



United States Senate Committee on
**Homeland Security &
Governmental Affairs**

U.S. Senator Gary Peters | Chairman

The Rising Threat of Domestic Terrorism

***A Review of the Federal Response to
Domestic Terrorism and the Spread of
Extremist Content on Social Media***

A HSGAC Majority Staff Report

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I. EXECUTIVE SUMMARY

Over the past two decades, acts of domestic terrorism have dramatically increased. National security agencies now identify domestic terrorism as the most persistent and lethal terrorist threat to the homeland. This increase in domestic terror attacks has been predominantly perpetrated by white supremacist and anti-government extremist individuals and groups. It is clear that the federal government is not adequately addressing this growing threat, but without better data, it is difficult to evaluate whether federal agencies are appropriately allocating resources and setting priorities. Although outside researchers have reported on trends relating to domestic terrorism, the federal government has not systematically tracked and reported this data itself, despite being required to do so by law. Social media platforms have played an increasing role in the spread of extremist content that translates into real world violence, due in part to business models that incentivize user engagement over safety.

This report is a culmination of three years of investigation by the Majority Committee staff for U.S. Senator Gary Peters, Chairman of the Senate Homeland Security and Governmental Affairs Committee (HSGAC) into domestic terrorism and the federal response. This report focuses on the rise in domestic terrorism, the federal response, the allocation of federal resources to addressing domestic terrorism, and the role of social media companies in the proliferation of extremist content. The Committee held eight hearings over the last three years on the rising domestic terrorism threat. As a part of this investigation, Chairman Peters sent document and information request letters to the Department of Homeland Security, Department of Justice, Federal Bureau of Investigation, Meta (formerly known as Facebook), Twitter, YouTube, and TikTok. The Committee also held briefings and interviews with the agencies and companies. Committee staff reviewed over 2,000 key documents obtained from federal agencies and social media companies in response to the Committee's requests for information.

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In the aftermath of the terrorist attacks on September 11, 2001, Congress restructured the federal government to focus on the threat posed by international terrorists. This included the creation of the Department of Homeland Security (DHS) and an early version of what would later become the Office of Intelligence and Analysis (I&A), an expansion of investigative authority within the Department of Justice (DOJ), and creation of the Terrorist Threat Intelligence Center (TTIC), the precursor to the National Counterterrorism Center (NCTC). However, in the more than twenty years since the federal government shifted its focus predominantly toward international terrorism, attacks from domestic terrorists have surged. According to a 2021 Center for Strategic and International Studies study, there were 110 domestic terrorist plots and attacks in 2020 alone, a 244 percent increase from 2019 and a 275 percent increase from 2017. According to the Anti-Defamation League, from 2012 to 2021, domestic extremists have been responsible for 443 deaths, with over 50 percent of the deaths caused by white supremacists.

Since 2019, DHS and the Federal Bureau of Investigation (FBI) have repeatedly identified domestic terrorism, in particular white supremacist violence, as the most persistent and lethal terrorist threat to the homeland, including in multiple threat alerts provided to Congress

and law enforcement agencies across the country. Despite this acknowledgement and multiple analyses, plans, and National Strategies across multiple Administrations, this investigation found that the federal government has continued to allocate resources disproportionately aligned to international terrorist threats over domestic terrorist threats.

For instance, the federal government still fails to comprehensively track and report data on domestic terrorism despite a requirement from Congress to do so. Under a provision Senator Peters helped secure, the fiscal year 2020 National Defense Authorization Act requires DHS, DOJ, and NCTC to issue an annual *Strategic Intelligence* report to provide a strategic intelligence assessment and data on domestic terrorism. The agencies provided the first *Strategic Intelligence* report nearly a year after the statutory deadline and omitted significant amounts of required information, including comprehensive data on domestic terrorism incidents and agencies' staffing and resource allocation to address the threat. The 2021 *Strategic Intelligence* report, in its intelligence assessments, identified domestic violent extremists as the most persistent and lethal terrorist threat to the homeland. However, DHS provided little information on its intelligence processes, DHS and FBI provided little to no data on domestic terrorism, and no agency provided recommendations to Congress for how to assist in addressing domestic terrorism. The agencies provided their 2022 *Strategic Intelligence* report in October 2022, nearly five months late. While this report provided more information on agency actions and some data, it still failed to comply with all statutory requirements.

The federal government's current definitions and categorizations of domestic terrorism also create challenges. FBI and DHS have different definitions for "domestic terrorism," which could lead to the two agencies categorizing the same event as different types of terrorism. Law enforcement and national security agencies have greater surveillance, investigative, and prosecutorial tools and resources available to respond to terrorist acts labeled as "international" rather than "domestic." These differences often lead to disparate treatment of immigrant and U.S. minority populations and inconsistent investigations of terrorist attacks, including whether or not to categorize an attack as terrorism. Federal agencies have trouble distinguishing between what is "domestic" and what is "international" due to the increasingly global nature of extremism. This investigation also determined that the current definitions and categorizations used by FBI obscure the threat posed by white supremacist violence.

The expansion of social media has also led to increased recruitment, dissemination, and coordination of domestic terrorist and extremist related activities. According to a National Consortium for the Study of Terrorism and Responses on Terrorism study, in 2016 alone, social media played a role in the radicalization process of perpetrators in over 90 percent of extremist plots or activities in the United States. Domestic terrorist groups use a range of social media platforms to recruit, communicate, train, and mobilize members, leading to the rapid expansion of potential threats. Extremist content proliferates on these platforms, despite rules against such content and moderation measures designed to remove the content.

The First Amendment, the Privacy Act of 1974, Executive Order 12333, and agency specific guidance govern and rightfully limit how federal agencies use social media for law enforcement and intelligence purposes. Federal agencies are permitted to use social media within the bounds of civil rights and civil liberty restraints, but oversight entities have found that

the federal government has not adequately utilized tools and resources to address domestic terrorist threats on social media.

Social media companies often point to the amount of violative content they remove from their platforms as a sign of their actions to address extremism. While actions taken to remove violative content are commendable, the sheer amount of content companies have to remove shows just how pervasive such content is on these platforms. Content moderation efforts alone will never be sufficient to address the problem. This investigation examined four large social media companies and found that terrorist and extremist content permeates social media platforms in part because these platforms' business models are designed to maximize user engagement, which has the effect of promoting increasingly extreme content. Major social media companies that the Committee examined are aware of this problem, but absent incentives or regulations requiring that they do otherwise, these companies have continued to prioritize growth and engagement and have not taken sufficient action to address this threat.

- **Meta** has been aware of the harm that its products cause for years. Internal documents provided by a Meta whistleblower show that Meta's recommendation features are designed to provide users with content they are most likely to engage with, such as posts that users may comment on or groups users may join. These recommendations often drive the spread of harmful and violative content, according to internal Meta research and external researchers. Despite this awareness, Meta has chosen in some instances to not make changes to its features and products that would alter what content is prioritized for viewers (on the front end), and instead the company addresses what it terms "trust and safety" issues primarily by taking down violative content (on the back end) after it has already appeared and spread on its platforms, sometimes to millions of users and in some cases after years of remaining on the platform.
- **TikTok** also uses recommendation features based on user engagement, in particular the amount of time spent consuming individual pieces of content. Outside research has shown that TikTok's algorithm pushes users towards more extreme content because that is the content users engage with the most. Despite these concerns, in an interview with Committee staff, TikTok's Chief Operating Officer (COO) explained that she did not believe the company had conducted research into whether the company's algorithms promote extreme content. TikTok's COO also told Committee staff that while employees are compensated based on their performance, there is no measure of trust and safety that directly affects compensation.
- **Twitter** generates a list of accounts it recommends users follow based on the user's engagement with similar accounts and topics, creating a "rabbit hole" effect that can promote conspiracy theories and extreme content. Twitter was central to the spread of QAnon conspiracy theories and the "Pizzagate" conspiracy that falsely alleged that public officials were linked to a human trafficking and child sex ring out of a pizzeria in Washington, D.C. While Twitter has yet to conduct certain research (such as the underlying reasons why its algorithms give greater amplification to content from what it defined as right-wing politicians than left-wing politicians), outside research has found

that the Taliban and white supremacists utilized Twitter's Spaces feature to spread extremist content to hundreds of users.

- Over 70 percent of viewing time on **YouTube** is generated by the platform's recommendation system, which is based on users' engagement on the platform and activity on Google. Researchers have long criticized YouTube for the platform's features that push users towards extreme content or down "rabbit holes" of content. Research conducted by MIT's Technology Review found that "users consistently migrate from milder to more extreme content" on YouTube. Despite this knowledge, in an interview with Committee staff, YouTube's Chief Product Officer could not point to internal research done to evaluate whether the platform recommends extreme content.

This report finds that the federal government – specifically FBI and DHS – has failed to systematically track and report data on domestic terrorism as required by federal law, has not appropriately allocated its resources to match the current threat, and has not aligned its definitions to make its investigations consistent and its actions proportional to the threat of domestic terrorism. This report also finds that social media companies have failed to meaningfully address the growing presence of extremism on their platforms. These companies' business models are based on maximizing user engagement, growth, and profits, which incentivizes increasingly extreme content – and absent new incentives or regulation, extremist content will continue to proliferate and companies' moderation practices will continue to be inadequate to stop its spread.

II. FINDINGS OF FACT AND RECOMMENDATIONS

FINDINGS OF FACT

Domestic Terrorism Threat

1. Domestic terrorism has been increasing over the last several years, surpassing international terrorism as the most significant terrorism threat to the United States. The threat from domestic violent extremism has increased significantly since 2015 – especially among white supremacists, anti-government extremists, and militia violent extremists – and federal officials predict that the threat will persist. Domestic terrorists have committed an increasing number of nonlethal acts as well as fatal attacks, with more deaths in recent years caused by domestic terrorists than by foreign terrorist organizations.
2. White supremacist extremists pose the primary threat among all domestic violent extremists. The Department of Homeland Security (DHS) provided the Committee with data showing white supremacists were responsible for 51 out of 169 domestic terrorist attacks and plots from 2010 through 2021, the highest number among domestic terrorist ideologies.
3. Domestic terrorism attacks have been plotted using, and inspired by, content on social media. Social media platforms have increasingly been used by domestic terrorist organizations, including the Proud Boys and Oath Keepers, to promote violent ideologies, disseminate hateful messages, radicalize individuals, and mobilize individuals towards violence. For example, the January 6th attack on the U.S. Capitol was planned and discussed on multiple social media platforms, and the perpetrator of the May 2022 shooting in Buffalo, New York, was radicalized by racist and violent content on social media such as the Great Replacement Theory, and the video of the shooting was reposted on Facebook, Instagram, and Twitter.

Federal Agencies

4. Since the September 11, 2001, terrorist attacks, additional counterterrorism authorities and resources for the federal government have been focused primarily on international terrorist threats. Changes to federal law in the wake of 9/11 gave federal agencies more surveillance and investigative powers, which focused the government's efforts on international threats that were previously missed. While these authorities have resulted in critical successes in preventing attacks in multiple locations across the U.S., they have also led to abuses of civil liberties and a disproportionate focus on international terrorist threats over domestic terrorist threats.
5. In 2019, DHS publicly acknowledged white supremacist violence as a major threat to national security for the first time, despite being aware internally of the severity of the threat for 10 years. In a 2019 report, DHS acknowledged that white supremacist violence “is one of the most potent forces driving domestic terrorism.” This was DHS's first

public acknowledgement of the severity of the threat, despite the Department discussing the threat in its non-public 2009 Intelligence Assessment entitled *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment*—which, while accurate, was ultimately rescinded by DHS due to political pressure. DHS also previously issued a non-public Joint Intelligence Bulletin with the Department of Justice (DOJ) in 2017 entitled *White Supremacist Extremism Poses Persistent Threat of Legal Violence*.

6. In 2021, the Biden Administration released the first-ever *National Strategy for Countering Domestic Terrorism*, detailing the Administration’s overarching approach to addressing the evolving domestic terrorism threat. As part of its implementation of the *Strategy*, DHS designated combating domestic violent extremism as a “National Priority Area” within its Homeland Security Grant Program for the first time. Further, the DHS Secretary established a dedicated domestic terrorism branch within the Department’s Office of Intelligence & Analysis (I&A).
7. DHS and FBI have not fully complied with requirements in federal law to collect and report data on domestic terrorist attacks. Both agencies are required by the 2020 National Defense Authorization Act to submit to Congress an annual report detailing each agency’s efforts and resources dedicated to addressing domestic terrorism, annual assessments of the threat landscape, and data on domestic terrorism. DHS and FBI submitted the first *Strategic Intelligence Assessment and Data on Domestic Terrorism* almost a year late and did not provide the required information and data on domestic terrorism incidents and agencies’ staffing and resource allocation, and the first annual update was nearly five months late and still did not include all required data.
8. FBI in recent years has changed how it categorizes domestic terrorism ideologies. In 2017, FBI created a new category of domestic terrorism ideology called “Black Identity Extremists,” but has since terminated the use of this category. By 2019, FBI combined all forms of racially motivated extremism, including the pre-existing category of “White Supremacist Violence,” into one category called “Racially Motivated Violent Extremists.” This change obscures the full scope of white supremacist terrorist attacks, and it has prevented the federal government from accurately measuring domestic terrorism threats.
9. Agencies can and do monitor social media for threats of domestic terrorism, with certain limitations. Federal agencies are allowed to, and do, use social media when addressing domestic terrorism. However, they are limited in their use by the First Amendment, the Privacy Act of 1974, Executive Order 12333, and internal agency policy and guidance documents. Agencies have been slow to adapt to the open planning of extremist violence online, leading to incomplete threat assessments.

Social Media Companies

10. Extremist content continues to proliferate on social media platforms, at least partially driven by the companies' own business models, which prioritize engagement, profits, and growth over safety. Social media platforms focus their products and features on keeping users engaged, which leads the platforms to recommend increasingly extreme content.
11. In response to accusations that their platforms amplify extreme content, social media companies emphasize the volume of content they remove, rather than address why their platforms allow the proliferation of harmful content in the first place. Data provided to the Committee by social media companies about the volume of extremist and other violative content on their platforms helps illustrate the problem. Meta banned over 250 white supremacist groups and 890 militarized social movements through October 2021, Twitter took down over 1.8 million accounts for violating guidelines against the promotion of terrorism between 2015 and 2021, and YouTube removed 431,000 videos that promoted violent extremism in the second quarter of 2021 alone.

RECOMMENDATIONS

Federal Agencies

1. Reassess the federal government's counterterrorism efforts. Congress should require a whole-of-government review of federal counterterrorism efforts, including whether current post-9/11 structures, resources, intelligence, and enforcement efforts are sufficiently aligned to effectively address the current terrorism threat. This should include assessing relevant federal agencies' counterterrorism policies and procedures; identifying weaknesses, inefficiencies, and duplications in counterterrorism efforts; and ensuring international and domestic terrorism threats are properly defined and prioritized appropriately, as the lines that previously defined domestic and international terrorism are increasingly blurred.
2. Create a Counterterrorism Coordinator within DHS. Congress should create a Counterterrorism Coordinator within DHS to oversee counterterrorism strategy and operations within DHS. Congress should require this position to regularly report to Congress on DHS counterterrorism efforts and how DHS allocates resources based on the terrorism threat landscape.
3. Establish measurable standards for assessing agency counterterrorism efforts. Congress should require DHS and FBI to establish clear and quantifiable criteria to regularly report on the threat landscape and to measure implementation of frameworks, strategies, and initiatives to address domestic terrorism. Congress should further require the agencies to inform Congress on the results of those assessments, criteria employed to allocate and shift resources as threats evolve, and whether and how such actions address current threats, including whether changes are required where counterterrorism efforts are not successful.

4. Create accountability for complying with data reporting requirements. Congress should consider a range of accountability mechanisms for agencies that fail to provide information, data, and reports on the domestic terrorism threat as required under the FY 2020 National Defense Authorization Act (NDAA), including requiring DHS and FBI to certify to Congress compliance with reporting requirements and to identify any failures in reporting.
5. Develop a standardized system for reporting domestic terrorism data. DOJ and FBI should develop a system to consistently report internally and to Congress on all domestic terrorism investigations, arrests, and prosecutions, regardless of which part of the federal government pursues the case.
6. Create standardized domestic terrorism categories. DOJ and FBI should ensure their domestic terrorism categories are relevant and useful for defining the threat, collecting data, and planning and implementing strategies and actions to counter the threat. Congress should require FBI to report to Congress when making changes to the categories.
7. Clarify and improve federal agency guidelines on the use of social media while respecting individuals' constitutional rights. DHS, DOJ, and FBI should improve and clarify their guidance on how employees collect and use social media information. FBI should also provide guidance on the effective and consistent use of its third-party software tool for analyzing social media posts. All guidance must comply with protections in federal law and constitutional limitations, including the First, Fourth, and Fourteenth Amendments, and the agencies should be transparent about what data they use regarding social media.
8. Improve the effectiveness of relationships with social media companies regarding domestic extremist content. DHS and FBI should improve avenues of communication with social media companies for the companies to more effectively and consistently share threats coming from domestic extremist content found on their platforms. These avenues of communication and relationships must be appropriate under constitutional restrictions, federal law, and agency guidelines.

Social Media Companies

9. Create accountability for social media companies to prioritize safety on their platforms. Congress and regulators should create accountability mechanisms for social media companies to prioritize safety in the development of their products and features, and consider removing current protections in law that allow companies, without meaningful consequences, to continue to prioritize engagement on their platforms even if that results in knowingly promoting extreme content.
10. Conduct research on platform design. Social media companies should be required to conduct – and report to appropriate regulatory bodies – research on their platforms to understand the impacts of platform design and recommendation algorithms on the

amplification of violative or extreme content on their platforms, including before launching new features or products.

11. Establish transparency mechanisms to allow external research. Congress should codify transparency requirements for social media companies to provide outside researchers, including academic researchers, nonprofit organizations, and journalists, access to raw data and metadata, including content on social media platforms, advertisements, and metrics around algorithmic processes. Congress should mandate that this access protect user privacy and proprietary information.
12. Establish trust and safety as prioritized metrics. Congress should require large social media companies to quantify and release specific metrics on trust and safety, including detailed metrics on the levels of extremist, violent, and other violative content on their platforms and the distribution of users who see that content, including if certain individuals or communities see a disproportionate amount of harmful content. Congress should mandate that platforms publicly release the prioritized metrics for their products including those used in A/B testing and in determining employee compensation.

III. INTRODUCTION

Domestic terrorism has increased over the past two decades, and accelerated since 2016. The Department of Homeland Security (DHS) and the Federal Bureau of Investigation (FBI) now identify domestic terrorism as the most persistent and lethal terrorist threat to the homeland.¹ This increase in domestic extremist and terrorist threats has been predominantly – and almost exclusively with respect to acts resulting in death – perpetrated by white supremacist, and anti-government extremist individuals and groups, according to nongovernmental organizations like the Anti-Defamation League (ADL) that track this information. The ADL has reported that right-wing extremists, which ADL defines to include white supremacists, skinheads, neo-Nazis, anti-government, and other specific categories, were linked to at least 26 extremist-related murders in the United States in 2021 and have been responsible for 75 percent of such murders in the last ten years.² Even this data likely underestimates the actual threat. Until recently, the federal government had suspended prior efforts to track and publicly report these acts.³

On March 2, 2021, FBI Director Christopher Wray testified before Congress that “the problem of domestic terrorism has been metastasizing across the country for a long time now and it’s not going away anytime soon.”⁴ On September 21, 2021, Director Wray testified before this Committee that FBI’s domestic terrorism caseload “has exploded,” prompting FBI to double the personnel working on those cases in the past year.⁵ At the same hearing, National Counterterrorism Center (NCTC) Director Christine Abizaid testified that:

¹ Department of Homeland Security, *Homeland Threat Assessment* (Oct. 2020) (https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf). See also Senate Committee on the Judiciary, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Oversight of the Federal Bureau of Investigation: The January 6th Insurrection, Domestic Terrorism, and Other Threats*, 117th Cong. (Mar. 2, 2021) (S. Hrg. 117-XX); House Committee on Homeland Security, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Worldwide Threats to the Homeland*, 116th Cong. (Sep. 17, 2020) (H. Hrg. 116-XX).

² Anti-Defamation League, *Murder and Extremism in the United States in 2021* (May 3, 2022) (<https://www.adl.org/resources/report/murder-and-extremism-united-states-2021>); Anti-Defamation League, *Extreme Right/Radical Right/Far Right* (Apr. 5, 2017) (<https://www.adl.org/resources/glossary-terms/extreme-right-radical-right-far-right>).

³ See Federal Bureau of Investigation, *Terrorism in the United States 1996* (1996) (https://www.fbi.gov/file-repository/stats-services-publications-terror_96.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1997* (1997) (https://www.fbi.gov/file-repository/stats-services-publications-terror_97.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1998* (1998) (https://www.fbi.gov/file-repository/stats-services-publications-terror_98.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1999* (1999) (https://www.fbi.gov/file-repository/stats-services-publications-terror_99.pdf/view); Federal Bureau of Investigation, *Terrorism 2000/2001* (2001) (<https://www.fbi.gov/stats-services/publications/terror>); Federal Bureau of Investigation, *Terrorism 2002-2005* (2005) (https://www.fbi.gov/file-repository/stats-services-publications-terrorism-2002-2005-terror02_05.pdf/view).

⁴ Senate Committee on the Judiciary, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Oversight of the Federal Bureau of Investigation: The January 6th Insurrection, Domestic Terrorism, and Other Threats*, 117th Cong. (Mar. 2, 2021) (S. Hrg. 117-XX).

⁵ Senate Committee on Homeland Security and Governmental Affairs, Testimony During Hearing from Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11*, 117th Cong. (Sep. 21, 2021) (S. Hrg. 117-XX).

“the threat from domestic violent extremists (DVEs)—in particular, racially or ethnically motivated violent extremists, or RMVEs, and militia violent extremists, or MVEs,—has increased since 2015 and will most likely persist, in part because the factors that underpin and aggravate their motivations—like social polarization, negative perceptions about immigration, conspiracy theories promoting violence, and distrust of government institutions—will probably endure.”⁶

Despite this recognition of the increased threat of domestic terrorism, FBI and DHS have failed to meet their obligations to fully track and publish data on the number of incidents, type, responsible actors, and other information necessary to fully understand the extent of the threat and the resources necessary to combat it.⁷ Although legislation passed in the Fiscal Year 2020 National Defense Authorization Act (FY20 NDAA) now requires FBI, DHS, and Office of the Director of National Intelligence (ODNI) to track and report this information to Congress and the public, to date, they have failed to do so accurately or on time.⁸

A. Committee Focus

In September 2019, U.S. Senator Gary Peters led efforts to convene the Senate Homeland Security and Governmental Affairs Committee’s first ever hearing on domestic terrorism that focused on white supremacist violence, “Countering Domestic Terrorism: Examining the Evolving Threat.” The hearing focused on evaluating existing efforts to counter increased acts of white supremacist violence.⁹ The Committee has since conducted multiple oversight hearings to examine the federal government’s efforts to address the rising domestic terrorism threat.

In August 2021, the Committee held a two-part hearing series, “Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically

⁶ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Director Christine Abizaid, National Counterterrorism Center, *Hearing on Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11*, 117th Cong. (Sep. 21, 2021) (S. Hrg. 117-XX).

⁷ National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602; Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁸ National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602; Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁹ See Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Countering Domestic Terrorism: Examining the Evolving Threat*, 116th Cong. (Sep. 25, 2019) (S. Hrg. 116-XX).

Motivated Attacks.”¹⁰ Part I focused on recent violent attacks inspired by white supremacist, anti-government and other hateful ideologies and their impacts on communities in Michigan and across the nation.¹¹ Part II focused on increases in white supremacist and anti-government violence and changes to the nation’s threat landscape since 9/11.¹²

On September 21, 2021, the Committee held its annual threats hearing, “Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11,” where DHS Secretary Alejandro Mayorkas, FBI Director Christopher Wray, and NCTC Director Christine Abizaid discussed the need for national security agencies to increase their efforts to combat new and persistent domestic terrorism threats, including white supremacist and anti-government violence.¹³ In October 2021, the Committee held a hearing, “Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content,” where key experts testified on the role social media platforms play in the amplification of domestic extremist content.¹⁴

In March 2022, the Committee held a hearing, “Violent Extremism and Terrorism: Examining the Threat to Houses of Worship and Public Spaces,” examining the threat of violent extremism and terrorism against houses of worship and other public spaces.¹⁵ In June 2022, the Committee held a hearing, “Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks,” that explored the increasing threat of white supremacist extremism and the Great Replacement Theory after a deadly shooting targeting African Americans in Buffalo, New York.¹⁶ At that hearing, Chairman Peters emphasized that the federal agencies have not been as proactive as needed in addressing the threat posed by domestic extremism, particularly white supremacist and anti-government violence.¹⁷ In

¹⁰ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part I*, 117th Cong. (Aug. 3, 2021) (S. Hrg. 117-XX); Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part II*, 117th Cong. (Aug. 5, 2021) (S. Hrg. 117-XX).

¹¹ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part I*, 117th Cong. (Aug. 3, 2021) (S. Hrg. 117-XX).

¹² Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part II*, 117th Cong. (Aug. 5, 2021) (S. Hrg. 117-XX).

¹³ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11*, 117th Cong. (Sep. 21, 2021) (S. Hrg. 117-XX).

¹⁴ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

¹⁵ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Violent Extremism and Terrorism: Examining the Threat to Houses of Worship and Public Spaces*, 117th Cong. (Mar. 16, 2022) (S. Hrg. 117-XX).

¹⁶ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks*, 117th Cong. (June 9, 2022) (S. Hrg. 117-XX).

¹⁷ *Id.*

September 2022, the Committee held a hearing, “Social Media Platforms and Their Impact on Homeland Security,” that examined the extent to which social media companies’ business models contribute to the amplification of content that threatens homeland security.¹⁸

Chairman Peters is leading a multi-year investigation into the federal response to the evolving domestic terrorism threat. The investigation has examined how the government prioritizes countering domestic terrorism threats, data relied on by DHS, DOJ, and FBI to assess these threats, and existing authority to prevent domestic terrorism as threats within the United States evolve.¹⁹ Initiating the investigation in 2019, then-Ranking Member Peters and then-Chairman Johnson wrote to DOJ, FBI, and DHS, launching an inquiry focused on allocation of federal resources to detect and prevent domestic terrorism threats, including by white supremacist extremists.²⁰ In September and October 2021, Chairman Peters expanded his investigation and requested information from Facebook, Twitter, YouTube, and TikTok regarding the companies’ policies on monitoring and removing extremist and conspiracy content that advocates violence, and the adequacy of actions to address the increased use of these platforms to promote acts of domestic terrorism and violent extremism.²¹ Chairman Peters also requested information from FBI and DHS about how the agencies are countering the threat of domestic terrorism and domestic extremist threats on social media.²²

This report analyzes whether federal resources are sufficiently allocated to address the domestic terrorism threat and what, if any, action has been taken to address how social media platforms are used to amplify this threat. As detailed below, this report finds that federal resources have not been adequately allocated to address the threat of domestic terrorism, the federal government does not consistently track domestic terrorism and changes its priorities as Administrations change, and the rise in domestic terrorism can be partially attributed to the proliferation of extremist content on social media platforms and the failure of companies to effectively limit it in favor of action that increase engagement on their platforms.

¹⁸ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

¹⁹ Letter from Senator Ron Johnson and Senator Gary Peters to Director Christopher Wray, Federal Bureau of Investigation (May 8, 2019); Letter from Senator Ron Johnson and Senator Gary Peters to Attorney General William Barr, Department of Justice (May 8, 2019); Letter from Senator Ron Johnson and Senator Gary Peters to Acting Secretary Kevin McAleenan, Department of Homeland Security (May 8, 2019).

²⁰ Letter from Senator Ron Johnson and Senator Gary Peters to Director Christopher Wray, Federal Bureau of Investigation (May 8, 2019); Letter from Senator Ron Johnson and Senator Gary Peters to Attorney General William Barr, Department of Justice (May 8, 2019); Letter from Senator Ron Johnson and Senator Gary Peters to Acting Secretary Kevin McAleenan, Department of Homeland Security (May 8, 2019).

²¹ Letter from Chairman Gary Peters to Mark Zuckerberg, Meta (Sep. 17, 2021); Letter from Chairman Gary Peters to Jack Dorsey, Twitter (Sep. 17, 2021); Letter from Chairman Gary Peters to Susan Wojcicki, YouTube (Sep. 17, 2021); Letter from Chairman Gary Peters to Shou Zi Chew, TikTok (Oct. 12, 2021).

²² Letter from Chairman Gary Peters to Director Christopher Wray, Federal Bureau of Investigation (Oct. 12, 2021); Letter from Chairman Gary Peters to Secretary Alejandro Mayorkas, Department of Homeland Security (Oct. 12, 2021).

B. Recent Terrorism Attacks

Below is a summary of recent terrorism related attacks and plots from 2015 to 2022. This list, while not exhaustive, illustrates the breadth and impact of these attacks on individuals and communities, as well as the difficulty in defining a particular attack solely as domestic terrorism, international terrorism, hate crime, anti-government extremism, militia violent extremism, or otherwise. According to the Center for Strategic and International Studies, between January 1, 1994, and December 31, 2021, in the United States there were 1,040 cases of terrorist plots and attacks.²³ However, that count does not include all instances of violence defined under hate crimes or mass shootings, of which several hundred occur each year.²⁴

- In June 2015, Dylann Roof, a Neo-Nazi, killed nine Black parishioners engaged in religious worship and Bible study at Emanuel African Methodist Episcopal Church in Charleston, South Carolina.²⁵ DOJ declined to investigate this crime as domestic terrorism.²⁶ In December 2016, Roof was convicted of 33 counts of federal hate crimes and firearms charges, including nine capital counts of obstruction of free exercise of religious beliefs resulting in death, in violation of 18 U.S.C. § 247, and nine capital counts of use of a firearm to commit murder during and in relation to a federal crime of violence, in violation of 18 U.S.C. § 924.²⁷ In January 2017, Roof was sentenced to death on all 18 capital counts. The sentence of death has been imposed by the court but not yet carried out.²⁸
- In 2016, Curtis Allen, Patrick Stein, and Gavin Wright were arrested for plotting to attack an apartment complex and mosque used by Somali immigrants in Kansas.²⁹ In April 2018, they were convicted of conspiracy to use a weapon of mass destruction, in violation of 18 U.S.C. § 2332a—a terrorism-related offense—as well as conspiracy

²³ Center for Strategic and International Studies, *The Evolution of Domestic Terrorism* (Feb. 17, 2022) (<https://www.csis.org/analysis/evolution-domestic-terrorism>).

²⁴ Gun Violence Archive, *Mass Shootings in 2022* (accessed Oct. 4, 2022) (<https://www.gunviolencearchive.org/reports/mass-shooting>); Department of Justice, *2020 Hate Crimes Statistics* (May 5, 2022) (<https://www.justice.gov/crs/highlights/2020-hate-crimes-statistics>).

²⁵ Department of Justice, *Federal Jury Sentences Dylann Storm Roof to Death* (Jan. 10, 2017) (<https://www.justice.gov/usao-sc/pr/federal-jury-sentences-dylann-storm-roof-death>); Kevin Sack and Alan Blinder, *No Regrets From Dylann Roof in Jailhouse Manifesto*, *New York Times* (Jan. 5, 2017) (<https://www.nytimes.com/2017/01/05/us/no-regrets-from-dylann-roof-in-jailhouse-manifesto.html>).

²⁶ Jenna McLaughlin, *Why Wasn't Dylann Roof Charged with Terrorism*, *Intercept* (July 22, 2015) (<https://theintercept.com/2015/07/22/departement-justice-didnt-charge-dylan-roof-domestic-terrorism/>).

²⁷ Department of Justice, *Federal Jury Sentences Dylann Storm Roof to Death* (Jan. 10, 2017) (<https://www.justice.gov/usao-sc/pr/federal-jury-sentences-dylann-storm-roof-death>).

²⁸ See Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

²⁹ Department of Justice, *Three Southwest Kansas Men Sentenced to Prison for Plotting to Bomb Somali Immigrants in Garden City* (Jan. 25, 2019) (<https://www.justice.gov/opa/pr/three-southwest-kansas-men-sentenced-prison-plotting-bomb-somali-immigrants-garden-city>).

to violate the housing rights of their victims, in violation of 18 U.S.C. § 241.³⁰ They received sentences to serve between 25 and 30 years in prison.³¹

- In August 2017, James Fields Jr. intentionally drove a car into a crowd of counter-protestors at the Unite the Right rally in Charlottesville, Virginia, killing one woman, Heather Heyer, and injuring dozens.³² In March 2019, he pleaded guilty to one count of a hate crime act that resulted in death and 28 other hate crimes charges, all in violation of 18 U.S.C. § 249. In June 2019, he was sentenced to life imprisonment.³³
- In October 2018, Robert Bowers allegedly attacked the Tree of Life – or L’Simcha Congregation in Pittsburgh, Pennsylvania, killing 11 people and injuring six. Bowers was charged with 63 counts, including 11 counts of hate crimes resulting in death, and is scheduled for trial in April 2023.³⁴ Bowers cited anti-Semitic motivations for his actions and a belief in the white genocide conspiracy theory.³⁵ It was the deadliest attack on the Jewish community in the United States.³⁶
- In August 2019, Patrick Crusius allegedly carried out a mass shooting at a Walmart store in El Paso Texas, killing 23 people and injuring many more.³⁷ His indictment

³⁰ Department of Justice, *Three Southwest Kansas Men Sentenced to Prison for Plotting to Bomb Somali Immigrants in Garden City* (Jan. 25, 2019) (<https://www.justice.gov/opa/pr/three-southwest-kansas-men-sentenced-prison-plotting-bomb-somali-immigrants-garden-city>).

³¹ See Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

³² Department of Justice, *Ohio Man Sentenced to Life in Prison for Federal Hate Crimes Related to August 2017 Car Attack at Rally in Charlottesville, Virginia* (June 28, 2019) (<https://www.justice.gov/opa/pr/ohio-man-sentenced-life-prison-federal-hate-crimes-related-august-2017-car-attack-rally>).

³³ See Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Department of Justice, *Ohio Man Sentenced to Life in Prison for Federal Hate Crimes Related to August 2017 Car Attack at Rally in Charlottesville, Virginia* (June 28, 2019) (<https://www.justice.gov/opa/pr/ohio-man-sentenced-life-prison-federal-hate-crimes-related-august-2017-car-attack-rally>).

³⁴ Department of Justice, *Additional Charges Filed in Tree of Life Synagogue Shooting* (Jan. 29, 2019) (<https://www.justice.gov/usao-wdpa/pr/additional-charges-filed-tree-life-synagogue-shooting-0>); Chris Hoffman, *Robert Bowers: Trial date set for accused Tree of Life gunman*, CBS News (Sep. 20, 2022) (<https://www.cbsnews.com/pittsburgh/news/robert-bowers-trial-date-set-accused-tree-of-life-gunman/>).

³⁵ See Department of Justice, *Pennsylvania Man Charged with Federal Hate Crimes for Tree of Life Synagogue Shooting* (Oct. 31, 2018) (<https://justice.gov/opa/pr/pennsylvania-man-charged-federal-hate-crimes-tree-life-synagogue-shooting>).

³⁶ Jay Croft and Saeed Ahmed, *The Pittsburgh synagogue shooting is believed to be the deadliest attack on Jews in American history, the ADL says*, CNN (Oct. 28, 2018) (<https://www.cnn.com/2018/10/27/us/jewish-hate-crimes-fbi/index.html>).

