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DOMESTIC TERRORISM AND THE INTERNET

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INTRODUCTION

In recent years, domestic terrorists have caused more deaths and more arrests in the United States than terrorists connected to Foreign Terrorist Organizations (McGarrity). In 2017, the Federal Bureau of Investigation was investigating 1,000 white supremacist and other domestic terrorism cases (Barrett, “FBI Investigating”). In July of 2019, the FBI announced that the bureau recorded 90 domestic terrorism arrests in nine months, which represented a rise in domestic terrorism cases from year to year.

The FBI divides **domestic terrorism** into four categories: racially motivated violent extremism, anti-government/anti-authority extremism, animal rights/environmental extremism, and abortion extremism; of these, racially motivated extremism is the most lethal (McGarrity). Racially motivated extremism encompasses hatred for immigrants and ethnic minorities, as well as anti-Semitism and anti-Muslim sentiments (McAleenan 10).

A significant contributor to the inner connectivity and motivation between terrorists, both domestic and international, is the growth of the Internet. Domestic terrorists often use the Internet to choose targets, recruit radicals, distribute propaganda, and incite violence. Terrorist agendas and ideologies are spread across the world as extremists are connected in a global network without a need to join organized groups (McGarrity). Social media platforms such as Gab, 8chan and EndChan are often utilized (Nakashima).



A memorial for the victims of a white supremacist mass shooting in El Paso, Texas

VOA News

EXPLANATION OF THE ISSUE

Historical Development

Domestic Terrorism – dangerous and criminal acts that are "intended to intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; affect the conduct of a government by mass destruction, assassination or kidnapping." important term means.

Domestic terrorism was first introduced in the federal code in 1992. The US Government Code currently defines domestic terrorism as dangerous and criminal acts that are "intended to intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; affect the conduct of a government by mass destruction, assassination or kidnapping." Domestic terrorism differs from international terrorism in that domestic terrorists are based in the US and target American citizens. However, only acts of terrorism that "transcend national boundaries" can be prosecuted as federal crimes. While federal prosecution for domestic terrorism currently does not exist, the number of domestic terrorist attacks has grown immensely (Pascus).

The FBI Agents Association released a statement in August of 2019 condemning domestic terrorism, calling it "a threat to the American people and our democracy" and pressed Congress to make domestic terrorism a federal crime (McGarrity).

A leading factor in the rise of terrorism, both domestic and international, is the impact of the Internet. In the "Strategic Framework for Countering Terrorism and Targeted Violence," the Department of Homeland Security recognized that "violent extremists disseminate their messages globally and foster online communities that lure vulnerable individuals" and potential fellow terrorists, and that the use of online forums has likely led to quicker attack timelines, and rapid radicalization to violent extremism. The breadth of information available on the Internet also provides terrorists more expertise and guidance on how to execute their attacks (McAleenan).

FBI Director Christopher A. Wray noted "a majority of the domestic terrorism cases we've investigated are motivated by some version of what you might call white supremacist violence" (Zapotosky). However, 85% of Department of Homeland Security counter-terrorism grants focus on foreign threats, Muslims and other minority communities (Joseph).

Scope of the Problem

Resources to Investigate Domestic Terrorism

The federal government is able to combat international terrorism through comprehensive techniques such as specified surveillance tools, financial records (Pascus), undercover online personas and sting operations, and foreign intelligence outfits (McCord). Many of these strategies have been employed due to **the**

Domestic terrorism is a "threat to the American people and our democracy."
- FBI Agents Association

Patriot Act. However, these same techniques have limited use for domestic terrorism, as many extremists are protected under the First Amendment right to free speech and assembly (Pascus).

Although investigative tools are limited in domestic terrorism cases, Deputy Assistant Attorney General Brad Wiegmann stated that judges are able to issue property search warrants and warrants for educational and tax records. Investigators are also able to intercept communications if there is reasonable suspicion of a terrorist threat (Pascus).

