was plotting with al Qaeda to commit terrorism on U.S. soil; and (3) the information that led to the capture of Ramzi Binalshibh.<sup>102</sup> Soufan also interrogated and elicited confessions from Salim Ahmed Hamdan (Osama bin Laden's driver) and Ali Hamza al Bahlul (bin Laden's propagandist).<sup>103</sup> Unlike Bauer, Soufan did not resort to torture or even physical abuse.<sup>104</sup> Rather, he engaged in what he called "traditional interrogation techniques"—building rapport and debating with the detainees on their interpretations of Islam.<sup>105</sup> He was able to do so because he spoke Arabic fluently

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97. Amy Davidson, *Missed Opportunities*, THE NEW YORKER, July 10, 2006, available at [http://www.newyorker.com/archive/2006/07/10/060710on\\_onlineonly01](http://www.newyorker.com/archive/2006/07/10/060710on_onlineonly01). Of course, the number of Arabic-speaking agents is a crude approximation of the number of Arab-American agents, since not all Arab-Americans may speak Arabic, and not all American speakers of Arabic are of Arab descent.

98. G. PATRICIA DE LA CRUZ & ANGELA BRITTINGHAM, U.S. CENSUS BUREAU, THE ARAB POPULATION: 2000, 1 (2003), <http://www.census.gov/prod/2003pubs/c2kbr-23.pdf>.

99. See Davidson, *supra* note 97 (quoting analysis by Pulitzer Prize-winning author Lawrence Wright). Indeed, the most fluent American speakers of Arabic tended to have spent time, perhaps considerable time, in the Middle East, yet, that very fact ends up keeping them from getting security clearances. See, e.g., Dan Eggen, *FBI Agents Still Lacking Arabic Skills*, WASH. POST, Oct. 11, 2006, at A1. Russian-Americans faced a similar trend during the Cold War. See Steven J. Gold, *Russia*, in THE NEW AMERICANS: A GUIDE TO IMMIGRATION SINCE 1965 583 (Mary C. Waters & Reed Ueda eds., 2007).

100. See Yin, *Jack Bauer Syndrome*, *supra* note 65, at 280 (noting that Jack Bauer never tortures female terrorists).

101. *24*, *supra* note 7.

102. See Ali Soufan, *My Tortured Decision*, N.Y. TIMES, Apr. 23, 2009, at A27; see also LAWRENCE WRIGHT, THE LOOMING TOWER: AL QAEDA AND THE ROAD TO 9/11 364 (2007).

103. *Torture in the Bush Administration: Testimony Before Committee on Senate Judiciary Subcommittee on Administrative Oversight and the Courts*, 111th Cong. (2009), available at 2009 WLNR 9109813 (statement of Ali Soufan, CEO, The Soufan Group, LLC).

104. To be fair to Bauer, Soufan was not operating under the constraints of an actual ticking time bomb. Then again, perhaps no one ever is. See, e.g., JANE MAYER, THE DARK SIDE: THE INSIDE STORY OF HOW THE WAR ON TERROR TURNED INTO A WAR ON AMERICAN IDEALS 330 (2008).

105. Davidson, *supra* note 97.

and he understood Middle Eastern culture.<sup>106</sup> Another important Arab-American FBI agent is Bassem Youssef, who unraveled much of the Islamic Group cell in New York (led by Omar Abdel-Rahman, or “the Blind Sheikh”), which perpetrated the 1993 World Trade Center bombing.<sup>107</sup>

The failure to depict sufficient positive images of Arab-Americans or Muslim-Americans fighting the war on terrorism not only ignores the critical contributions of agents like Soufan or Youssef, but also indirectly harms national security. Viewers see—and might come to believe—that the solution to terrorism lies in more technology (such as ubiquitous spy cameras), more aggressive and coercive interrogations, and more intrepid, red-tape-cutting agents like Jack Bauer who, despite not speaking Arabic, is able to communicate with every terrorist he captures because they all speak English. For a good example of how Hollywood glosses over the significance of the lack of Arabic-speaking agents, consider the fifth episode of season four of *24*.<sup>108</sup> While Jack Bauer was trailing a terrorist in a car in front of him, CTU intercepted a cell phone conversation between the terrorist and his cell leader;<sup>109</sup> amazingly, this conversation took place entirely in English, thus sparing CTU the need to round up a translator!<sup>110</sup> Why a bunch of non-native English speakers would choose to speak about their diabolical plans in English is impossible to fathom.