³⁷ Department of Justice, *Federal Grand Jury in El Paso Returns Superseding Indictment against Patrick Crusius* (July 9, 2020) (<https://www.justice.gov/usao-wdtx/pr/federal-grand-jury-el-paso-returns-superseding-indictment-against-patrick-crusius>).

included 23 counts of hate crimes resulting in death, 23 counts of use of a firearm to commit murder during and in relation to a crime of violence, 22 counts of hate crimes involving an attempt to kill, and 22 counts of use of a firearm during and in relation to a crime of violence, and he is scheduled for trial in January 2024.³⁸ In a document posted online shortly before the attack, Crusius cited his motivation for the attack coming from fear of a supposed “Hispanic invasion of Texas” and expressed a desire to “[defend] my country from cultural and ethnic replacement brought on by the invasion.”³⁹ He also praised the perpetrator of the mosque shooting in Christchurch, New Zealand, in the document, which he posted to the messaging forum 8chan and which users continued to share, despite 8chan deleting the original posting.⁴⁰

- In November 2019, Richard Holzer was arrested for plotting to blow up the Temple Emanuel Synagogue in Pueblo, Colorado. Holzer told undercover FBI agents he wanted the bombing to send a message to Jewish people that they must leave his town, “otherwise people will die.”⁴¹ He pleaded guilty to federal hate crime and explosives charges, and in February 2021, he was sentenced to over 19 years in prison, followed by 15 years of supervised release.⁴²
- In October 2020, FBI thwarted a plot by members of a Michigan-based militia group to kidnap Michigan Governor Gretchen Whitmer. Members of the conspiracy used Facebook to share ideologies and content on militia training exercises.⁴³ The militia members intended to use tactical gear and explosives to kidnap Governor Whitmer and place her “on trial.”⁴⁴ FBI charged six individuals with conspiracy to commit

³⁸ Department of Justice, *Federal Grand Jury in El Paso Returns Superseding Indictment against Patrick Crusius* (July 9, 2020) (<https://www.justice.gov/usao-wdtx/pr/federal-grand-jury-el-paso-returns-superseding-indictment-against-patrick-crusius>); Jolie McCullough, *Texas may delay trial for alleged Walmart shooter if federal prosecutors want to seek death penalty*, Texas Tribune (Oct. 11, 2022) (<https://www.texastribune.org/2022/10/11/texas-el-paso-walmart-shooting-trial/>).

³⁹ Department of Justice, *Texas Man Charged with Federal Hate Crimes and Firearm Offenses Related to August 3, 2019, Mass-Shooting in El Paso* (Feb. 6, 2020) (<https://www.justice.gov/opa/pr/texas-man-charged-federal-hate-crimes-and-firearm-offenses-related-august-3-2019-mass>).

⁴⁰ See Department of Justice, *Texas Man Charged with Federal Hate Crimes and Firearm Offenses Related to August 3, 2019, Mass-Shooting in El Paso* (Feb. 6, 2020) (<https://www.justice.gov/opa/pr/texas-man-charged-federal-hate-crimes-and-firearm-offenses-related-august-3-2019-mass>); Shirin Ghaffary, Rani Molla, and Emily Stewart, *Here’s how Facebook, YouTube, Twitter, and 8chan handle white supremacist content*, Vox (Aug. 4, 2019) (<https://www.vox.com/recode/2019/8/4/20753951/el-paso-dayton-shooting-8chan-twitter-facebook>).

⁴¹ Department of Justice, *Southern Colorado Man Sentenced to More Than 19 Years for Plotting to Blow Up Synagogue* (Feb. 26, 2021) (<https://www.justice.gov/opa/pr/southern-colorado-man-sentenced-more-19-years-plotting-blow-synagogue>).

⁴² See Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴³ Affidavit in Support of Criminal Complaint (Oct. 6, 2020), *United States v. Fox*, W.D. Mich. (No. 1:20-mj-00416).

⁴⁴ *Id.*

kidnapping, of which two were acquitted, two pled guilty, and two were found guilty by a jury.⁴⁵

- On January 6, 2021, the U.S. Capitol was attacked by supporters of President Donald Trump, anti-government terrorists, and white supremacists during a Joint Session of the U.S. Congress in an attempt to stop the certification of the 2020 electoral votes. Oath Keepers, Proud Boys, and many other groups coordinated via social media to spread information regarding the event and livestreamed during the breach of the Capitol.⁴⁶ Nine people – including five police officers – involved in the events lost their lives, either directly in the crowd, due to injuries sustained on January 6, 2021, or due to suicide after January 6th.⁴⁷ Over 880 indictments have been issued to date.⁴⁸ Domestic terrorist ideologies among the January 6th perpetrators include white supremacist extremists, militia violent extremists, and anti-government violent extremists.⁴⁹
- On May 14, 2022, Payton Gendron allegedly conducted a racially motivated mass shooting at a grocery store in Buffalo, New York killing 10 Black individuals and injuring 3 others.⁵⁰ A federal grand jury indicted Gendron on 27 counts, including 10 counts of hate crimes resulting in death.⁵¹ Gendron published a “180-page document to the anonymous message board 4chan before carrying out the attack.”⁵² The manifesto reportedly included racist and white supremacist ideology.⁵³ The video of

⁴⁵ Department of Justice, *Remaining Defendants Convicted In Conspiracy To Kidnap Michigan Governor Gretchen Whitmer* (Aug. 23, 2022) (https://www.justice.gov/usao-wdmi/pr/2022_0823_Fox_et_al).

⁴⁶ Craig Timberg, Elizabeth Dvoskin, and Reed Albergotti, *Inside Facebook, Jan. 6 violence fueled anger, regret over missed warning signs*, Washington Post (Oct. 22, 2021) (<https://www.washingtonpost.com/technology/2021/10/22/jan-6-capitol-riot-facebook/>).

⁴⁷ Chris Cameron, *These Are the People Who Died in Connection With the Capitol Riot*, New York Times (Jan. 5, 2022) (<https://www.nytimes.com/2022/01/05/us/politics/jan-6-capitol-deaths.html>).

⁴⁸ Department of Justice, *Capitol Breach Cases* (accessed Nov. 9, 2022) (<https://www.justice.gov/usao-dc/capitol-breach-cases>).

⁴⁹ Statement of Offense (Apr. 4, 2022), *United States v. Donohoe*, D.D.C. (No. 21-cr-175-4) (explaining Mr. Donohoe’s leadership role in the white supremacist group the Proud Boys’ actions during the January 6th attack on the Capitol); Statement of Offense (Apr. 26, 2022), *United States v. Ulrich*, D.D.C. (No. 22-cr-15) (detailing Mr. Ulrich’s assistance in planning an attack on the Capitol with members of the anti-government militia group the Oath Keepers and his unlawful actions during the attack); Indictment (Jan. 8, 2021), *United States v. Hostetter*, D.D.C. (detailing grand jury charges against members of the anti-government militia the Three Percenters for their actions in the lead up to and during the January 6th attack).

⁵⁰ Emma Bowman, Bill Chappell, and Becky Sullivan, *What we know so far about the Buffalo mass shooting*, NPR (May 16, 2022) (<https://www.npr.org/2022/05/15/1099028397/buffalo-shooting-what-we-know>).

⁵¹ Department of Justice, *Federal Grand Jury Indicts Accused Tops Shooter on Federal Hate Crimes and Firearms Charges in Buffalo, New York* (July 14, 2022) (<https://www.justice.gov/opa/pr/federal-grand-jury-indicts-accused-tops-shooter-federal-hate-crimes-and-firearms-charges>).

⁵² Monika Pronczuk and Koba Rycewaert, *A Racist Researcher, Exposed by a Mass Shooting*, New York Times (June 9, 2022) (<https://www.nytimes.com/2022/06/09/world/europe/michael-woodley-buffalo-shooting.html>).

⁵³ *Id.*

the shooting was reposted on Facebook and reportedly “received more than 500 comments and 46,000 shares. Facebook did not remove it for more than 10 hours.”⁵⁴

IV. FEDERAL STRUCTURE FOR ADDRESSING DOMESTIC TERRORISM

A. Expanded Counterterrorism Authorities and Creation of DHS

In the wake of the terrorist attacks of September 11, 2001, Congress restructured the federal government to address the threat of attacks from international terrorists.⁵⁵ The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Patriot Act), which was signed into law on October 26, 2001, changed the federal government’s approach to intelligence gathering and added authorities to address international terrorism.⁵⁶

The Patriot Act took specific steps to assist federal investigators in their work with terrorist cases.⁵⁷ The Act created a new definition of domestic terrorism, separate from the definition of international terrorism.⁵⁸ It expanded law enforcement’s authority to surveil and investigate threats by allowing the use of wiretaps for more terror- and computer-related crimes.⁵⁹ It also created authority to delay notification to subjects of search warrants to prevent fleeing suspects.⁶⁰ To increase government coordination in investigation of and responses to terrorist attacks, the Patriot Act removed barriers to information sharing between agencies.⁶¹ When prosecuting terrorism cases, the Patriot Act created tougher penalties for international terrorist activities and ended or extended statutes of limitations on specific terrorism-related crimes.⁶²

Based on the authorities provided in the Patriot Act, the federal government expanded its surveillance and intelligence programs, leading to over-collection of information on U.S.

⁵⁴ Drew Harwell and Will Oremus, *Only 22 saw the Buffalo shooting live. Millions have seen it since.*, Washington Post (May 16, 2022) (<https://www.washingtonpost.com/technology/2022/05/16/buffalo-shooting-live-stream/>).

⁵⁵ See Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56.

⁵⁶ *Id.*

⁵⁷ See *id.*

⁵⁸ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 802.

⁵⁹ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 201, 202, 206.

⁶⁰ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 213.

⁶¹ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 203.

⁶² Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 801, 803, 805, 809, 811.

citizens.⁶³ The Act allowed the federal government, in certain circumstances, to obtain records on individuals from third parties, to conduct searches without prior notice, to expand warrantless searches for foreign intelligence, and to obtain communication information.⁶⁴ Under these authorities, the National Security Agency created the Section 215 program to conduct bulk collection of individuals' phone records, which was criticized in subsequent years as abusive and potentially in violation of individuals' privacy and civil rights, and was ultimately shut down.⁶⁵ In 2014, the Privacy and Civil Liberties Oversight Board (PCLOB), an independent agency established to balance security and civil liberties, stated that the Section 215 program had "not identified a single instance involving a threat to the United States in which the [telephone records] program made a concrete difference in the outcome of a counterterrorism investigation."⁶⁶ Furthermore, PCLOB concluded that it was "aware of no instance in which the program directly contributed to the discovery of a previously unknown terrorist plot or the disruption of a terrorist attack."⁶⁷

Specific to FBI, the Patriot Act provided the Bureau with additional authority to monitor and search suspects in terrorism-related and other investigations.⁶⁸ The Congressional Research Service (CRS) has noted that prior to the Patriot Act, "FBI was largely a reactive law enforcement agency," and focused on pursuing and capturing individuals after a crime was committed.⁶⁹ After the attacks on September 11, 2001, FBI shifted to take "a much more proactive posture, particularly regarding counterterrorism."⁷⁰ Before enactment of the Patriot Act, CRS notes that FBI "limit[ed] coordination between intelligence and criminal investigators," when obtaining and using wiretaps, effectively creating "the Wall" between the two teams.⁷¹ Section 218 of the Patriot Act amended the requirements for obtaining a wiretap, which removed the Wall and eased information sharing between the two teams.⁷² According to

⁶³ ACLU, *Surveillance Under the USA/PATRIOT Act* (accessed Sep. 23, 2021) (<https://www.aclu.org/other/surveillance-under-usapatriot-act>).

⁶⁴ *Id.*

⁶⁵ Charlie Savage and Jonathan Weisman, *N.S.A. Collection of Bulk Call Data Is Ruled Illegal*, New York Times (May 7, 2015) (<https://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html>).

⁶⁶ Privacy and Civil Liberties Oversight Board, *Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court* (Jan. 23, 2014) (https://documents.pclob.gov/prod/Documents/OversightReport/ec542143-1079-424a-84b3-acc354698560/215-Report_on_the_Telephone_Records_Program.pdf).

⁶⁷ *Id.*

⁶⁸ Congressional Research Services, *The Federal Bureau of Investigation and Terrorism Investigations* (R41780) (Feb. 19, 2014).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 218; Congressional Research Services, *The Federal Bureau of Investigation and Terrorism Investigations* (R41780) (Feb. 19, 2014). Sections 504 and 203 of the Patriot Act also made amendments that made information between law enforcement and intelligence investigators easier.

CRS, the Patriot Act also allowed law enforcement to use “roving wiretaps”, which allow investigators to intercept a target’s communications even if they take steps to evade surveillance.⁷³

On November 27, 2002, Congress established the National Commission on Terrorist Attacks Upon the United States (known as the 9/11 Commission) to “examine and report upon the facts and causes related to the terrorist attacks of September 11, 2001.”⁷⁴ On July 22, 2004, the Commission presented its findings to Congress in the “9/11 Commission Report.”⁷⁵ The report made factual findings regarding the planning, preparation, and execution of the terrorist attacks, as well as the government’s failure in detecting and addressing the attack.⁷⁶ The report also made several recommendations for improving intelligence gathering, security, and government coordination.⁷⁷ These recommendations, nearly all of which Congress passed into law, focused government efforts on international terrorist threats and gave the federal government increased authority to investigate and prosecute terrorist and criminal activities.⁷⁸ These reforms and new authorities focused the government’s efforts on international threats that were missed prior to 9/11, quickly leading to successes in thwarting attacks from international terrorist threats like plots in Portland, Oregon in 2002, Lackawanna, New York in 2003, Northern Virginia in 2003, and others.⁷⁹ However, some experts believe that the changes also led to increased risk of abuse of individuals’ civil liberties, as well as an almost exclusive focus on international terrorism at the expense of needed attention to other evolving threats including from domestic terrorism.⁸⁰

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 203, 504.

⁷³ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56, Sec. 206, 214, 216.

⁷⁴ Intelligence Authorization Act of 2003, Pub. L. 107-306, Sec. 601-02.

⁷⁵ Honorable Thomas H. Kean and Honorable Lee H. Hamilton, *Release of 9/11 Commission Report, Public Statement* (July 22, 2004) (https://govinfo.library.unt.edu/911/report/911Report_Statement.pdf).

⁷⁶ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (July 22, 2004) (<https://www.govinfo.gov/content/pkg/GPO-911REPORT/pdf/GPO-911REPORT.pdf>).

⁷⁷ *Id.*

⁷⁸ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (July 22, 2004) (<https://www.govinfo.gov/content/pkg/GPO-911REPORT/pdf/GPO-911REPORT.pdf>).

⁷⁹ Department of Justice, *Report from the Field: The USA PATRIOT Act at Work* (July 2004) (https://www.justice.gov/archive/olp/pdf/patriot_report_from_the_field0704.pdf).

⁸⁰ See Senate Committee on Homeland Security and Governmental Affairs, Testimony for the Record of Maya M. Berry, Arab American Institute, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks, Part II*, 117th Cong. (Aug. 5, 2021) (S. Hrg. 117-XX); ACLU, *Surveillance Under the USA/PATRIOT Act* (accessed Sep. 23, 2021) (<https://www.aclu.org/other/surveillance-under-usapatriot-act>); Privacy and Civil Liberties Oversight Board, *Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court* (Jan. 23, 2014) (https://documents.pclob.gov/prod/Documents/OversightReport/ec542143-1079-424a-84b3-acc354698560/215-Report_on_the_Telephone_Records_Program.pdf).

In November 2002, Congress also created the Department of Homeland Security (DHS) specifically with the mission of preventing future terrorist attacks.⁸¹ Congress established DHS's primary mission as "prevent[ing] terrorist attacks within the United States...reduc[ing] the vulnerability of the United States to terrorism," and "minimiz[ing] the damage, and assist[ing] in the recovery, from terrorist attacks that do occur within the United States."⁸² Congress included responsibilities from 22 agencies across the federal government among the combined components and new authorities within DHS.⁸³

Since Congress originally intended DHS to act as the central homeland counterterrorism agency, Congress established the Directorate for Information Analysis and Infrastructure Protection in the 2002 Homeland Security Act as DHS's intelligence branch.⁸⁴ In 2007, Congress formally changed the Directorate's name and established the Office of Intelligence and Analysis (I&A).⁸⁵ In 2007, Congress gave I&A information sharing authorities, including tasking I&A with accessing, receiving, and analyzing "law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities."⁸⁶

In addition to these actions, Congress also created the National Counterterrorism Center (NCTC). NCTC supports the federal government's counterterrorism objectives by analyzing and disseminating information on terrorist activities; however, NCTC's strictly international mission means it may not collect purely domestic information.⁸⁷ The Central Intelligence Agency (CIA) kept its intelligence authority and mission but in addition, Congress established the Office of the Director of National Intelligence (ODNI) in 2004. ODNI leads the federal government's counter-terrorism efforts by assessing and sharing information to coordinate a "whole-of-government" response.⁸⁸ FBI remained the primary law enforcement agency for domestic terrorism.⁸⁹

⁸¹ Homeland Security Act of 2002, Pub. L. 107-296.

⁸² Homeland Security Act of 2002, Pub. L. 107-296, Sec. 101.

⁸³ Homeland Security Act of 2002, Pub. L. 107-296.

⁸⁴ Homeland Security Act of 2002, Pub. L. 107-296, Sec. 201.

⁸⁵ Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53, Sec. 531.

⁸⁶ 6 U.S.C. § 121(d) (1).

⁸⁷ National Counterterrorism Center, Who We Are (accessed Oct. 12, 2022) (<https://www.dni.gov/index.php/nctc-home>).

⁸⁸ Office of the Director of National Intelligence, Who We Are: Mission/Vision (accessed Oct. 12, 2022) (<https://www.dni.gov/index.php/nctc-who-we-are/mission-vision>).

⁸⁹ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458.

B. Federal Entities Responsible for Addressing Domestic Terrorism

1. Department of Homeland Security

As a part of DHS’s mission, Congress tasked the Department with supporting domestic terrorism investigations and providing security against all terrorist attacks.⁹⁰ Since its creation, Congress has reformed DHS and expanded its intelligence activities.⁹¹ DHS has two basic approaches to counterterrorism: (1) preventing violent extremism, and (2) law enforcement and intelligence. In preventing violent extremism efforts, such as through the Center for Prevention Programs and Partnerships (CP3), the goal “is to equip and empower local efforts—including peers, teachers, community leaders, and law enforcement—to prevent individuals from mobilizing to violence before it becomes a law enforcement matter.”⁹² In relation to intelligence efforts, I&A has the primary responsibility for collecting and analyzing terrorism-related intelligence.⁹³ Several DHS offices have responsibilities that relate to addressing domestic terrorism, often with disjointed and overlapping roles, as shown below.

⁹⁰ Homeland Security Act of 2002, Pub. L. 107-296.

⁹¹ Homeland Security Act of 2002, Pub. L. 107-296; Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458; Department of Homeland Security, Department Six-point Agenda (Jan. 30, 2022) (<https://www.dhs.gov/department-six-point-agenda>).

⁹² Department of Homeland Security, Preventing Terrorism (accessed Oct. 14, 2022) (<https://www.dhs.gov/topics/preventing-terrorism>).

⁹³ Department of Homeland Security, Office of Intelligence and Analysis (accessed Oct. 4, 2022) (<https://www.dhs.gov/office-intelligence-and-analysis>).

Agency	Role
Office of Intelligence and Analysis (I&A) 	<i>Collects, analyzes, and shares with state, local, tribal, and territorial partners intelligence on potential homeland security threats.</i>
Center for Prevention Programs and Partnerships (CP3) 	<i>Supports communities in using a “whole-of-society approach to preventing domestic violent extremism and all other forms of targeted violence and terrorism” through administering the Targeted Violence and Terrorism Prevention Grant Program and resources, such as briefings and informational products.</i>
Homeland Security Investigations (HSI) 	<i>Sits within DHS’s U.S. Immigration and Customs Enforcement (ICE) and is “responsible for investigating transnational crimes and threats,” with a mission “to investigate, disrupt and dismantle terrorist, transnational and other criminal organizations.” HSI supports domestic terrorism investigations through FBI-led Joint Terrorism Task Forces (JTTFs).</i>
Cybersecurity and Infrastructure Security Agency (CISA) 	<i>“[L]eads the National effort to understand, manage, and reduce risk to our cyber and physical infrastructure,” and aims for “a secure and resilient critical infrastructure for the American people.” CISA coordinates with I&A and other federal entities on domestic terrorism related issues, such as election integrity.</i>
Federal Emergency Management Agency (FEMA) 	<i>Administers the Homeland Security Grant Program, which provides funding for threat prevention efforts, and the Nonprofit Security Grant Program, which provides funding specifically for houses of worship for safety and security efforts.</i>
United States Secret Service (USSS) 	<i>Houses the National Threat Assessment Center which provides “research and guidance” to “empower our partners in law enforcement, schools, government, and other public and private sector organizations to combat the ever-evolving threat of targeted violence”</i>
Transportation Security Administration (TSA) 	<i>Manages threats to transportation systems and conducts air passenger screenings using subsidiary lists of the “Terrorism Watchlist”</i>
Customs and Border Protection (CBP) 	<i>Safeguards United States borders and “detect[s] and disrupt[s] the threat of terrorists, their weapons and actions”</i>
Federal Law Enforcement Training Centers (FLETC) 	<i>Provides training to federal law enforcement, including counterterrorism trainings and resources</i>
U.S. Coast Guard 	<i>Participates in activities to “detect, deter, prevent, and disrupt terrorist attacks, and other criminal acts in the U.S. maritime domain”</i>

Source: Majority Committee staff analysis of DHS information.

I&A acts as the Department’s intelligence collection office, and the Under Secretary for I&A serves as the Chief Intelligence Officer for all of DHS.⁹⁴ Congress tasked I&A with accessing, receiving, and analyzing “law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities.”⁹⁵ I&A uses information gathered to “identify and assess the nature and scope of terrorist threats to the homeland,” “detect and identify threats of terrorism against the United States,” and “understand such threats in light of actual and potential vulnerabilities of the homeland.”⁹⁶ I&A conducts assessments of security vulnerabilities, creates intelligence reports based on these assessments, and gives recommendations for policy and procedure improvements.⁹⁷ After collecting intelligence, I&A must disseminate summarizing reports to other federal entities, state and local law enforcement agencies, and private sector partners, coordinate with the intelligence community, and support DHS in implementation of these reports and recommendations.⁹⁸ In March 2021, DHS announced a new branch within I&A dedicated to domestic terrorism “to ensure DHS develops the expertise necessary to produce the sound, timely intelligence needed to combat threats posed by domestic terrorism and targeted violence.”⁹⁹ However, DHS has not provided the Committee with sufficient information or data that would enable the Committee to determine what actions it has taken to accomplish those goals and assess the effectiveness of those actions. This includes DHS’s failure to provide complete data and information related to its staffing and resourcing to meet the domestic terrorism threat, as required under the FY 2020 National Defense Authorization Act (NDAA) and discussed in Section VII.

In 2015, DHS created the Office for Community Partnerships with the intention of finding “innovative ways to support communities that seek to discourage violent extremism and undercut terrorist narratives.”¹⁰⁰ In late 2017, DHS reorganized the Office of Community Partnerships into the Office for Terrorism Prevention and Partnerships, which DHS reorganized again in 2019 into the Office for Targeted Violence and Terrorism Prevention.¹⁰¹ Under these

⁹⁴ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458.

⁹⁵ 6 U.S.C. § 121(d)(1).

⁹⁶ 6 U.S.C. § 121(d)(1)(A-C).

⁹⁷ 6 U.S.C. § 121(d)(2, 3, 5).

⁹⁸ 6 U.S.C. § 121(d)(6, 14, 15).

⁹⁹ Department of Homeland Security, Office of Intelligence and Analysis, *DHS Note to Congress: Establishment of a new Domestic Terrorism Branch within I&A focused on Domestic Violent Extremism* (Apr. 27, 2021) (on file with Committee); Department of Homeland Security, *DHS Creates New Center for Prevention Programs and Partnerships and Additional Efforts to Comprehensively Combat Domestic Violent Extremism* (May 11, 2021) (<https://www.dhs.gov/news/2021/05/11/dhs-creates-new-center-prevention-programs-and-partnerships-and-additional-efforts>).

¹⁰⁰ Department of Justice, *Countering Violent Extremism Task Force Fact Sheet* (Jan. 8, 2016) (<https://www.justice.gov/opa/pr/countering-violent-extremism-task-force-fact-sheet>); Department of Homeland Security, *Center for Prevention Programs and Partnerships* (accessed Apr. 13, 2022) (<https://www.dhs.gov/CP3>); Department of Homeland Security, *Office of Strategy, Policy, and Plans* (accessed Sep. 21, 2021) (<https://www.dhs.gov/office-strategy-policy-plans>).

¹⁰¹ Government Accountability Office, *Countering Violent Extremism: DHS Needs to Improve Grants Management and Data Collection* (GAO-21-216) (Feb. 2021).

iterations, DHS charged the office with managing programs that prevent violent extremism, such as grants and community support.¹⁰² However, this office struggled to manage grants, including by not fully documenting decision making and not collecting adequate data on grantees and grant implementation.¹⁰³ This office is also accused of having a history of repeatedly targeting marginalized communities.¹⁰⁴ The Brennan Center for Justice has noted that during program application, “[s]ome programs explicitly labeled religious practices (e.g., ‘frequent attendance at mosque or prayer group’) and political speech (e.g. ‘concerns about anti-Muslim discrimination’) as causes for concern.”¹⁰⁵ Throughout its history, and as recently as June 2021, advocacy groups expressed concern over the office’s targeting of Muslim American communities and communities of color in this discriminatory application.¹⁰⁶

A 2021 Government Accountability Office (GAO) report on this office’s grant program found it lacked proper documentation policies and grantee data.¹⁰⁷ GAO found that “there has been a consistent rise in far-right extremist-related deaths since 2016,” and explained that Congress intended DHS to use these grants to assist law enforcement partners in countering domestic violent extremism and this rising threat.¹⁰⁸ GAO discussed many concerns with the grant program, including that, in issuing these grants, DHS “did not document how the process it employed, or the criteria it considered, aligned with the grant announcement.”¹⁰⁹ The report also found that “DHS did not obtain the necessary data from individual grantees to evaluate the

¹⁰² *Id.*

¹⁰³ Government Accountability Office, *Countering Violent Extremism: DHS Needs to Improve Grants Management and Data Collection* (GAO-21-216) (Feb. 2021); Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (GAO-17-300) (Apr. 2017).

¹⁰⁴ Letter from Civil Rights and Civil Liberties Groups to Deputy National Security Advisor Lisa Monaco (Dec. 18, 2014) (https://drive.google.com/file/d/1n9kA1eacnrF81DcHgWDREoFY_wlPRA58/view); *Joint Statement Regarding Upcoming Summit on Countering Violent Extremism* (Feb. 17, 2015) (<https://drive.google.com/file/d/12Z-hFgvDnWCcsOXXuehP9Py0xySge7mx/view>); Letter from Civil Rights and Civil Liberties Groups to Director for Counterterrorism Jennifer Easterly (Apr. 22, 2016) (https://drive.google.com/file/d/14PZYuTQNI0g_r_EArpmHqvQi0USfY_Dc/view); Letter from Civil Rights and Civil Liberties Groups to Acting Secretary of Homeland Security Chad Wolf, Acting Assistant Secretary for Threat Prevention and Security Policy Meghann Peterlin, and Federal Emergency Management Agency Administrator Peter Gaynor (June 1, 2020) (https://muslimadvocates.org/wp-content/uploads/2020/06/2020.06.01-Letter-to-DHS-Re_TVTP-grants-FINAL.pdf); Harsha Panduranga, *Community Investment, Not Criminalization: A Call to Abandon the Department of Homeland Security’s Violence Prevention Strategy*, Brennan Center for Justice (June 17, 2021) (https://www.brennancenter.org/sites/default/files/2021-06/2021_06_DHS_Targeted_Prevention.pdf).

¹⁰⁵ Harsha Panduranga, *Community Investment, Not Criminalization: A Call to Abandon the Department of Homeland Security’s Violence Prevention Strategy*, Brennan Center for Justice (June 17, 2021) (https://www.brennancenter.org/sites/default/files/2021-06/2021_06_DHS_Targeted_Prevention.pdf).

¹⁰⁶ Letter from Civil Rights and Civil Liberties Groups to Acting Secretary of Homeland Security Chad Wolf, Acting Assistant Secretary for Threat Prevention and Security Policy Meghann Peterlin, and Federal Emergency Management Agency Administrator Peter Gaynor (June 1, 2020) (https://muslimadvocates.org/wp-content/uploads/2020/06/2020.06.01-Letter-to-DHS-Re_TVTP-grants-FINAL.pdf).

¹⁰⁷ Government Accountability Office, *Countering Violent Extremism: DHS Needs to Improve Grants Management and Data Collection* (GAO-21-216) (Feb. 2021).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

overall [countering violent extremism] program.”¹¹⁰ GAO explained that, “given the past casualties from violent extremism and DHS’s desire to leverage this grant program throughout the country,” addressing this lack of documentation and data could help build confidence in the program.¹¹¹

In May 2021, DHS announced it would replace the Office for Targeted Violence and Terrorism Prevention with the Center for Prevention Programs and Partnerships (CP3) to “provide communities with the tools they need to combat terrorism and targeted violence.”¹¹² DHS stated that it hopes CP3 will help ensure DHS’s actions are “consistent with privacy protections, civil rights and civil liberties.”¹¹³ In a briefing with Committee staff, CP3 staff explained that DHS is approaching the office’s mission of preventing terrorism and targeted violence with a new public health approach, which focuses on connecting at-risk individuals with health resources before law enforcement intervention is needed.¹¹⁴ Despite the new focus of the office, many civil rights and civil liberties groups have expressed concern that the office will continue activities that, in the office’s previous iterations, were criticized as infringing on individuals’ and communities’ First and Fourteenth Amendment rights and targeted innocent individuals.¹¹⁵ In addition to these concerns with this office, DHS has not provided the Committee with sufficient information or data that would enable the Committee to fully assess the actions this office has taken and whether they have been effective in any measurable way to address the domestic terrorism threat.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Department of Homeland Security, *DHS Creates New Center for Prevention Programs and Partnerships and Additional Efforts to Comprehensively Combat Domestic Violent Extremism* (May 11, 2021) (<https://www.dhs.gov/news/2021/05/11/dhs-creates-new-center-prevention-programs-and-partnerships-and-additional-efforts>).

¹¹³ Department of Homeland Security, *DHS Creates New Center for Prevention Programs and Partnerships and Additional Efforts to Comprehensively Combat Domestic Violent Extremism* (May 11, 2021) (<https://www.dhs.gov/news/2021/05/11/dhs-creates-new-center-prevention-programs-and-partnerships-and-additional-efforts>).

¹¹⁴ Center for Prevention Programs and Partnerships, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 4, 2022).

¹¹⁵ Harsha Panduranga, *Community Investment, Not Criminalization: A Call to Abandon the Department of Homeland Security’s Violence Prevention Strategy*, Brennan Center for Justice (June 17, 2021) (https://www.brennancenter.org/sites/default/files/2021-06/2021_06_DHS_Targeted_Prevention.pdf); ACLU, *The Problem with “Violent Extremism” and “Violence Prevention” Programs* (accessed Oct. 5, 2022) (<https://www.aclu.org/other/problems-violent-extremism-and-violence-prevention-programs>).

2. Department of Justice

Several components of DOJ have authority to address domestic terrorism. First, FBI is responsible for investigating criminal activity, including domestic terrorism.¹¹⁶ FBI partners with other law enforcement agencies to investigate criminal activity through Joint Terrorism Task Forces (JTTFs).¹¹⁷ Second, DOJ's Civil Rights Division, National Security Division, and the Executive Office for the U.S. Attorneys (EOUSA) are responsible for prosecuting domestic terrorism cases that come from law enforcement investigations.¹¹⁸ There are 93 U.S. Attorneys' Offices throughout the U.S., each reporting to EOUSA.¹¹⁹ EOUSA is also tasked with tracking federal investigation statistics, including terrorism-related statistics, throughout the country and releases this information in its Annual Statistical Report, which EOUSA publishes online.¹²⁰

FBI's authority and jurisdiction have expanded since its creation.¹²¹ Under 28 U.S.C. 533, "the Attorney General may appoint officials to detect and prosecute crimes against the United States," and FBI may investigate crimes not assigned to other departments and agencies.¹²² Under 28 CFR § 0.85(l), FBI shall "exercise Lead Agency responsibility in investigating all crimes...[that] involve terrorist activities or acts in preparation of terrorist activities."¹²³ FBI has multiple authorities to investigate national security threats, including "presidential executive orders, attorney general authorities, and various statutory sources."¹²⁴ One responsibility that comes from these authorities is administering the Terrorist Screening Center, which maintains and shares a terrorist watch list across the federal government

¹¹⁶ Federal Bureau of Investigation, What We Investigate (accessed Oct. 6, 2022) (<https://www.fbi.gov/investigate/terrorism>).

¹¹⁷ Federal Bureau of Investigation, Joint Terrorism Task Forces (accessed Oct. 6, 2022) (<https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>).

¹¹⁸ Department of Justice, Executive Office for United States Attorneys (Apr. 1, 2021) (<https://www.justice.gov/usao/eousa>); Department of Justice, National Security Division (accessed Oct. 6, 2022) (<https://www.justice.gov/nsd>); Department of Justice, Civil Rights Division (accessed Oct. 6, 2022) (<https://www.justice.gov/crt>).

¹¹⁹ Department of Justice, Executive Office for United States Attorneys (Apr. 1, 2021) (<https://www.justice.gov/usao/eousa>); Attorney General Order No. 8-53 (1953).

¹²⁰ Department of Justice, Mission and Functions (accessed Sep. 21, 2021) (<https://www.justice.gov/usao/eousa/mission-and-functions>); Department of Justice, Annual Statistical Reports (Feb. 24, 2022) (<https://www.justice.gov/usao/resources/annual-statistical-reports>). Throughout the country, each USAO has an Antiterrorism Advisory Council (ATAC) that works closely with FBI's JTTFs and is responsible for training and information sharing among federal, state, and local law enforcement. Department of Justice, Anti-Terrorism Advisory Council (accessed Oct. 14, 2022) (<https://www.justice.gov/usao-wdky/programs/atac>).

¹²¹ Federal Bureau of Investigation, History: Timeline (accessed Oct. 6, 2022) (<https://www.fbi.gov/history/timeline>).

¹²² 28 U.S.C. § 533.

¹²³ 28 C.F.R. § 0.85(l).

¹²⁴ Federal Bureau of Investigation, Where is the FBI's authority written down? (accessed Oct. 6, 2022) (<https://www.fbi.gov/about/faqs/where-is-the-fbis-authority-written-down>). *See also* Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, Sec. 2001-2006; Exec. Order No. 12333, 73 Fed. Reg. 45325 (July 30, 2008); 50 U.S.C. § 401 et seq.; 50 U.S.C. § 1801 et seq.

and other law enforcement entities.¹²⁵ Civil rights and civil liberties organizations have expressed concern over the breadth of this list and the difficulties individuals face in getting off these lists.¹²⁶ In investigating domestic terrorist threats, FBI must balance its law enforcement authorities with individuals' constitutional protections. For example, FBI does not have the authority to designate an organization as a "domestic terrorist organization," as compared to foreign terrorist organization designation authorized by the Immigration and Nationality Act.¹²⁷ However, FBI has identified domestic terrorist "threats" from certain groups or ideologies, such as the Proud Boys.¹²⁸

The Attorney General's Guidelines for Domestic FBI Operations lay out the Department's policies for conducting FBI investigations.¹²⁹ DOJ has updated these guidelines multiple times, with the 2008 version being the most recent version made available to the Committee.¹³⁰ *The Attorney General's Guidelines* authorize FBI "to develop overviews and analyses of threats to and vulnerabilities of the United States and its interests in areas related to FBI's responsibilities."¹³¹ These responsibilities include "domestic and international criminal threats and activities" as well as "domestic and international activities, circumstances, and developments affecting the national security."¹³²

Separately, FBI's *Domestic Investigations and Operations Guide* (DIOG) dictates what authorities and tools FBI may use at various stages of an investigation. FBI agents may initiate and conduct investigations at three different levels, each with ascending standards and requirements: (1) assessment, (2) preliminary investigation, (3) and full investigation.¹³³ The

¹²⁵ Federal Bureau of Investigation, Terrorist Screening Center (accessed Oct. 6, 2022) (<https://www.fbi.gov/investigate/terrorism/tsc>).