The USA Patriot Act – Legislation passed in the wake of 9/11 that allows more comprehensive surveillance of communications.

Legal Designations

Law enforcement advocates can only intervene in instances of extremist **hate speech** if they have reason to believe a crime is being committed, and many acts deemed international terrorism crimes are not considered crimes when involving domestic extremist groups. For instance, the most common terrorism charge deems any material support to foreign terrorist organizations, including financial resources, equipment, or one's self, criminal. Material support accounts for about half of federal terrorism-related prosecutions since 9/11. However, since domestic groups are not considered terrorist organizations, giving material support to them is not a crime (McCord).

The US State Department lists 68 known terrorist organizations. However, none of these are neo-Nazi or white-supremacist organizations, including foreign neo-Nazi groups that are known to engage in violence, such as Combat 18, Jobbik, and the Nordic Resistance Movement. The international network of white supremacists is known to motivate and encourage each other, similar to the global jihadist movement (McCord).

Hate Speech – speech that expresses prejudices against a particular group often on the basis of race or religion.

Many perpetrators of white supremacist terrorist attacks, both on US soil and abroad, cite the other instances of neo-Nazi attacks as their inspiration (McCord). One such example is Coast Guard Lt. Christopher P. Hasson, who amassed an arsenal in preparation for a white supremacist attack on the nation, and spend copious amounts of time studying the work of white supremacist terrorist Anders Behring Breivik, as well as the Virginia Tech Shooter, the Unabomber, the Olympic Park Bomber (Bui, Lamothe and Miller) and Adolf Hitler (Jackman). Because neo-Nazi and white supremacist organizations are not considered terrorist groups, the FBI is unable to universally surveil online conversations that occur between Americans and the groups.

Because domestic terrorism is not considered a federal crime, most mass shootings in the United States are prosecuted as murder and often hate crimes—but not terrorism (McCord).

Foreign Disinformation Campaigns

Foreign states and hostile foreign non-state actors are known by the Department of Homeland Security to utilize the Internet to polarize the American public and spread disinformation in order to incite anger and violence (McAleenan 8). These disinformation campaigns have had direct connections to terrorism in the United States by encouraging violent thought, increasing polarization, and capitalizing on tensions already present in the country (McAleenan 27).

Congressional Action

Domestic terrorism has developed as a threat relatively recently (Pascus). Current congressional action and Department of Homeland Security initiatives propose more thorough research and data collection on the use of the Internet in domestic terrorism, public prevention campaigns targeting vulnerable populations, as well as public media literacy toolkits to stem the influence of foreign or false information campaigns (Nakashima).

Former Department of Homeland Security analyst Daryl Johnson received much political backlash for writing a memo warning of the growing threat of domestic terrorism in 2009. He said that elected officials have been afraid to address the issue, citing, “Here we are 10 years later, this threat is still alive and well and in some respects is actually growing. It’s very concerning. I’m still in disbelief that the federal government response seems to be lacking. People that we elect seem to lack political willpower to tackle this issue and call it out and do something about it..We’re in this heightened state of activity where we have mass shootings and bomb plots, and yet there’s no political willpower and everybody seems to be burying their head in the sand rather than try to tackle the issue” (Barrett). Johnson also claims that the government has actually reduced grant programs that counter hateful domestic extremism (Barrett).

Other Policy Action

In France and Germany, both liberalized democracies that share values such as free speech, Internet Service Providers (ISPs) may be subject to prosecution if they provide services to hate speech websites (Haughom). The United States’ protection of hate speech contrasts sharply with the laws of many other democratic countries in the world. In the European Union, the Council of Europe wrote in the Cybercrime Treaty a provision that prohibits ‘any written material, any image or other representation of ideas of theories, which advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, color, descent or national or ethnic

Domestic terrorists often encourage each other online, providing tips on targets, weapons, and spreading hateful messaging.