Against that backdrop, the fact that in 2006 there were only 33 FBI agents out of 12,000 who had “even a limited proficiency in Arabic”<sup>111</sup> might not seem as alarming as it should.<sup>112</sup> Hollywood’s relative scarcity of Arab and Muslim characters engaged in counterterrorism efforts may unwittingly mask the disparate impact of the government’s hiring practices, which effectively penalize Americans who have learned or honed their Arabic through immersion while living in the Middle East.<sup>113</sup>

### C. “Sleepers” – On-Screen and in Real Life

The 9/11 attacks were planned by a group of Middle Eastern men operating out of terrorist training camps halfway across the world in Afghanistan.<sup>114</sup> They were carried out by nineteen foreign citizens who had entered the country legally on short-term visas.<sup>115</sup> The 9/11 plot therefore resembled the fictitious plots depicted in the pre-9/11 thrillers—terrorist attacks carried out by foreigners.

106. *Id.*; see also Mark Bowden, *The Dark Art of Interrogation*, ATLANTIC MONTHLY, Oct. 2003, at 51 (describing Israeli interrogator Michael Koubi’s skill at interrogating Palestinian prisoners as stemming largely from his mastery of Arabic).

107. See Bruce Falconer, *The FBI’s Least Wanted*, MOTHER JONES, May/June 2009, at 40.

108. *24*, *supra* note 7 (Jan. 17, 2005).

109. *Id.*

110. *Id.*

111. Eggen, *FBI Agents*, *supra* note 99. In its defense, the FBI argued that its agents did not need to be fluent in Arabic because they could rely on translators. *Id.*

112. *Id.*

113. PHILIP BOBBITT, TERROR AND CONSENT: THE WARS FOR THE TWENTY-FIRST CENTURY 313 (2008).

114. 9/11 COMMISSION REPORT, *supra* note 18, at 153–69.

115. *Id.* at 215–35.

In some of the post-9/11 shows, however, Hollywood dialed up the narrative tension by depicting homegrown terrorists, who often happened to be of Arab descent and/or practicing Muslims. In season four of *24*, for example, the sinister Araz family took center stage early on.<sup>116</sup> Unlike the terrorists in *Executive Decision* or *True Lies*—or even the Arab terrorists in season two of *24*—the Arazes were not temporary visitors; they were a seemingly normal, typical immigrant family that had integrated into American society.<sup>117</sup> What the viewer saw, however, was that the Araz family was a “sleeper cell” that was part of a carefully planned, exquisitely complicated terrorist plot.<sup>118</sup> While they bided their time, they attempted to blend into American society. The entire concept of Showtime’s *Sleeper Cell* is summed up in its title.<sup>119</sup> These depictions, however, bear little resemblance to real life.

The fear of sleeper cells shares with the Cold War Red Scare the idea that one’s seemingly normal neighbor might in fact be the hidden enemy. In real life, this fear culminated in the McCarthy era witch hunts and blacklisting of certain Hollywood actors and directors believed to have been communists.<sup>120</sup> Indeed, the erroneous but persistent belief espoused by some voters during the 2008 presidential election that Barack Obama was a Muslim reflects the fear of an enemy pretending to be an American.<sup>121</sup>

Examples of homegrown terrorists in recent years include Timothy McVeigh and Terry Nichols, who planned and carried out the 1995 bombing of the Murrah Federal Building in Oklahoma City.<sup>122</sup> McVeigh and Nichols were both U.S. citizens and former members of the U.S. armed forces.<sup>123</sup> The July 7, 2005 London bombings, which killed 56 people and injured about 700, were designed and carried out by native-born British Muslims.<sup>124</sup>

Since 9/11, there have been dozens of Arab-Americans or Muslim-Americans convicted of terrorism-related charges,<sup>125</sup> typically for providing material support to a designated foreign terrorist organization.<sup>126</sup> One such case from Lackawanna, New York, involved a group of Yemenese-Americans who pleaded guilty to the charge.<sup>127</sup> The indictment charged that the group traveled to Afghanistan during the summer of 2001, received weapons training and other

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116. *24*, *supra* note 7 (Jan. 9, 2005–May 23, 2005).