¹²⁶ Hugh Handeyside, *The Watchlisting System Exemplifies the Government's Post-9/11 Embrace of Biased Profiling*, ACLU (Sep. 9, 2021) (<https://www.aclu.org/news/national-security/the-watchlisting-system-exemplifies-the-governments-post-9-11-embrace-of-biased-profiling>); Faiza Patel, Rachel Levinson-Waldman, and Harsha Panduranga, *A Course Correction for Homeland Security: Curbing Counterterrorism Abuses*, Brennan Center for Justice (Apr. 20, 2022) (<https://www.brennancenter.org/our-work/research-reports/course-correction-homeland-security>).

¹²⁷ 8 U.S.C. § 1189; Congressional Research Service, *Domestic Terrorism and the Attack on the U.S. Capitol* (IN11573) (Jan. 13, 2021).

¹²⁸ Congressional Research Service, *Domestic Terrorism and the Attack on the U.S. Capitol* (IN11573) (Jan. 13, 2021). See also Property of the People, *Document Reveals the FBI Categorizes the Proud Boys as 'an Extremist Group with Ties to White Nationalism'* (Nov. 19, 2018) (<https://propertyofthepop.org/2018/11/19/proud-boys-fbi-white-nationalists/>).

¹²⁹ Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (<https://www.justice.gov/archive/opa/docs/guidelines.pdf>).

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>); Department of Justice and Federal Bureau of Investigation Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 5, 2022).

DIOG is intended “to standardize policy so that criminal, national security, and foreign intelligence investigative activities are accomplished in a consistent manner, whenever possible.”¹³⁴

FBI also coordinates Joint Terrorism Task Forces (JTTFs), which FBI sees as the “nation’s front line of defense against terrorism, both international and domestic.”¹³⁵ This mission gives JTTFs authority to investigate domestic terrorist activity.¹³⁶ JTTFs consist of locally based “investigators, analysts, linguists, and other specialists from dozens of U.S. law enforcement and intelligence agencies.”¹³⁷ These individuals can also include “police officers, federal agents, analysts, linguists, SWAT experts, and other specialists who investigate terrorism and terrorism-related crimes,” including from the Bureau of Alcohol Tobacco Firearms and Explosives (ATF) and the Internal Revenue Service (IRS).¹³⁸ In 1980, FBI created the first JTTF in New York City, and since then the program has grown to approximately 200 task forces across the country, including one in each of the FBI’s 56 field offices.¹³⁹ As of 2019, over half of FBI’s domestic terrorism investigations came from JTTFs.¹⁴⁰ In the spring of 2019, FBI created a Domestic Terrorism-Hate Crimes Fusion cell designed to better coordinate FBI and JTTF efforts.¹⁴¹ This Fusion Cell is “[c]omposed of subject matter experts from both the Criminal Investigative and Counterterrorism Divisions,” and “offers program coordination from FBI Headquarters, helps ensure seamless information sharing across divisions, and augments investigative resources.”¹⁴² This fusion cell supported the investigation into the 2019 El Paso terrorist attack.¹⁴³

¹³⁴ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>).

¹³⁵ Federal Bureau of Investigation, Joint Terrorism Task Force (accessed Oct. 6, 2022) (<https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>).

¹³⁶ House Committee on Oversight and Reform Subcommittee on Civil Rights and Civil Liberties, Opening Statement of Chairman Jamie Raskin, *Hearing Confronting Violent White Supremacy, Part II: Adequacy of the Federal Response*, 116th Cong. (June 4, 2019) (H. Hrg. 116-32).

¹³⁷ Federal Bureau of Investigation, Joint Terrorism Task Force (accessed Oct. 6, 2022) (<https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>).

¹³⁸ Congressional Research Service, *Domestic Terrorism: An Overview* (R44921) (Aug. 21, 2017).

¹³⁹ Federal Bureau of Investigation, Joint Terrorism Task Force (accessed Oct. 6, 2022) (<https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>).

¹⁴⁰ House Committee on Oversight and Reform Subcommittee on Civil Rights and Civil Liberties, Opening Statement of Chairman Jamie Raskin, *Hearing Confronting Violent White Supremacy, Part II: Adequacy of the Federal Response*, 116th Cong. (June 4, 2019) (H. Hrg. 116-32).

¹⁴¹ House Committee on Homeland Security Subcommittee on Intelligence and Counterterrorism, *Hearing on Confronting the Rise in Anti-Semitic Domestic Terrorism, Part II*, 116th (Feb. 26, 2020) (H. Hrg. 116-61); Federal Bureau of Investigation, *FBI Statement Regarding Shootings in El Paso and Dayton* (Aug. 4, 2019) (<https://www.fbi.gov/news/press-releases/press-releases/fbi-statement-regarding-shootings-in-el-paso-and-dayton>).

¹⁴² Federal Bureau of Investigation, *FBI Statement Regarding Shootings in El Paso and Dayton* (Aug. 4, 2019) (<https://www.fbi.gov/news/press-releases/press-releases/fbi-statement-regarding-shootings-in-el-paso-and-dayton>).

¹⁴³ *Id.*

One mechanism through which FBI has previously identified the threat from domestic terrorism were its annual *Terrorism in America* reports, which began publication in the 1980s. These reports detailed attacks committed in the United States by all terrorists, with an emphasis on domestic terrorism, and identified trends and tactics used by the attackers.¹⁴⁴ However, FBI stopped the release of these reports in 2005.¹⁴⁵

DOJ's Civil Rights and National Security Divisions can also play a role in domestic terrorism cases. The Civil Rights Division ensures the enforcement of federal prohibitions on discrimination "on the basis of race, color, sex (including pregnancy, sexual orientation, and gender identity), disability, religion, familial status, national origin, and citizenship status."¹⁴⁶ This jurisdiction gives the Civil Rights Division authority to prosecute hate crimes, including such cases involving domestic terrorism.¹⁴⁷ In 2006, Congress established within DOJ the National Security Division (NSD), which consolidated elements of DOJ engaged in intelligence and counterterrorism activities.¹⁴⁸ NSD's mission is to "protect the United States from threats to our national security by pursuing justice through the law."¹⁴⁹ In January 2022, NSD announced that it had "decided to establish a Domestic Terrorism Unit," consisting of attorneys who "will focus on the domestic terrorism threat, helping to ensure that these cases are properly handled and effectively coordinated across DOJ and around the country."¹⁵⁰

¹⁴⁴ See Federal Bureau of Investigation, *Terrorism in the United States 1996* (1996) (https://www.fbi.gov/file-repository/stats-services-publications-terror_96.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1997* (1997) (https://www.fbi.gov/file-repository/stats-services-publications-terror_97.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1998* (1998) (https://www.fbi.gov/file-repository/stats-services-publications-terror_98.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1999* (1999) (https://www.fbi.gov/file-repository/stats-services-publications-terror_99.pdf/view); Federal Bureau of Investigation, *Terrorism 2000/2001* (2001) (<https://www.fbi.gov/stats-services/publications/terror>); Federal Bureau of Investigation, *Terrorism 2002-2005* (2005) (https://www.fbi.gov/file-repository/stats-services-publications-terrorism-2002-2005-terror02_05.pdf/view).

¹⁴⁵ Federal Bureau of Investigation, *Terrorism 2002-2005* (2005) (https://www.fbi.gov/file-repository/stats-services-publications-terrorism-2002-2005-terror02_05.pdf/view).

¹⁴⁶ Department of Justice, Civil Rights Division: About the Division (Dec. 15, 2021) (<https://www.justice.gov/crt/about-division>).

¹⁴⁷ *Id.*

¹⁴⁸ USA PATRIOT Act Improvement and Reauthorization Act of 2005, Pub. L. 109-177, Sec. 506 (b).

¹⁴⁹ Department of Justice, National Security Division: About the Division (July 1, 2022) (<https://www.justice.gov/nsd/about-division>).

¹⁵⁰ Senate Committee on the Judiciary, Testimony Submitted for the Record of Assistant Attorney General Matthew Olsen and Executive Assistant Director Jill Sanborn, Department of Justice, *Hearing on The Domestic Terrorism Threat One Year After January 6*, 117th Cong. (Jan. 11, 2022) (S. Hrg. 117-XX).

3. Office of the Director of National Intelligence

The Office of the Director of National Intelligence (ODNI) reports directly to the President and provides intelligence support and coordination to the White House and other intelligence agencies.¹⁵¹ ODNI's responsibilities and authorities relating to domestic terrorism are detailed in statute and Executive Orders.

In his 2003 State of the Union Address, President Bush announced the creation of the Terrorist Threat Intelligence Center (TTIC) to centralize the federal government's threat intelligence.¹⁵² In 2004, as a result of recommendations from the 9/11 Commission, President Bush signed Executive Order 13354, creating the National Counterterrorism Center (NCTC) and incorporated TTIC into it.¹⁵³ Later that year, Congress codified NCTC and its responsibilities for analyzing intelligence, coordinating information sharing, and strategic operational planning in the Intelligence Reform and Terrorist Prevention Act.¹⁵⁴

Currently the NCTC sits within ODNI and is led by the NCTC Director.¹⁵⁵ Under the National Security Act, NCTC's primary mission includes "serv[ing] as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism."¹⁵⁶ As a part of that mission, NCTC maintains *Terrorist Identities Datamart Environment (TIDE)*, a collection of information, both classified and unclassified, on individuals known or suspected to be terrorists.¹⁵⁷ In relation to domestic investigations, NCTC is prohibited from analyzing and integrating "intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism."¹⁵⁸ However, NCTC may, in accordance with applicable laws and regulations, "receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence."¹⁵⁹ While FBI and DHS are the primary federal entities in addressing domestic terrorism, they "may request information from [NCTC] to assist in [their]

¹⁵¹ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458.

¹⁵² President George W. Bush, *Address Before a Joint Session of the Congress on the State of the Union* (Jan. 28, 2003).

¹⁵³ Exec. Order No. 13354, 69 Fed. Reg. 53589 (Aug. 27, 2004).

¹⁵⁴ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458.

¹⁵⁵ 50 U.S.C. § 3056. *See also* National Counterterrorism Center, *History* (accessed on Oct. 6, 2022) (<https://www.dni.gov/index.php/nctc-who-we-are/history>).

¹⁵⁶ National Security Act of 1947, Pub. L. No. 80-235, Sec. 119(d)(1).

¹⁵⁷ National Counterterrorism Center, *Terrorist Identities Datamart Environment (TIDE)* (2017) (https://www.dni.gov/files/NCTC/documents/features_documents/TIDEfactsheet10FEB2017.pdf).

¹⁵⁸ National Security Act of 1947, Pub. L. No. 80-235, Sec. 119 (d)(1).

¹⁵⁹ National Security Act of 1947, Pub. L. No. 80-235, Sec. 119 (e)(1).

responsibilities.”¹⁶⁰ In supporting these investigations, “NCTC identifies and monitors international and transnational trends across a range of violent extremist actors.”¹⁶¹

C. Definitions

1. Department of Homeland Security

DHS has adopted the definition of terrorism contained in the Homeland Security Act (HSA), 6 U.S.C. § 101(18), which defines terrorism as “any activity that involves an act that is dangerous to human life or potentially destructive of critical infrastructure or key resources, and is a violation of the criminal laws of the United States or of any State or other subdivision of the United States.”¹⁶² The activity must also appear “to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping.”¹⁶³ Generally, DHS defines domestic terrorism as “an act of unlawful violence, or a threat of force or violence, that is dangerous to human life or potentially destructive of critical infrastructure or key resources.”¹⁶⁴ The acts must also be “intended to effect societal, political, or other change, committed by a group or person based and operating entirely within the United States or its territories.”¹⁶⁵ Through the requirement of “based and operating entirely within” the U.S., DHS’s definition of domestic terrorism relies on the physical location of the actors.¹⁶⁶

2. Federal Bureau of Investigation

FBI uses a similar definition for both international and domestic terrorism, with both encompassing the same acts and intent requirements.¹⁶⁷ FBI defines both international and domestic terrorism as “activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or any State.”¹⁶⁸ These activities must “appear to be

¹⁶⁰ National Security Act of 1947, Pub. L. No. 80-235, Sec. 119 (e)(2).

¹⁶¹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

¹⁶² 6 U.S.C. § 101(18).

¹⁶³ *Id.*

¹⁶⁴ Department of Homeland Security, *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (Sep. 2019) (https://www.dhs.gov/sites/default/files/publications/19_0920_plcy_strategic-framework-countering-terrorism-targeted-violence.pdf).

¹⁶⁵ Department of Homeland Security, *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (Sep. 2019) (https://www.dhs.gov/sites/default/files/publications/19_0920_plcy_strategic-framework-countering-terrorism-targeted-violence.pdf).

¹⁶⁶ 18 U.S.C. § 2331(5); 6 U.S.C. § 101(18).

¹⁶⁷ 18 USC § 2331(1)(A, B).

¹⁶⁸ 18 U.S.C. § 2331(5)(A).

intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping.”¹⁶⁹ However, FBI’s definition of international terrorism requires that the activities must “occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.”¹⁷⁰ FBI uses the definition of “domestic terrorism” found in the Patriot Act, 18 U.S.C. § 2331(5).¹⁷¹ Additionally, FBI’s definition of domestic terrorism requires the acts to “[occur] primarily within the territorial jurisdiction of the United States.”¹⁷² FBI’s definition of domestic terrorism focuses on the location of acts and does not require the acts to be entirely inside the United States.¹⁷³

When breaking domestic terrorism down into categories, FBI uses the same definitions of Domestic Violent Extremists (DVEs) and hate crimes as DHS.¹⁷⁴ However, FBI has previously changed its definitions of these categories. In 2017, in the aftermath of the Unite the Right Rally in Charlottesville, Virginia, FBI’s Domestic Terrorism Unit changed its categorization of domestic terrorism.¹⁷⁵ FBI created the category of “Black Identity Extremists,” and advocates warned of the concern of the use of this category to label individuals involved in social justice protests.¹⁷⁶ In an FBI Intelligence Assessment, entitled *Black Identity Extremists Likely Motivated to Target Law Enforcement Officers*, FBI noted an attacker’s manifesto expressed “frustrations with the police and criminal justice system in the United States,” as some of the evidence of one attacker’s categorization as a “Black Identity Extremist.”¹⁷⁷ These same frustrations are commonly held in social justice movements, causing advocates to note their concern over its use to target protestors and activists.¹⁷⁸ In testimony before the House Judiciary Committee, the interim President and CEO of the Leadership Conference on Civil and Human

¹⁶⁹ 18 U.S.C. § 2331(5)(B, C).

¹⁷⁰ 18 USC § 2331(1)(C).

¹⁷¹ 18 U.S.C. § 2331(5). *See also* Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

¹⁷² 18 U.S.C. § 2331(5).

¹⁷³ *Id.*

¹⁷⁴ *Supra* Section IV.C.

¹⁷⁵ Jana Winter and Sharon Weinberger, *The FBI’s New U.S. Terrorist Threat: ‘Black Identity Extremists’*, *Foreign Policy* (Oct. 6, 2017) (<https://foreignpolicy.com/2017/10/06/the-fbi-has-identified-a-new-domestic-terrorist-threat-and-its-black-identity-extremists/>).

¹⁷⁶ *Id.*

¹⁷⁷ Federal Bureau of Investigation, *Black Identity Extremists Likely Motivated to Target Law Enforcement Officers* (Aug. 3, 2017) (<https://www.documentcloud.org/documents/4067711-BIE-Redacted.html>).

¹⁷⁸ Jana Winter and Sharon Weinberger, *The FBI’s New U.S. Terrorist Threat: ‘Black Identity Extremists’*, *Foreign Policy* (Oct. 6, 2017) (<https://foreignpolicy.com/2017/10/06/the-fbi-has-identified-a-new-domestic-terrorist-threat-and-its-black-identity-extremists/>).

Rights testified that this decision “diverted resources that could have been used to address the growing white nationalist threat.”¹⁷⁹

FBI has since terminated the use of Black Identify Extremism as a category and combined all racially motivated violent extremism, including Black nationalist sentiment and White Supremacist Violence, under one category called “Racially Motivated Violent Extremism.”¹⁸⁰ However, experts argue that this reorganization obfuscates the threat from white supremacists by combining this data under one larger category, without the ability to see data specific to white supremacist violence.¹⁸¹ Michael German, a former FBI special agent and now Brennan Center for Justice Fellow, also explained in testimony before the Committee in its June 9, 2020, hearing that FBI’s grouping to form this new category does not make operational sense.¹⁸² According to Mr. German, the “[s]ubjects of an investigation of white supremacists would rarely overlap or work together with subjects of an investigation into Black Identity Extremists.”¹⁸³

3. National Counterterrorism Center

NCTC’s mandate primarily focuses the agency’s efforts towards international terrorist threats.¹⁸⁴ ODNI defines “foreign intelligence” as “information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.”¹⁸⁵ The *ODNI Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333* provide several key definitions used by ODNI and NCTC.¹⁸⁶ First, “national intelligence” refers to “all intelligence,

¹⁷⁹ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Wade Henderson, Leadership Conference on Civil and Human Rights, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks, Part I*, 117th Cong. (Aug. 3, 2021) (S. Hrg. 117-XX).

¹⁸⁰ Senate Committee on the Judiciary, *Hearing on the Oversight of the Federal Bureau of Investigation*, 117th Cong. (July 23, 2019) (117-XX).

¹⁸¹ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Michael German, Brennan Center for Justice, *Hearing on Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks*, 117th Cong. (June 9, 2022) (S. Hrg. 117-XX). See also Vinay Patel, *Racially Motivated Spying Pretext: Challenging the FBI’s New Regime of Racialized Surveillance*, Columbia Journal of Race and Law Forum (Feb. 2021); Media Justice, *Act Now: Stop The FBI From Obscuring White Supremacy* (accessed Oct. 13, 2022) (<https://mediajustice.org/action/demand-the-fbi-stop-hiding-the-threat-of-white-supremacy/>).

¹⁸² Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Michael German, Brennan Center for Justice, *Hearing on Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks*, 117th Cong. (June 9, 2022) (S. Hrg. 117-XX).

¹⁸³ *Id.*

¹⁸⁴ 50 U.S.C. § 3056.

¹⁸⁵ Office of the Director of National Intelligence, *Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333* (Dec. 23, 2020) (https://www.intel.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20guidelines%20as%20approved%20by%20AG%2012.23.20_OCR.pdf).

¹⁸⁶ *Id.*

regardless of the source from which derived and including information gathered within or outside the United States, that pertains...to more than one United States Government agency and that involves threats to the United States, its people, property, or interests...or any other matter bearing on United States national or homeland security.”¹⁸⁷ The *Procedures* further define “counterintelligence” as information intended to “identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or their agents, or international terrorist organizations or activities.”¹⁸⁸ Lastly, the *Procedures* refer to “terrorism information” as

“all information...relating to (i) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism; (ii) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations; (iii) communications of or by such groups or individuals; or (iv) groups or individuals reasonably believed to be assisting or associated with such groups or individuals[...].”¹⁸⁹

On March 22, 2021, NCTC issued the *National Counterterrorism Center Implementation Procedures for the ODNI Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333*.¹⁹⁰ These guidelines define “domestic counterterrorism intelligence” as “information and intelligence concerning efforts to counter domestic terrorism, as defined in 18 U.S.C. § 2331(5), with no known nexus to international or transnational terrorism or foreign terrorist organizations.”¹⁹¹ NCTC relies on FBI and DHS to “determine whether the acts of particular individuals or groups come within the definition of domestic terrorism.”¹⁹²

¹⁸⁷ Office of the Director of National Intelligence, *Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333* (Dec. 23, 2020) (https://www.intel.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20guidelines%20as%20approved%20by%20AG%2012.23.20_OCR.pdf).

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ National Counterterrorism Center, *National Counterterrorism Center Implementation Procedures for the ODNI Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333* (Mar. 22, 2021) (https://www.dni.gov/files/NCTC/documents/news_documents/NCTC_Implementation_Procedures_executed_3_22_21_U_final.pdf).

¹⁹¹ *Id.*

¹⁹² *Id.*

D. Administration Actions to Address Increasing Domestic Terrorism Threat

Over the last decade, and at an accelerated rate since 2016, the domestic terrorism threat has steadily increased. However, past Administrations have inconsistently analyzed, tracked, and formulated policies to address the increased threat.

1. National Strategies

In September 2006, the White House released the *National Strategy for Combatting Terrorism*, which focused specifically on post-9/11 threats from al-Qaida.¹⁹³ The strategy highlights “political alienation, grievances that can be blamed on others, subcultures of misinformation, and ideology that justifies murder,” as the key points from which terrorism arises.¹⁹⁴ The strategy tasks the Director of National Intelligence, NCTC, FBI, CIA, Department of Treasury, Department of Defense, and Department of State with addressing the terrorist threats from al-Qaida.¹⁹⁵

In August 2011, the White House released a report entitled *Empowering Local Partners to Prevent Violent Extremism in the United States*.¹⁹⁶ In December 2011, the White House then released the *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States* to clarify how the federal government intended to implement its previously released plan.¹⁹⁷ Both of these documents focused on a “whole-of-government” approach to addressing violent extremism, including enhancing information sharing and engagement with local communities, building extremism prevention tools, and countering propaganda.¹⁹⁸ These efforts were largely aimed at countering violent extremism, which was intended as a strategy to prevent violent extremism before it leads to real world violence.¹⁹⁹

In January 2018, DOJ and DHS issued a report, entitled *Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into the United States*, that falsely alleged that the majority of recent terrorism related offenses in the U.S. were committed by foreign born

¹⁹³ White House, *National Strategy for Combatting Terrorism* (Sep. 2006) (<https://georgewbush-whitehouse.archives.gov/nsc/nsct/2006/index.html>).

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ White House, *Empowering Local Partners to Prevent Violent Extremism in the United States* (Aug. 2011) (https://www.dhs.gov/sites/default/files/publications/empowering_local_partners.pdf).

¹⁹⁷ White House, *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States* (Dec. 2011) (<https://obamawhitehouse.archives.gov/sites/default/files/sip-final.pdf>).

¹⁹⁸ *Id.*

¹⁹⁹ White House, *Empowering Local Partners to Prevent Violent Extremism in the United States* (Aug. 2011) (https://www.dhs.gov/sites/default/files/publications/empowering_local_partners.pdf); White House, *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States* (Dec. 2011) (<https://obamawhitehouse.archives.gov/sites/default/files/sip-final.pdf>).

individuals.²⁰⁰ This echoed remarks by President Trump at his February 2017 Joint Address to Congress that “[a]ccording to data provided by the Department of Justice, the vast majority of individuals convicted for terrorism-related offenses since 9/11 came here from outside of our country.”²⁰¹ In response to a federal complaint alleging that the report manipulated data to mischaracterize the threat of international terrorism and omitted data on domestic terrorism, DOJ and DHS admitted that the report “could be criticized” for failing to “promote the perception of objectivity.”²⁰²

In October 2018, the White House released the President’s *National Strategy for Counterterrorism*, summarizing the terrorist threat to the United States, prioritization and resourcing plans, and tactical plans.²⁰³ The *Strategy* acknowledges that “the United States has long faced a persistent security threat from domestic terrorists who are not motivated by a radical Islamist ideology but are instead motivated by other forms of violent extremism.”²⁰⁴ The *Strategy* also notes that “domestic terrorism in the United States is on the rise, with an increasing number of fatalities and violent nonlethal acts committed by domestic terrorists against people and property in the United States.”²⁰⁵ The *Strategy* describes resourcing plans, detailing how the federal government will “optimize and focus [its] resources to effectively prevent and counter” terrorist threats.²⁰⁶ The 2018 *Strategy* further explained that federal resources would be directed “against those terrorists that have both the intent and capability to attack the United States” and concludes that “radical Islamist terrorists present the most dangerous transnational terrorist threat to the United States.” It only briefly mentioned resourcing to address individuals inspired by “domestic terrorist ideologies.”²⁰⁷

In September 2019, DHS released a report entitled *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (the *Framework*), which outlined DHS’s vision for addressing terrorism and targeted violence.²⁰⁸ The *Framework* was

²⁰⁰ Department of Homeland Security and Department of Justice, *Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into the United States Initial Section 11 Report* (Jan. 2018) (<https://www.dhs.gov/sites/default/files/publications/Executive%20Order%2013780%20Section%2011%20Report%20-%20Final.pdf>).

²⁰¹ President Donald J. Trump, *Address Before a Joint Session of the Congress on the State of the Union* (Feb. 28, 2017).

²⁰² Protect Democracy, *Trump Administration Concedes Fault in Distorted Terrorism Report But Refuses to Retract It* (Jan. 4, 2019) (<https://protectdemocracy.org/update/trump-administration-concedes-fault-distorted-terrorism-report/>).

²⁰³ White House, *National Strategy for Counterterrorism* (Oct. 2018) (https://www.dni.gov/files/NCTC/documents/news_documents/NSCT.pdf).

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ Department of Homeland Security, *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (Sep. 2019) (https://www.dhs.gov/sites/default/files/publications/19_0920_plcy_strategic-framework-countering-terrorism-targeted-violence.pdf).

designed to be forward looking and to incorporate the White House’s *2017 National Security Strategy*, which made no mention of domestic terrorism, and *2018 National Strategy for Counterterrorism*.²⁰⁹ The report acknowledged, in ways the *2018 National Strategy for Counterterrorism* did not, that acts related to domestic terrorism “caused more deaths in the United States in recent years than have terrorists connected to” foreign terrorist organizations.²¹⁰ DHS explained that “domestic terrorists, motivated by racially- and ethnically-motivated violent extremism, anti-government and anti-authority violent extremism, and other violent extremist ideologies, represent a growing share of the threat to the Homeland.”²¹¹

DHS further explained that “[d]omestic terrorist attacks and hate crimes sometimes overlap, as perpetrators of prominent domestic terrorist attacks have selected their targets based on factors such as race, ethnicity, national origin, religion, sexual orientation, gender, and gender identity.”²¹² Specifically, DHS acknowledged that white supremacist violence “is one of the most potent forces driving domestic terrorism.”²¹³ The *Framework* also acknowledged the role that technology and the internet play in furthering terrorism and targeted violence, such as through promoting violent ideologies, radicalizing individuals, and mobilizing individuals towards violence.²¹⁴ DHS explained that technology and social media had allowed extremists to “disseminate their messages globally and foster online communities that lure vulnerable individuals.”²¹⁵ DHS also stated that “communication advances have likely contributed to compressed ‘flash-to-bang’ timelines, the period between radicalization to violent extremism and mobilization to violence.”²¹⁶

This *Framework* also discussed the DHS Homeland Security Grants, which provide support to state, local, tribal, and territorial (SLTT) partners, as well as non-governmental organizations, for prevention and resilience efforts. DHS expressed its intention to improve information sharing with SLTT partners, and to help SLTTs create their own prevention frameworks for addressing and responding to terrorism and targeted violence. The *Framework* also mentions DHS’s intention to work with SLTT and non-governmental organizations to

²⁰⁹ *Id.*

²¹⁰ Department of Homeland Security, *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (Sep. 2019) (https://www.dhs.gov/sites/default/files/publications/19_0920_plcy_strategic-framework-countering-terrorism-targeted-violence.pdf).

²¹¹ *Id.*

²¹² *Id.*

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Department of Homeland Security, *Department of Homeland Security Strategic Framework for Countering Terrorism and Targeted Violence* (Sep. 2019) (https://www.dhs.gov/sites/default/files/publications/19_0920_plcy_strategic-framework-countering-terrorism-targeted-violence.pdf).

²¹⁶ *Id.*

increase societal awareness of violent extremism and paths towards violence; however, the *Framework* does not describe specific efforts in this area.²¹⁷

In the wake of the January 6th attack on the U.S. Capitol, President Biden directed his national security team to lead a 100-day review of the U.S. Government’s efforts to address domestic terrorism.²¹⁸ On June 15, 2021, the Administration released the first-ever *National Strategy for Countering Domestic Terrorism*, detailing the Administration’s overarching approach to addressing the evolving domestic terrorism threat.²¹⁹ The approach is organized around four pillars: (1) understanding and sharing domestic terrorism-related information; (2) preventing domestic terrorism recruitment and mobilization to violence; (3) disrupting and deterring domestic terrorism activity; and (4) confronting long-term contributors to domestic terrorism.²²⁰ The *Strategy* aims to achieve its prevention goals by strengthening domestic terrorism prevention resources and services and addressing online terrorist recruitment and mobilization to violence. In particular, Strategic Goal 2.2, addressing online terrorist actions, specifically discusses the need to work with private sector partners to assist in confronting domestic terrorist content.²²¹ Although the *Strategy* is a step in the right direction, DHS has not provided the Committee with data or information, such as implementing documents, that would enable the Committee to assess how DHS is implementing the *Strategy* and whether it has been effective in a measurable way in addressing domestic terrorism.

In 2021, DHS also designated combating domestic violent extremism as a “National Priority Area,” for the first time.²²² The Secretary also established a dedicated domestic terrorism branch within I&A, “to ensure DHS develops the expertise necessary to produce the sound, timely intelligence needed to combat threats posed by domestic terrorism and targeted violence.”²²³

²¹⁷ *Id.*

²¹⁸ White House, *FACT SHEET: National Strategy for Countering Domestic Terrorism* (June 15, 2021) (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/fact-sheet-national-strategy-for-countering-domestic-terrorism/>).

²¹⁹ White House, *National Strategy for Countering Domestic Terrorism* (June 15, 2021) (<https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>).

²²⁰ *Id.*

²²¹ *Id.*

²²² Department of Homeland Security, *DHS Announces Funding Opportunity for \$1.87 Billion in Preparedness Grants* (Feb. 25, 2021) (<https://www.dhs.gov/news/2021/02/25/dhs-announces-funding-opportunity-187-billion-preparedness-grants>).

²²³ Department of Homeland Security, *DHS Announces Funding Opportunity for \$1.87 Billion in Preparedness Grants* (Feb. 25, 2021) (<https://www.dhs.gov/news/2021/02/25/dhs-announces-funding-opportunity-187-billion-preparedness-grants>); Department of Homeland Security, *DHS Creates New Center for Prevention Programs and Partnerships and Additional Efforts to Comprehensively Combat Domestic Violent Extremism* (May 11, 2021) (<https://www.dhs.gov/news/2021/05/11/dhs-creates-new-center-prevention-programs-and-partnerships-and-additional-efforts>).

In its written response to Chairman Peters' October 2021 request for information regarding actions to address extremist content online, DHS detailed its implementation plan for its domestic terrorism and targeted violence strategy.²²⁴ As described above, DHS told the Committee it had created a new domestic terrorism branch of I&A in March 2021.²²⁵ DHS also explained that it had "expanded its evaluation of online activity as part of efforts to assess and prevent acts of violence, in ways that ensure robust protections for Americans' privacy, civil rights, and civil liberties" and improved its information sharing structures.²²⁶ In preventing terrorist recruitment and mobilization to violence, DHS noted it had re-established and re-structured CP3 to help strengthen local prevention frameworks. In January 2022, DHS, in partnership with FBI and NCTC, updated its guidance on mobilization indicators to include and prioritize domestic violent extremists, including their activities online.²²⁷

In June 2022, in the aftermath of the Uvalde, TX, and Buffalo, NY, mass shootings, DHS began conducting a full review of the Department's counterterrorism and targeted violence efforts.²²⁸ The goal of the review is reportedly "to determine how the massive department established after 9/11 can restructure itself to address the biggest threats facing the United States: domestic terrorism, mass shootings and acts of violence that fall somewhere in between."²²⁹ Since then, DHS announced the appointment of Nicholas Rasmussen, the former director of NCTC, as the new DHS Counterterrorism Coordinator, who will "report to the Secretary and serve as the principal counterterrorism adviser to our senior leadership ... [and] lead efforts to coordinate counterterrorism-related activities across DHS and with our interagency partners."²³⁰ DHS also stated that it will be "establishing a task force, overseen by the CT Coordinator and composed of personnel assigned from DHS Components and agencies... The task force will support the CT Coordinator's mission to unify our activities, identify opportunities to enhance our capabilities, and build greater cohesion across the Department to combat targeted violence and terrorism."²³¹ While these changes are relatively new, the Committee has not received information that would allow it to assess whether DHS has also put in place mechanisms that will allow it to measure the effectiveness of these changes.

²²⁴ Letter from Department of Homeland Security to Chairman Gary Peters (Mar. 8, 2022).

²²⁵ Department of Homeland Security, Office of Intelligence and analysis, *DHS Note to Congress: Establishment of a new Domestic Terrorism Branch within I&A focused on Domestic Violent Extremism* (Apr. 27, 2021) (on file with Committee).

²²⁶ Letter from Department of Homeland Security to Chairman Gary Peters (Mar. 8, 2022).

²²⁷ *Id.*

²²⁸ Jana Winter, *DHS launches 'urgent review,' plans to restructure after Buffalo and Uvalde shootings*, Yahoo News (June 7, 2022) (<https://news.yahoo.com/exclusive-dhs-launches-urgent-review-plans-to-restructure-after-buffalo-and-ualde-shootings-152638188.html>).

²²⁹ *Id.*

²³⁰ Jana Winter, *DHS taps key architect of 9/11 response to oversee domestic counterterrorism efforts*, Yahoo News (Oct. 4, 2022) (<https://news.yahoo.com/key-architect-of-us-911-response-tapped-to-oversee-domestic-counterterrorism-efforts-141232890.html>).

²³¹ *Id.*

In October 2022, the White House issued its *National Security Strategy*, which noted “[w]e face an increased and significant threat within the United States from a range of domestic violent extremists.”²³² The *National Security Strategy* noted that the Administration is implementing the *National Strategy for Countering Domestic Terrorism*, which “will enable us to better understand and share information regarding the domestic terrorist threat, prevent recruitment and mobilization to violence, and disrupt and deter domestic terrorist activity and any transnational linkages—all while reinforcing respect for civil rights and civil liberties.” The *National Security Strategy* also noted that the Administration is investing in “data-driven violence prevention efforts” such as grant programs to houses of worship that face increased threats, and working with the technology sector and others to “address terrorist and violent extremist content online.”²³³ The Committee will continue to conduct oversight of the Administration’s implementation of this *Strategy*.

See Appendix I for a discussion of additional DHS and FBI threat assessment products related to domestic terrorism.

2. Analysis of Administration Action

In April 2017, the Government Accountability Office (GAO) released a report entitled *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts*, examining the federal government’s implementation of the 2011 *SIP*.²³⁴ GAO found that DHS, DOJ, and NCTC had no cohesive strategy or process to assess or evaluate efforts at countering violent extremism. In particular, GAO found that the Countering Violent Extremism (CVE) Task Force, which was created to coordinate implementation of the *Strategic Implementation Plan*, did “not provide stakeholder agencies with specific direction and measures to identify success and gaps in the implementation of their activities.”²³⁵ This led to DHS “develop[ing] its own strategy, while no such roadmap [was] in place for the collaborative implementation of activities by all stakeholder agencies.” According to GAO, NCTC conducted a review in 2015 into whether “the federal government was optimally organized to carry out the [Countering Violent Extremism] mission” and while NCTC’s review endorsed the original strategy, it found “gaps in its implementation.”²³⁶

Despite this review and identification of issues, GAO found in 2017 that the federal government had “not developed a cohesive strategy among stakeholder agencies.”²³⁷ GAO noted the importance of a cohesive strategy, and explained that “[w]ithout consistent measures

²³² White House, *National Security Strategy* (Oct. 12, 2022) (<https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf>).

²³³ White House, *National Security Strategy* (Oct. 12, 2022) (<https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf>).

²³⁴ Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (Apr. 2017) (GAO-17-300).

²³⁵ Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (Apr. 2017) (GAO-17-300).