The Cybercrime Treaty written by the Council of Europe.
Council of Europe

origin, as well as religion if used as pretext for any of these factors.’ In addition, the Cybercrime Treaty prohibits websites that deny or minimize crimes against humanity, such as the Holocaust or the Rwandan Genocide. The United States is a signatory to the Cybercrime Treaty but did not sign the provisions relating to online hate speech (Henry).

In Germany, inciting hatred of a minority is a criminal offense. This is defined broadly, as even hate speech produced by a German citizen outside of Germany is held to this standard. Although most other countries regulate hate speech far more than in the United States, any hate speech published on the Internet that is deemed illegal in a person’s home country can be relaunched remotely from an American ISP and thus be viewed around the world (Henry 243).

IDEOLOGICAL VIEWPOINTS

Conservative View

Dave Gomez, a former FBI supervisor for terrorism cases, believes that the federal government is hesitant when targeting domestic terrorism, because it often means targeting white supremacists (Barrett). This hesitation stems from the intense lambasting of so-called “political correctness” and assaults on First Amendment rights to free speech coming from some Conservatives, especially supporters of President Trump.

Conservatives often view the coverage of the First Amendment right to free speech as wider than liberals. Therefore, although possibly incendiary, Conservatives tend to view discriminatory comments as falling under protected speech.

During the ongoing tenure of the Trump administration, tensions have arisen between the current FBI and the White House. President Trump has often publicly criticized the FBI, particularly during investigations into Russian election interference and the President’s actions. Gomez believes that “there’s some reluctance among agents to bring forth an investigation that targets what the president perceives as his base” (Barrett), because by investigating domestic terrorists, the FBI would therefore be increasingly surveilling white supremacists. According to some, this reluctance is prevalent among many conservatives in the federal government (Barrett). Conservatives tend to focus more on foreign terrorists and other foreign threats.

Liberal View

Liberals tend to approach domestic terrorism that involves use of guns as a foundation for stricter gun regulations and background checks. Liberals also tend to view the First Amendment protections

Conservatives often view the coverage of the First Amendment right to free speech as wider than liberals.

Representative Malinowski (D-NJ) stated “White supremacists are overwhelmingly the main perpetrators of terrorist attacks...”

less widely when it comes to incendiary hate speech. White supremacist speech and discrimination are strongly condemned by most liberals. In response to the El Paso shooting of late 2019 that targeted Hispanic communities, 48 House Democrats called for both the House and the Senate ending their district-work period and returning to Washington to address domestic terrorism and white supremacy. Representative Tom Malinowski (D-NJ) stated in reference to the El Paso shooting, “White supremacists are now overwhelmingly the main perpetrators of terrorist attacks against Americans, and we in Congress and in particular in the House are the only responsible leadership this country has right now. We can’t count on an executive branch that is led by someone who himself echoes the rhetoric of the terrorists and who is at war with the FBI to mobilize the national effort that’s needed” (Joseph). Legislation that addresses domestic terrorism as well as extremist thought is often supported by mostly Democrats.

AREAS OF DEBATE

Limiting Hate Speech

One possible answer to the power that extremist speech holds online is by limiting violent or hateful speech attacked at certain groups or individuals. As previously mentioned, most countries in the world limit hate speech more than the United States does, including liberal democratic societies with high emphasis on freedom and civil liberties.

The Supreme Court case *Brandenburg v. Ohio* encapsulates well the historical US sentiment toward free speech. This case protected inflammatory speech (in this case, speech by members of the Ku Klux Klan advocating for violence) as a type of free speech, clearly showing how the US understanding of free speech has been comparatively broader than other countries historically. At the same time, it asserts that the right to free speech is not absolute – if speech *both* (1) is “directed at inciting or producing imminent lawless action” and (2) it is “likely to incite or produce such action” (“*Brandenburg v. Ohio*”). Due to this framework, when the Ku Klux Klan made a statement announcing that, “if our President, our Congress, our Supreme Court, continues to suppress the white, Caucasian race, it’s possible that there might have to be some revengeance [sic] taken,” the Court ruled that the, “mere abstract teaching...of the moral propriety or even moral necessity for a resort to force and violence is not the same as preparing a group for violent action.” The Supreme Court emphasized that the government may, “not prohibit speech because it increases the

chance an unlawful act will be committed ‘at some indefinite future time’ (Ruane 4).