117. *Id.*

118. *Id.*

119. *Sleeper Cell*, *supra* note 46.

120. See GEOFFREY R. STONE, PERILOUS TIMES: FREE SPEECH IN WARTIME FROM THE SEDITION ACT OF 1798 TO THE WAR ON TERRORISM 359–66 (2004).

121. Perry Bacon, Jr., *Foes Use Obama’s Muslim Ties to Fuel Rumors About Him*, WASH. POST, Nov. 29, 2007, at A1.

122. MICHEL & HERBECK, *supra* note 24.

123. *Id.* at 58–59, 70–80.

124. *Suicide Bombers’ ‘Ordinary’ Lives*, BBC NEWS, July 18, 2005, available at [http://news.bbc.co.uk/2/hi/uk\\_news/4678837.stm](http://news.bbc.co.uk/2/hi/uk_news/4678837.stm).

125. See Robert M. Chesney, *Beyond Conspiracy? Preventative Prosecution and the Challenge of Unaffiliated Terrorism*, 80 S. CAL. L. REV. 425, 425–26 (2007).

126. *Id.* at 428.

127. Robert F. Worth, *Threats and Responses: New York Case; Accused Member of Terror Cell Near Buffalo Agrees to Guilty Plea*, N.Y. TIMES, Jan. 11, 2003, at A9.

instruction from al Qaeda, and then returned to the United States.<sup>128</sup> Shortly thereafter, another group of Muslim-Americans in Portland, Oregon, pleaded guilty to the same charge; the only difference was that the members of the Portland group were unable to enter Afghanistan after 9/11.<sup>129</sup> More recently, in 2007, six radical Islamic men, at least one of whom was a naturalized American citizen, were convicted of plotting to attack the U.S. military base in Fort Dix, New York.<sup>130</sup> They were apprehended based on the work of an FBI informant, though the defendants argued that the informant was more than a passive observer and in fact induced the defendants to act.<sup>131</sup> In the summer of 2009, Homeland Security Secretary Janet Napolitano agreed that there was a concern over Americans becoming inspired to participate in al Qaeda-type terrorist attacks.<sup>132</sup>

Until 2009, the Arab-American or Muslim-American terrorism defendants arrested after 9/11 have looked quite different from their fictional counterparts. The Lackawanna, Portland, and Fort Dix defendants do not appear to have been “sleepers” in the sense of having been trained by an enemy force (al Qaeda in this instance) to pretend to be regular Americans while awaiting a secret command to activate a terrorist plot. As far as we know, the Portland and Fort Dix defendants never even met Osama bin Laden, Ayman al-Zawahari, or other al Qaeda leaders. At most, they became radicalized by their perception of mistreatment of Muslims and were possibly inspired by the 9/11 attacks. And while the Lackawanna defendants apparently did meet bin Laden—or at least, listen to a speech he gave to al Qaeda recruits—there is no indication that they returned to the United States with an active role in a future terrorist plot. Finally, the Fort Dix defendants purportedly had a vague plan to attack a local military base with assault weapons, but government officials said the men were not connected to any terrorist organizations.<sup>133</sup>

In 2009, the Justice Department arrested Najibullah Zazi, a legal immigrant from Afghanistan, for conspiring to build liquid explosives with the intent of

128. *Id.* Ahmed Hiazji, an associate of the defendants, was out of the country and therefore not arrested with the others; he was later killed in Yemen when a CIA-operated Predator drone aircraft fired a missile that destroyed the car he was riding in, along with the target of the attack, Qaed Salim Sinan al-Harethi. See Dana Priest, *CIA Killed U.S. Citizen in Yemen Missile Strike – Action’s Legality, Effectiveness Questioned*, WASH. POST, Nov. 8, 2002, at A1; Laura K. Donohue, Op-Ed., *The “Good Guy” Turns Assassin*, L.A. TIMES, Nov. 17, 2002, at M1.