²³⁶ *Id.*

²³⁷ *Id.*

and methodologies for evaluating CVE as a whole, the federal government lacks the necessary information needed to assess the extent to which stakeholder agencies are achieving their goals. Without this information, stakeholders will not be able to identify successes and gaps and allocate or leverage resources effectively.” While this report made four recommendations to help DHS and DOJ “develop a cohesive strategy with measureable outcomes and [...] establish a process to assess the overall progress of CVE efforts,” GAO designated these recommendations as “Closed – Not Implemented,” because some steps were taken by the agencies, but the CVE Task Force was disbanded.²³⁸

In July 2017, GAO released another report entitled *Countering ISIS and Its Effects: Key Issues for Oversight*.²³⁹ Under the key issue “Mitigating Threats to Homeland Security,” GAO detailed concerns with not tracking all homeland security threats, including domestic terrorism.²⁴⁰ GAO detailed the threat of domestic violent extremism, explaining that violent extremism “has been perpetrated in the United States by white supremacists, anti-government groups, and radical Islamist entities, among others.”²⁴¹ GAO made no recommendations in this report and instead provided “a list of possible key issues,” aimed at “assist[ing] Congress with its oversight responsibilities.”²⁴²

In July 2021, GAO issued a report, *Countering Violent Extremism: DHS Can Further Enhance Its Strategic Planning and Data Governance Efforts*, detailing DHS’s strategy for addressing targeted violence and terrorism and DHS’s data governance efforts.²⁴³ GAO found that DHS’s strategy for addressing targeted violence and terrorism lacked several elements of what GAO defines as a comprehensive strategy, including missing components of its “data governance framework, which helps ensure that an agency’s data assets are transparent, accessible, and of sufficient quality to support its mission.”²⁴⁴ GAO reported that DHS lacked a common definition for terminology such as “targeted violence”, “domestic violent extremism”, “domestic terrorism”, and “terrorist activity”, as well as lacking “comprehensive, national-level statistics on terrorism and targeted violence.”²⁴⁵

On July 5, 2022, the DHS Office of the Inspector General (OIG) released a report entitled *DHS Could Do More to Address the Threats of Domestic Terrorism*, which examined DHS’s

²³⁸ Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (Apr. 6, 2017) (<https://www.gao.gov/products/gao-17-300>).

²³⁹ Government Accountability Office, *Countering ISIS and Its Effects: Key Issues for Oversight* (July 2017) (GAO-17-687SP).

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ Government Accountability Office, *Countering Violent Extremism: DHS Can Further Enhance Its Strategic Planning and Data Governance Efforts* (GAO-21-507) (July 2021).

²⁴⁴ *Id.*

²⁴⁵ *Id.*

implementation and application of its 2019 *Strategic Framework*.²⁴⁶ This report found that DHS has not met over 70 percent of the milestone actions established in the *Strategic Framework*'s implementation plan.²⁴⁷ DHS OIG ascribed the failure to meet these milestones as a result of DHS lacking a governance body that oversees domestic terrorism work.²⁴⁸ For example, DHS “has not established a dedicated oversight and coordination body with resources to operate long-term,” and it “has not established formal oversight business rules or a feedback mechanism to review, update, and measure the impact of actions taken in response to changes in the domestic terrorism threat environment.” DHS OIG also found gaps in DHS’s tracking of domestic terrorism threats and information sharing efforts.²⁴⁹

Taken together, this body of oversight work from GAO and DHS OIG shows that the federal government has not effectively tracked the domestic terrorism threat, has not implemented a coherent strategy to counter domestic terrorism, and has not adequately assessed its own efforts to make improvements or changes in response to the evolving threat.

V. ALLOCATION OF FEDERAL RESOURCES

In the aftermath of the September 11th attacks, the federal government focused its resources on international terrorism.²⁵⁰ However, GAO has noted that from September 12, 2001 to April 2017, violent extremists were responsible for 85 incidents that resulted in deaths, and “far right wing violent extremist groups were responsible for 62 (73 percent)” of those attacks.²⁵¹ As discussed in Section VII, even these numbers likely underestimate the extent of the threat and the federal government has not yet provided timely, accurate, and reliable data even though it is required by Congress to do so. The section below provides an overview of domestic terrorism spending and allocation of resources in the federal government.

A. Department of Homeland Security

In fiscal year 2016, DHS was appropriated \$3.1 million for the Office of Community Partnerships, and \$50 million “to address emergent threats from violent extremism and from complex, coordinated terrorist attacks,” of which \$10 million DHS awarded as countering violent extremism (CVE) grants.²⁵² From fiscal years 2016 through 2020, the Office for Targeted

²⁴⁶ Office of Inspector General, *DHS Could Do More to Address the Threats of Domestic Terrorism*, Department of Homeland Security (OIG-22-49) (July 5, 2022).

²⁴⁷ Office of Inspector General, *DHS Could Do More to Address the Threats of Domestic Terrorism*, Department of Homeland Security (OIG-22-49) (July 5, 2022).

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ See *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011*, Pub. L. 107-56; *Homeland Security Act of 2002*, Pub. L. 107-296.

²⁵¹ Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (GAO-17-300) (Apr. 2017).

²⁵² *Id.*

Violence and Terrorism Prevention, and its previous iterations, had an annual operating budget averaging \$3 million.²⁵³ GAO noted that in 2021, CP3 had an “operating budget of \$16.5 million, plus \$20 million for targeted violence and terrorism prevention grants.”²⁵⁴

Early in its tenure, the Trump Administration focused DHS’s efforts on international terrorism, despite the continued threat from domestic extremism.²⁵⁵ It also oversaw a decrease in staffing and budget allocations directed at countering anti-government, white supremacist extremists, and other violent actors responsible for acts of domestic terrorism.²⁵⁶ In April 2019, DHS announced the creation of the Office of Targeted Violence and Terrorism Prevention.²⁵⁷ The Office had a budget of less than \$3 million and less than 10 employees, as compared to the office under the previous Administration, which had a budget of \$24 million and 40 employees.²⁵⁸

In response to the Committee’s 2019 request for information on how DHS addresses domestic terrorism, DHS explained that, while it has extensive domestic terrorism prevention and protection programs, it does “not have firm statistics as to the percentage of personnel time and other resources that were used to combat domestic terrorism in particular.”²⁵⁹ The data that DHS did provide specifically related to percentages of I&A finished intelligence products focused on threats associated with domestic terrorism that the agency shared with its state, local, tribal, and territorial partners. The data is revealing in that I&A devoted minimal reports to

²⁵³ Consolidated Appropriations Act of 2016, Pub. L. 114-113; Consolidated Appropriations Act of 2017, Pub. L. 115-31; Consolidated Appropriations Act of 2018, Pub. L. 115-141; Consolidated Appropriations Act of 2019, Pub. L. 116-6; Consolidated Appropriations Act of 2020; Pub. L. 116-93. *See also* Government Accountability Office, *Countering Violent Extremism: DHS Can Further Enhance Its Strategic Planning and Data Governance Efforts* (GAO-21-507) (July 2021).

²⁵⁴ Consolidated Appropriates Act of 2021, Pub. L. 116-260. *See also* Government Accountability Office, *Countering Violent Extremism: DHS Can Further Enhance Its Strategic Planning and Data Governance Efforts* (GAO-21-507) (July 2021).

²⁵⁵ Emily Tamkin, Robbie Gramer, and Molly O’Toole, *Trump’s Focus on ‘Radical Islam’ Downplays Growing Risk From Right-Wing Extremism, Experts Fear*, Foreign Policy (Feb. 15, 2017) (<https://foreignpolicy.com/2017/02/15/trumps-focus-on-radical-islam-downplays-growing-risk-from-right-wing-extremism-experts-fear/>).

²⁵⁶ Molly O’Toole, *Trump Officials have redirected resources from countering far-right racism-fueled domestic terrorism*, Los Angeles Times (Aug. 5, 2019) (<https://www.latimes.com/politics/story/2019-08-05/trump-officials-have-redirected-resources-from-countering-far-right-racism-fueled-domestic-terrorism>); Emily Tamkin, Robbie Gramer, and Molly O’Toole, *Trump’s Focus on ‘Radical Islam’ Downplays Growing Risk From Right-Wing Extremism, Experts Fear*, Foreign Policy (Feb. 15, 2017) (<https://foreignpolicy.com/2017/02/15/trumps-focus-on-radical-islam-downplays-growing-risk-from-right-wing-extremism-experts-fear/>).

²⁵⁷ Molly O’Toole, *Trump Officials have redirected resources from countering far-right racism-fueled domestic terrorism*, Los Angeles Times (Aug. 5, 2019) (<https://www.latimes.com/politics/story/2019-08-05/trump-officials-have-redirected-resources-from-countering-far-right-racism-fueled-domestic-terrorism>).

²⁵⁸ Consolidated Appropriations Act of 2019, Pub. L. 116-6; Molly O’Toole, *Trump Officials have redirected resources from countering far-right racism-fueled domestic terrorism*, Los Angeles Times (Aug. 5, 2019) (<https://www.latimes.com/politics/story/2019-08-05/trump-officials-have-redirected-resources-from-countering-far-right-racism-fueled-domestic-terrorism>).

²⁵⁹ Letter from Assistant Secretary for Legislative Affairs Christine Ciccone, Department of Homeland Security, to Senator Ron Johnson and Senator Gary Peters (July 12, 2019).

domestic terrorism in the years that the threat was rising. The following are the approximate percentages of I&A intelligence products from I&A’s counterterrorism mission that DHS reported addressed threats associated with domestic terrorism:²⁶⁰

Figure 1: I&A Intelligence Products Addressing Domestic Terrorism

2014	2015	2016	2017	2018	2019*
3.3%	2.2%	2.7%	3.3%	1.8%	6%

Source: Majority Committee staff analysis of DHS I&A finished intelligence production to the Committee (July 12, 2019).²⁶¹

* 2019 data is through May 2019.

DHS also provided the approximate percentage of I&A’s raw intelligence reports that addressed threats associated with domestic terrorism, as broken down below.

Figure 2: I&A Raw Intelligence Reports Addressing Domestic Terrorism

2014	2015	2016	2017	2018	2019*
1%	1%	1%	3.5%	10%	5%

Source: Majority Committee staff analysis of DHS I&A raw intelligence production to the Committee (July 12, 2019).²⁶²

* 2019 data is through May.

This data shows that, although I&A slightly increased its focus on domestic terrorism over these six years, I&A still devoted no more than 10 percent of its raw intelligence reports to threats associated with domestic terrorism in this time period, despite identifying domestic terrorism as a persistent threat as early as 2015 (see Appendix I).

Under the Biden Administration, DHS Secretary Mayorkas has “designated countering domestic violent extremism a ‘National Priority Area’ in FEMA grant programs,” and the Department has spent approximately \$77 million on capabilities to detect and protect against this threat nationwide.²⁶³ DHS also told the Committee that in 2021, the Department “awarded 37 grants, totaling \$20 million” for DHS grants addressing targeted violence and terrorism prevention, “doubling the funding for the only federal grant program dedicated to enhancing the capabilities of local communities to address targeted violence and terrorism.”²⁶⁴ In that time, DHS also “invested over \$7 million in research, development, program evaluation, data development, and national and international cooperation and information sharing on domestic violent extremism.”²⁶⁵

²⁶⁰ Letter from Assistant Secretary for Legislative Affairs Christine Ciccone, Department of Homeland Security, to Senator Ron Johnson and Senator Gary Peters (July 12, 2019).

²⁶¹ *Id.*

²⁶² Letter from Assistant Secretary for Legislative Affairs Christine Ciccone, Department of Homeland Security, to Senator Ron Johnson and Senator Gary Peters (July 12, 2019).

²⁶³ Letter from Department of Homeland Security, to Chairman Gary Peters (Mar. 8, 2022).

²⁶⁴ *Id.*

²⁶⁵ Letter from Department of Homeland Security, to Chairman Gary Peters (Mar. 8, 2022).

B. Federal Bureau of Investigation

When testifying at the Senate Homeland Security and Governmental Affairs Committee's annual threats hearings from 2013 to 2016, FBI did not discuss the threat of domestic extremists in its statements.²⁶⁶ In all four of these years, FBI identified homegrown violent extremists (HVEs, a category of international terrorism in which individuals in the U.S. are inspired by foreign terrorist organizations) as the most persistent and pertinent threats, indicating that FBI prioritized international terrorism in its resourcing.²⁶⁷ FBI did not proactively identify domestic extremists as a priority area in its testimony before the Committee until 2017.²⁶⁸ However, it still named international terrorist threats and HVEs as the most persistent threats, indicating FBI still prioritized international terrorism.²⁶⁹

In 2018, FBI named domestic terrorists as a persistent threat for the first time, but it did not elaborate on the threat or identify it as a primary focus of the Bureau until 2020.²⁷⁰ In 2019, in prepared testimony for the House Homeland Security Committee, FBI also identified the most "persistent threats to the homeland" as "from foreign terrorist organizations (FTOs), homegrown violent extremists (HVEs), and domestic terrorists."²⁷¹ FBI explained that it "believe[s] domestic terrorists pose a present and persistent threat of violence and economic harm to the United States; in fact, there have been more arrests and deaths caused by domestic terrorists than international terrorists in recent years."²⁷² During questioning, however, FBI explained that approximately "80 percent of those [field] cases we work are international terrorism cases," and that it has only "about 20 percent of our counterterrorism agents working domestic terrorism."²⁷³ In its FY 2020 budget request, FBI requested 48 additional positions and \$16.6 million for

²⁶⁶ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland*, 113th Cong. (Nov. 14, 2013) (S. Hrg. 113-426); Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Cybersecurity, Terrorism, and Beyond: Addressing Evolving Threats to the Homeland*, 113th Cong. (Sep. 10, 2014) (S. Hrg. 113-712); Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland*, 114th Cong. (Oct. 8, 2015) (S. Hrg. 114-487); Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Fifteen Years After 9/11: Threats to the Homeland*, 114th Cong. (Sep. 27, 2016) (S. Hrg. 114-729).

²⁶⁷ *Id.*

²⁶⁸ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland*, 115th Cong. (Sep. 27, 2017) (S. Hrg. 115-573).

²⁶⁹ *Id.*

²⁷⁰ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland*, 115th Cong. (Oct. 10, 2018) (S. Hrg. 115-855); Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland*, 116th Cong. (Sep. 24, 2020) (S. Hrg. 116-487).

²⁷¹ House Committee on Homeland Security, Testimony Submitted for the Record of Assistant Director Michael McGarrity, Federal Bureau of Investigation, *Hearing on Confronting the Rise of Domestic Terrorism in the Homeland*, 116th Cong. (May 8, 2019) (H. Hrg. 116-17).

²⁷² *Id.*

²⁷³ House Committee on Homeland Security, *Hearing on Confronting the Rise of Domestic Terrorism in the Homeland*, 116th Cong. (May 8, 2019) (H. Hrg. 116-17).

technical counterterrorism support.²⁷⁴ In 2019 testimony before the Senate Appropriations Committee about that budget request, Director Christopher Wray provided examples and details only of international terrorist threats.²⁷⁵ However, during the same hearing, Director Wray acknowledged that domestic terrorism had evolved, and noted before the Senate Judiciary Committee two months later that FBI made a similar number of arrests for both domestic and international terrorism.²⁷⁶

Since the January 6th attack on the Capitol, FBI has stated that it has focused more resources on the domestic terrorism threat.²⁷⁷ When testifying before the Senate Homeland Security and Governmental Affairs Committee in September 2021, FBI Director Christopher Wray discussed shifts in FBI’s investigative focus. In his opening statement, Director Wray explained that “since the spring of 2020 – so the past 16, 18 months or so – [FBI has] more than doubled [its] domestic terrorism caseload, from about a thousand to around 2,700 investigations.”²⁷⁸ He went on to explain that FBI had also “surged personnel to match, more than doubling the number of people working that threat from a year before.”²⁷⁹ During questioning, Director Wray explained that while domestic terrorist investigations have increased recently, homegrown violent extremist investigations have “been humming along fairly consistently at about 1,000 investigations...over the last few years.”²⁸⁰ However, FBI has provided such information on its personnel and investigations sporadically and inconsistently, and the Bureau has not provided the Committee with sufficient information or data that would enable the Committee to fully assess the actions it has taken to address the domestic terrorism threat. This includes FBI’s failure to provide data and information related to its staffing and resourcing to meet the domestic terrorism threat, as required under the FY 2020 NDAA and discussed in Section VII.

²⁷⁴ Senate Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Commerce, Justice, Science, and Related Agencies Appropriations for Fiscal Year 2020*, 116th Cong. (May 7, 2019) (S. Hrg. 116-XX).

²⁷⁵ *Id.*

²⁷⁶ Senate Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Commerce, Justice, Science, and Related Agencies Appropriations for Fiscal Year 2020*, 116th Cong. (May 7, 2019) (S. Hrg. 116-XX); Senate Committee on the Judiciary, *Hearing on Oversight of the Federal Bureau of Investigation*, 116th Cong. (July 23, 2019) (S. Hrg. 116-XX). Dir. Wray also explained that majority of the domestic terror arrests were of white supremacists. Senate Committee on the Judiciary, *Hearing on Oversight of the Federal Bureau of Investigation*, 116th Cong. (July 23, 2019) (S. Hrg. 116-XX).

²⁷⁷ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11*, 117th Cong. (Sep. 21, 2021) (S. Hrg. 117-XX).

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

In its FY 2022 Budget request, FBI requested \$45 million dedicated to addressing domestic terrorism.²⁸¹ In its most recent FY 2023 budget request, FBI requested \$48.8 million to counter terrorism as a result of the increase in domestic terrorism cases, and the White House proposed \$33 million specifically for FBI’s domestic terrorism investigations.²⁸²

C. National Counterterrorism Center

NCTC’s primary mission focuses on non-domestic terrorist threats; however, it does provide investigation support to DHS and FBI that lead investigations into domestic terrorism.²⁸³ In supporting investigations, “NCTC produces analysis, maintains the authoritative database of known and suspected terrorists, shares information, and conducts strategic operational planning.”²⁸⁴ As of May 2021, NCTC consisted of “more than 1,000 personnel from across the [Intelligence Community], the Federal government, and Federal contractors,” with “[f]orty percent of NCTC’s workforce represent[ing] approximately 20 different departments and agencies.”²⁸⁵

VI. FEDERAL AGENCY USE OF SOCIAL MEDIA

A. Department of Homeland Security

DHS’s authority to investigate and collect intelligence on terrorism and other threats to homeland security comes from the Homeland Security Act of 2002.²⁸⁶ Within DHS, I&A is tasked with collecting, analyzing, and disseminating intelligence.²⁸⁷ While DHS and I&A carry out their statutory responsibilities, they must also adhere to restrictions on their actions. The primary restriction on all federal action comes from the Constitution, and in particular the First Amendment’s free speech and assembly protections.²⁸⁸ This means that DHS and I&A may not

²⁸¹ Department of Justice, *U.S. Department of Justice FY 2022 Budget Request* (<https://www.justice.gov/jmd/page/file/1398831/download>).

²⁸² Office of Management and Budget, *Budget of the U.S. Government: Fiscal Year 2023* (https://www.whitehouse.gov/wp-content/uploads/2022/03/budget_fy2023.pdf); Senate Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, *Hearing on A Review of the President’s Fiscal Year 2023 Funding Request for the Federal Bureau of Investigation*, 117th Cong. (May 25, 2022) (S. Hrg. 117-XX).

²⁸³ 50 U.S.C. § 3056.

²⁸⁴ National Counterterrorism Center, *Who We Are* (accessed Oct. 6, 2022) (<https://www.dni.gov/index.php/nctc-home>).

²⁸⁵ National Counterterrorism Center, *History* (accessed Oct. 6, 2022) (<https://www.dni.gov/index.php/nctc-who-we-are/history>).

²⁸⁶ 6 U.S.C. § 101 et seq. (as amended).

²⁸⁷ 6 U.S.C. § 121(d)(1).

²⁸⁸ U.S. Const. amend I; Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (<https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf>); Letter from Department of Homeland Security, to Chairman Gary Peters (Mar. 8, 2022).

collect information and intelligence or conduct investigations based solely on First Amendment protected activities.²⁸⁹

In order to restrict the information that the government can collect on U.S. citizens or permanent residents, Congress passed the Privacy Act of 1974, and has amended it several times.²⁹⁰ The intent of this legislation is to ensure that law enforcement does not target individuals based solely on their First Amendment protected activities.²⁹¹ In order for an agency to collect information on U.S. citizens or permanent residents, the information must be “relevant and necessary to accomplish” the agency’s mission, a statutory requirement, or executive order requirement.²⁹² The Privacy Act of 1974 gave the Office of Management and Budget authority to establish guidance for how federal entities should implement the legislation and to continue to oversee its implementation.²⁹³

In its work, I&A must also comply with Executive Order (EO) 12333.²⁹⁴ EO 12333 confines the Intelligence Community’s (IC) activities, with a particular focus on protecting individuals’ First and Fourth Amendments rights.²⁹⁵ The IC may collect information on U.S. citizens or permanent residents only if the information falls within a specific category, including “information that is publicly available.”²⁹⁶ EO 12333 further constrains collection by requiring that the collection support a lawful national or departmental mission, which includes domestic terrorism.²⁹⁷ Collection of this intelligence must also comply with oversight guidelines determined by the Attorney General, Director of National Intelligence, and Department of Homeland Security.²⁹⁸

²⁸⁹ *Id.*

²⁹⁰ 5 U.S.C. § 552a (as amended).

²⁹¹ 5 U.S.C. § 552a(e)(7) (as amended).

²⁹² 5 U.S.C. § 552a(e)(1) (as amended).

²⁹³ Office of Management and Budget, *Privacy Act Implementation: Guidelines and Responsibilities*, 40 Fed. Reg. 28948, 28965 (July 9, 1975).

²⁹⁴ Letter from Department of Homeland Security, to Chairman Gary Peters (Mar. 8, 2022).

²⁹⁵ Exec. Order No. 12333, 73 Fed. Reg. 45325 (July 30, 2008).

²⁹⁶ *Id.*

²⁹⁷ Exec. Order No. 12333, 73 Fed. Reg. 45325 (July 30, 2008); Letter from Department of Homeland Security, to Chairman Gary Peters (Mar. 8, 2022).

²⁹⁸ Letter from Department of Homeland Security, to Chairman Gary Peters (Mar. 8, 2022); Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DI0G%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DI0G%29%202016%20Version>); Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (<https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf>).

In 2017, DHS issued the *Intelligence Oversight Guidelines for I&A* that incorporate legal restrictions and requirements for intelligence activities.²⁹⁹ The guidelines cover all I&A personnel’s “accessing, collecting, and retaining published or otherwise publicly available information from the internet or social media sites.”³⁰⁰ The guidelines prohibit I&A from conducting intelligence activities that affect the political process or interfere with individuals’ First Amendment rights and require I&A to engage in intelligence activities only when it has “a reasonable belief that the activity supports one or more of the national or departmental missions,” which include domestic terrorism.³⁰¹ I&A may collect information on U.S. citizens or permanent residents if it “is reasonably believed to relate to the existence, organization, capabilities, plans, intentions, means of finance or material support, or activities of domestic groups or individuals involved in domestic terrorism.”³⁰² When collecting this intelligence on U.S. citizens or permanent residents, I&A must follow additional restrictions. In these situations, I&A personnel “are required to use the least intrusive collection techniques feasible and sufficient,” which may include “collect[ing] information from publicly available sources.”³⁰³

In response to Chairman Peters’ October 2021 letter requesting information on DHS’s relationship with social media companies, DHS explained that it “coordinates with social media companies to maintain awareness of the [domestic violent extremist] threat and encourage companies to enforce their terms of use and policies at their discretion.”³⁰⁴ DHS explained that I&A “maintains relationships with several social media companies to discuss issues of common concern, best practices, and tradecraft.”³⁰⁵ It also added that I&A “works with industry groups...to discuss themes in violent extremist messaging to help inform social media companies of violent extremist content that, in the companies’ determination, may violate their terms of service.”³⁰⁶ However, DHS clarified that “I&A does not receive bulk data or specific [U.S.

²⁹⁹ Letter from Department of Homeland Security to Chairman Gary Peters (Mar. 8, 2022); Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (<https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf>).

³⁰⁰ Letter from Department of Homeland Security to Chairman Gary Peters (Mar. 8, 2022).

³⁰¹ Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (<https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf>).

³⁰² *Id.*

³⁰³ Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (<https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf>). DHS defines publicly available information as: “Information that has been published or broadcast for public consumption, is available on request to the public, is accessible on-line or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by any casual observer, is made available at a meeting open to the public, or is obtained by visiting any place or attending any event open to the public. Social media sites, Internet sites, chat rooms, bulletin boards, and other electronic and other fora, or portions of the same, belonging to individuals or groups that limit access by use of criteria that cannot generally be satisfied by members of the public are not publicly available sources.” *Id.*

³⁰⁴ Letter from Department of Homeland Security to Chairman Gary Peters (Mar. 8, 2022).

³⁰⁵ *Id.*

³⁰⁶ *Id.*

citizens or permanent residents’ information] from social media companies and does not work with companies to flag specific users or content for removal.”³⁰⁷

In a briefing with Committee staff, I&A staff further explained its use of social media in intelligence collection.³⁰⁸ I&A explained that it does not conduct any investigations, including counterterrorism investigations; rather, it collects intelligence and information to identify threats and shares information with homeland security partners.³⁰⁹ When collecting this information from social media, I&A accesses only publicly available parts of social media platforms, not non-public parts, and does not interact with people online.³¹⁰ I&A told Committee staff that it is currently updating its policies and guidance, and as part of that process, it is reevaluating how it approaches these questions involving social media, such as what authority the agency has and what can be considered publicly available information.³¹¹

Despite the authorities granted to DHS to utilize open-source information, including social media, DHS has failed to effectively utilize these authorities. According to the DHS Office of Inspector General (OIG), I&A failed to adequately use information from social media in the lead-up to the January 6th attack on the United States Capitol.³¹² DHS OIG found that in the weeks leading up to the attack, “I&A identified specific threat information related to the events on January 6, 2021, but did not issue any intelligence products about these threats until January 8, 2021,” despite communicating internally about security concerns.³¹³ DHS OIG determined that I&A failed to utilize social media due to “inexperienced open source collectors who received inadequate training and who did not fully consider I&A Guidelines for reporting threat information.”³¹⁴ According to DHS OIG, “as of January 6, 2021, 16 out of 21 collectors had less than 1 year of experience, and some of these new collectors said they did not receive adequate training to help determine when threat information should be reported.”³¹⁵

DHS OIG also found that I&A did not follow DHS guidance regarding the reporting of open-source information in the lead-up to January 6th. A 2018 DHS memorandum provides further guidance on how I&A’s Guidelines apply to the reporting of social media information, noting that collectors may report information that “contains true threats or incitement to violence, and not hyperbole; provides information that enhances I&A’s understanding of known threat actors; ***or*** includes information that demonstrates a risk of violence during a heightened threat

³⁰⁷ *Id.*

³⁰⁸ Office of Intelligence and Analysis, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 2, 2022).

³⁰⁹ *Id.*

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).

³¹³ *Id.*

³¹⁴ *Id.*

³¹⁵ *Id.*

environment,” [emphasis added].³¹⁶ As DHS OIG noted, this means that I&A intelligence collectors may “report information that enhances I&A’s understanding of known threat actors, even if the information does not include true threats or incitement.”³¹⁷ Yet, due to a lack of training and understanding on I&A policies, I&A collectors determined the online statements ahead of January 6th were hyperbole and therefore “determined they could not report the information and did not consider whether it met either of the other two criteria for open source intelligence reporting.”³¹⁸ OIG made five recommendations to ensure that I&A is “better equipped to respond to similar events in the future,” including improving training and guidance for collecting and reporting open source intelligence information. I&A concurred with all five recommendations.³¹⁹ In a July 2022 follow-up report, OIG stated that I&A “took numerous steps to enhance training, competency, and managerial oversight” of its open source intelligence collection, and that all open source collection personnel had taken the updated training.³²⁰

In 2020, I&A also faced scrutiny for its social media collections in response to civil unrest across the country, including in Portland, Oregon.³²¹ During this time, I&A collected information and issued three intelligence reports on two journalists covering the incidents.³²² In an internal review of 366 intelligence products issued by I&A in the summer of 2020, the review determined that “22 did not meet reporting thresholds in accordance with the I&A Guidelines,” and “in total, [I&A’s Current and Emerging Threat Center] recalled 23 [Open-Source Intelligence Reports].”³²³ These findings echoed those of another internal DHS review of the Department’s intelligence collection following the events of the summer of 2020, which DHS provided a redacted form of to the Committee.³²⁴ In that review, DHS found that the three Open-Source Intelligence Reports involving the two journalists were released improperly.³²⁵ DHS attributed these improper releases to several key concerns, including “poorly thought-out and insufficiently resourced” Open Source Collection Operations, insufficient training and

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id.*

³¹⁹ *Id.*

³²⁰ Department of Homeland Security Office of Inspector General, *The Office of Intelligence and Analysis Needs to Improve Its Open Source Intelligence and Reporting* (OIG-22-50) (Jul. 6, 2022).

³²¹ Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).

³²² Department of Homeland Security, *Report on DHS Administrative Review into I&A Open Source Collection and Dissemination Activities During Civil Unrest: Portland, Oregon, June through July 2020* (Jan. 6, 2021) (on file with Committee); Zolan Kanno-Youngs and Marc Tracy, *Homeland Security Shuts Down ‘Intelligence’ Reports on Journalists*, *New York Times* (July 31, 2020) (<https://www.nytimes.com/2020/07/31/us/politics/homeland-security-portland.html>).

³²³ Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).

³²⁴ Department of Homeland Security, *Report on DHS Administrative Review into I&A Open Source Collection and Dissemination Activities During Civil Unrest: Portland, Oregon, June through July 2020* (Jan. 6, 2021).

³²⁵ *Id.*

supervision of personnel, “deficiencies in the [intelligence] collectors’ understanding of collection requirements,” and “improper tradecraft.”³²⁶ The internal review recommended that I&A improve training for open-source collection operations.³²⁷

On October 27, 2022, Senator Ron Wyden released a significantly less redacted version of the report that DHS provided to the Senate Select Committee on Intelligence.³²⁸ This version revealed further concerns with I&A’s use of social media in intelligence collection and domestic terrorist categorizations.³²⁹ In discussing the lack of training for use of social media in intelligence collection, one newly unredacted section explained that:

Many junior and poorly trained collectors would find a new source and use the information without properly considering the source’s historical activities, such as past comments made, other violent or crime-related interests, links to nefarious groups, previous violent actions, or incitement to violence. Instead, it was a ‘one and done’ type of review.”³³⁰

The report also noted that collectors tended to “[collect] on any threat, even from those that appeared to be unlikely or from profiles with no other postings or information,” and that “this practice of single use sources was contrary to traditional tradecraft in open source collection.”³³¹

The report also noted that former Acting Under Secretary for I&A Brian Murphy “advised that the Acting DHS Secretary...and the Acting DHS Deputy Secretary...drove the decision to produce OBRs [Operational Background Reports] and initially wanted I&A to create OBRs against everyone participating in the Portland protests.”³³² These OBRs “encompassed derogatory information, travel history, including the individual’s U.S. passport number, and immigration status,” and some initial OBR drafts “included friends and followers of the subjects, as well as their interests.”³³³ The report explains that “Mr. Murphy advised I&A could only look at people who were arrested.”³³⁴ The report also found that Mr. Murphy “stated that the violent protesters in Portland were connected to or motivated by ANTIFA” and directed I&A analysts to

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ Senator Ron Wyden: *Wyden Releases New Details About Surveillance and Interrogation of Portland Demonstrators by Department of Homeland Security Agents* (Oct. 27, 2022).

³²⁹ Department of Homeland Security, *Report on DHS Administrative Review into I&A Open Source Collection and Dissemination Activities During Civil Unrest: Portland, Oregon, June through July 2020* (Jan. 6, 2021).

³³⁰ *Id.*

³³¹ *Id.*

³³² *Id.*

³³³ *Id.*

³³⁴ *Id.*

use the term “Violent Antifa Anarchists Inspired” in reports regarding the events in Portland, a practice which I&A collectors and analysts found did not have sufficient evidence to support.³³⁵

DHS OIG found that the scrutiny following those events in 2020 created a “chilling effect” on I&A intelligence collectors, who were hesitant to report information (including related to January 6th events) that met I&A’s collection and reporting guidelines.³³⁶ Some open-source collection personnel at I&A reported to DHS OIG that there was a “pendulum swing” following the events in 2020: “they thought almost anything was reportable during the Portland protests, but they were hesitant or fearful to report information related to January 6 events.”³³⁷ In addition, Mr. Murphy filed a whistleblower complaint in September 2020 after he was allegedly instructed to modify an intelligence assessment about white supremacist violence to make the “threat appear less severe, as well as include information on the prominence of ‘left-wing’ groups,” and then removed from his position after he refused.³³⁸

Following those events, the Committee held a hearing that examined the role and operations of I&A.³³⁹ At that hearing, Chairman Peters raised concerns with the pressure I&A faced to politicize domestic terrorism threats, and former Under Secretary for I&A Francis X. Taylor testified that the events in 2020 demonstrated that processes and procedures had broken down at I&A. Chairman Peters concluded that I&A must do more to effectively counter the rising threats posed by white supremacist and anti-government violence.³⁴⁰ I&A staff have since told Committee staff that after the summer of 2020, the agency made its open-source collection criteria more strategic by prioritizing collecting information that would be useful in supporting investigations, and by identifying events that could raise security concerns to help I&A collectors focus on threats, “to facilitate the lawful collection and dissemination of publicly available threat information to inform I&A and [its] partners.”³⁴¹ However, I&A has not provided the Committee with any specific information or data that would enable the Committee to determine whether those new efforts have been more effective.

In May 2022, GAO released a report, *Capitol Attack: Federal Agencies’ Use of Open Source Data and Related Threat Products Prior to January 6, 2021*, examining open source intelligence collection by the federal government in the lead-up to the January 6th attack on the

³³⁵ *Id.*

³³⁶ Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).

³³⁷ *Id.*

³³⁸ Department of Homeland Security Office of Inspector General, *Brian Murphy Whistleblower Reprisal Complaint* (Sep. 8, 2020).

³³⁹ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Examining the Role of the Department of Homeland Security’s Office of Intelligence and Analysis*, 117th Cong. (May 18, 2021) (S. Hrg. 117-XX).

³⁴⁰ *Id.*

³⁴¹ Office of Intelligence and Analysis, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 2, 2022); Department of Homeland Security Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022).

Capitol.³⁴² GAO found that I&A had obtained data from manual open source searches and from other local, federal, and state agencies.³⁴³ I&A used this data to develop threat products related to January 6th, one of which reported concerning behavior by an individual who may have been planning to bring weapons to the events that day, and the other reported on videos from a foreign actor about the election.³⁴⁴ Furthermore, one of these I&A products was issued on January 5th, 2021, and the other was issued on January 6th itself, raising questions about the usefulness of the threat information for I&A's law enforcement partners in preparing for January 6th.³⁴⁵

B. Federal Bureau of Investigation

As a federal agency, FBI must comply with the above discussed First Amendment, Privacy Act, and EO 12333 restrictions when collecting information for law enforcement or intelligence purposes. As also discussed above in Section IV, when conducting investigations, FBI must comply with *The Attorney General's Guidelines for Domestic FBI Operations (Guidelines)* and the FBI's *Domestic Investigations and Operations Guide (DIOG)*.³⁴⁶ These guides also dictate the use of social media in FBI investigations. The different levels of investigations allow different investigative techniques. According to the *Guidelines*, investigators should use the least intrusive methods of collecting information, such as collecting publicly available information.³⁴⁷

FBI periodically updates the DIOG, with the most recent publicly available version from 2016.³⁴⁸ FBI currently follows an updated 2021 DIOG, which the 2020 NDAA required FBI to provide to Congress, along with the most recent *Guidelines*;

³⁴² Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).

³⁴³ *Id.*

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (<https://www.justice.gov/archive/opa/docs/guidelines.pdf>); Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>).