Congressional action, however, could potentially shift the scope of what type of speech is permitted by the First Amendment (the legislation might be challenged in court, but with the new realities present the Supreme Court may adjust its interpretation of the First Amendment).

Political Perspectives on this Solution

The Department of Homeland Security highlighted in its “Strategic Framework for Countering Terrorism and Targeted Violence” a priority on preserving privacy and the right to free speech. The framework requires “faithful adherence to fair information practice principles and privacy-focused Departmental policies” (McAleenan 10).

Some conservatives are staunch supporters of wide speech protections under the First Amendment, including speech that could be interpreted as violent. This view more closely aligns with Supreme Court precedent discussed above. The Supreme Court has often ruled conservatively on the issue of protected speech online. In *Reno v. American Civil Liberties Union*, the Court ruled that content-based restrictions on the Internet should be utilized sparingly, and that exposure of indecent speech to minors was constitutional. Internet speech was therefore given the highest degree of protection under the First Amendment (Ruane 12).

Liberals tend to lean towards categorizing more violent speech as intended to incite a violent or lawless action that will likely occur imminently as a result of the speech, and therefore unprotected under the First Amendment. In California, a man offered money to anyone who, “kills, maims, or seriously injures a member of the American Nazi Party,” at a later Nazi Party march (Ruane 6). Although the march was not scheduled until five weeks later, the Court ruled that the speech was unprotected by the First Amendment, because, “time is a relative dimension and imminence a relative term, and the imminence of an event is related to its nature.... We think solicitation of murder in connection with a public event of this notoriety, even though five weeks away, can qualify as incitement to imminent lawless action” (Ruane 6).

Although advocacy of domestic terrorism is protected under the First Amendment, it can be prosecuted under other charges, such as criminal conspiracy (Ruane 14).

Increased Accountability for Internet Service Providers and/or Social Media Platforms

Many social media accounts and websites are made relatively anonymously and are therefore complex to track. Internet service providers and social media platforms provide these mediums for

violent extremist speech. Because of expansive speech protections in the US, it is known as a haven for hate speech all around the world; many foreign groups and individuals post their speech remotely from American Internet Service Providers to limit pushback. Therefore, another possible solution to address incendiary speech is by holding social media platforms and Internet Service Providers responsible for not allowing violent speech.

Section 230(c)(1) of the CDA reads, “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” This law is exemplified in lawsuits raised against social media companies such as Twitter, which were protected from being considered as providing material support to terrorist organizations by providing social media accounts (Ruane 21). This poses a challenge to actively holding platforms accountable.

Countries with stricter hate speech laws also hold platform providers to higher requirements, as exemplified in European nations. For example, some social media companies have strengthened their terms and conditions to prohibit hateful or violent speech (Henry). However, monitoring speech online would take significant time and resources on the part of the companies. The government could address this by giving grants to address the financial burden on the companies and fining companies that do not comply.

This regulation of ISPs/social media companies may also be challenged on Constitutional grounds, asserting that the government cannot tell these entities what kind of speech it can/cannot allow.

Political Perspectives on this Solution

This solution may garner criticism from proponents of a stringent and all-encompassing First Amendment. Interest groups involved with the tech industry may view this solution as a loss of revenue or traffic since activity will be limited. The solution will also require more work on the part of the social media and internet companies. Thus, it would also be opposed by the ISPs and social media companies that see government regulation as unduly onerous.

The issue of social media regulation has become politicized in strange ways in recent years. Many conservatives allege that social media sites censor conservative voices, implying they would support measures to more stringently enforce openness on these sites (note – as private entities, social media companies are not beholden to the First Amendment and can choose to censor whatever content they please). The veracity of these claims is debatable; for example, the top ten most interacted posts on

Facebook each week are most always overwhelmingly labeled conservative leaning.