129. Mitch Frank, *Terror Goes on Trial*, TIME, Feb. 27, 2005, at 34; Press Release, Dep’t of Justice, Jeffrey Battle, Patrice Lumumba Ford Sentenced to 18 Years in Prison for Seditious Conspiracy (Nov. 24, 2003), available at [www.fbi.gov/doi/pressrel/pressrel03/battle112403.htm](http://www.fbi.gov/doi/pressrel/pressrel03/battle112403.htm).

130. Dale Russakoff & Dan Eggen, *Six Charged in Plot to Attack Fort Dix*, WASH. POST, May 9, 2007, at A1.

131. Paul von Zielbauer & Jon Hurdle, *5 Are Convicted of Conspiring to Attack Fort Dix*, N.Y. TIMES, Dec. 22, 2008, at A23.

132. See Transcript, *Charlie Rose Show: Interview with Secretary of Homeland Security Janet Napolitano* (PBS television broadcast July 29, 2009), available at 2009 WLNR 14693183.

133. Christopher Dela Cruz, *Three Convicted in Fort Dix Terror Plot are Sentenced to Life in Prison*, N.J. REAL-TIME NEWS, Apr. 28, 2009, [http://www.nj.com/news/index.ssf/2009/04/judge\\_sentences\\_fort\\_dix\\_defen.html](http://www.nj.com/news/index.ssf/2009/04/judge_sentences_fort_dix_defen.html); David Kocieniewski, *6 Men Arrested in Terror Plot Against Fort Dix*, N.Y. TIMES, May 9, 2007, at A1.

blowing up subways and other targets in the United States.<sup>134</sup> One U.S. government official described Zazi's plot as the most serious one to have come to light since the 9/11 attacks.<sup>135</sup> Zazi more closely resembles the sleeper terrorists depicted in television and movies, with a specific terrorist plot allegedly in the works.<sup>136</sup> But even if the allegations against Zazi are accurate, his plot only begins to approach the lethality of those in post-9/11 Hollywood shows. This is not to downplay the seriousness of the alleged plot, but the death toll from the 2005 London subway and bus bombings was 52,<sup>137</sup> compared to the approximately 12,000 who died in a nuclear blast at the end of one episode of 24 in season six,<sup>138</sup> or the upward of a million who were threatened by a nuclear device in that show's season two.<sup>139</sup>

If media images on television and film influence audience perceptions, as studies suggest, and audiences are subjected to an increasing slew of dedicated and deadly sleeper cells on screen (including ones that bear little to no resemblance to real-life plots), then it follows that audiences will become more predisposed to suspecting conspiracies amongst Arab- or Muslim-Americans. Government programs such as "iWatch," which allow individuals to report suspicious activity,<sup>140</sup> may exacerbate this effect because people may use Arab racial background or Islamic faith as a factor or proxy for precursor terrorist activity.<sup>141</sup> Immediately after the 1995 Oklahoma City bombing, many Americans wrongly suspected that the perpetrators were Arabs.<sup>142</sup> When weaponized anthrax spores were discovered in envelopes sent to journalists in Florida and New York in late 2001, the government initially focused on foreign terrorists and governments,<sup>143</sup> particularly Iraq.<sup>144</sup> Because Islam is practiced by such a small

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134. James Bone, *Suspected Al-Qaeda Cell Found Allegedly Plotting 7/7-Style Attack in U.S.*, TIMES (London), Sept. 21, 2009, at News 35.

135. Mark Hosenball, *Not So Bungled After All*, NEWSWEEK, Oct. 5, 2009, at 12.

136. Indeed, before escalating the terrorist threat into one of "suitcase nukes," season 6 of 24 actually started with a series of low-level convention bombings of buses and other such targets.

137. Bone, *supra* note 134.

138. 24, *supra* note 7 (Jan. 15, 2007).

139. *Id.* (Oct. 28, 2002–May 20, 2003).

140. Eileen Sullivan & P. Solomon Banda, *New iWatch Program Hopes to Collect Tips on Possible Terrorist Actions*, DENVER POST, Oct. 4, 2009, at B4.