³⁴⁷ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>). The *Guidelines* defines publicly available information as "Information that has been published or broadcast for public consumption, is available on request to the public, is accessible on-line or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by any casual observer, is made available at a meeting open to the public, or is obtained by visiting any place or attending any event open to the public. Social media sites, Internet sites, chat rooms, bulletin boards, and other electronic and other fora, or portions of the same, belonging to individuals or groups that limit access by use of criteria that cannot generally be satisfied by members of the public are not publicly available sources." *Id.*

³⁴⁸ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>).

however, FBI has failed to comply with this statutory requirement for over two years and has not provided the most recent DIOG to the Committee.³⁴⁹ According to the 2016 DIOG, collecting publicly available information includes proactively accessing public websites, such as social media platforms.³⁵⁰ FBI also explained that when conducting preliminary investigations, its investigators may also use online services and resources for searching the internet, such as third-party internet search services.³⁵¹

In the 2016 DIOG, Appendix L further details online investigative methods FBI employees may use.³⁵² In the 2011 and 2013 publicly available versions, the DIOG says that Appendix L was not completed at the time, indicating FBI did not have specific guidance on how to use investigative methods online until 2016.³⁵³ The 2016 DIOG generally allows FBI employees to access publicly available information online, including public information on social media, at all stages of an investigation.³⁵⁴ Starting even before opening an assessment, “employees may conduct Internet searches of ‘publicly available information’ for authorized purposes,” which includes proactive internet searches.³⁵⁵ Appendix L explains that “publicly available information” means information that is “available to the employee in the same manner that it is to the general public.”³⁵⁶ During an assessment, FBI employees may begin to “use automated regular searches (e.g. Google alerts),” access information from websites with restricted access from a consenting party, and record public real-time communications.³⁵⁷ Once reaching a predicated investigation, FBI employees may monitor communications based on the consent of one party to the communication and record “private real-time communications that is restricted from public access,” and may engage in some undercover activities.³⁵⁸

³⁴⁹ National Defense Authorization Act of 2020, Pub. L. 116-92.

³⁵⁰ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>).

³⁵¹ *Id.*

³⁵² *Id.*

³⁵³ Federal Bureau of Investigation, *FBI Domestic Investigations and Operations Guide (DIOG) 2011 Version* (Nov. 7, 2011) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2011-version>); Federal Bureau of Investigation, *FBI Domestic Investigations and Operations Guide (DIOG) 2013 Version* (Oct. 16, 2013) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2013-version>).

³⁵⁴ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29%202016%20Version>).

³⁵⁵ *Id.*

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2016) (<https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/FBI>

In response to the Committee’s 2019 requests to DOJ and FBI for information on the agencies’ efforts to address domestic terrorism, DOJ and FBI reported that they engage with social media companies in different ways. As previously described in Section IV, FBI is responsible for investigating domestic terrorism, and DOJ is responsible for prosecuting domestic terrorism cases that come from those investigations. DOJ told the Committee that it works with “social media and technology companies in order to obtain valuable evidence in domestic terrorism cases.”³⁵⁹ DOJ told the Committee that each company “publish[es] law enforcement guides which dictate how requests for information should be received and what they should contain.”³⁶⁰ FBI told the Committee that in addition to following these guides, FBI also forms relationships with these companies.³⁶¹ As a part of these relationships, “FBI interactions with social media and technology companies focus on education and capacity building.”³⁶² FBI reported that these education building relationships include “corporate outreach programs to offer both unclassified and classified briefings regarding terrorist and criminal use of the internet,” that help companies develop their policies and procedures that balance the need to address terrorist content on their platforms with respecting constitutional rights.³⁶³

In October 2021, Chairman Peters requested additional information on FBI’s actions to investigate and prevent domestic terrorism and domestic extremist threats online and through social media platforms.³⁶⁴ FBI’s response did not fully address the requests in the Chairman’s October letter. Instead, FBI largely stated only that “FBI’s Joint Terrorism Task Forces (JTTFs) serve as local coordination centers for domestic terrorism threats,” and that “[t]hreat information from outside sources, including from social media and private sector companies, can also be directed to the FBI’s National Threat Operations Center, which acts as a central hub to coordinate the FBI’s response to critical incidents.”³⁶⁵

In a November 2021 briefing with Committee staff, FBI further explained that it cannot engage in investigative activity for the *sole* purpose of monitoring First Amendment-protected

%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DI0G%29%202016%20Version); Department of Justice and Federal Bureau of Investigation Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 5, 2022).

³⁵⁹ Letter from Assistant Attorney General Stephen Boyd, Department of Justice, to Senator Ron Johnson and Senator Gary Peters (Oct. 24, 2019).

³⁶⁰ *Id.*

³⁶¹ Letter from Assistant Director Jill Tyson, Department of Justice, to Senator Ron Johnson and Senator Gary Peters (Nov. 22, 2019).

³⁶² *Id.*

³⁶³ *Id.*

³⁶⁴ Letter from Chairman Gary Peters to Director Christopher Wray, Federal Bureau of Investigation (Oct. 12, 2021).

³⁶⁵ Letter from Assistant Director Jill Tyson, Department of Justice, to Chairman Gary Peters (Dec. 23, 2021).

activity (including on social media).³⁶⁶ However, FBI noted that it *is* able to use open-source information, including on social media, without an investigation open – so long as certain conditions are met prior to initiating the review. FBI explained that information online that is available to the public has no expectation of privacy, but the Bureau is limited in how it collects and uses this information.³⁶⁷ According to FBI, the DIOG requires FBI to access the information only by using the least intrusive method and agents must be passive in their collection (i.e., agents cannot interact with individuals online to obtain information), and the Privacy Act requires that FBI keep no record of First Amendment-protected activity, unless it was collected pursuant to an authorized law enforcement activity.³⁶⁸ Once FBI accesses information online and identifies a potential threat, FBI applies the “Brandenburg test” established by the Supreme Court in *Brandenburg v. Ohio* to determine whether the speech is protected by the First Amendment.³⁶⁹ Under this test, FBI analyzes whether the speech is “directed to inciting or producing imminent lawless action,” and whether the speech is “likely to incite or produce such action.”³⁷⁰ FBI also indicated that it has increased its engagement with the technology sector since the January 6th attack on the Capitol. When asked whether the Bureau had recommendations for how social media companies could be cooperating more effectively to assist FBI in detecting and preventing domestic terrorism and extremism on their platforms, FBI described general challenges with gaining lawful access to encrypted information.³⁷¹

In this same briefing for Committee staff, FBI explained that it has a contract with a third-party services provider (ZeroFox) that identifies potentially concerning posts from social media platforms based on specific search terms identified and approved by FBI.³⁷² After identifying these posts, ZeroFox then generates automatic alerts for FBI to investigate further.³⁷³ FBI is still restrained by First Amendment protections when using that system, and FBI noted that the data generated by ZeroFox automatically deletes within a certain amount of time if it does not meet FBI requirements.³⁷⁴ However, FBI also explained that the analysis of these social media alerts is conducted at the FBI Field Offices, and while all field agents have access to the data, each Field Office decides whether and how to use the data – and as a result, the data is not used consistently by FBI Field Offices and agents across the country.³⁷⁵

³⁶⁶ Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021).

³⁶⁷ *Id.*

³⁶⁸ *Id.*

³⁶⁹ Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021); Department of Justice and Federal Bureau of Investigation Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 5, 2022); *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

³⁷⁰ *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

³⁷¹ Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021).

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ *Id.*

³⁷⁵ *Id.*

In July 2022, FBI provided the Committee an update on its efforts to improve its operations in the wake of the January 6th attack on the Capitol. In its letter, FBI stated that it has focused on “enhancing its source network and on analyzing and evaluating domestic terrorism threats,” including through its social media exploitation (SOMEX) strategy.³⁷⁶ FBI reported that in June 2021, it placed all SOMEX program management responsibility under the Directorate of Intelligence (DI) Intelligence Technology Section (ITS).³⁷⁷ FBI has since “established focus groups and developed an enterprise-wide survey to collect data from FBI SOMEX tool users to better understand potential capability gaps,” and has “identified tactical and strategic needs to further drive the FBI SOMEX capabilities.”³⁷⁸ FBI also told the Committee that it has worked with Field Office personnel to modify search criteria to generate more useful alerts based on social media activity, while complying with the FBI DIOG.³⁷⁹

FBI was also a subject of the GAO’s recent report, *Capitol Attack: Federal Agencies’ Use of Open Source Data and Related Threat Products Prior to January 6, 2021*.³⁸⁰ In the report, GAO found that FBI was one of the agencies that were aware of open source data about planned events on January 6th and the potential for violence that day.³⁸¹ FBI specifically had obtained data from: 1) manual open source searches, 2) other local, federal, and state agencies, 3) social media platforms, and 4) open source analysis tools.³⁸² FBI used this data to develop threat products, only one of which – the January 5, 2021 FBI Norfolk Division’s Situational Information Report – concerned the events of January 6th.³⁸³ As GAO noted, that Situational Information Report (SIR) included references to the potential for violence between opposing groups, extremist groups that may commit or incite violence, and groups that may attack the Capitol or Congress – although it did not note that groups or individuals may be armed.³⁸⁴ FBI did not issue this SIR until the night before the violence on January 6th, sending it to federal law enforcement partners at 7:37pm on January 5, 2021, writing only, “[p]lease see the attached SIR released this evening by Norfolk for awareness.”³⁸⁵ As with I&A’s limited threat products

³⁷⁶ Letter from Assistant Director Jill Tyson, Department of Justice, to Chairman Gary Peters (July 5, 2022).

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ *Id.*

³⁸⁰ Government Accountability Office, *Capitol Attack: Federal Agencies’ Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).

³⁸¹ *Id.*

³⁸² *Id.*

³⁸³ *Id.*

³⁸⁴ *Id.*

³⁸⁵ Email from FBI Washington Field Office Intelligence Analyst to Incident Listserv (Jan. 5, 2021, 7:37 PM) (on file with the Committees). *See also* Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, Testimony During the Hearing of Assistant Director Jill Sanborn, Federal Bureau of Investigation, *Hearing on Examining the January 6 Attack on the U.S. Capitol, Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX) (indicating that the Washington Field Office disseminated the SIR within an hour of receiving it).

related to January 6th, this also raises questions about the usefulness of FBI’s threat information for its law enforcement partners in preparing for anticipated violence in advance of January 6th.³⁸⁶

C. National Counterterrorism Center

In its actions to support DHS and FBI investigations, NCTC must comply “with Attorney General-approved guidelines for the protection of US person information, in consultation with agency legal counsel and privacy and civil liberties officers.”³⁸⁷ NCTC must also adhere “to the Constitution, other applicable laws, Executive Order 12333, and ODNI Attorney General-approved guidelines.”³⁸⁸

In March 2012, NCTC created an updated information sharing guideline, called *Guidelines for Access, Retention, Use, and Dissemination by the National Counterterrorism Center and Other Agencies of Information in Datasets Containing Non-Terrorism Information*.³⁸⁹ These guidelines allow NCTC to share publicly available information with “federal, state, local, tribal, foreign or international, or any other appropriate entity that is reasonably believed to have a need to receive such information for the performance of a lawful function,” when NCTC determines the information is “terrorism information.”³⁹⁰ NCTC does not provide specific guidelines for the use of social media, only the use of publicly available information.³⁹¹

On January 14, 2021, ODNI released its updated *ODNI Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333 (Procedures)*.³⁹² According to the *Procedures*, “ODNI is authorized to collect information concerning U.S. persons to support its missions,” and ODNI is authorized to collect information reasonably believed to be publicly available.³⁹³ Once collected, ODNI may retain and disseminate publicly available information within the Intelligence Community and outside the Intelligence Community.³⁹⁴ Beyond its definition of publicly

³⁸⁶ *Id.*

³⁸⁷ *Id.*

³⁸⁸ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

³⁸⁹ National Counterterrorism Center, *Guidelines for Access, Retention, Use, and Dissemination by the National Counterterrorism Center and Other Agencies of Information in Datasets Containing Non-Terrorism Information* (http://sgp.fas.org/othergov/intel/nctc_guidelines.pdf).

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² Office of the Director of National Intelligence, *ODNI Releases ODNI Attorney General Procedures for Conducting Intelligence Activities* (Jan. 14, 2021) (<https://www.dni.gov/index.php/newsroom/press-releases/press-releases-2021/item/2180-odni-releases-odni-attorney-general-procedures-for-conducting-intelligence-activities>).

³⁹³ *Id.*

³⁹⁴ Office of the Director of National Intelligence, *ODNI Releases ODNI Attorney General Procedures for Conducting Intelligence Activities* (Jan. 14, 2021) (<https://www.dni.gov/index.php/newsroom/press-releases/press-releases-2021/item/2180-odni-releases-odni-attorney-general-procedures-for-conducting-intelligence-activities>).

available information, the *Procedures* do not specifically refer to the use of social media by ODNI employees in intelligence gathering.³⁹⁵

In a briefing with Committee staff about NCTC’s outreach and coordination with the technology sector, NCTC staff explained that their relationships with social media companies largely consist of sharing strategic information about threat trends.³⁹⁶ Rather than receiving tips on specific investigations or gathering intelligence, which is FBI and DHS’s purview, NCTC explained that they discuss larger cross-platform trends, share information about how terrorists use social media, and discuss tactics.³⁹⁷

VII. Data Collection

A. Lack of Accurate and Consistent Federal Data

The federal government does not comprehensively collect data on domestic terrorism. In response to a 2019 request from Senators Peters and Johnson for domestic terrorism related data collected by the agencies, DHS explained that it “does not track statistics regarding the number of people killed and injured in the United States by terrorist attacks, including domestic terrorist attacks. Neither does DHS use categorizations to index domestic terror data.”³⁹⁸ In the 2020 *Strategic Assessment*, required under the 2020 NDAA, FBI explained that “[t]he number of federal criminal charges with a nexus to [domestic terrorism] (and the corresponding details of those matters) is not currently maintained by FBI or DOJ in a comprehensive manner,” and that any data they do have may not accurately reflect the totality of the domestic terrorism landscape because there is no reporting requirement relating to domestic terrorism for local governments.³⁹⁹

releases-2021/item/2180-odni-releases-odni-attorney-general-procedures-for-conducting-intelligence-activities). The *Procedures* define “publicly available” as “information that has been published or broadcast for public consumption, is available on request to the public, is accessible online or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by any casual observer (but not amounting to physical surveillance), is made available at a meeting open to the public, or is observed by visiting any place or attending any event that is open to the public.” *Id.*

³⁹⁵ Office of the Director of National Intelligence, *Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333* (Dec. 23, 2020) (https://www.intel.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20guidelines%20as%20approved%20by%20AG%2012.23.20_OCR.pdf).

³⁹⁶ National Counterterrorism Center, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (June 14, 2022).

³⁹⁷ *Id.*

³⁹⁸ Letter from Assistant Secretary for Legislative Affairs Christine Ciccone, Department of Homeland Security, to Senator Ron Johnson and Senator Gary Peters (July 12, 2019).

³⁹⁹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

The Executive Office for United States Attorneys (EOUSA) is tasked with tracking federal prosecutions, including domestic terrorism prosecutions, throughout the country.⁴⁰⁰ However, EOUSA's data has been deemed unreliable by the DOJ Office of Inspector General (OIG) and GAO. A 2013 audit by the DOJ OIG found that the EOUSA inaccurately reported statistics by "significant margins."⁴⁰¹ These findings confirmed those from a GAO audit a decade earlier, which had found inaccuracies in DOJ's terrorism-related statistics and a need for improved management oversight and internal controls to ensure the accuracy of terrorism-related performance data.⁴⁰²

In a 2017 report, GAO detailed concerns with not tracking all homeland security threats, including domestic terrorism.⁴⁰³ GAO explained that "[v]iolent extremist threats against the homeland come from a range of groups and individuals, including international terrorist groups, such as ISIS, and domestic terrorists and homegrown violent extremists in the United States."⁴⁰⁴ However, because no reliable government data existed, GAO had to rely on data from the U.S. Extremist Crime Database, a database maintained by the University of Maryland National Consortium for the Study of Terrorism and Responses to Terrorism (START).⁴⁰⁵

At a June 2022 Committee hearing, former FBI agent Michael German raised concerns with FBI's lack of data on domestic terrorism. German argued in his testimony that "the FBI should account for, catalog, and investigate all incidents of white supremacist and far-right militant violence to build an evidence-driven understanding of these crimes, their instrumentalities, and the networks that aid, abet, and perpetrate them."⁴⁰⁶

Without reliable government data, GAO, START, the Transactional Records Clearing House (TRAC), and the Anti-Defamation League, among others, have stepped in to provide data and analysis on domestic terrorism acts and related trends.⁴⁰⁷ Though helpful, the data all

⁴⁰⁰ Office of the United States Attorneys, Mission and Functions (Jan. 19, 2022) (<https://www.justice.gov/usao/eousa/mission-and-functions>).

⁴⁰¹ Department of Justice Office of Inspector General, *Follow-Up Audit of the Department of Justice's Internal Controls Over Reporting of Terrorism-Related Statistics: The Executive Office for United States Attorneys* (Audit Report 13-34) (Sep. 2013).

⁴⁰² Government Accountability Office, *Justice Department: Better Management Oversight and Internal Controls Nee to Ensure Accuracy of Terrorism-Related Statistics* (GAO-03-266) (Feb. 19, 2003).

⁴⁰³ Government Accountability Office, *Countering ISIS and Its Effects: Key Issues for Oversight* (July 2017) (GAO-17-687SP).

⁴⁰⁴ *Id.*

⁴⁰⁵ Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (Apr. 2017) (GAO-17-300).

⁴⁰⁶ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Michael German, Brennan Center for Justice, *Hearing on Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks*, 117th Cong. (June 9, 2022) (S. Hrg. 117-XX).

⁴⁰⁷ Government Accountability Office, *Countering ISIS and Its Effects: Key Issues for Oversight* (July 2017) (GAO-17-687SP); Anti-Defamation League, *Murder and Extremism in the United States in 2016* (Mar. 3, 2017) (<https://www.adl.org/resources/report/murder-and-extremism-united-states-2016>); National Consortium for the Study on Terrorism and Responses to Terrorism, *American Deaths in Terrorist Attacks*, University of Maryland

provide different numbers and use different methodologies and definitions to provide a picture of the domestic terrorism landscape, further demonstrating the need for standardized definitions and data collection.

B. 2020 National Defense Authorization Act Reporting Requirements

Under a provision Senator Peters helped secure, the FY 2020 National Defense Authorization Act (FY 2020 NDAA) required FBI and DHS to submit, by June 2020, a “report containing strategic intelligence assessment and data on domestic terrorism” to Congress.⁴⁰⁸ FBI and DHS, in consultation with the ODNI, must provide this assessment annually for a five year period after submitting the first assessment.⁴⁰⁹ First, FY 2020 NDAA requires the assessment to include (1) a strategic intelligence assessment of domestic terrorism for fiscal years 2017, 2018, and 2019, (2) a discussion of each entity’s activities in addressing domestic terrorism, (3) data on domestic terrorism, and (4) recommendations on authorities and privacy and civil liberty protections.⁴¹⁰ FY 2020 NDAA also required FBI and DHS to provide Congress, by March 2020, a “report on standardization of terminology and procedures relating to domestic terrorism.”⁴¹¹ This report must include standard definitions for “domestic terrorism,” “act of domestic terrorism,” “domestic terrorist groups,” and other relevant phrases, as well as standardized methods for collecting information on domestic terrorist attacks.⁴¹² Lastly, FY 2020 requires FBI and the Intelligence Community (IC) to provide specific internal agency guidance documents to Congress.⁴¹³

In May 2021, FBI and DHS submitted their first report, entitled *Strategic Intelligence Assessment and Data on Domestic Terrorism (2021 Assessment)*, to the Committee on Homeland Security and Governmental Affairs and other appropriate Congressional Committees as required under the statute.⁴¹⁴ In October 2022, FBI and DHS submitted their first annual update (*2022 Assessment*). FBI and DHS also made both *Assessments* publicly available on their websites.⁴¹⁵

(Oct. 2015) (https://www.start.umd.edu/pubs/START_AmericanTerrorismDeaths_FactSheet_Oct2015.pdf); Peter Bergen and David Sterman, *Terrorism in America After 9/11*, New America (Sep. 10, 2021) (<https://www.newamerica.org/international-security/reports/terrorism-in-america/>); David Neiwert, *Far-right extremists have hatched far more terror plots than anyone else in recent years*, Reveal (June 22, 2017) (<https://www.revealnews.org/article/home-is-where-the-hate-is/>).

⁴⁰⁸ National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602.

⁴⁰⁹ *Id.*

⁴¹⁰ *Id.*

⁴¹¹ *Id.*

⁴¹² *Id.*

⁴¹³ *Id.*

⁴¹⁴ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴¹⁵ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Department of Homeland Security and Federal Bureau of Investigation,

FBI and DHS provided a classified annex to each, and the below sections describe the unclassified information made available in the public *Assessments*. However, FBI and DHS have failed to fully comply with FY 2020 NDAA’s requirements. FY 2020 NDAA required DHS and FBI to provide the initial *Assessment* within 180 days of enactment of the legislation, by June 17, 2020, and then provide an annual report updating the information for five years after enactment.⁴¹⁶ However, the Committee received the initial *Assessment* in May 2021, nearly a year overdue.⁴¹⁷ DHS and FBI did not provide their first annual update until October 2022, nearly five months overdue.⁴¹⁸ As described below, both reports were also missing key pieces of data and information required by FY 2020 NDAA.

C. 2021 Strategic Intelligence Assessment and Data on Domestic Terrorism

1. Annual Strategic Intelligence Assessments

As discussed above in Section V, DHS and FBI have failed to adequately align resources to address the threat from domestic terrorism, despite the agencies highlighting the magnitude of the threat in their annual strategic intelligence assessments. In their *2021 Assessment*, DHS and FBI provided strategic intelligence assessments for fiscal years 2017 through 2019. The 2017 strategic intelligence assessment found that “DVEs remained a persistent source of violence,” and caused the death of eight individuals that year.⁴¹⁹ That included four attacks by Racially or Ethnically Motivated Violent Extremists (RMVEs) “espousing the superiority of the white race [who] conducted two attacks resulting in two deaths.”⁴²⁰ The 2017 strategic intelligence assessment also found that RMVEs and Anti-Government or Anti-Authority Violent Extremists (AGAAVEs) present the greatest threats of violence.⁴²¹

The 2018 strategic intelligence assessment found that “DVEs posed a persistent and evolving threat of violence,” causing six lethal attacks “that resulted in the deaths of 17

Strategic Intelligence Assessment and Data on Domestic Terrorism (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴¹⁶ National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602.

⁴¹⁷ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴¹⁸ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴¹⁹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴²⁰ *Id.*

⁴²¹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>). Anti-Government or Anti-Authority Violent Extremists (AGAAVEs) include Anarchist Violent Extremists (AVEs), Militia Violent Extremists (MVEs), and Sovereign Citizen Violent Extremists (SCVEs). *Id.*

individuals. Of those lethal incidents, RMVEs advocating for the superiority of the white race were responsible for five attacks resulting in 16 deaths.”⁴²² DHS and FBI found that, in 2018, “DVEs were primarily enabled by their use of the Internet, including social media platforms, which has increasingly enabled individuals to radicalize online and engage other DVEs without having to join organized groups.”⁴²³ The 2019 strategic intelligence assessment found that “RMVEs, primarily those advocating for the superiority of the white race, likely would continue to be the most lethal DVE threat to the Homeland.”⁴²⁴ The assessment stated that “2019 represented the most lethal year for DVE attacks since 1995, with five separate DVE attacks resulting in 32 deaths, 24 of which occurred during attacks conducted by RMVEs advocating for the superiority of the white race.”⁴²⁵

2. Discussion of Activities to Address Domestic Terrorism

FY 2020 NDAA also requires FBI and DHS to provide a discussion of their activities to address domestic terrorism, including (1) investigation criteria, (2) intelligence product processes, (3) information sharing processes, (4) privacy, civil rights, and civil liberties policies, and (5) training and resources.⁴²⁶

In the *2021 Assessment*, DHS did not provide information relating to investigation criteria, and provided little information regarding the domestic terrorism intelligence production process.⁴²⁷ DHS explained that in 2019, it began Intelligence Threat Banding, “a process in which DHS intelligence leadership, as part of the Homeland Security Intelligence Council (HSIC), prioritizes threat topics.”⁴²⁸ DHS also explained that it “consider[s] the National Intelligence Priorities Framework, which documents the Intelligence Community’s priorities,” in this work.⁴²⁹ Specifically relating to collecting and processing intelligence, DHS reported that it “obtain[s] raw intelligence from lawful collection methods... and then synthesize[s] this data into a form intelligence personnel can use.”⁴³⁰ In analyzing and evaluating data, “analysts

⁴²² Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>) (detailing that “RMVEs advocating for the superiority of the white race were responsible for five attacks resulting in 16 deaths, and an SCVE, a subset of the AGAAVE threat category, was responsible for one attack resulting in one death”).

⁴²³ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴²⁴ *Id.*

⁴²⁵ *Id.*

⁴²⁶ National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602.

⁴²⁷ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴²⁸ *Id.*

⁴²⁹ *Id.*

⁴³⁰ *Id.*

examine and evaluate all source intelligence, including collected information; add context, as needed; and integrate the information into complete assessments.”⁴³¹ DHS explained that it shares intelligence products through the Homeland Security Information Network “with Homeland Security stakeholders, including the National Network of Fusion Centers, private sector security officials, and other customers operating at primarily the Unclassified level,” which includes For Official Use Only designation.⁴³²

When complying with privacy, civil rights, and civil liberties restrictions, DHS explained that it “does not profile, target, or discriminate against any individual for exercising their First Amendment rights,” nor does it consider “race or ethnicity in our intelligence, investigation, screening, and law enforcement activities in all but the most exceptional instances.”⁴³³ Although DHS stated it incorporates these protections, as described below in Section VIII, minority communities have been subject to disproportionate and negative impacts of terrorism investigations, particularly with Muslim communities being subject to greater surveillance that comes with less oversight.⁴³⁴ DHS also explained that it “always incorporates privacy protections in information technology systems, technologies, rulemakings, programs, pilot projects, and other activities that involve the planned use of personally identifiable information.”⁴³⁵ Lastly, in providing training and resources, DHS explained that its National Threat Evaluation and Reporting Program (NTER) “provides law enforcement and homeland security partners with additional resources and training to help identify and prevent targeted violence and mass casualty incidents implicating homeland security, including those associated with terrorism.”⁴³⁶

FBI explained how it opens, manages, and closes investigations, and how it reviews, prioritizes, and mitigates threats.⁴³⁷ FBI also provided detailed information on its intelligence process, including its planning, development, production, analysis, and evaluation of products, and how it shares information.⁴³⁸ In addressing privacy, civil rights, and civil liberties policies, FBI explained the constraints in *The Attorney General’s Guidelines for Domestic FBI Operations*, which specifically emphasizes that FBI should use the “least intrusive method” of collecting information.⁴³⁹ Lastly, FBI explained its role in training law enforcement partners.⁴⁴⁰

⁴³¹ *Id.*

⁴³² *Id.*

⁴³³ *Id.*

⁴³⁴ Shirin Sinnar, *Separate and Unequal: The Law of “Domestic” and “International” Terrorism*, Michigan Law Review (2019).

⁴³⁵ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴³⁶ *Id.*

⁴³⁷ *Id.*

⁴³⁸ *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ *Id.*

FBI leads Joint Terrorism Task Forces, issues Joint Intelligence Bulletins, produces informational booklets, and maintains information sharing systems.⁴⁴¹

3. Data on Domestic Terrorism from 2009 – 2019

FY 2020 NDAA also requires FBI and DHS to provide data from 2009 to the present on domestic terrorist incidents, intelligence products, and other relevant issues, including staffing information for DHS I&A.⁴⁴² In previous letters to the Committee, DHS explained that it does not collect specific data on domestic extremist attacks.⁴⁴³ As a result of this, DHS provided little specific data in the *2021 Assessment* pursuant to this NDAA requirement.⁴⁴⁴ DHS did report that it “produced 67 [domestic terrorism (DT)]-related intelligence products and 1,068 DT-related raw intelligence reports,” from 2016 to 2019; however, it “does not have reliable data dating back prior to 2016 on this topic.”⁴⁴⁵ When addressing staffing and resource data, DHS explained that “analysis of DT issues within the DHS I&A occurs in the Counterterrorism Mission Center (CTMC),” which has a specific Domestic Terrorism Branch.⁴⁴⁶ DHS also explained that the Field Operations Division also supports domestic terrorism work, and it “has approximately 120 personnel deployed to field locations across the United States, primarily in state and local fusion centers.”⁴⁴⁷ However, these employees engage in a wide range of work, not just domestic terrorism.⁴⁴⁸

FBI also failed to provide a majority of the required data on domestic terrorism. FBI noted in the *2021 Assessment* that “[t]he number of federal criminal charges with a nexus to DT (and the corresponding details of those matters) is not currently maintained by FBI or DOJ in a comprehensive manner.”⁴⁴⁹ FBI also noted that the data on domestic terrorism provided in its joint *2021 Assessment* is not comprehensive because no reporting mandate exists for state, local, tribal, and territorial on domestic terrorist acts. Therefore, FBI noted, “some DT incidents will likely go unreported by other law enforcement agencies, and those agencies will likely arrest the individual on state or local charges. These factors make it difficult for the FBI to be aware of every DT incident that has occurred in the United States.”⁴⁵⁰ FBI also noted that “hate crimes

⁴⁴¹ *Id.*

⁴⁴² National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602

⁴⁴³ See Letter from Assistant Secretary for Legislative Affairs Christine Ciccone, Department of Homeland Security, to Senator Ron Johnson and Senator Gary Peters (July 12, 2019).

⁴⁴⁴ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴⁴⁵ *Id.*

⁴⁴⁶ *Id.*

⁴⁴⁷ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

⁴⁵⁰ *Id.*

and DT incidents are often not mutually exclusive.”⁴⁵¹ However, as noted above in Sections IV and VII, critics have faulted the federal agencies, including FBI, for not having a cohesive strategy or process to track all homeland security threats, including all incidents of white supremacist violence.⁴⁵² In a letter to Chairman Peters in December 2021, FBI further explained that the COVID-19 pandemic “limited the FBI’s ability to access data and systems necessary to contribute to the [2021 Assessment]” and delayed the response to Congress, but that the Bureau “has come to better understand Congressional concerns with the first iteration of the [2021 Assessment].”⁴⁵³

Despite this, FBI provided some statistics relating to domestic terrorism from 2015 to 2019 in the 2021 Assessment.⁴⁵⁴ FBI also explained that it “publishes an annual report of hate crime statistics” on data from the Uniform Crime Reporting (UCR) Program.⁴⁵⁵ According to the 2019 annual report, law enforcement agencies around the country that participated in the UCR Program reported 7,314 hate crime incidents in 2019.⁴⁵⁶ FBI explained that from 2017 through 2019, it “was conducting approximately 1,000 pending DT investigations each year.”⁴⁵⁷ The 2021 Assessment noted that, between 2015 and 2019, FBI itself, or in coordination with other law enforcement entities, arrested approximately 846 domestic terrorism subjects.⁴⁵⁸

According to the 2021 Assessment, in relation to referrals of domestic terrorism cases, in 2019 “FBI implemented a process to ‘tag’ reports of possible DT incidents to enhance program management and operational oversight.”⁴⁵⁹ Under this new program, “FBI received approximately 675 referrals of possible DT incidents in 2019”; however, FBI stressed that “DT tags may not capture all DT referrals and may inaccurately label some referrals as DT.”⁴⁶⁰ FBI

⁴⁵¹ *Id.*

⁴⁵² Government Accountability Office, *Countering ISIS and Its Effects: Key Issues for Oversight* (July 2017) (GAO-17-687SP); Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Michael German, Brennan Center for Justice, *Hearing on Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks*, 117th Cong. (June 9, 2022) (S. Hrg. 117-XX).

⁴⁵³ Letter from Assistant Director Jill Tyson, Department of Justice, to Chairman Gary Peter (Dec. 23, 2021).

⁴⁵⁴ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴⁵⁵ *Id.*

⁴⁵⁶ *Id.*

⁴⁵⁷ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Federal Bureau of Investigation, *FBI Releases 2019 Hate Crime Statistics* (Nov. 16, 2020) (<https://www.fbi.gov/news/press-releases/press-releases/fbi-releases-2019-hate-crime-statistics>).

⁴⁵⁸ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴⁵⁹ *Id.*

⁴⁶⁰ *Id.*

also noted in the report that “from 2015 through 2019, the FBI produced more than 4,000 DT-related intelligence products.”⁴⁶¹ However, FBI noted it “does not have the data to determine the number of intelligence products associated with each DT investigative classification because FBI tracks intelligence production by program and not by investigative classification.”⁴⁶²

In June 2022, FBI and DHS provided the Committee a Special Analysis that provided additional data and stated that the agencies believe “RMVEs who are driven by a belief in the superiority of the white race continue to pose the primary threat among DVEs of committing lethal violence against civilians, based on their ideology and attack history.”⁴⁶³ The Special Analysis further explains that RMVEs driven by white supremacist beliefs committed “17 lethal attacks that have killed a total of 77 people—slightly more than half of all fatalities from DVE attacks” from 2010 to June 2022.⁴⁶⁴ In comparison, RMVEs “motivated by perceptions of racial injustice in American society, the desire for a separate Black homeland, and/or violent interpretations of religious teachings [...] conducted 11 lethal attacks from 2010 to 2021, resulting in 25 fatalities.”⁴⁶⁵ While the breakdown of RMVE violence into these categories potentially helps avoid conflation, it has only recently been used in FBI and DHS products – and the disparities revealed in that data further underscore the importance of consistently reporting this information.

4. Recommendations to Congress

Lastly, FY 2020 NDAA requires DHS and FBI to provide recommendations on the need to change “authorities, roles, resources, or responsibilities within the Federal Government to more effectively prevent and counter domestic terrorism,” and measures to protect individuals’ privacy and civil liberties.⁴⁶⁶ Neither agency provided any recommendations in the *2021 Assessment*, noting the ongoing review by the Biden Administration into domestic violent extremism and the agencies’ ongoing internal reviews.⁴⁶⁷

D. 2022 Strategic Intelligence Assessment and Data on Domestic Terrorism

Section 5602(b) of the 2020 National Defense Authorization Act requires DHS and FBI to provide annual *Strategic Intelligence Assessment and Data on Domestic Terrorism* reports to Congress for five years after enactment.⁴⁶⁸ In October 2022, DHS and FBI provided the second

⁴⁶¹ *Id.*

⁴⁶² *Id.*

⁴⁶³ Department of Homeland Security, Federal Bureau of Investigation, National Counterterrorism Center, *Wide-Ranging Domestic Violent Extremist Threat to Persist* (June 17, 2022) (on file with Committee).

⁴⁶⁴ *Id.*

⁴⁶⁵ *Id.*

⁴⁶⁶ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

⁴⁶⁷ *Id.*

⁴⁶⁸ National Defense Authorization Act of 2020, Pub. L. 116-92, Sec. 5602(b).

Strategic Intelligence Assessment (2022 Assessment), nearly five months late.⁴⁶⁹ DHS and FBI provided largely the same information as the initial report and the *2022 Assessment* still did not contain all information required by FY 2020 NDAA, but they provided important updates on data.⁴⁷⁰

1. Annual Strategic Intelligence Assessments

In the *2022 Assessment*, DHS and FBI provided strategic intelligence assessments for fiscal years 2020 and 2021.⁴⁷¹ In the 2020 strategic intelligence assessment, DHS and FBI “assessed RMVEs, primarily those advocating the superiority of the white race, likely would continue to be the most lethal category of the DT threat to the Homeland.”⁴⁷² They also found that “in 2020, for the first time since 2011, no lethal attacks were committed by RMVEs who espouse a belief in the superiority of the white race.”⁴⁷³ However, the Anti-Defamation League (ADL) found that white supremacists were responsible for nine lethal attacks in 2020, raising further questions about how FBI categorizes domestic terrorism incidents.⁴⁷⁴ In the 2021 strategic intelligence assessment, DHS and FBI “assessed RMVEs advocating the superiority of the white race and anti-authority or anti-government violent extremists, specifically militia violent extremists, presented the most lethal threat categories.”⁴⁷⁵ It also noted that “RMVEs were most likely to conduct mass-casualty attacks against civilians, and militia violent extremists would typically target law enforcement and government personnel and facilities.”⁴⁷⁶

⁴⁶⁹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴⁷⁰ *Id.*

⁴⁷¹ *Id.*

⁴⁷² *Id.*

⁴⁷³ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴⁷⁴ Center on Extremism, *Murder and Extremism in the United States in 2020*, Anti-Defamation League (May 3, 2022) (<https://www.adl.org/murder-and-extremism-2020>).