At the same time, liberals also have taken an increasingly negative view of social media and technology companies in the wake of the 2016 election. They see social media sites as woefully unprepared – or apathetic to – misinformation and hate speech and seek greater accountability and regulation. This dynamic means both conservatives and liberals have soured on social media companies, though their issues with these entities differ in such a way that they may not agree on actions to address hate speech.

Antifa – a protest movement which approves of militant opposition to fascism and extreme right-wing ideologies.

Increased Surveillance of Extremist Groups

Currently, due to the Patriot Act, the activity of foreign terrorist groups as well as the activity of those who praise them are highly surveilled. However, the tactics that law enforcement uses to investigate domestic terrorists are much more limited in comparison. These tactics include the previously mentioned specialized surveillance tools, financial records, undercover online personas and sting operations, and foreign intelligence outfits. Some liberals have argued for more comprehensive investigation of domestic terrorists as well, by expanding the surveillance powers to include domestic terrorism. Because federal investigators would be able to employ the same tactics used to investigate foreign terrorist groups towards any designated extremist groups, more potential terrorists could be intercepted.

Political Perspectives on this Solution

The Patriot Act has been highly criticized by defenders of civil liberties who believe the right to privacy should not be undermined in a counter-terrorism mission. Additionally, protections for domestic citizens exceed those for foreign entities, which means many aspects of surveillance authorized by the Patriot Act may not be allowed for domestic cases. Liberals tend to oppose the vast extent of the surveillance state and accompanying infringements on civil liberties deriving from the Patriot Act, which creates an interesting friction with their desire for more robust action on domestic hate speech.

At the same time, proponents of the Patriot Act argue current investigative tactics have been highly successful in locating potential terrorists and attacks (McCord), and some argue those tactics should be expanded for all terrorists, foreign and domestic.

S. 917: Stop HATE Act of 2019

This proposed bill is known fully as the “Stop Harmful and Abusive Telecommunications Expression Act of 2019.” The bill calls for the Assistant Secretary of Commerce for Communications and

Information, along with the Attorney General, to compile reports every five years detailing the use of telecommunications in hate crimes and other violent acts against individuals or groups on the basis of race, gender and gender identity, religion, disability, sexual orientation, ethnicity, color, and national origin. The reports are to include possible recommendations on next steps to address the use of telecommunications. This bill was proposed by the Senate Committee on Commerce, Science, and Transportation (S.917).

Political Perspectives on this Solution

The bill has been cosponsored by seven Democrats, one Independent, and no Republicans (S.917).

This bill is purely to gather more information on the use of telecommunications in extremist and hateful acts. This may garner criticism from progressives who believe not enough is being done to address the current and growing threat of domestic terrorism.

Designating More Groups as Known Terrorist Organizations

Any material support provided to designated known terrorist organizations or provided for the intended purpose of contributing to a federal crime of terrorism is illegal. However, advocating for terrorism or for a terrorist organization itself, foreign or domestic, by an American citizen, is protected under the First Amendment, unless the advocacy was done under the direction of a Foreign Terrorist Organization (Ruane 15).

Currently only one white supremacist group, foreign or domestic, is designated as a known terrorist organization. The Russian Imperial Movement was labelled a terrorist group in April of 2020, along with the designation of three of its leaders as Specially Designated Global Terrorists (SDGT) (Sales).

If more extremist groups were labelled terrorist organizations, those who contribute to designated extremist groups would be prosecuted, as giving material support to designated terrorist organizations makes up most terrorism charges in the United States. Material support includes any “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 and transportation.” The only excluded items are medicine or religious materials (18 US Code). Including domestic organizations in particular on the list would require a federal statute (Guzman). This solution could prevent domestic terrorist attacks by stemming involvement with extremist groups.