141. Aziz Huq, *Modeling Terrorist Radicalization*, 2 DUKE F. FOR L. & SOC. CHANGE 39 (2010).

142. See, e.g., MICHEL & HERBECK, *supra* note 24, at 249 ("To many observers—from politicians to average citizens—the obvious assumption was that foreign terrorists, most likely Arab, were responsible."); Richard A. Serrano, *Oklahoman Sues U.S. over False Accusation*, DENVER POST, Nov. 10, 1995, at A23; Patrick O'Driscoll, *Arab-Americans Being Targeted as Scapegoats*, USA TODAY, September 13, 2001, available at <http://www.usatoday.com/news/nation/2001/09/13/arab-americans.htm>.

143. See Donna Leinwand et al., *Questions Linger as Feds Say Ivins was Lone Killer*, USA TODAY, Aug. 7, 2008, at 1A.

144. See William J. Broad & David Johnston, *The Anthrax Trail: U.S. Inquiry Tried, but Failed, to Link Iraq to Anthrax Attack*, N.Y. TIMES, Dec. 22, 2001, at A1. Of course, I don't mean to suggest that the Bush administration's focus on Iraq as the potential culprit was due to anti-Arab bias. Iraqi leader Saddam Hussein's previous efforts to obtain nuclear and/or biological weapons, along with his stockpiling—and use—of chemical weapons made him a plausible suspect, even apart from whatever other reasons, legitimate or not, that the Bush administration may have had for wanting a justification to invade Iraq. See generally FRED KAPLAN, *DAYDREAM BELIEVERS: HOW A FEW GRAND IDEAS WRECKED AMERICAN POWER* (2008).

fraction of Americans, “Islamic knowledge among the populous is extremely low and perceptions about Islam extremely impressionable; it is difficult for the American audience to perceive Muslim extremists as the exception rather than the rule.”<sup>145</sup>

Advocates of iWatch are likely aware of the potentially discriminatory impact on Arabs and Muslims. An iWatch founder has said that reports based only on race will not be accepted.<sup>146</sup> But if some members of the public believe that all terrorists are Arabs or Muslims, they will more likely focus their attention on Arabs and Muslims. This is a common criticism of racial profiling—that probability-based defenses of racial profiling are vulnerable to selection bias.<sup>147</sup>

Consider the example of Brandon Mayfield, an Oregon lawyer whom the FBI suspected of involvement in the 2004 Madrid train bombing. Mayfield previously represented one of the Portland sleeper cell defendants in an unrelated matter, and is a practicing Muslim.<sup>148</sup> A fingerprint taken from the crime scene appeared to match Mayfield’s, even though there was no indication that he had been in Spain at the relevant time.<sup>149</sup> The FBI subsequently arrested Mayfield and held him as a material witness with no access to family, friends, or counsel. Eventually, Spanish authorities identified someone else as the source of the fingerprint, and Mayfield was released.<sup>150</sup> The Justice Department later concluded that Mayfield’s religion and his previous representation of a convicted terrorist were not factors in the initial misidentification, but they nevertheless “likely contributed to examiners’ failure to sufficiently reconsider the identification after legitimate questions about it were raised.”<sup>151</sup> In short, Mayfield did not come to the government’s attention *only* because he was a Muslim; the government could also point to his apparent prior link with someone who would later admit to being a terrorist.<sup>152</sup> This suggests that the iWatch disclaimer—that reports based only on race (or religion) will not be accepted—may ultimately prove to be of little comfort.

145. Grace Song, *The Villainous Depiction of Muslims*, L.A. TIMES, Apr. 1, 1996, at 3.

146. Sullivan & Banda, *supra* note 140.

147. See Tung Yin, *The Probative Values and Pitfalls of Drug Courier Profiles as Probabilistic Evidence*, 5 TEX. F. ON C. L. & C.R. 141, 163 (2000). By “probability-based defense of racial profiling,” I mean the argument that racial group X engages in a particular crime at a higher per capita rate than other racial groups, so it makes sense to investigate members of group X for that crime.