⁴⁷⁵ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴⁷⁶ *Id.*

2. Discussion of Activities to Address Domestic Terrorism

In their explanation of investigation and intelligence activities in the *2022 Assessment*, DHS and FBI again failed to provide an explanation of how they apply civil rights and civil liberties protection measures to their work and how intelligence is analyzed.⁴⁷⁷ FBI also still did not provide an explanation of how it decides to categorize domestic terrorism incidents as specific classifications.⁴⁷⁸

3. Data on Domestic Terrorism from 2020 – 2021

While FBI did provide more data in the *2022 Assessment* than the initial *2021 Assessment*, it still did not fully comply with NDAA requirements.⁴⁷⁹ FBI provided a list of only “significant” domestic terrorist incidents in 2020 and 2021, and again explained the lack of data as resulting from no mandatory reporting requirements of domestic terrorism cases from state and local jurisdictions.⁴⁸⁰ FBI reported conducting approximately 1,400 domestic terrorism investigations as of the end of 2020, and approximately 2,700 domestic terrorism investigations as of the end of 2021 (a significant portion of which were due to the January 6th attack on the Capitol). FBI also provided the percentages of investigations that fell within each domestic terrorism classification.⁴⁸¹ This data shows that at the end of fiscal year 2020 (before the January 6th attack on the Capitol), RMVEs accounted for 40 percent of FBI’s domestic terrorism investigations, Anti-Government or Anti-Authority Violent Extremism accounted for 37 percent, and Anti-Riot Laws/Civil Unrest accounted for 17 percent.⁴⁸² In fiscal year 2021 (after the January 6th Capitol attack), the percentage of domestic terrorism investigations related to RMVEs had dropped to 19 percent, Anti-Government or Anti-Authority Violent Extremism represented 38 percent, and Anti-Riot Laws/Civil Unrest jumped to 31 percent of investigations.⁴⁸³ However, the lack of more granular data in the public *2022 Assessment* does not show the full impact of white supremacist violence.⁴⁸⁴

While DHS and FBI continued to fail to provide data on the number of indictments relating to domestic terrorism and intelligence products prior to 2015, the *2022 Assessment* did provide data for 2020 and 2021.⁴⁸⁵ FBI reported it made 180 arrests in 2020 relating to domestic terrorism charges and 800 arrests in 2021 (a large portion of which related to the January 6th attack on the Capitol).⁴⁸⁶ FBI also explained that it “received approximately 5,669 referrals” of

⁴⁷⁷ *Id.*

⁴⁷⁸ *Id.*

⁴⁷⁹ *Id.*

⁴⁸⁰ *Id.*

⁴⁸¹ *Id.*

⁴⁸² *Id.*

⁴⁸³ *Id.*

⁴⁸⁴ *Id.*

⁴⁸⁵ *Id.*

⁴⁸⁶ *Id.*

domestic terrorist incidents from federal, state, local, tribal, and territorial law enforcement agencies in 2020 and “approximately 8,375 referrals” in 2021.⁴⁸⁷ Throughout 2020 and 2021, FBI reported it “produced approximately 6,000 [domestic terrorism]-related intelligence products,” and DHS I&A “produced over 500 [domestic terrorism]-related raw intelligence reports,” and “approximately 100 finished intelligence products.”⁴⁸⁸

Figure 3: FBI Arrests and Charges Relating to Domestic Terrorism

Year	2015	2016	2017	2018*	2019**	2020	2021***
Arrests	211	229	186	113	107	180	800
Federal Charges	130	169	109	54	63	Not Provided	Not Provided
State/Local Charges	81	60	77	52	42	Not Provided	Not Provided

Source: Majority Committee staff analysis of FBI and DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021 and October 2022).⁴⁸⁹

* Seven subjects were charged with both federal and state/local charges in 2018.

** Two subjects were charged with both federal and state/local charges in 2019.

*** These numbers include arrests and charges related to the January 6th attack on the U.S. Capitol.

Figure 4: FBI Open Investigations Relating to Domestic Terrorism

Year	2015	2016	2017*	2018*	2019*	2020	2021**
Open Investigations	Not Provided	Not Provided	1,000	1,000	1,000	1,400	2,700

Source: Majority Committee staff analysis of FBI and DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021 and October 2022).⁴⁹⁰

* FBI explained that it “was conducting approximately 1,000 pending DT investigations each year for fiscal year (FY) 2017 through 2019.”⁴⁹¹

** These numbers include arrests and charges related to the January 6th attack on the U.S. Capitol.

Although this data is incomplete, the data FBI did provide indicates that FBI arrests and federal charges related to domestic terrorism were generally declining in the years prior to the January 6th attack on the U.S. Capitol (which FBI notes led to an increase in investigations and

⁴⁸⁷ *Id.*

⁴⁸⁸ *Id.*

⁴⁸⁹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴⁹⁰ *Id.*

⁴⁹¹ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>).

arrests that year), despite FBI and DHS repeatedly identifying domestic terrorism as the most persistent and lethal terrorist threat.

Regarding staffing and resource allocation for domestic terrorist activities, the agencies continued to fail to provide all specific data required by FY 2020 NDAA.⁴⁹² FBI provided high-level information about units such as its Joint Terrorism Task Forces and its Field Offices, which FBI noted are not specifically assigned to investigate domestic or international terrorism, as well as FBI's Counterterrorism Division.⁴⁹³ DHS provided high-level information about I&A's Counterterrorism Mission Center, which leads the agency's analysis of domestic terrorism issues and includes the newly-formed Domestic Terrorism Branch. DHS noted that the Domestic Terrorism Branch currently has ten employees.⁴⁹⁴

Despite the shortcomings in their data reporting, DOJ and FBI recognized the importance of “hav[ing] the ability to identify and internally track investigations and prosecutions involving conduct related to domestic violent extremism,” and noted that it “is implementing changes that will allow us to better identify and track such cases.”⁴⁹⁵ In March 2021, DOJ “issued guidance to all [United States Attorney's Offices] to provide information to [DOJ's National Security Division] on DT investigations and prosecutions,” including better tracking of domestic violent extremism cases.⁴⁹⁶

4. Recommendations to Congress

In the *2022 Assessment*, DHS and FBI provided three areas for recommendations and changes in agency actions.⁴⁹⁷ These include implementing the 2021 National Strategy on Countering Domestic Terrorism, working to advise on potential legislation, and the need for resource enhancement.⁴⁹⁸ However, neither agency made any specific recommendations to Congress, as required by FY 2020 NDAA.⁴⁹⁹

VIII. LIMITED IMPACT OF FEDERAL RESPONSE

The previous sections described actions DHS and FBI have taken to assess and counter the domestic terrorism threat. However, this investigation found that the agencies' response has not sufficiently addressed the rising threat. While the DHS and FBI have, for years, identified domestic terrorism as a persistent and serious threat, this investigation found that successive

⁴⁹² Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Oct. 2022) (https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf).

⁴⁹³ *Id.*

⁴⁹⁴ *Id.*

⁴⁹⁵ *Id.*

⁴⁹⁶ *Id.*

⁴⁹⁷ *Id.*

⁴⁹⁸ *Id.*

⁴⁹⁹ *Id.*

Administrations failed to adequately align resources to address this threat. DHS and FBI have made recent efforts to direct more resources and attention to domestic terrorism. In October 2020, DHS identified racially and ethnically motivated violent extremists – specifically white supremacist extremists – as the most persistent and lethal Domestic Violent Extremist threat to the homeland in its *Homeland Threat Assessment*.⁵⁰⁰ The Biden Administration’s new *National Strategy for Countering Domestic Terrorism* also takes a step in the right direction by acknowledging the longstanding threat of domestic terrorism, in particular white supremacist terrorism, and providing agencies guidance on how to prioritize resources to address this issue.⁵⁰¹ However, this shift in resources has come several decades after FBI (and later DHS) first identified domestic terrorism as a serious threat to homeland security.

In addition, these agencies have described various new efforts, strategies, and initiatives to address the rising domestic terrorism threat. However, as described above in Sections IV and VI, they have failed to establish, and have not provided sufficient information to support, that these actions are being measured to assess their effectiveness in identifying and countering the domestic terrorism threat.

DHS and FBI also have failed to collect adequate data on domestic terrorism. In DHS’s response to the Committee’s 2019 request for domestic terrorism related data, DHS informed the Committee that it does not collect specific data on domestic terrorism.⁵⁰² FBI informed the Committee that it does not collect comprehensive data on the number of criminal charges relating to domestic terrorism, and that it lacks comprehensive data because of a lack of reporting mandates for local government.⁵⁰³ As far back as 2017, the Government Accountability Office (GAO) had to rely non-governmental groups, such as the University of Maryland National Consortium for the Study of Terrorism and Responses to Terrorism, for data on domestic terrorism to conduct its analysis of the effectiveness of DHS and FBI counterterrorism efforts.⁵⁰⁴ As a result of this lack of comprehensive and accurate data on the current threats to homeland security, federal agencies and Congress cannot fully assess the resource needs of the agencies nor how well they are positioned to counter those threats.

Starting in 2009 with the issuance of the law enforcement bulletin *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment*,

⁵⁰⁰ Department of Homeland Security, *Homeland Threat Assessment* (Oct. 2020) (https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf).

⁵⁰¹ White House, *National Strategy for Countering Domestic Terrorism* (June 15, 2021) (<https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>).

⁵⁰² Letter from Assistant Secretary for Legislative Affairs Christine Ciccone, Department of Homeland Security, to Senator Ron Johnson and Senator Gary Peters (July 12, 2019).

⁵⁰³ Department of Homeland Security and Federal Bureau of Investigation, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>); Department of Justice and Federal Bureau of Investigation Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 5, 2022).

⁵⁰⁴ Government Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* (Apr. 2017) (GAO-17-300).

DHS had already identified the tactic of white supremacists maximizing violent capabilities and the role of the internet in increasing white supremacist groups' ability to communicate.⁵⁰⁵ However, the report was publicly criticized as an “attack on conservative ideologies.”⁵⁰⁶ In the aftermath of that political backlash, DHS rescinded the report, re-organized the unit that wrote it, and reportedly reduced its monitoring of domestic violent extremism.⁵⁰⁷ Daryl Johnson, the former DHS employee who authored the report, reportedly resigned after his unit was “gutted” and “much of [the unit’s] work — including a digest of domestic terror incidents and the distribution of definitions for terms such as ‘white supremacist’ and ‘Christian Identity’ — has been blocked.”⁵⁰⁸ Despite the public criticism and DHS’s actions in response, the warnings in the original report foreshadowed the increase in actual instances of domestic terrorism and attacks by white supremacists, with then-DHS Secretary Janet Napolitano later stating, “it turns out the report itself and the substance of the report was quite prescient.”⁵⁰⁹

Currently, labeling an event as either domestic terrorism or international terrorism also invokes different responses from federal agencies. If an attack is labeled international terrorism, law enforcement is allowed greater authority in surveillance and investigative power.⁵¹⁰ In the *Michigan Law Review*, Stanford Law Professor and John A. Wilson Faculty Scholar Shirin Sinnar detailed these different tools available to the government when pursuing international versus domestic terrorism, and notes how they result in disproportionate and negative impacts on minority groups.⁵¹¹

⁵⁰⁵ Department of Homeland Security, Office of Intelligence and Analysis, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment* (IA-0257-09) (Apr. 7, 2009) (<https://fas.org/irp/eprint/rightwing.pdf>).

⁵⁰⁶ Jeffrey Smith, *Homeland Security Department curtails home-grown terror analysis*, Washington Post (June 7, 2011) (https://www.washingtonpost.com/politics/homeland-security-department-curtails-home-grown-terror-analysis/2011/06/02/AGQEaDLH_story.html?utm_term=.b2311ede4422&itid=lk_inline_manual_5).

⁵⁰⁷ Zolan Kanno-Youngs and David E. Sanger, *Extremists Emboldened by Capitol Attack Pose rising Threat, Homeland Security Says*, New York Times (Jan. 27, 2021) (<https://www.nytimes.com/2021/01/27/us/politics/homeland-security-threat.html>); Jeffrey Smith, *Homeland Security Department curtails home-grown terror analysis*, Washington Post (June 7, 2011) (https://www.washingtonpost.com/politics/homeland-security-department-curtails-home-grown-terror-analysis/2011/06/02/AGQEaDLH_story.html?utm_term=.b2311ede4422&itid=lk_inline_manual_5); Ben Wofford, *The GOP Shut Down a Program That Might Have Prevented Dallas and Baton Rouge*, Politico (July 24, 2016) (<https://www.politico.com/magazine/story/2016/07/gop-veteran-radicalization-dhs-dallas-baton-rouge-214089/>); Department of Homeland Security Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022).

⁵⁰⁸ Jeffrey Smith, *Homeland Security Department curtails home-grown terror analysis*, Washington Post (June 7, 2011) (https://www.washingtonpost.com/politics/homeland-security-department-curtails-home-grown-terror-analysis/2011/06/02/AGQEaDLH_story.html?utm_term=.b2311ede4422&itid=lk_inline_manual_5).

⁵⁰⁹ See Zolan Kanno-Youngs and David E. Sanger, *Extremists Emboldened by Capitol Attack Pose Rising Threat, Homeland Security Says*, New York Times (Jan. 27, 2021) (<https://www.nytimes.com/2021/01/27/us/politics/homeland-security-threat.html>); Department of Homeland Security, Office of Intelligence and Analysis, *Domestic Violent Extremist Attacks and Plots in the United States From 2010 Through 2021* (DHS-IV-2022-02599) (Aug. 22, 2022) (on file with Committee).

⁵¹⁰ Shirin Sinnar, *Separate and Unequal: The Law of “Domestic” and “International” Terrorism*, Michigan Law Review (2019).

⁵¹¹ *Id.*

One tool available to the government when pursuing international terrorism cases is the “material support” charge created under 18 U.S.C. §2339.⁵¹² Under 18 U.S.C. §2339A, an individual is prohibited from providing material support to any individual where the provider knows the support will be used in furtherance of a criminal act from a predicated list of offenses.⁵¹³ Professor Sinnar noted in the Michigan Law Review that while this provision does not have a locational restriction, it targets only terrorist acts, not terrorist organizations, and is rarely used in prosecuting domestic terrorism.⁵¹⁴ 18 U.S.C. §2339B prohibits individuals from providing any support to organizations designated as “foreign terrorist organizations”, but this list does not include any “domestic” terrorist organizations.⁵¹⁵ As a result of this prohibition, 18 U.S.C. §2339B exclusively applies to international terrorist prosecutions.⁵¹⁶

Professor Sinnar further argued that this binary categorization of terrorism “has a blunt impact because government officials largely consider threats of terrorism by Muslims to be international and threats by others to be domestic, even when there is little difference in their actual geography.”⁵¹⁷ As a result of the different categories and different authorities granted to pursuing international versus domestic terrorism cases, “the legal divide subjects U.S. Muslim communities to greater surveillance, with less oversight, than other groups.”⁵¹⁸ It also subjects some actors “to criminal punishment – and harsh sentences – for conduct that would not be criminal with respect to others.”⁵¹⁹

Professor Sinnar explained that this binary choice in labeling events “affects how government officials understand and characterize political violence and promote the spurious notion that Muslims and immigrants are primarily responsible for terrorism in the United States.”⁵²⁰ FBI Director James Comey’s refusal to label the Charleston church attack an act of terrorism exemplifies this effect.⁵²¹ As Mr. German has argued, “former FBI Director Comey

⁵¹² 18 U.S.C. § 2339.

⁵¹³ 18 U.S.C. § 2339A(a). *See also* Congressional Research Service, *Terrorist Material Support: An Overview of 18 U.S.C. §2339A and §2339B* (R41333) (Dec. 8, 2016).

⁵¹⁴ Shirin Sinnar, *Separate and Unequal: The Law of “Domestic” and “International” Terrorism*, Michigan Law Review (2019).

⁵¹⁵ 18 U.S.C. § 2339B. *See also* Congressional Research Service, *Terrorist Material Support: An Overview of 18 U.S.C. §2339A and §2339B* (R41333) (Dec. 8, 2016).

⁵¹⁶ *See* Congressional Research Service, *Terrorist Material Support: An Overview of 18 U.S.C. §2339A and §2339B* (R41333) (Dec. 8, 2016).

⁵¹⁷ Shirin Sinnar, *Separate and Unequal: The Law of “Domestic” and “International” Terrorism*, Michigan Law Review (2019). Professor Sinnar further explains that “For instance, the FBI characterizes U.S. citizens inspired by ISIS or al Qaeda propaganda as international terrorists even if they have no actual international ties, while it often views white supremacists and neo-Nazis as domestic terrorists despite the movements’ global dimensions.” *Id.*

⁵¹⁸ *Id.*

⁵¹⁹ *Id.*

⁵²⁰ *Id.*

⁵²¹ *Id.*

did not hesitate to label a July 2015 mass shooting that killed three U.S. Marines and a Navy sailor in Chattanooga, Tennessee, a terrorist attack.”⁵²² Former Director Comey claimed that attacker, Muhammad Abdulazez, was “motivated by foreign terrorist organization propaganda,” despite FBI not having enough information to determine which terrorist organization or messaging inspired the attacker.⁵²³ Both attackers were American citizens acting alone; however, one was Muslim and the other was not.⁵²⁴

In addition to differences in authorities, the categorization of what is “domestic” and what is “international” terrorism can be unclear and inconsistent. For example, DHS and FBI define “Homegrown Violent Extremists” (HVEs) as terrorists inspired by foreign ideologies.⁵²⁵ However, the domestic terrorists responsible for killing 23 people in El Paso, Texas, and 10 people in Buffalo, New York, also claimed inspiration from the international terrorist attack in Christchurch, New Zealand, among other racist and anti-Semitic ideologies.⁵²⁶ The federal government has also acknowledged the threat of foreign nationalist and neo-Nazi groups. For example, President Trump’s *National Strategy for Counterterrorism* named the Nordic Resistance Movement and National Action Group as groups that present a threat to American lives, but the groups were not listed as foreign terrorist organizations.⁵²⁷ However, the Department of State did designate the Russian Imperial Movement, which “has provided paramilitary-style training to white supremacists and neo-Nazis in Europe and actively works to rally these types of groups into a common front against their perceived enemies,” as Specifically Designated Global Terrorists.⁵²⁸ FBI has also categorized the previously mentioned Chattanooga attacker as a Homegrown Violent Extremist, despite not having information on which

⁵²² Michael German and Sara Robinson, *Wrong Priorities on Fighting Terrorism*, Brennan Center for Justice (Aug. 2019) (https://www.brennancenter.org/sites/default/files/2019-08/Report_Wrong_Priorities_Terrorism.pdf).

⁵²³ Kristina Sguglia, *Chattanooga shootings ‘inspired’ by terrorists, FBI chief says*, CNN (Dec. 16, 2015) (<https://www.cnn.com/2015/12/16/us/chattanooga-shooting-terrorist-inspiration/index.html>).

⁵²⁴ Michael German and Sara Robinson, *Wrong Priorities on Fighting Terrorism*, Brennan Center for Justice (Aug. 2019) (https://www.brennancenter.org/sites/default/files/2019-08/Report_Wrong_Priorities_Terrorism.pdf).

⁵²⁵ Department of Homeland Security, *Homeland Threat Assessment* (Oct. 2020) (https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf).

⁵²⁶ Department of Justice, *Texas Man Charged with Federal Hate Crimes and Firearm Offenses Related to August 3, 2019, Mass-Shooting in El Paso* (Feb. 6, 2020) (<https://www.justice.gov/opa/pr/texas-man-charged-federal-hate-crimes-and-firearm-offenses-related-august-3-2019-mass>); Jonathan Franklin, *Parts of the Buffalo shooter’s alleged screed were copied from other sources*, NPR (May 18, 2022) (<https://www.npr.org/2022/05/18/1099372659/parts-of-the-buffalo-shooters-alleged-screed-were-copied-from-other-sources>).

⁵²⁷ White House, *National Strategy for Counterterrorism* (Oct. 2018) (https://www.dni.gov/files/NCTC/documents/news_documents/NSCT.pdf).

⁵²⁸ Department of State, *United States Designates Russian Imperial Movement and Leaders as Global Terrorists* (Apr. 7, 2020) (<https://2017-2021.state.gov/united-states-designates-russian-imperial-movement-and-leaders-as-global-terrorists/index.html>).

international terrorist organization supposedly inspired the attack.⁵²⁹ This investigation found that these inconsistencies create confusion and further complicate efforts to address domestic terrorism.

Another factor that complicates the federal government’s response is that Congress created different definitions for international terrorism and domestic terrorism, but did not create new criminal penalties for domestic terrorism.⁵³⁰ Former Acting Assistant Attorney General for National Security at DOJ, Mary McCord, has argued that the lack of a specific criminal charge for domestic terrorism hinders effective prosecution of this threat.⁵³¹ However, existing federal authorities in the U.S. Code, including 18 U.S.C. § 2339A, impose criminal penalties on those who provide material support to terrorism-related offenses.⁵³² This investigation determined that the federal agencies have not used these authorities and resources to sufficiently prioritize domestic terrorism. Mr. German has argued that federal prosecutors already have sufficient statutory tools to prosecute domestic terrorism, as 51 of the 57 federal crimes of terrorism are applicable to domestic terrorism as well as international terrorism.⁵³³ As Mr. German testified at a June 2022 Committee hearing, “the problem is that the Justice Department and FBI choose not to prioritize the investigation and prosecution of white supremacist and far-right violence as a matter of policy and practice.”⁵³⁴

IX. SOCIAL MEDIA PLATFORMS

A. Extremist Groups and Use of Social Media

In August 2021, several experts testified to the Committee about the role social media and online platforms have played in the increase in domestic extremism. In his written statement, Seth Jones, Senior Vice President, Harold Brown Chair, and Director, International Security Program Center for Strategic and International Studies, testified that “[v]irtually all domestic extremists use the internet and social media platforms to release propaganda, coordinate training, raise funds, recruit members, and communicate with others,” and that

⁵²⁹ Michael German and Sara Robinson, *Wrong Priorities on Fighting Terrorism*, Brennan Center for Justice (Oct. 31, 2018) (<https://www.brennancenter.org/our-work/research-reports/wrong-priorities-fighting-terrorism>).

⁵³⁰ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2011, Pub. L. 107-56.

⁵³¹ Mary McCord, *Filling the Gap in Our Terrorism Statutes*, Georgetown Washington University (Aug. 2019) (<https://extremism.gwu.edu/sites/g/files/zaxdzs2191/f/Filling%20The%20Gap%20in%20Our%20Terrorism%20Statutes.pdf>).

⁵³² 18 U.S.C. § 2339A.

⁵³³ Michael German and Sara Robinson, *Wrong Priorities on Fighting Terrorism*, Brennan Center for Justice (Oct. 31, 2018) (<https://www.brennancenter.org/our-work/research-reports/wrong-priorities-fighting-terrorism>).

⁵³⁴ Senate Committee on Homeland Security, Testimony Submitted for the Record of Michael German, Brennan Center for Justice, *Hearing on Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks*, 117th Cong. (June 9, 2022) (S. Hrg. 117-XX).

combatting the spread of domestic terrorist ideas occurs “on virtual battlefields – just as much on the streets of U.S. cities and towns.”⁵³⁵

According to a study by the National Consortium for the Study of Terrorism and Responses to Terrorism, in 2016 alone, use of social media, either to consume, share, create or participate in extremist content or dialogue, played a role in the radicalization processes of nearly 90 percent of U.S. extremist plots and activities.⁵³⁶ The National Consortium also found that “social media has become an increasingly important tool for extremists to disseminate content, share ideas, and facilitate relationships.”⁵³⁷ Data has further shown that as extremists connect online, threats via social media rise, which increasingly lead to acts of violence.⁵³⁸

While domestic extremist groups may differ in ideology, and even adopt a cross-pollination of multiple ideologies, one of the common threads between extremist and conspiracy groups that have been active in the last several years, such as QAnon, the Proud Boys, the Boogaloo Bois, the Three Percenters, and the Oath Keepers, is their reliance on social media to spread their ideology.⁵³⁹ Extremist groups have also adopted a “layered communication” strategy when using social media, where groups recruit members on popular platforms and then gradually shift to more private communication services.⁵⁴⁰

⁵³⁵ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Seth Jones, Center for Strategic and International Studies, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part I*, 117th Cong. (Aug. 3, 2021) (S. Hrg. 117-XX).

⁵³⁶ National Consortium for the Study of Terrorism and Responses to Terrorism, *The Use of Social Media by United States Extremists*, University of Maryland (July 2018) (https://www.start.umd.edu/pubs/START_PIRUS_UseOfSocialMediaByUSExtremists_ResearchBrief_July2018.pdf). This study by The National Consortium for the Study of Terrorism and Responses to Terrorism analyzed a database of 479 extremists radicalized from 2005 to 2016. *Id.*

⁵³⁷ *Id.*

⁵³⁸ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Professor Brian Levin, Director of the Center for the Study of Hate and Extremism, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part II*, 117th Cong. (Aug. 5, 2021) (S. Hrg. 117-XX).

⁵³⁹ Digital Citizens Alliance, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

⁵⁴⁰ Will Steakin and Joah Margolin, *Militia extremists developing strategies to work around social media crackdown, DHS memo warns*, ABC News (Mar. 31, 2021) (<https://abcnews.go.com/US/militia-extrem-ists-developing-strategies-work-social-me-%20dia-crackdown/story?id=76774620>). See also Digital Citizens Alliance, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

Neo-Nazi supporters have shared information, content, memes and images on Facebook and organized events.⁵⁴¹ The Proud Boys have used Facebook to recruit and vet applicants.⁵⁴² Facebook and Twitter were central to the spread of the conspiracy theory that falsely alleged that public officials were linked to a human trafficking and child sex ring out of a pizzeria in Washington, D.C., dubbed “Pizzagate.”⁵⁴³ After closely following Pizzagate and becoming inspired to investigate the theory on his own, an armed man stormed the pizzeria in Washington, D.C. in December 2016.⁵⁴⁴

The perpetrator of the Tree of Life Congregation attack, where 11 people were killed and 6 were wounded on October 27, 2018, falsely stated on social media that “HIAS (Hebrew Immigrant Aid Society) likes to bring invaders in that kill our people. I can’t sit by and watch my people get slaughtered. Screw your optics, I’m going in.”⁵⁴⁵ The January 6th attack on the Capitol was planned and discussed on YouTube, Facebook, Twitter, Parler, and Reddit, among other social media platforms leading up to the attack.⁵⁴⁶ More recently, the perpetrator of the May 14th racially motivated mass shooting at a grocery store in Buffalo, New York published a “180-page document to the anonymous message board 4chan before carrying out the attack,” which espoused racist conspiracy theories including the Great Replacement Theory.⁵⁴⁷ A video of the shooting was reposted on Facebook and reportedly “received more than 500 comments and 46,000 shares. Facebook did not remove it for more than 10 hours.”⁵⁴⁸ The New York

⁵⁴¹ United Nations General Assembly, *Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance* (A/73/312) (Aug. 7, 2018).

⁵⁴² Taylor Hatmaker, *Facebook is the recruiting tool of choice for far-right group the Proud Boys*, Tech Crunch (Aug. 10, 2018) (<https://techcrunch.com/2018/08/10/proud-boys-facebook-mcinnis/>).

⁵⁴³ Department of Justice, *North Carolina Man Sentenced to Four-Year Prison Term For Armed Assault at Northwest Washington Pizza Restaurant* (June 22, 2017) (<https://www.justice.gov/usao-dc/pr/north-carolina-man-sentenced-four-year-prison-term-armed-assault-northwest-washington>); Amanda Robb, *Anatomy of a Fake News Scandal*, Rolling Stone (Nov. 16, 2017) (<https://www.rollingstone.com/feature/anatomy-of-a-fake-news-scandal-125877/>).

⁵⁴⁴ Department of Justice, *North Carolina Man Sentenced to Four-Year Prison Term For Armed Assault at Northwest Washington Pizza Restaurant* (June 22, 2017) (<https://www.justice.gov/usao-dc/pr/north-carolina-man-sentenced-four-year-prison-term-armed-assault-northwest-washington>).

⁵⁴⁵ Brian Albrecht, *Anti-HIAS rant by accused Pittsburgh shooter leaves Cleveland Jewish refugee group ‘heartbroken’*, Associated Press (Dec. 9 2018) (<https://apnews.com/article/5553e042e7764a41832fbf67a10ab74e>).

⁵⁴⁶ Atlantic Council DFR Lab, *#StopTheSteal: Timeline of Social Media and Extremist Activities Leading to 1/6 Insurrection*, Just Security (Feb. 10, 2021) (<https://www.justsecurity.org/74622/stopthesteal-timeline-of-social-media-and-extremist-activities-leading-to-1-6-insurrection/>).

⁵⁴⁷ Emma Bowman, Bill Chappell, and Becky Sullivan, *What we know so far about the Buffalo mass shooting*, NPR (May 16, 2022) (<https://www.npr.org/2022/05/15/1099028397/buffalo-shooting-what-we-know>).

⁵⁴⁸ Drew Harwell and Will Oremus, *Only 22 saw the Buffalo shooting live. Millions have seen it since.*, Washington Post (May 16, 2022) (<https://www.washingtonpost.com/technology/2022/05/16/buffalo-shooting-live-stream/>). See also New York Attorney General’s Office, *Attorney General James and Governor Hochul Release Report on the Role of Online Platforms in the Buffalo Shooting* (Oct. 18, 2022) (<https://ag.ny.gov/press-release/2022/attorney-general-james-and-governor-hochul-release-report-role-online-platforms>).

Attorney General’s Office found copies of the video of the shooting or the shooter’s manifesto on several online platforms, including Facebook, TikTok, Twitter, and YouTube.⁵⁴⁹

Section 230 of the Communications Act of 1934, enacted as part of the Communications Decency Act of 1996, provides limited federal immunity to providers and users of interactive computer services.⁵⁵⁰ Section 230 creates significant liability protections for internet companies, specifying that service providers may not “be treated as the publisher or speaker of any information provided by another information content provider,” thereby preventing lawsuits seeking to hold service providers liable for content.⁵⁵¹ The Congressional Research Service (CRS) has noted that Section 230 currently protects social media platforms by creating a distinction between content publisher and creator, permitting “interactive computer service” providers to publish others’ content without being held responsible for the content, except in cases of “federal criminal law, intellectual property law, the Electronic Communications Privacy Act of 1986, or state laws similar to the Electronic Communications Privacy Act of 1986.”⁵⁵²

B. Social Media Companies’ Content Moderation and Safety Policies to Address Extremism

In September and October 2021, Chairman Peters requested information from four large social media companies – Facebook (now Meta), TikTok, Twitter, and YouTube – based on their size and the proliferation and use of these sites over others.⁵⁵³ Together, these four companies have a combined footprint that reaches nearly 75 percent of Americans and several billion people worldwide.⁵⁵⁴ To combat the prevalence of violent extremism on their platforms, these companies have implemented terms of services regarding what can be posted on their platforms, prohibiting content that incites violence, terrorism, hate speech, abuse, harassment, bullying, and fake accounts. In response to Chairman Peters’ September and October 2021 requests for information, each of the four companies provided documents and information to the Committee and stated that they invest in and prioritize staffing for safety and content moderation efforts to address the threat of extremist content on their platforms.⁵⁵⁵ The information the companies

⁵⁴⁹ New York Attorney General’s Office, *Attorney General James and Governor Hochul Release Report on the Role of Online Platforms in the Buffalo Shooting* (Oct. 18, 2022) (<https://ag.ny.gov/press-release/2022/attorney-general-james-and-governor-hochul-release-report-role-online-platforms>).

⁵⁵⁰ Telecommunications Act of 1996, Pub. L. 104-104, Sec. 501-509.

⁵⁵¹ Congressional Research Service, *Section 230: An Overview* (R46751) (Apr. 7, 2021).

⁵⁵² Congressional Research Service, *How Broad A Shield? A Brief Overview of Section 230 of the Communications Decency Act* (7-5700) (Feb. 21, 2018).

⁵⁵³ Letter from Chairman Gary Peters to Mark Zuckerberg, Meta (Sep. 17, 2021); Letter from Chairman Gary Peters Letter to Jack Dorsey, Twitter (Sep. 17, 2021); Letter from Chairman Gary Peters Letter to Susan Wojcicki, YouTube (Sep. 17, 2021); Letter from Chairman Gary Peters to Shou Zi Chew, TikTok (Oct. 12, 2021).

⁵⁵⁴ Pew Research Center, *Social Media Fact Sheet* (Apr. 7, 2021) (<https://www.pewresearch.org/internet/fact-sheet/social-media/>); Statista, *Most popular social networks worldwide as of January 2022, ranked by number of monthly active users (in millions)* (accessed Oct. 6, 2022) (<https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/>).

⁵⁵⁵ Letter from Meta to Chairman Gary Peters (Oct. 5, 2021); Letter from K&L Gates LLP on behalf of TikTok, to Chairman Gary Peters (Nov. 9, 2021); Letter from Jessica Herrera-Flanigan, Twitter, to Chairman Gary

provided were self-reported policies and efforts, but as discussed in the following sections, this investigation determined these policies and efforts have been inadequate to address the problem of extreme content on their platforms.

Meta, TikTok, Twitter, and YouTube use both human and automated moderators to identify content that violates their policies and standards. In discussions with Committee staff, Meta pointed to its public policies that aim to “prevent potential offline harm that may be related to content on Facebook.”⁵⁵⁶ Meta told the Committee that its “Violence and Incitement policy prohibits content calling for or advocating violence, and [the company] ban[s] organizations and individuals that proclaim a violent mission under [its] Dangerous Organizations and Individuals policy.”⁵⁵⁷ The company further expanded its Dangerous Organizations and Individuals policy in August 2020 “to address militarized social movements and violence-inducing conspiracy networks, such as QAnon.”⁵⁵⁸ According to Meta’s community guidelines, violative content is removed from the platform and content that is borderline-violative is reduced in distribution through its algorithm to prevent content from going viral.⁵⁵⁹ To moderate content, Meta employs both human moderators and artificial intelligence to proactively remove content, including violent content that violates its Community Standards.⁵⁶⁰ Through Meta’s Third-Party Fact-Checking Program, the company works with 80 partners covering over 60 languages around the world to review potentially false content.⁵⁶¹

TikTok’s community guidelines state that the platform takes a “firm stance against enabling violence on or off TikTok.”⁵⁶² TikTok told the Committee that it has “implemented Terms of Service and Community Guidelines to help ensure that the platform is safe, legal, and fun.”⁵⁶³ Similar to Meta, TikTok reports that it removes content that incites violence or

Peters (Oct. 4, 2021); Letter from Alexandra Veitch, YouTube, to Chairman Gary Peters (Oct. 11, 2021). The Committee received information from Twitter between October 2021 and October 2022, and this report does not reflect any changes to Twitter’s policies or practices after the sale of Twitter in October 2022.

⁵⁵⁶ Meta, Facebook Community Standards: Violence and Incitement (accessed Oct. 6, 2022) (<https://transparency.fb.com/policies/community-standards/violence-incitement/>).

⁵⁵⁷ Letter from Meta to Chairman Gary Peters (Oct. 5, 2021).

⁵⁵⁸ Letter from Meta to Chairman Gary Peters (Oct. 5, 2021); Meta, Facebook Community Standards: Violence and Incitement (accessed Oct. 6, 2022) (<https://transparency.fb.com/policies/community-standards/violence-incitement/>).

⁵⁵⁹ Meta, Promoting Safety and Expression (accessed Oct. 6, 2022) (<https://about.facebook.com/actions/promoting-safety-and-expression/>).

⁵⁶⁰ Tom Alison, Head of Facebook App, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 27, 2022).

⁵⁶¹ Meta, Promoting Safety and Expression (accessed Oct. 6, 2022) (<https://about.facebook.com/actions/promoting-safety-and-expression/>).

⁵⁶² TikTok, Community Guidelines: Violent extremism (accessed Oct. 6, 2022) (<https://www.tiktok.com/community-guidelines?lang=en#39>).