Political Perspectives on this Solution

The city of Newark, New Jersey, led by a progressive mayor, declared Neo-Nazi and white supremacist groups as terrorist organizations (Keyser). Petitions calling for the Ku Klux Klan (KKK) to be nationally designated as a terrorist organization have garnered hundreds of thousands of signatures. Currently, there are no grounds for designating domestic groups as terrorist organizations (Guzman).

As previously stated, some government officials believe because right-wing extremists (like David Duke) tend to support President Trump, conservative politicians are hesitant to target those with right-wing extremist ideology. Opening domestic groups to possible terrorist designation may create political backlash. However, President Trump has reportedly begun preparing to designate anti-fascist activists, known as antifa, a far-left movement, as a terrorist organization.

S. 2043: Jabara-Heyer NO HATE Act

This bill addresses lack of training within local law enforcement to deal with and recognize hate crimes, as well as a lack of resources to combat it. By intercepting and addressing smaller hate crimes, larger attacks may be prevented, and possible aggressors may be identified.

This bill was introduced in the Senate Judiciary Committee. The bill calls for incentives for hate crime reporting and grants for State-run hate crime hotlines with staff members informed of Federal, State, and local hate crime laws, as well as training campaigns for local law enforcement and higher funding for support resources. The bill also calls for all states to widely implement the National Incident-Based Reporting System to centralize hate-crime reporting (S. 2043). This bill aims to target the dearth of data collected on hate crimes nationwide, which is partly due to a lack of quality and quantity of training within state and local law enforcement on discrimination-motivated crimes.

Political Perspectives on this Solution

This bill has nineteen cosponsors, eighteen being Democrats and one being an Independent (S. 2043). *This* bill establishes an external service for hate crime reporting, thereby taking monopoly away from law enforcement.

It also has a broad swatch of support from interest groups, including the American Civil Liberties Union, the Arab American Institute, the Center for the Study of Hate and Extremism, California State University, San Bernardino, the Heather Heyer Foundation, the Lawyers' Committee for Civil Rights Under Law, the Leadership Conference for Civil and Human Rights, the

Matthew Shepard Foundation, Muslim Advocates, the National Center for Transgender Equality, the National Disability Rights Network, the Religious Action Center of Reform Judaism, South Asian Americans Leading Together (SAALT), and the Sikh Coalition (Warner).

BUDGETARY CONSIDERATIONS

For comparison, the United States’ “war on [international] terror” has cost about \$6 trillion dollars. However, the cost of any action taken will depend upon the policy approach chosen for a bill.

CONCLUSION

Domestic terrorism and extremist thought are highly connected. Tackling the catalysts behind domestic terrorism, which include white supremacist and anti-immigrant sentiments, may undermine the First Amendment right to free speech, or at least limit it. Legislators must reconcile protecting the safety of American citizens with protecting American civil liberties and recognize that their solutions will need to survive a constitutional challenge in the courts – a tough needle to thread.

Domestic terrorism attacks, deaths, and arrests are only growing every year. Addressing the issue necessitates understanding the role of the Internet in propagating extremist thought and power.

In creating a solution, you are more than welcome to combine aspects of different proposed solutions, as well as include policies not previously discussed.

GUIDE TO FURTHER RESEARCH

Discussion of domestic terrorism is a common topic in the news cycle, with good information found in reputable publications such as the New York Times and the Washington Post. Govtrack.us is an effective source to track bills, both enacted and proposed, that reference domestic terrorism and Internet freedoms.

GLOSSARY

Antifa – a protest movement which approves of militant opposition to fascism and extreme right-wing ideologies.

Domestic Terrorism – dangerous and criminal acts that are "intended to intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; affect the conduct of a government by mass destruction, assassination or kidnapping."

Hate Speech – speech that expresses prejudices against a particular group often on the basis of race or religion.

The USA Patriot Act – Legislation passed in the wake of 9/11 that allows more comprehensive surveillance of communications

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