148. Dan Eggen, *U.S. Settles Suit Filed by Oregon Lawyer*, WASH. POST, Nov. 30, 2006, at A03; *Mother of Detained Lawyer Says Son isn’t Terrorist*, CNN, May 12, 2004, <http://www.cnn.com/2004/US/West/05/08/mayfield.mother/index.html>.

149. *Id.*

150. *Id.*

151. See OFFICE OF INSPECTOR GEN., U.S. DEP’T OF JUSTICE, A REVIEW OF THE FBI’S HANDLING OF THE BRANDON MAYFIELD CASE (UNCLASSIFIED AND REDACTED), Mar. 2006, at 179, <http://www.justice.gov/oig/special/s0601/final.pdf>.

152. On the other hand, it should be worrisome for a lawyer to be suspected of criminal activity based on his or her representation of a client, with no other evidence of the lawyer’s wrongdoing. Mayfield’s case is therefore different from that of New York lawyer Lynne Stewart, who was convicted of providing material support to a terrorist organization by surreptitiously allowing her client, the Blind Sheikh, to communicate with his followers through Stewart’s interpreter. See generally Tung Yin, *Boumediene and Lawfare*, 43 U. RICH. L. REV. 865, 883–85 (2009).

Since the country's populace is already sensitized to radical Islamic terrorism, television shows and movies that depict sophisticated, lethal plots aimed at mass casualties can inflame and distort public views of Arabs and Muslims as being potential sleeper terrorists.

### III. CONCLUSION

Hollywood writers and producers face a conundrum. If they depict the terrorists as Arabs, they become vulnerable to criticisms of the sort leveled by Jack Shaheen, the Council on Arab Islamic Relations, and others. On the other hand, if they choose to make the terrorists some other cohesive group, but not Arabs, they run the risk of looking like they have deliberately given in to "political correctness." A good example of the latter is the 2002 movie, *The Sum of All Fears*, about stolen Israeli nuclear weapons that are smuggled into the United States.<sup>153</sup> In the original Tom Clancy novel, the terrorists are Arabs; in the movie, however, the producers changed the group to neo-Nazis, drawing criticism for the unrealistic threat that the new villains posed.<sup>154</sup>

If entirely avoiding depictions of Arab or Muslim villains is not a solution (and it probably is not), then Hollywood can reduce its contribution to prejudice by highlighting the role that Arab-Americans and Muslim-Americans play in counterterrorism. And, of course, better—and hence, more enticing—villain roles would not hurt, either.

#### APPENDIX 1: ACTORS CAST TO PLAY ARAB VILLAINS IN SELECTED PRE-9/11 PROGRAMS

Character	Show or Movie	Actor	Actor's Ethnic/Racial Background
Nagi Hassan	<i>Executive Decision</i>	David Suchet	Lithuanian, Jewish & Russian (British)
Source: <i>David Suchet: Still on the Case</i> , TIMES ONLINE, Jan. 9, 2009, <a href="http://www.timesonline.co.uk/tol/life_and_style/men/article5481520.ece">http://www.timesonline.co.uk/tol/life_and_style/men/article5481520.ece</a> .			
El Sayed Jaffa	<i>Executive Decision</i>	Andreas Katsulas	Greek-American
Source: IMDb.com, Biography for Andreas Katsulas, <a href="http://www.imdb.com/name/nm0441537/bio">http://www.imdb.com/name/nm0441537/bio</a> (last visited Mar. 20, 2010).			
Salim Abu Aziz	<i>True Lies</i>	Art Malik	Pakistani-British
Source: IMDb.com, Biography for Art Malik, <a href="http://www.imdb.com/name/nm0539562/bio">http://www.imdb.com/name/nm0539562/bio</a> (last visited Mar. 20, 2010).			
Jamel Khaled	<i>True Lies</i>	Marshall Manesh	Iranian-American
Source: IMDb.com, Biography for Marshall Manesh, <a href="http://www.imdb.com/name/nm0542000/bio">http://www.imdb.com/name/nm0542000/bio</a> (last visited Mar. 20, 2010).			