⁵⁶³ Letter from K&L Gates LLP on behalf of TikTok, to Chairman Gary Peters (Nov. 9, 2021).

promotes violent extremist organizations, individuals, or acts.⁵⁶⁴ TikTok also reported that it uses content moderation to ensure that violative content does not circulate on the platform, which the company told the Committee it does through a “combination of technology and people to identify and take action on violations of its guidelines.”⁵⁶⁵

Twitter’s Transparency Center states that its “[r]ules exist to help ensure that all people can participate in the public conversation freely and safely, and include specific policies that explain the types of content and behavior that are prohibited.”⁵⁶⁶ According to its safety rules, Twitter does not allow users to “promote violence against, threaten, or harass other people on the basis of race, ethnicity, national origin, caste, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease.”⁵⁶⁷ Twitter also explicitly lists prohibitions against tweets inciting violence, terrorism, abuse, and harassment.⁵⁶⁸ Twitter additionally has community guidelines against misleading identities, impersonation, and synthetic media.⁵⁶⁹ Twitter’s content moderation efforts largely occur by suspending or banning problematic accounts and influencers who violate community guidelines. To mitigate misinformation, Twitter labels viral posts that contain false statements, regardless of whether the user is a verified account.⁵⁷⁰ Twitter also demotes tweets that have been labeled as misinformation.⁵⁷¹ Twitter has increasingly tested and expanded how it recommends content to users in recent years, which shows users content from accounts the user follows, as well as sometimes showing users “content powered by a variety of signals.”⁵⁷² Twitter sets goals around “healthily growing Twitter,” which, according to the company, includes evaluating daily active usage and health metrics, such as a decreasing number of impressions on unhealthy content.⁵⁷³

⁵⁶⁴ TikTok, Community Guidelines: Violent extremism (accessed Oct. 6, 2022) (<https://www.tiktok.com/community-guidelines?lang=en#39>).

⁵⁶⁵ Letter from K&L Gates LLP on behalf of TikTok, to Chairman Gary Peters (Nov. 9, 2021).

⁵⁶⁶ Twitter, Enforcement (accessed Oct. 6, 2022) (<https://transparency.twitter.com/en/reports/rules-enforcement.html#2021-jan-jun>).

⁵⁶⁷ Twitter, The Twitter Rules (accessed Oct. 6, 2022) (<https://help.twitter.com/en/rules-and-policies/twitter-rules>).

⁵⁶⁸ *Id.*

⁵⁶⁹ *Id.*

⁵⁷⁰ Twitter, How we address misinformation on Twitter (accessed Oct. 14, 2022) (<https://help.twitter.com/en/resources/addressing-misleading-info>).

⁵⁷¹ *Id.*

⁵⁷² Katie Paul, *Twitter expands recommendations push with new tests*, Reuters (Sep. 20, 2022) (<https://www.reuters.com/technology/twitter-expands-recommendations-push-with-new-tests-2022-09-20/>); Twitter, About your Home timeline on Twitter (accessed Nov. 7, 2022) (<https://help.twitter.com/en/using-twitter/twitter-timeline#:~:text=About%20content%20you%20may%20see%20from%20outside%20your%20network&text=We%20make%20recommendations%20to%20make,accounts%20you%20don't%20follow>).

⁵⁷³ Kayvon Beykpour, General Manager of Bluebird, Twitter, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 28, 2022).

YouTube’s community guidelines “aim to make YouTube a safer community while still giving creators the freedom to share a broad range of experiences and perspectives.”⁵⁷⁴ YouTube “doesn’t allow content that encourages dangerous or illegal activities that risk serious physical harm or death.”⁵⁷⁵ In 2017, YouTube limited “recommendations and features like comments and the ability to share” videos that featured “supremacist content.”⁵⁷⁶ In June 2019, YouTube redefined its hate speech policy to “specifically prohibit videos alleging that a group is superior to justify discrimination, segregation or exclusion based on qualities like age, gender, race, caste, religion, sexual orientation, or veteran status.”⁵⁷⁷ In October 2020, YouTube prohibited “content that targets an individual or group with conspiracy theories that have been used to justify real-world violence.”⁵⁷⁸ Currently, YouTube uses a three strike method for accounts that habitually post violative content, where if a channel has three posts removed over a 90 day period, it is terminated.⁵⁷⁹ In cases of severe abuse, channels are immediately terminated.⁵⁸⁰ YouTube approaches content recommendations with the “Four R’s” framework, which involves removing violative content, raising up authoritative sources, reducing borderline content, and rewarding top content creators.⁵⁸¹ YouTube reported to the Committee that the company factors in those principles when setting objectives for teams at YouTube and in performance reviews.⁵⁸² YouTube also stated that it evaluates and sets goals based on the utility of content recommendations for users, user satisfaction, and creator satisfaction.⁵⁸³ YouTube also developed the Trusted Flagger program composed of 300 government and NGO partners to help “provide more sophisticated reporting processes for government agencies and non-governmental organizations (NGOs) that are particularly effective at notifying YouTube of content that violates our Community Guidelines.”⁵⁸⁴ However, as discussed below, these policies have been insufficient to prevent the proliferation of violative content on these platforms.

⁵⁷⁴ YouTube, Community Guidelines (accessed Oct. 6, 2022) (<https://www.youtube.com/howyoutubeworks/policies/community-guidelines/>).

⁵⁷⁵ YouTube, Harmful or dangerous content policies (Oct. 6, 2022) (https://support.google.com/youtube/answer/2801964?hl=en&ref_topic=9282436).

⁵⁷⁶ Letter from Alexandra Veitch, YouTube, to Chairman Gary Peters (Oct. 11, 2021).

⁵⁷⁷ *Id.*

⁵⁷⁸ *Id.*

⁵⁷⁹ YouTube, Harmful or dangerous content policies (Oct. 6, 2022) (https://support.google.com/youtube/answer/2801964?hl=en&ref_topic=9282436).

⁵⁸⁰ *Id.*

⁵⁸¹ Neal Mohan, Chief Product Officer, YouTube, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 31, 2022).

⁵⁸² *Id.*

⁵⁸³ *Id.*

⁵⁸⁴ Letter from Alexandra Veitch, YouTube, to Chairman Gary Peters (Oct. 11, 2021).

C. Proliferation of Violative and Extreme Content on Social Media Platforms

Although Meta, TikTok, Twitter, and YouTube have a range of policies aimed at addressing extremist and hateful content on their platforms and have taken steps to mitigate those harms through community guidelines language, human content moderation, and automated content moderation—borderline, violative, and extreme content is still prevalent across these platforms.

1. Meta

Meta reported to the Committee that it had invested more than \$13 billion in safety and security teams between 2016 and October 2021 with over 40,000 people working on these teams, which the company stated is the largest investment of all the major social media platforms, adjusted for scale, and which Meta noted in recent advertisements is “more than the size of the FBI.”⁵⁸⁵ However, that investment represented approximately 1 percent of the company’s market value at the time.⁵⁸⁶ Meta also told the Committee that it “remove[s] millions of violating posts and accounts every day” and its artificial intelligence content moderation blocked 3 billion fake accounts in the first half of 2021 alone.⁵⁸⁷ Meta told the Committee that it has also banned “over 250 white supremacist groups and 890 militarized social movements,” and that in just one period from August to November 30, 2020, Facebook removed approximately “3,200 Pages, 18,800 groups, 100 events, 23,300 Facebook profiles and 7400 Instagram accounts for violating our policy against militarized social movements.”⁵⁸⁸ While these actions to remove violative content are commendable, the sheer amount of content Meta has had to remove shows just how pervasive such content is on its platforms.

In 2017, violent extremists and hate groups used Facebook to recruit new members and organize a rally in Charlottesville, VA, at which a neo-Nazi drove his car into a group of people, injuring nineteen and killing one woman.⁵⁸⁹ Also in 2017, Facebook was central to the spread of QAnon content and the “Pizzagate” conspiracy that led to an armed man attacking a D.C. pizza

⁵⁸⁵ Meta, Promoting Safety and Expression (accessed Oct. 6, 2022) (<https://about.facebook.com/actions/promoting-safety-and-expression/>); Meta Briefing with the Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 3, 2021); Letter from Meta to Chairman Gary Peters (Oct. 5, 2021). Meta has since stated that it has spent \$16 billion on safety and security in 6 years. Meta, *Facebook is taking action to keep its platform safe* (accessed Oct. 6, 2022) (<https://about.facebook.com/progress/>); Meta, TV Spot: Safety and Security (May 31, 2022) (<https://www.ispot.tv/ad/bCqt/facebook-safety-and-security#:~:text=Facebook%20says%20over%2040%2C000%20people,in%20the%20last%20six%20years>).

⁵⁸⁶ Aimee Picchi, *Meta's value has plunged by \$700 billion. Wall Street calls it a "train wreck."*, CBS News (Oct. 28, 2022) (<https://www.cbsnews.com/news/meta-stock-down-earnings-700-billion-in-lost-value/>).

⁵⁸⁷ Letter from Meta to Chairman Gary Peters (Oct. 5, 2021); Meta, Promoting Safety and Expression (accessed Oct. 6, 2022) (<https://about.facebook.com/actions/promoting-safety-and-expression/>).

⁵⁸⁸ Letter from Meta to Chairman Gary Peters (Oct. 5, 2021).

⁵⁸⁹ Digital Citizens Alliance and Coalition for a Safer Web, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

restaurant.⁵⁹⁰ Meta did not ban QAnon content from Facebook until August 2020.⁵⁹¹ On March 15, 2019, a white supremacist attacked two mosques and killed 51 people in Christchurch, New Zealand, while livestreaming his actions on Facebook.⁵⁹² In the lead-up to the January 6th attack on the U.S. Capitol, individuals used social media, including Facebook, to recruit followers and organize the attack.⁵⁹³ This included the use of Facebook and other social media platforms to organize and promote the Stop the Steal Rally, which promoted the false narrative that President Trump won the 2020 election.⁵⁹⁴ Some individuals even used Facebook during the attack to coordinate actions and track the movement of elected officials.⁵⁹⁵ In 2021, a man threatened to detonate a bomb in front of the Library of Congress, causing several city blocks, the U.S. Supreme Court, and several House and Senate office buildings to evacuate and shelter in place.⁵⁹⁶ The man posted videos documenting his actions on Facebook, where some of his videos stayed up for at least five hours, including a 71-minute livestream where he sat outside the Library of Congress claiming to have a bomb.⁵⁹⁷

Payton Gendron, the perpetrator of the May 14, 2022, mass shooting in Buffalo, New York, published a “180-page document to the anonymous message board 4chan before carrying out the attack” that killed 10 Black individuals and injured 3 others.⁵⁹⁸ In the wake of the shooting, the New York State Office of the Attorney General published a report that concluded the Buffalo shooter used online platforms to plan and publicize his murderous attack, and the

⁵⁹⁰ Amanda Robb, *Anatomy of a Fake News Scandal*, Rolling Stone (Nov. 16, 2017) (<https://www.rollingstone.com/feature/anatomy-of-a-fake-news-scandal-125877/>).

⁵⁹¹ Meta, *An update to How We Address Movements and Organizations Tied to Violence* (Aug. 19, 2020) (making QAnon violative under Meta’s Dangerous Individuals and Organizations policy).

⁵⁹² Graham Macklin, *The Christchurch Attacks: Livestream Terror in the Viral Video Age*, Combatting Terrorism Center (June 2019) (<https://ctc.westpoint.edu/christchurch-attacks-livestream-terror-viral-video-age/>).

⁵⁹³ Digital Citizens Alliance and Coalition for a Safer Web, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

⁵⁹⁴ Kari Paul, *‘It let white supremacists organize’: the toxic legacy of Facebook’s Groups*, Guardian (Feb. 4, 2021) (<https://www.theguardian.com/technology/2021/feb/04/facebook-groups-misinformation>); Rebecca Heilweil and Shirin Ghaffary, *How Trump’s internet build and broadcast the Capitol insurrection*, Vox (Jan. 8, 2021) (<https://www.vox.com/recode/22221285/trump-online-capitol-riot-far-right-parler-twitter-facebook>).

⁵⁹⁵ Affidavit in Support of Amended Criminal Complaint (Jan. 19, 2021), *United States v. Caldwell*, D.C.D.C (No. 1:21-mj-00119).

⁵⁹⁶ Brian Naylor, *Man Who Claimed To Have A Bomb Near The U.S. Capitol Surrenders*, NPR (Aug. 19, 2021) (<https://www.npr.org/2021/08/19/1029275390/bomb-threat-near-capitol-library-of-congress>); Emily Birnbaum, *Library of Congress bomb suspect livestreamed on Facebook for hours before being blocked*, Politico (Aug. 19, 2021) (<https://www.politico.com/news/2021/08/19/capitol-bomb-threat-facebook-livestream-506268>).

⁵⁹⁷ *Id.*

⁵⁹⁸ Emma Bowman, Bill Chappell, and Becky Sullivan, *What we know so far about the Buffalo mass shooting*, NPR (May 16, 2022) (<https://www.npr.org/2022/05/15/1099028397/buffalo-shooting-what-we-know>); Kellan Browning and Ryan Mac, *After Buffalo Shooting Video Spreads, Social Platforms Face Questions*, New York Times (May 15, 2022) (<https://www.nytimes.com/2022/05/15/business/buffalo-shooting-social-media.html>).

Attorney General found links to the shooter’s manifesto on Facebook, among other platforms.⁵⁹⁹ The video of the shooting was reposted on Facebook and reportedly “received more than 500 comments and 46,000 shares; Facebook did not remove it for more than 10 hours.”⁶⁰⁰ In May 2022, leading up to the school shooting in Uvalde, Texas where 19 children were killed, the shooter reportedly wrote on Facebook Messenger and Instagram, “I’m going to shoot my grandmother” and “I’m going to shoot an elementary school.”⁶⁰¹ The Uvalde school shooter also reportedly discussed purchasing a gun on Instagram.⁶⁰²

Internal Meta documents provided to the Committee by whistleblower and former Facebook Product Manager Frances Haugen also illustrate the extent to which harmful content has proliferated on Meta’s platforms, the company’s awareness of it, and how the company’s efforts to reduce it were not effective. Meta reported to the Committee that it has guidelines specific to misinformation and hate speech, and that it “proactively detect[s] more than 95% of hate speech on Facebook that [it] remove[s] before anyone reports it.”⁶⁰³ However, these figures include only content that Meta removed, and therefore this provides very little insight into the overall amount of hate speech on its platforms and how effectively Meta is detecting and removing it. Furthermore, as shown in Figure 5, in an internal company memo entitled “Demoting On Integrity Signals Is Not Enough,” Meta’s own researchers concluded, “the problem is that we do not and possibly never will have a model that captures even a majority of integrity harms, particularly in sensitive areas.”⁶⁰⁴ The researchers further found, “we only take action against approximately 2% of the hate speech on the platform. Recent estimates suggest that unless there is a major change in strategy, it will be very difficult to improve this beyond 10-20% in the short-medium term.”⁶⁰⁵

⁵⁹⁹ New York Attorney General’s Office, *Attorney General James and Governor Hochul Release Report on the Role of Online Platforms in the Buffalo Shooting* (Oct. 18, 2022) (<https://ag.ny.gov/press-release/2022/attorney-general-james-and-governor-hochul-release-report-role-online-platforms>).

⁶⁰⁰ Drew Harwell and Will Oremus, *Only 22 saw the Buffalo shooting live. Millions have seen it since.*, Washington Post (May 16, 2022) (<https://www.washingtonpost.com/technology/2022/05/16/buffalo-shooting-live-stream/>).

⁶⁰¹ Silvia Foster-Frau, et al., *Before massacre, Uvalde gunman frequently threatened teen girls online*, Texas Tribune (May 28, 2022) (<https://www.texastribune.org/2022/05/28/uvalde-shooting-gunmen-teen-girls/>).

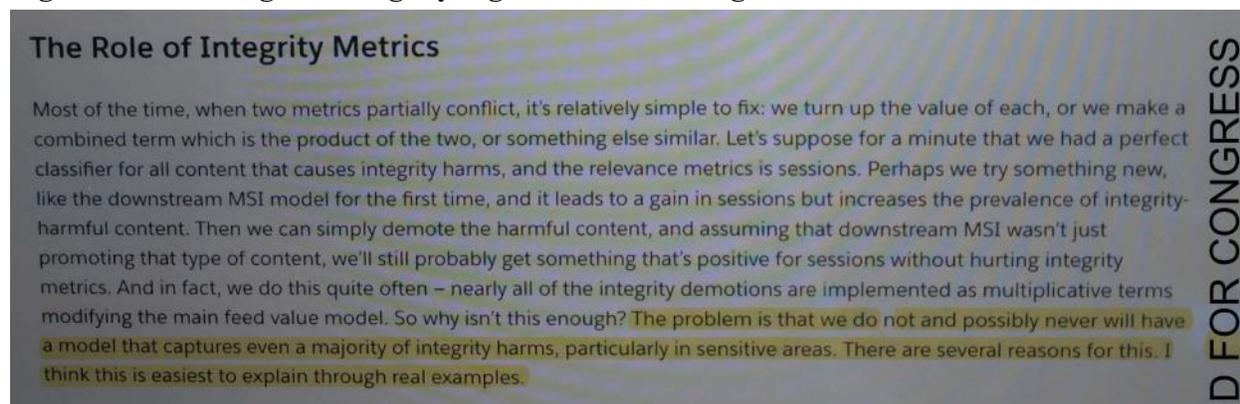
⁶⁰² *Id.*

⁶⁰³ Meta, *Promoting Safety and Expression* (accessed Oct. 6, 2022) (<https://about.facebook.com/actions/promoting-safety-and-expression/>).

⁶⁰⁴ Meta, *Demoting On Integrity Signals Is Not Enough* (July 2019) (on file with Committee).

⁶⁰⁵ *Id.*

Figure 5: Demoting On Integrity Signals Is Not Enough



Source: Internal Meta memo, “Demoting On Integrity Signals Is Not Enough.” Provided to the Committee by Frances Haugen.

Internal research at Meta also found that communities are easily formed on the platform and are “powerful levers for support and inclusion, but when based on a harmful or borderline topic or identity, the very characteristics that often make communities good for society - personal connection, meaning making, cooperation - can be used to magnify the potential for harm, over and above that of content or actors alone.”⁶⁰⁶ Meta’s researchers concluded that these communities create echo chambers that normalize and amplify extreme, polarizing discourse and serve to radicalize its members.⁶⁰⁷ The documents Haugen provided reveal internal Meta research that found that Meta’s enforcement measures such as “down ranking” to minimize the distribution of certain content “may not be enough to stem community growth and user progression” for harmful content such as Stop the Steal and QAnon.⁶⁰⁸

Further, internal documents provided by Haugen show that Meta knew that harmful content had real-world consequences. As shown in Figure 6, in an internal Meta memo about harmful content that technically did not violate Meta’s policies – such as posts casting doubt on the legitimacy of the 2020 U.S. election – Meta researchers wrote: “Retrospectively, external sources have told us that the on-platform experiences on this narrative may have had substantial negative impacts including contributing materially to the capital [sic] riot and potentially reducing collective civic engagement and social cohesion in the years to come.”⁶⁰⁹

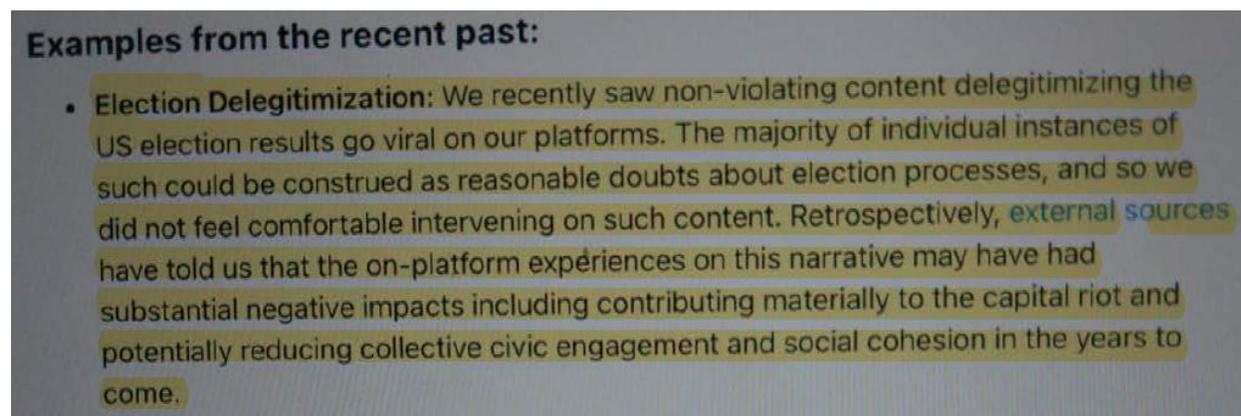
⁶⁰⁶ Meta, *The Whole is Greater Than the Sum of its Parts: Understanding the Dangers of harmful Topic Communities* (2021) (on file with Committee).

⁶⁰⁷ *Id.*

⁶⁰⁸ *Id.*

⁶⁰⁹ Meta, “*Harmful Non-Violating Narratives*” is a Problem Archetype in Need of Novel Solutions (Mar. 22, 2021) (on file with Committee).

Figure 6: “Harmful Non-Violating Narratives” is a Problem Archetype in Need of Novel Solutions



Source: Internal Meta memo, “‘Harmful Non-Violating Narratives’ is a Problem Archetype in Need of Novel Solutions.” Provided to the Committee by Frances Haugen.

Recent reports indicate that extremist and conspiracy content continue to be a problem on Facebook. An August 2022 report by the Tech Transparency Project found that despite Meta banning hate speech on Facebook, the company is still profiting from advertisements on searches for hate groups on the platform.⁶¹⁰ The report also found that Facebook automatically generates Pages for any organization or group that does not have one, including for white supremacist groups that stay up for years. For example, the auto-generated Page for the Aryan Brotherhood was on Facebook for over 12 years.⁶¹¹ In addition, a recent news report indicates that Meta’s new chatbot – which is an AI-driven interface developed by Facebook researchers – had spread anti-Semitic conspiracies and told users that former President Trump is still president.⁶¹²

2. TikTok

TikTok reported to the Committee that it spent approximately \$1 billion on trust and safety in 2021.⁶¹³ TikTok also reported to the Committee that in the second half of 2020, the company removed over 347,000 videos “for election-related misinformation, disinformation, or manipulated media.”⁶¹⁴ Of the 85.7 million videos that TikTok removed from the platform from October 2021 to December 2021, 28.3 million were a result of automated content moderation,

⁶¹⁰ Tech Transparency Project, *Facebook Profits from White Supremacist Groups*, Campaign for Accountability (Aug. 10, 2022) (<https://www.techtransparencyproject.org/articles/facebook-profits-white-supremacist-groups>).

⁶¹¹ *Id.*

⁶¹² Charlie Hancock, *Meta’s AI Chatbot Repeats Election and Anti-Semitic Conspiracies*, Bloomberg (Aug. 8, 2022) (<https://www.bloomberg.com/news/articles/2022-08-08/meta-s-ai-chatbot-repeats-election-and-anti-semitic-conspiracies>).

⁶¹³ Senate Committee on Homeland Security and Governmental Affairs, Written Responses to Questions for the Record of TikTok, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁶¹⁴ Letter from K&L Gates LLP on behalf of TikTok, to Chairman Gary Peters (Nov. 9, 2021).

with 4.7 million videos being restored to the platform upon further review.⁶¹⁵ Separately, DHS specifically cited TikTok as a platform that domestic extremists use to recruit and promote violence. On April 19, 2021, DHS I&A produced a Reference Aid warning federal, state, and local counterterrorism and law enforcement of domestic extremists' use of TikTok "to recruit adherents, promote violence, and disseminate tactical guidance for use in various terrorist or criminal activities." I&A determined that TikTok's algorithms and processes "can unintentionally aid individuals' efforts to promote violent extremist content."⁶¹⁶ In an interview with Committee staff, TikTok Chief Operating Officer Vanessa Pappas stated I&A had not shared the Reference Aid with TikTok and that she had been unaware of the issues raised in the I&A Reference Aid until the company read about it in the press.⁶¹⁷

Militia violent extremists also used TikTok in the lead-up to the January 6th attack on the U.S. Capitol to recruit, organize, and communicate.⁶¹⁸ Since January 6th, domestic extremist groups have used TikTok to continue to spread their messages through content supporting white supremacists, extremists, and terrorist organizations.⁶¹⁹ Despite TikTok's content moderation efforts against violent and extreme content, extremists are easily able to circumvent detection and amplify their content on the platform.⁶²⁰ In a study by the Anti-Defamation League (ADL), researchers found that extremists use popular videos on TikTok and dub their own voiceovers featuring white supremacist content.⁶²¹ ADL also found that extremists share content by providing external links in their profile bios.⁶²² Extremists also make use of "spoonerisms, which are intentional typographic errors in profile names and handles," and Morse code to evade detection by automated content moderation.⁶²³ The Institute for Strategic Dialogue (ISD) found that in a sample of 1,030 TikTok videos that promoted hatred, extremism, or terrorism, 30

⁶¹⁵ TikTok, *Community Guidelines Enforcement Report* (Apr. 13, 2022) (<https://www.tiktok.com/transparency/en-us/community-guidelines-enforcement-2021-4/>).

⁶¹⁶ Department of Homeland Security, Office of Intelligence and Analysis, *Some Domestic Violent Extremists and Foreign Terrorist Organizations Exploiting TikTok* (Apr. 19, 2021).

⁶¹⁷ Vanessa Pappas, Chief Operating Office, TikTok, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 18, 2022).

⁶¹⁸ Olivia Little, *Far-right militias are using TikTok to organize and recruit new followers*, Media Matters for America (Jan. 12, 2021) (<https://www.mediamatters.org/january-6-insurrection/far-right-militias-are-using-tiktok-organize-and-recruit-new-followers>); Digital Citizens Alliance and Coalition for a Safer Web, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

⁶¹⁹ Tina Nguyen and Mark Scott, *Right-wing extremist chatter spreads on new platforms as threat of political violence ramps up*, Politico (Jan. 12, 2021) (<https://www.politico.com/news/2021/01/12/right-wing-extremist-social-media-458387>); Ciaran O'Connor, *Hatescape: An In-Depth Analysis of Extremism and Hate Speech on TikTok*, Institute for Strategic Dialogue (Aug. 2021) (<https://www.politico.eu/wp-content/uploads/2021/08/24/ISD-TikTok-Hatescape-Report-August-2021.pdf>).

⁶²⁰ Anti-Defamation League, *Extremists are Using a Range of Techniques to Exploit TikTok* (Aug. 13, 2020) (<https://www.adl.org/resources/blog/extremists-are-using-range-techniques-exploit-tiktok>).

⁶²¹ *Id.*

⁶²² *Id.*

⁶²³ *Id.*

percent promoted white supremacist content.⁶²⁴ ISD found that TikTok inconsistently removed hateful and extremist content. One month after ISD researchers first interacted with the content sampled in the study, only 18.5 percent of extremist videos were taken down, with 81.5 percent remaining live on TikTok.⁶²⁵

3. Twitter

In its October 2021 response to the Committee, Twitter reported that it had “made dramatic investments in corporate resources directed at reviewing and removing problematic content on [its] service, including content associated with terrorism.”⁶²⁶ Twitter also reported that since 2015, the company had taken down over 1.8 million accounts for violating guidelines against the promotion of terrorism.⁶²⁷ From July through December 2020, Twitter suspended a total of 58,750 accounts, 96 percent of which Twitter reported were “proactively identified by internal, proprietary tools before people had a chance to see or interact with them.”⁶²⁸ Twitter’s Violent Organizations policy in particular “has resulted in the permanent suspension of more than 1.8 million accounts.”⁶²⁹ Twitter noted it “continue[s] to see an overall downward trend in the number of violating accounts.”⁶³⁰ However, a recent study by the RAND Corporation on racially or ethnically motivated violent extremism on social media noted that “right-wing extremists avidly use Twitter to reach mainstream audiences, using specific tactics to normalize their messaging in ways that will draw in broad audiences,” citing the example of neo-Nazi groups.⁶³¹

Twitter was also central to the spread of QAnon conspiracy theories and the “Pizzagate” conspiracy that falsely alleged that public officials were linked to a human trafficking and child sex ring out of a pizzeria in Washington, D.C.⁶³² This led to an armed man storming a pizzeria in Washington, D.C. in December 2016.⁶³³ In just over a 30-day period, 1.4 million tweets

⁶²⁴ Ciaran O’Connor, *Hatescape: An In-Depth Analysis of Extremism and Hate Speech on TikTok*, Institute for Strategic Dialogue (Aug. 2021) (<https://www.politico.eu/wp-content/uploads/2021/08/24/ISD-TikTok-Hatescape-Report-August-2021.pdf>).

⁶²⁵ *Id.*

⁶²⁶ Letter from Jessica Herrera-Flanigan, Twitter, to Chairman Gary Peters (Oct. 4, 2021).

⁶²⁷ *Id.*

⁶²⁸ *Id.*

⁶²⁹ *Id.*

⁶³⁰ *Id.*

⁶³¹ Heather J. Williams, et al., *Mapping White Identity Terrorism and Racially or Ethnically Motivated Violent Extremism: A Social Network Analysis of Online Activity*, Rand Corporation (2022).

⁶³² Amanda Robb, *Anatomy of a Fake News Scandal*, Rolling Stone (Nov. 16, 2017) (<https://www.rollingstone.com/feature/anatomy-of-a-fake-news-scandal-125877/>).

⁶³³ *Id.*

shared by more than 250,000 accounts spread this dangerous conspiracy theory.⁶³⁴ Twitter did not ban QAnon content until January 2021.⁶³⁵

Twitter continues to be used to fundraise, recruit, organize, train, and plan for acts of domestic terrorism.⁶³⁶ On October 27, 2018, a man opened fire into the Tree of Life Synagogue in Pittsburgh, Pennsylvania, just mere days after researchers warned of a rise in anti-Semitic attacks online and the man retweeted several anti-Semitic posts.⁶³⁷ ADL also found that 39 percent of Tweets containing misinformation were not removed in the lead-up to the 2020 election.⁶³⁸ In the lead-up to the January 6th attack on the U.S. Capitol, rioters used social media, including Twitter, to spread the false idea of a rigged 2020 election.⁶³⁹ For example, individuals tweeted about the “Kraken” conspiracy, which references an effort by former President Trump’s legal team to claim massive election fraud.⁶⁴⁰ This hashtag was reportedly tweeted over one million times before January 6th.⁶⁴¹ During the attack on the Capitol, tweets mentioning civil war drastically increased and rioters posted about their experiences from their accounts.⁶⁴² Additionally, extremists use Twitter as a gateway to other platforms by sharing content through external links to platforms such as Gab, a social media platform that ADL described as a “haven for extremists, conspiracy theorists and misinformation.”⁶⁴³ Between June 7, 2021, and August 22, 2021, ADL found “112,000 tweets were posted containing links to Gab content, shared by more than 32,700 users with a reach of 254+ million potential views. The top 50 most

⁶³⁴ *Id.*

⁶³⁵ Twitter, *An update following the riots in Washington, DC* (Jan. 12, 2021) (https://blog.twitter.com/en_us/topics/company/2021/protecting--the-conversation-following-the-riots-in-washington--) (making QAnon violative under Twitter’s coordinated harmful activity policy).

⁶³⁶ Anti-Defamation League, *Electoral Misinformation on Twitter: 39% of Problematic Tweets Reported by ADL Go Unaddressed by Platform in Crucial Post-Election Timeframe* (May 3, 2022) (<https://www.adl.org/resources/blog/electoral-misinformation-twitter-39-problematic-tweets-reported-adl-go-unaddressed>).

⁶³⁷ Anti-Defamation League, *Deadly Shooting at Pittsburgh Synagogue* (Oct. 27, 2021) (<https://www.adl.org/blog/deadly-shooting-at-pittsburgh-synagogue>).

⁶³⁸ Anti-Defamation League, *Electoral Misinformation on Twitter: 39% of Problematic Tweets Reported by ADL Go Unaddressed by Platform in Crucial Post-Election Timeframe* (May 3, 2022) (<https://www.adl.org/resources/blog/electoral-misinformation-twitter-39-problematic-tweets-reported-adl-go-unaddressed>).

⁶³⁹ Shayan Sardarizadeh and Jessica Lussenhop, *The 65 days that led to chaos at the Capitol*, BBC (Jan. 10, 2021) (<https://www.bbc.com/news/world-us-canada-55592332>).

⁶⁴⁰ *Id.*

⁶⁴¹ *Id.*

⁶⁴² Rebecca Heilweil and Shirin Ghaffary, *How Trump’s internet build and broadcast the Capitol insurrection*, Vox (Jan. 8, 2021) (<https://www.vox.com/recode/22221285/trump-online-capitol-riot-far-right-parlertwitter-facebook>); Atlantic Council DFR Lab, *#StopTheSteal: Timeline of Social Media and Extremist Activities Leading to 1/6 Insurrection*, Just Security (Feb. 10, 2021) (<https://www.justsecurity.org/74622/stopthesteal-timelineof-social-media-and-extremist-activities-leading-to-1-6-insurrection/>).

⁶⁴³ Anti-Defamation League, *For Twitter Users, Gab’s Toxic Content Is Just a Click Away* (Oct. 11, 2021) (<https://www.adl.org/resources/blog/twitter-users-gabs-toxic-content-just-click-away>).

shared links were rife with conspiratorial content and misinformation, some promoted by Gab itself via its verified Twitter account.”⁶⁴⁴

Twitter’s features and products have also aided in the spread of extremist content on its platform. Twitter’s Trends “are determined by an algorithm [...] This algorithm identifies topics that are popular now, rather than topics that have been popular for a while or on a daily basis, to help you discover the hottest emerging topics of discussion on Twitter.”⁶⁴⁵ However, extremist groups have learned to manipulate this feature to push specific messages.⁶⁴⁶ For example, QAnon followers commandeered the hashtag “#savethechildren,” originally associated with the charity Save the Children, to spread dangerous conspiracy theories that include claiming politicians and celebrities participate in child trafficking rings.⁶⁴⁷

Extremists have also abused Twitter’s “Spaces” feature, which is “a way to have live audio conversations on Twitter.”⁶⁴⁸ Twitter continued with the launch of this feature in May 2021 despite reportedly acknowledging internally that it did not have the capacity to moderate real-time conversations, and the platform then “mistakenly helped some of these [extremist] conversations go viral.”⁶⁴⁹ Since the launch of Spaces, the Taliban has used it to communicate and recruit, and white supremacists have used it to recruit and spread propaganda.⁶⁵⁰ An internal company report since the launch of Spaces found:

We did not prioritize identifying and mitigating against health and safety risks before launching Spaces. This Red Team occurred too late. Despite critical investments in the first year and a half of building Spaces, we have been largely reactive to the real-world harms inflicted by malicious actors in Spaces. We have over relied on the general public to identify problems. We

⁶⁴⁴ *Id.*

⁶⁴⁵ Twitter, *Twitter Trends FAQ* (accessed Oct. 7, 2022) (<https://help.twitter.com/en/using-twitter/twitter-trending-faqs>).

⁶⁴⁶ Robyn Caplan and Danah Boyd, *Who Controls the Public Sphere in an Era of Algorithms?*, Data and Society (May 13, 2016) (https://datasociety.net/pubs/ap/MediationAutomationPower_2016.pdf). See also Alice Marwick and Rebecca Lewis, *Media Manipulation and Disinformation Online*, Data Society (May 15, 2017) (https://datasociety.net/pubs/oh/DataAndSociety_MediaManipulationAndDisinformationOnline.pdf).

⁶⁴⁷ Digital Citizens Alliance, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf). See also Anna North, *How #SaveTheChildren is pulling American moms into QAnon*, Vox (Sep. 18, 2020) (<https://www.vox.com/21436671/save-our-children-hashtag-qanon-pizzagate>).

⁶⁴⁸ Twitter, *About Twitter Spaces* (accessed Oct. 7, 2022) (<https://help.twitter.com/en/using-twitter/spaces/>); Elizabeth Dwoskin, et al., *Racists and Taliban supporters have flocked to Twitter’s new audio services after executives ignored warnings*, Washington Post (Dec. 10, 2021) (<https://www.washingtonpost.com/technology/2021/12/10/twitter-turmoil-spaces/>).

⁶⁴⁹ Elizabeth Dwoskin, et al., *Racists and Taliban supporters have flocked to Twitter’s new audio services after executives ignored warnings*, Washington Post (Dec. 10, 2021) (<https://www.washingtonpost.com/technology/2021/12/10/twitter-turmoil-spaces/>).