153. THE SUM OF ALL FEARS (Paramount Pictures 2002).

154. Reihan Salam, *The Sum of All PC: Hollywood's Reverse Racial Profiling*, SLATE, May 28, 2002, <http://www.slate.com/id/2066272>.

Ben Shaheed	<i>Navy SEALs</i>	Nicholas Kadi (born Nameer El-Kadi)	Iraqi-American
Source: IMDb.com, Biography for Nicholas Kadi, <a href="http://www.imdb.com/name/nm0252832/bio">http://www.imdb.com/name/nm0252832/bio</a> (last visited Mar. 20, 2010).			
Samir Nazhde	<i>The Siege</i>	Sami Bouajila	French-Tunisian
Source: Harold Hyman, <i>Days of Glory: Valor, Racism and the Ingratitude of the French Republic</i> , CultureKiosque, Jan. 10, 2007, <a href="http://www.culturekiosque.com/nouveau/cinema/days_of_glory.html">http://www.culturekiosque.com/nouveau/cinema/days_of_glory.html</a> .			

**APPENDIX 2: ACTORS CAST TO PLAY ARAB VILLAINS  
IN SELECTED POST-9/11 PROGRAMS**

Character	Show or Movie	Actor	Actor's Ethnic/Racial Background
Yussef Nasseriah	<i>The Grid</i>	Alki David	Greek-British
Source: IMDb.com, Biography for Alki David, <a href="http://www.imdb.com/name/nm0202810/bio">http://www.imdb.com/name/nm0202810/bio</a> (last visited Mar. 20, 2010).			
Raghib Mutar	<i>The Grid</i>	Silas Carson	British
Source: IMDb.com, Biography for Silas Carson, <a href="http://www.imdb.com/name/nm0141324/bio">http://www.imdb.com/name/nm0141324/bio</a> (last visited Mar. 20, 2010).			
Kaz Moore	<i>The Grid</i>	Barna Moricz	Born in Hungary, raised in Libya since age 9.
Source: Kaz Moore, <i>A Conversation with Barna Moricz</i> , TNT, <a href="http://www.tnt.tv/title/?oid=540146-5828">http://www.tnt.tv/title/?oid=540146-5828</a> .			
Mohammed Rachid	<i>Spooks</i> (a.k.a. <i>MI-5</i> ), season 2, episode 2	Qarie Marshall	Pakistani-American
Source: Nanciann Cherry, <i>Cross-Cultural Acting Tour: Former Toledoan Qarie Marshall lands in 'Poetry of Pizza' Via London</i> , TOLEDOBLADE.COM, Nov. 14, 2007, <a href="http://www.toledoblade.com/apps/pbcs.dll/article?AID=/20071114/ART10/711140315">http://www.toledoblade.com/apps/pbcs.dll/article?AID=/20071114/ART10/711140315</a> .			
Faris al-Farik	<i>Sleeper Cell</i>	Oded Fehr	Israeli/Jewish
Source: Rotten Tomatoes, Oded Fehr, <a href="http://www.rottentomatoes.com/celebrity/oded_fehr/">http://www.rottentomatoes.com/celebrity/oded_fehr/</a> (last visited Apr. 2, 2010).			
Syed Ali	<i>24</i> , season 2	Francesco Quinn	Latino
Source: Agustin Gurza, <i>Quinn Begins Again</i> , L.A. TIMES, Feb. 16, 2008, at E1.			
Habib Marwan	<i>24</i> , season 4	Arnold Vosloo	South African
Source: IMDb.com, Biography for Arnold Vosloo,			

<a href="http://www.imdb.com/name/nm0903677/bio">http://www.imdb.com/name/nm0903677/bio</a> (last visited Mar. 20, 2010).			
Navi Araz	24, season 4	Nestor Serrano	Latino
Source: Rotten Tomatoes, Nestor Serrano, <a href="http://www.rottentomatoes.com/celebrity/nestor_serrano/">http://www.rottentomatoes.com/celebrity/nestor_serrano/</a> (last visited Apr. 2, 2010).			
Dina Araz	24, season 4	Shohreh Aghdashloo	Iranian
Source: IMDb.com, Biography for Shohreh Aghdashloo, <a href="http://www.imdb.com/name/nm0013037/bio">http://www.imdb.com/name/nm0013037/bio</a> (last visited Mar. 20, 2010).			
Behrooz Araz	24, season 4	Jonathan Adhout	Iranian-American
Source: Rotten Tomatoes, Jonathan Adhout, <a href="http://www.rottentomatoes.com/celebrity/jonathan_ahdout/biography.php">http://www.rottentomatoes.com/celebrity/jonathan_ahdout/biography.php</a> (last visited Apr. 2, 2010).			
Kalil Hasan	24, season 4	Anil Kumar	Indian-American
Source: J. Arthur, <i>500 Days on Broadway</i> , INDIA ABROAD, Apr. 12, 2002, available at 2002 WLNR 11769320.			
Omar	24, season 4	Tony Plana	Cuban-American
Source: IMDb.com, Biography for Tony Plana, <a href="http://www.imdb.com/name/nm0686470/bio">http://www.imdb.com/name/nm0686470/bio</a> (last visited Mar. 20, 2010).			
Abu Fayed	24, season 6	Adonis Maropis	Greek-American
Source: Adoni Maropis Official Website, <a href="http://www.adoni-maropis.com/industry/bio.html">http://www.adoni-maropis.com/industry/bio.html</a> (last visited Apr. 2, 2010).			
Ahmed Amar	24, season 6	Kal Penn	Indian-American
Source: IMDb.com, Biography for Kal Penn, <a href="http://www.imdb.com/name/nm0671980/bio">http://www.imdb.com/name/nm0671980/bio</a> (last visited Mar. 20, 2010).			
Hasan Numair	24, season 6	Shaun Majonder	Indian-American
Source: National Speakers Bureau, Shaun Majonder Speaker Profile, <a href="http://nsb.com/speakers/view/shaun-majumder">http://nsb.com/speakers/view/shaun-majumder</a> (last visited Apr. 2, 2010).			

**APPENDIX 3: ACTORS CAST TO PLAY "GOOD" ARABS  
IN SELECTED PRE- AND POST-9/11 PROGRAMS**

Character	Show or Movie	Actor	Actor's Ethnic/Racial Background
Faisal	<i>True Lies</i>	Grant Heslov	Jewish-American
Source: Rachel Abramowitz, <i>Grant Heslov, George Clooney Team Up for "The Men Who Stare at Goats,"</i> L.A. TIMES, at D1.			
Frank Haddad	<i>The Siege</i>	Tony Shalhoub	Lebanese-American
Source: IMDb.com, Biography for Tony Shalhoub, <a href="http://www.imdb.com/name/nm0001724/bio">http://www.imdb.com/name/nm0001724/bio</a> (last visited Mar. 20, 2010).			
Mohammad	<i>Threat</i>	Anthony	Iranian-American

"Mo" Hassain	<i>Matrix</i>	Azizi	
Source: IMDb.com, Biography for Anthony Azizi, <a href="http://www.imdb.com/name/nm0044318/bio">http://www.imdb.com/name/nm0044318/bio</a> (last visited Mar. 20, 2010).			
Yusuf Auda	24 (season 2)	Donnie Keshwarz	Lithuanian-Afghan-Canadian
Source: Afghanbuzz.com, Donnie Keshwarz – Afghan Movie Star, <a href="http://www.afghanbuzz.com/spotlight/2009/donnie-keshwarz-afghan-movie-star/">http://www.afghanbuzz.com/spotlight/2009/donnie-keshwarz-afghan-movie-star/</a> (last visited Apr. 2, 2010).			
Nadia Yassir	24 (season 6)	Marisol Nichols	Mexican-American
Source: IMDb.com, Biography for Marisol Nichols, <a href="http://www.imdb.com/name/nm0629653/bio">http://www.imdb.com/name/nm0629653/bio</a> (last visited Mar. 20, 2010).			
Raza Michaels	<i>The Grid</i>	Piter Marek	Lebanese-American
Source: IMDb.com, Biography for Piter Marek, <a href="http://www.imdb.com/name/nm1570842/bio">http://www.imdb.com/name/nm1570842/bio</a> (last visited Mar. 20, 2010).			