⁶⁵⁰ *Id.*

have launched products and features without adequate exploration of potential health implications.⁶⁵¹

In September 2022, former Twitter Chief Security Officer Mr. Peiter “Mudge” Zatkó filed a whistleblower complaint against the company.⁶⁵² Mr. Zatkó discussed his allegations before the Senate Judiciary Committee, including concerns over Twitter’s moderation in non-English languages, the product testing process, and Twitter executives prioritizing profits over growth and safety.⁶⁵³

4. YouTube

In October 2021, YouTube reported to the Committee that “over the last few years, we have significantly increased our investments in the systems and processes that allow us to remove violative content” and that it “has invested significantly” in both automated detection systems and human reviewers, with “thousands of people working across our teams to make sure we’re protecting our users.”⁶⁵⁴ However, similar to the other companies, the volume of violative content YouTube has reported removing is indicative of how pervasive such content is on its platform.

YouTube reported that it used human content moderation and machine learning systems to remove 150,000 videos for violent extremism between June and December 2017.⁶⁵⁵ Over three years later, the number of violative videos removed by YouTube had increased, as the platform removed 6.3 million videos for violating all Community Guidelines in the second quarter of 2021 alone, including over 431,000 videos that promoted violent extremism, with 94.4 percent reportedly detected by an automated flagging system.⁶⁵⁶ Another aspect of YouTube’s efforts to address violative content is “reducing the spread of borderline content, or content that does not quite cross the line of our policies for removal but that [YouTube does not] necessarily want to recommend to people.”⁶⁵⁷ However, by not removing this content, users can still find the content and share the link, for example, on other online platforms.⁶⁵⁸

⁶⁵¹ Zoe Schiffer and Casey Newton, *Twitter had a new plan to fight extremism – then Elon arrived*, Verge (Sep. 2, 2022) (<https://www.theverge.com/23334224/twitter-extremism-features-health-research-team-elon-musk-acquisition>).

⁶⁵² Joseph Menn, Elizabeth Dwoskin, and Cat Zakrzewski, *Former security chief claims Twitter buried ‘egregious deficiencies’*, Washington Post (Aug. 23, 2022) (https://www.washingtonpost.com/technology/interactive/2022/twitter-whistleblower-sec-spam/?itid=ap_josephmenn&itid=lk_inline_manual_4).

⁶⁵³ Senate Committee on the Judiciary, *Hearing on Data Security at Risk: Testimony from a Twitter Whistleblower*, 117th Cong. (Sep. 13, 2022) (S. Hrg. 117-XX).

⁶⁵⁴ Letter from Alexandra Veitch, YouTube, to Chairman Gary Peters (Oct. 11, 2021).

⁶⁵⁵ *Id.*

⁶⁵⁶ *Id.*

⁶⁵⁷ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Neal Mohan, Chief Product Officer, YouTube, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁶⁵⁸ Neal Mohan, *Inside Responsibility: What’s next on our Misinfo efforts*, YouTube (blog) (Feb 17, 2022) (<https://blog.youtube/inside-youtube/inside-responsibility-whats-next-on-our-misinfo-efforts/>).

In 2017, violent extremists and hate groups used YouTube to share videos that glorified and encouraged the groups' violent interactions at rallies in the lead-up to the Unite the Right rally in Charlottesville, VA, at which a neo-Nazi drove his car into a group of people, injuring nineteen and killing one woman.⁶⁵⁹ In 2019, a report issued after the domestic terrorist attack in Christchurch, New Zealand that killed 51 worshippers at a mosque found that the attacker had been radicalized online, primarily through YouTube videos.⁶⁶⁰ In the lead-up to the January 6th attack on the U.S. Capitol, rioters used social media including YouTube to organize and promote the Stop the Steal Rally, which promoted the false narrative that President Trump won the election.⁶⁶¹ Many rioters used YouTube to livestream and document their actions inside the U.S. Capitol during the attack, and some even used the streams to communicate through chats and ask for donations.⁶⁶² From September 1, 2020 to February 2, 2021, researchers found that 83 percent of engagement with the keywords "Stop the Steal" occurred on YouTube videos, which led to over 21 million views, 800 thousand likes, and 34 thousand dislikes in that time period.⁶⁶³ ADL found that one in ten YouTube users "viewed at least one video from an extremist channel (9.2 percent)."⁶⁶⁴ ADL researchers found "exposure to videos from extremist or white supremacist channels on YouTube remains disturbingly common."⁶⁶⁵ ADL researchers found the "financial incentives that YouTube provides based on viewership and watch time may encourage creators to appeal to people with extreme views and provoke controversy."⁶⁶⁶

⁶⁵⁹ Julia Carrie Wong, *A year after Charlottesville, why can't big tech delete white supremacists*, Guardian (July 25, 2018) (<https://www.theguardian.com/world/2018/jul/25/charlottesville-white-supremacists-big-tech-failure-remove>); A.C. Thompson, Ali Winston, and Darwin BondGraham, *Racist, Violent, Unpunished: A White Hate Group's Campaign of Menace*, ProPublica (Oct. 19, 2019) (<https://www.propublica.org/article/white-hate-group-campaign-of-menace-rise-above-movement>); Sheryl Gay Stolberg and Brian M. Rosenthal, *Man Charged After White Nationalist Rally in Charlottesville Ends in Deadly Violence*, New York Times (Aug. 12, 2017) (<https://www.nytimes.com/2017/08/12/us/charlottesville-protest-white-nationalist.html>).

⁶⁶⁰ Cecilia D'Anastasio, *The Christchurch Shooter and YouTube's Radicalization Trap*, Wired (Dec. 8, 2020) (<https://www.wired.com/story/christchurch-shooter-youtube-radicalization-extremism/>).

⁶⁶¹ Rebecca Heilweil and Shirin Ghaffary, *How Trump's internet build and broadcast the Capitol insurrection*, Vox (Jan. 8, 2021) (<https://www.vox.com/recode/22221285/trump-online-capitol-riot-far-right-parlertwitter-facebook>); Julia Alexander, Jacob Kastrenakes, and Bijan Stephen, *How Facebook, Twitch, and YouTube are handling live streams of the Capitol mob attack*, Verge (Jan. 6, 2021) (<https://www.theverge.com/2021/1/6/22217421/capitol-building-trump-mob-protest-live-stream-youtube-twitchfacebook>).

⁶⁶² *Id.*

⁶⁶³ Atlantic Council DFR Lab, *#StopTheSteal: Timeline of Social Media and Extremist Activities Leading to 1/6 Insurrection*, Just Security (Feb. 10, 2021) (<https://www.justsecurity.org/74622/stopthesteal-timelineof-social-media-and-extremist-activities-leading-to-1-6-insurrection/>).

⁶⁶⁴ Anti-Defamation League, *Exposure to Alternative & Extremist Content on YouTube* (May 3, 2022) (<https://www.adl.org/resources/report/exposure-alternative-extremist-content-youtube>).

⁶⁶⁵ *Id.*

⁶⁶⁶ *Id.*

D. Business Models at Odds with Safety: Recommendation Algorithms and Company Incentives

This investigation found that each of these companies' business models are designed to increase user engagement (i.e., keep people viewing content online) and that, as experts testified before this Committee, more extreme content tends to increase user engagement, thus leading such content to be amplified.⁶⁶⁷ During an October 2021 hearing on "Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content," the Committee heard testimony from expert witnesses that social media companies' business models are at odds with their stated efforts to reduce violative and extreme content on their platforms. Nathaniel Persily, Ph.D., the Co-Director of Stanford's Cyber Policy Center, testified that these platforms are not content-neutral spaces that merely provide equal access to a "new public square," but rather, "the algorithms prioritize certain communication over others; they do not allow every speaker to have access to every willing listener at every given time. ... [T]he platforms' decisions to prioritize some content over others – and therefore give it 'reach' – creates greater responsibility than if the platform were merely hosting all comers or prioritized information on a first-come-first-served basis."⁶⁶⁸

The witnesses stated the reason these companies' platforms end up amplifying hateful, extreme, and even dangerous content is because their business models rely on advertising revenue, which increases as users spend more time on the platform – and the companies "know that this content generates the most engagement and, therefore, the most profit."⁶⁶⁹ Therefore, the proliferation of violative and extreme content on these platforms is a direct consequence of these companies' intentional design of their platforms. Mary Anne Franks, Professor of Law and Michael R. Klein Distinguished Scholar Chair at the University of Miami, testified that "Facebook and other tech companies have known for years that a business model focused on what is euphemistically called 'engagement' is ripe for exploitation and abuse."⁶⁷⁰ As Mr. Sifry

⁶⁶⁷ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁶⁸ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Nathaniel Persily, Stanford Law School, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁶⁹ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of David Sifry, Anti-Defamation League, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX); Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Cathy O'Neil, O'Neil Risk Consulting and Algorithmic Auditing, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁷⁰ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Mary Anne Franks, University of Miami, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

stated, “the existence and viral amplification of hate content and disinformation is a feature, not a bug, of social media platforms.”⁶⁷¹

That amplification can have far-reaching consequences. Karen Kornbluh, Director of the Digital Innovation and Democracy Initiative and Senior Fellow at The German Marshall Fund of the United States, explained how the platforms’ algorithms “lead some users down information ‘rabbit holes’ into increasingly narrow echo chambers where violent conspiracy theories thrive,” citing examples from Facebook, TikTok, and YouTube, and noting that the radicalization through algorithms has resulted in violence.⁶⁷² As Mr. Sifry summarized the issue:

Social media’s amplification of extremism, disinformation and conspiracy theories is one of the greatest threats to democracy in this country and to the safety of vulnerable individuals and communities worldwide. [...] The persistent presence and amplification of hate, bigotry, and conspiracy theories on social media platforms has created an environment for extremism to flourish. This content, in turn, inspires individuals to commit acts of violence and domestic terrorism.⁶⁷³

In response, these companies have argued that it is not in their interest to have violative content on their platforms, as “advertisers don’t want their brands, products, or services to appear anywhere near harmful content. They will simply pull their ads.”⁶⁷⁴ However, Twitter’s former Senior Vice President for Engineering Alex Roetter noted at the Committee’s September 2022 hearing that the culture within these companies contradicts this argument. According to Mr. Roetter’s testimony, within these companies, “[a] significant premium is placed on not slowing down the pace of development through reviews or bureaucracy.” Mr. Roetter explained that this means social media companies intentionally deemphasize addressing risks in favor of quicker

⁶⁷¹ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of David Sifry, Anti-Defamation League, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁷² Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Karen Kornbluh, German Marshal Fund of the United States, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁷³ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of David Sifry, Anti-Defamation League, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX); National Library of Medicine, *Social Media Effects: Hijacking Democracy and Civility in Civic Engagement*, National Center for Biotechnology Information (Feb. 27, 2020) (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7343248/>). Conspiracy theories and misinformation are increasingly tied to violent extremism, and both at home and abroad, social media remains a powerful tool for disseminating misinformation and organizing attacks. Government Accountability Office, *Trends Affecting Government and Society* (GAO-22-3SP) (Mar. 15, 2022); Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of David Sifry, Anti-Defamation League, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁷⁴ Senate Committee on Homeland Security and Governmental Affairs, Opening Statement of Jay Sullivan, General Manager of Bluebird, Twitter, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

release of products.⁶⁷⁵ Similarly, Meta’s former executive Brian Boland testified that “[w]hile the company has made investments in safety, those investments are routinely abandoned if they will impact company growth.”⁶⁷⁶

In their written responses to Chairman Peters’ inquiries and in interviews with Committee staff, Meta, TikTok, Twitter, and YouTube stated that they prioritize trust and safety and noted that they have invested heavily in content moderation.⁶⁷⁷ All four platforms stated that they have standards in place to prevent their recommendation algorithms from promoting content that falls outside their community guidelines.⁶⁷⁸ However, these companies’ content moderation practices have been inadequate to mitigate the proliferation of extremist content that their own recommendation algorithms, products, and features are spreading.⁶⁷⁹

1. Meta

In the case of Meta, internal documents provided to the Committee by former Product Manager Frances Haugen demonstrate that Meta (then known as Facebook) was aware of the harm its recommendation algorithm was having on users, with internal research showing that its own recommendations were driving harmful and violative content, and that content moderation efforts were not adequately addressing the issues. As shown in Figure 7, in an April 2019 internal company memo about the effects of recommendation algorithm changes on political discourse, Meta researchers wrote, “posts with negatively charged comment threads fared better in Feed. In fact, negative sentiment increased outbound clicks, suggesting that if you wanted to get traffic from Facebook, it was highly advantageous to skew negative.”⁶⁸⁰

⁶⁷⁵ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Alex Roetter, Former Senior Vice President of Engineering, Twitter, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁶⁷⁶ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Brian Boland, Former Vice President of Partnerships Product Marketing, Partner Engineering, Marketing, Strategic Operations, and Analytics, Meta, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

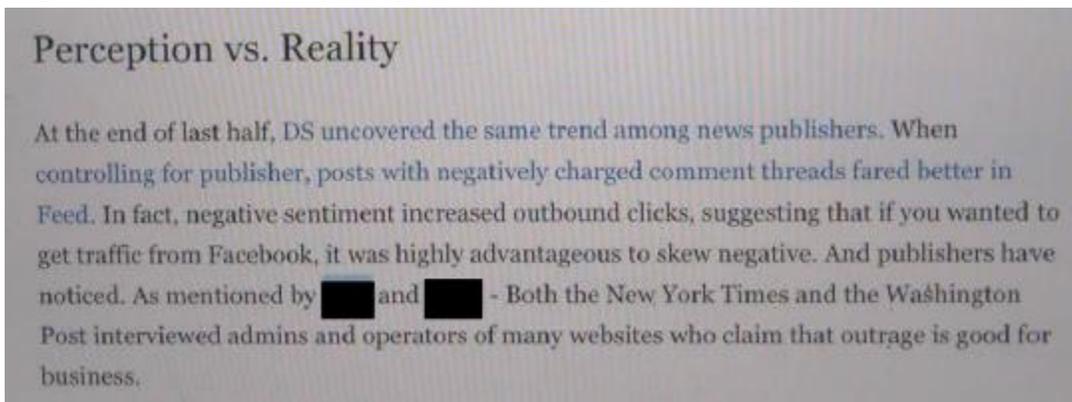
⁶⁷⁷ Letter from Meta to Chairman Gary Peters (Oct. 5, 2021); Letter from K&L Gates LLP on behalf of TikTok, to Chairman Gary Peters (Nov. 9, 2021); Letter from Jessica Herrera-Flanigan, Twitter, to Chairman Gary Peters (Oct. 4, 2021); Letter from Alexandra Veitch, YouTube, to Chairman Gary Peters (Oct. 11, 2021).

⁶⁷⁸ Chris Cox, Chief Product Officer, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 20, 2022); Neal Mohan, Chief Product Officer, YouTube, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 31, 2022); Vanessa Pappas, Chief Operating Officer, TikTok, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 18, 2022); Kayvon Beykpour, General Manager of Bluebird, Twitter, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 28, 2022).

⁶⁷⁹ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁸⁰ Meta, *Political Party Response to ’18 Algorithm Change* (Apr. 1, 2019) (on file with Committee).

Figure 7: Political Party Response to '18 Algorithm Change



Source: Internal Meta memo, “Political Party Response to ‘18 Algorithm Change” (Apr. 2019). Provided to the Committee by Frances Haugen.

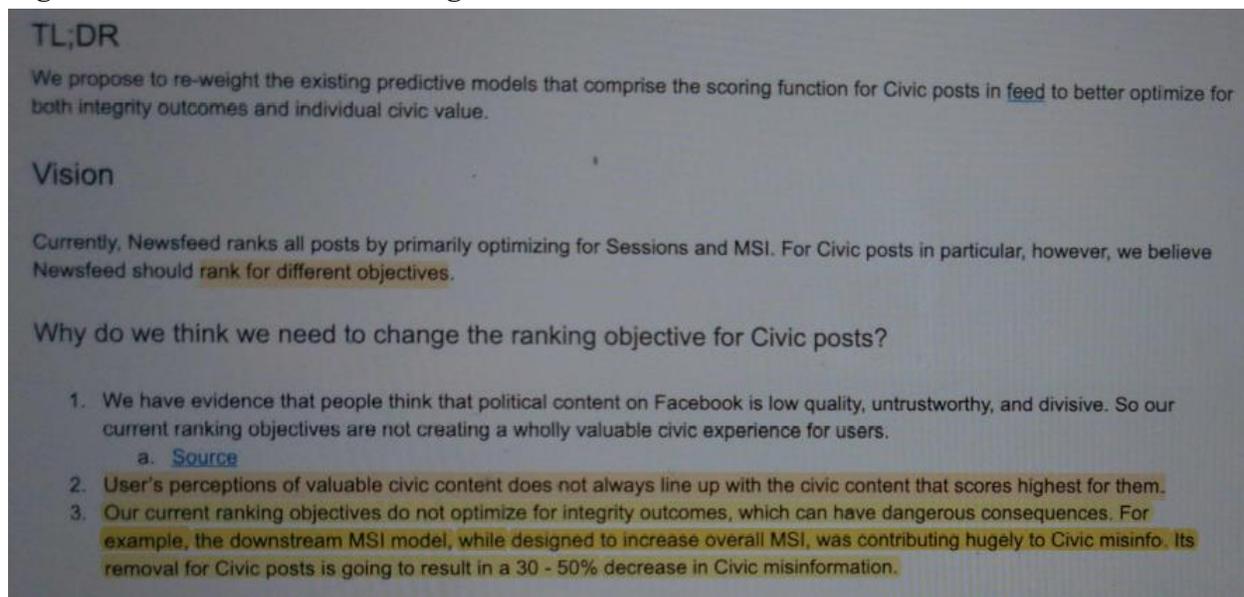
A December 2019 internal company document entitled “We are Responsible for Viral Content” stated that “research has shown how outrage and misinformation are more likely to be viral, and recent experiments that deprecate these models indicate that removing these models does positively impact metrics for misinformation and hate.”⁶⁸¹ In another internal memo, shown in Figure 8, Meta researchers wrote: “Our current ranking objectives do not optimize for integrity outcomes, which can have dangerous consequences.”⁶⁸² The researchers wrote that the “downstream MSI [Meaningful Social Interaction] model,” which was intended to recommend more meaningful content to users, “was contributing hugely to Civic misinfo. Its removal for Civic posts is going to result in a 30 – 50% decrease in Civic misinformation.”⁶⁸³

⁶⁸¹ Meta, *We are Responsible for Viral Content* (Dec. 11, 2019) (on file with Committee).

⁶⁸² Meta, *Product Brief: Ranking for Civic Health* (Feb. 2020) (on file with Committee).

⁶⁸³ *Id.*

Figure 8: Product Brief: Ranking for Civic Health

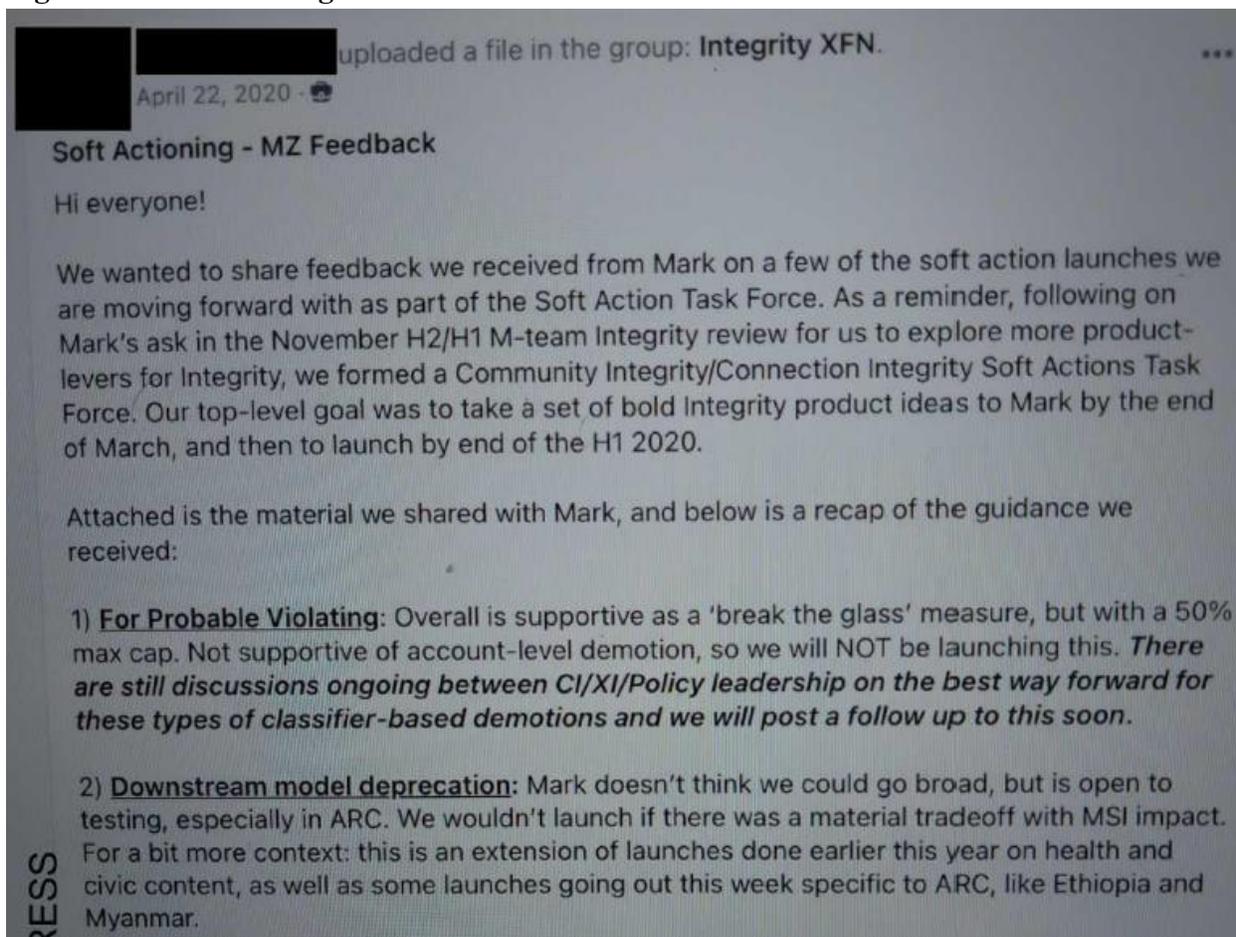


Source: Internal Meta memo, "Product Brief: Ranking for Civic Health." Provided to the Committee by Frances Haugen.

Despite awareness that its recommendation algorithms were contributing to the spread of harmful content, Meta executives chose not make changes that its own researchers recommended to address the issues, out of concern that the changes would negatively affect user engagement on the platform. As shown in Figure 9, an April 2020 internal Meta memo reported the results of a review that CEO Mark Zuckerberg requested "to explore more product-levers for Integrity." In response to the review team's "Downstream model deprecation" proposal, which would change the way Facebook's algorithms ranked content and which the Facebook review team estimated could reduce civic and health misinformation, the memo stated that "Mark doesn't think we could go broad, but is open to testing, especially in ARC. We wouldn't launch if there was a material tradeoff with MSI [Meaningful Social Interaction] impact."⁶⁸⁴

⁶⁸⁴ Meta, *Soft Actioning - MZ Feedback* (Apr. 22, 2020) (on file with Committee); Elizabeth Dwoskin, Tory Newmyer, and Shibani Mahtani, *The case against Mark Zuckerberg: Insiders say Facebook's CEO chose growth over safety*, Washington Post (Oct. 25, 2021) (<https://www.washingtonpost.com/technology/2021/10/25/mark-zuckerberg-facebook-whistleblower/>); Keach Hagey and Jeff Horwitz, *Facebook Tried to Make Its Platform a Healthier Place. It Got Angrier Instead.*, Wall Street Journal (Sep. 15, 2021) (<https://www.wsj.com/articles/facebook-algorithm-change-zuckerberg-11631654215>).

Figure 9: Soft Actioning – MZ Feedback



Source: Internal Meta memo, “Soft Actioning - MZ Feedback” (Apr. 22, 2020). Provided to the Committee by Frances Haugen.

In an interview with Committee staff, Meta’s Head of the Facebook App Tom Alison acknowledged that Facebook users can be attracted to sensationalist content, and that Meta’s response is to have a policy against recommending violative or borderline content and work to reduce the distribution of certain problematic content.⁶⁸⁵ In a separate interview with Committee staff, Meta’s Chief Product Officer Chris Cox stated that it is not realistic to completely eliminate borderline content, citing the example of crime in a city.⁶⁸⁶ However, the internal documents also show that Meta was aware that its recommendation algorithms can lead users down “rabbit holes” of increasingly extreme content. A 2019 internal company memo describes the results of a research study called “Carol’s Journey” in which Meta researchers created a fake account with general interests in conservative news and humor, with the goal to “identify potential misinformation and polarization risks that users may be exposed to through the

⁶⁸⁵ Tom Alison, Head of Facebook App, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 27, 2022).

⁶⁸⁶ Chris Cox, Chief Product Officer, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 20, 2022).

Recommendations surfaced to them on platform[...]"⁶⁸⁷ As shown in Figures 10 and 11, the study found that “within just one day Page recommendations had already devolved towards polarizing content,” after only 2 days the user’s Page “began to include conspiracy recommendations,” in less than 1 week it received a recommendation for QAnon content, and “by the end of 3 weeks’ time, the test account feed became a constant flow of misleading, polarizing, and low quality content.”⁶⁸⁸

Figure 10: Carol’s Journey to QAnon – A Test User Study of Misinfo & Polarization Risks Encountered through Recommendation Systems (Part 1), Findings

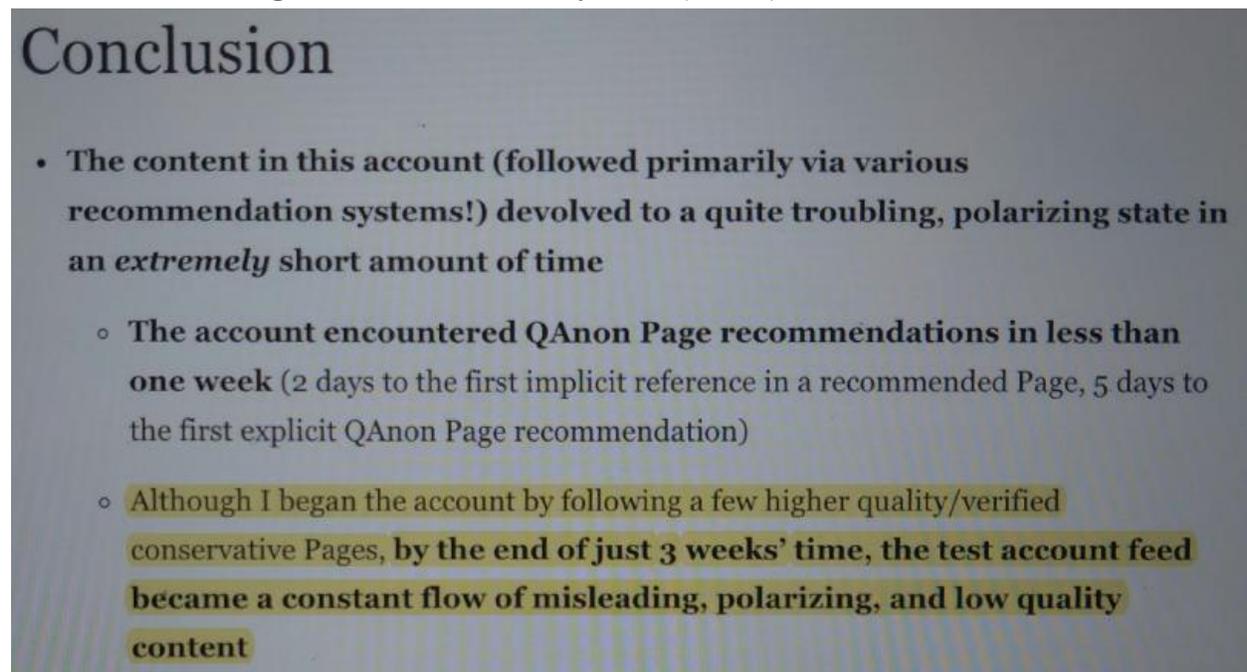
- After a small number of high quality/verified conservative interest follows (Fox News, Donald Trump, Melania Trump--all official pages), **within just one day Page recommendations had already devolved towards polarizing content**
- Although the account set out to follow conservative political news and humor content generally, and began by following verified/high quality conservative pages, **Page recommendations began to include conspiracy recommendations after only 2 days (it took < 1 week to get a QAnon recommendation!)**
- Group recommendations were slightly slower to follow suit – **it took 1 week for in-feed GYSJ recommendations to become fully political/right-leaning, and just over 1 week to begin receiving conspiracy recommendations.**

Source: Internal Meta memo, “Carol’s Journey to QAnon - A Test User Study of Misinfo & Polarization Risks Encountered through Recommendation Systems (Part 1)” (Jul. 1, 2019). Provided to the Committee by Frances Haugen.

⁶⁸⁷ Meta, *Carol’s Journey to QAnon – A Test User Study of Misinfo & Polarization Risks Encountered through Recommendation Systems (Part 1)* (July 1, 2019) (on file with Committee).

⁶⁸⁸ *Id.*

Figure 11: Carol’s Journey to QAnon – A Test User Study of Misinfo & Polarization Risks Encountered through Recommendation Systems (Part 1), Conclusion



Source: Internal Meta memo, “Carol’s Journey to QAnon - A Test User Study of Misinfo & Polarization Risks Encountered through Recommendation Systems (Part 1)” (Jul. 1, 2019). Provided to the Committee by Frances Haugen.

Even before that study, Meta was aware of the issue of its recommendation algorithms pushing extremist content, in particular with its Groups feature. In 2016, internal Meta research reportedly found extremist content in over one-third of Facebook Groups for large German political groups.⁶⁸⁹ The research further found that “64% of all extremist group joins are due to [Meta’s] recommendation tools,” such as the “Discover” and “Groups You Should Join” features.⁶⁹⁰ The researchers concluded: “Our recommendation systems grow the problem.”⁶⁹¹

Some critics have charged that Meta has a culture of willful ignorance about the harms its features and products may be causing.⁶⁹² In response to written questions for the record following the Committee’s September 2022 hearing, Meta reported to the Committee that the company does not track data to measure whether certain user demographics see a

⁶⁸⁹ Jeff Horwitz and Deepa Seetharaman, *Facebook Executives Shut Down Efforts to Make the Site Less Divisive*, Wall Street Journal (May 26, 2020) (<https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499>).

⁶⁹⁰ *Id.*

⁶⁹¹ *Id.*

⁶⁹² Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Mary Anne Franks, University of Miami, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

disproportionate amount of harmful content on the company’s platforms.⁶⁹³ In response to Committee staff’s questions about whether Meta bore any responsibility for the growth of QAnon, Chris Cox—who resumed his role as Chief Product Officer in June 2020—stated that he had not looked into the issue, and Meta noted that other officials at the company are looking at Meta’s role in the growth of QAnon.⁶⁹⁴ In a separate interview with Committee staff, Meta’s Head of the Facebook App Tom Alison stated that the company does research on a variety of topics, including on how certain groups are organizing and operating on the platform. When asked specifically whether Meta has conducted research to evaluate whether the company’s algorithms promote misinformation and extreme content, Mr. Alison stated that he believed the company had conducted such research, but he could not point to any specific research and Meta has since not provided the Committee with any such research.⁶⁹⁵

However, as Haugen’s documents demonstrate, Meta has conducted internal research such as the “Carol’s Journey” experiment that documented that problem.⁶⁹⁶ In the interview with Committee staff, Mr. Alison then acknowledged this research, and said that the company has since strengthened its policies to prevent its recommendation algorithms from recommending borderline content, and it banned content related to QAnon.⁶⁹⁷

As witnesses testified before the Committee in October 2021, social media companies like Meta have structural incentive systems that focus on growth and engagement at the expense of ensuring new products or features do not negatively affect safety.⁶⁹⁸ Mary Anne Franks, Professor of Law and Michael R. Klein Distinguished Scholar Chair at the University of Miami, testified that Meta’s approach is to “aggressively push new, untested, and potentially dangerous products into the public realm and worry about the consequences later, if at all. ... ‘move fast and break things’ still seems to be an accurate description of [Meta’s] philosophy.”⁶⁹⁹

A former Meta executive further confirmed these incentive structures at the Committee’s September 2022 hearing. Brian Boland, former Facebook Vice President for Partnerships

⁶⁹³ Senate Committee on Homeland Security and Governmental Affairs, Written Responses to Questions for the Record of Meta, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁶⁹⁴ Chris Cox, Chief Product Officer, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 20, 2022).

⁶⁹⁵ Tom Alison, Head of Facebook App, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 27, 2022).

⁶⁹⁶ Meta, *Carol’s Journey to QAnon – A Test User Study of Misinfo & Polarization Risks Encountered through Recommendation Systems (Part 1)* (July 1, 2019) (on file with Committee).

⁶⁹⁷ Tom Alison, Head of Facebook App, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 27, 2022).

⁶⁹⁸ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁶⁹⁹ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Mary Anne Franks, University of Miami, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

Product Marketing, Partner Engineering, Marketing, Strategic Operations, & Analytics, described Meta’s “growth over safety incentive structures that lead to products that are designed and built without a focus on user safety.”⁷⁰⁰ Regarding the Facebook News Feed, Mr. Boland stated, “the focus on and investments in safety remained small and siloed.”⁷⁰¹ Mr. Boland further testified:

While the company has made investments in safety, those investments are routinely abandoned if they will impact company growth. My experience at Facebook was that rather than seeking to find issues on the platform first they would rather reactively work to mitigate the PR risk for issues that came to light.⁷⁰²

As noted previously, Meta told the Committee that it invested more than \$13 billion in safety and security teams – and in recent advertisements, the company has stated that it spent \$16 billion on safety and security in 6 years.⁷⁰³ However, as a point of comparison, the company spent over \$25 billion on research and development in the first three quarters of 2021 and over \$44 billion on stock buybacks in 2021 alone, illustrating the relative value the company places on safety and security.⁷⁰⁴ According to data Meta provided in response to written questions for the record following the Committee’s September 2022 hearing, the number of full-time engineers who work on developing the company’s “family of apps and building the metaverse” is over six times the number of engineers who work full-time on ensuring the trust and safety or integrity of the platforms.⁷⁰⁵

In response to Committee staff’s questions about whether product teams have defined risk tolerances for any negative impact a new product could have on integrity metrics, Meta’s Chief Product Officer Chris Cox stated he was not involved in the details of that issue but that in general, the company is constantly trying to improve and prevent regressions in integrity metrics.

⁷⁰⁰ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁷⁰¹ *Id.*

⁷⁰² *Id.*

⁷⁰³ Meta, Promoting Safety and Expression (accessed Oct. 6, 2022) (<https://about.facebook.com/actions/promoting-safety-and-expression/>); Meta Briefing with the Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 3, 2021); Letter from Meta to Chairman Gary Peters (Oct. 5, 2021). Meta has since stated that it has spent \$16 billion on safety and security in 6 years. Meta, Facebook is taking action to keep its platform safe (accessed Oct. 6, 2022) (<https://about.facebook.com/progress/>); Meta, TV Spot: Safety and Security (May 31, 2022) (<https://www.ispot.tv/ad/bCqt/facebook-safety-and-security#:~:text=Facebook%20says%20over%2040%2C000%20people,in%20the%20last%20six%20years>).

⁷⁰⁴ Senate Committee on Homeland Security and Governmental Affairs, Written Responses to Questions for the Record of Meta, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX); Meta, *Meta Reports Fourth Quarter and Full Year 2021 Results* (Feb. 2, 2022) (<https://investor.fb.com/investor-news/press-release-details/2022/Meta-Reports-Fourth-Quarter-and-Full-Year-2021-Results/default.aspx>).

⁷⁰⁵ Senate Committee on Homeland Security and Governmental Affairs, Written Responses to Questions for the Record of Meta, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

When asked whether Meta teams consider standard metrics when testing all new products, Mr. Cox told Committee staff that he does not review specific measures, but Meta teams evaluate potential impacts to integrity.⁷⁰⁶

Mr. Boland also testified that Meta’s employee evaluation system incentivizes growth at the expense of safety. Mr. Boland stated that Meta employees are evaluated and rewarded based on “highly quantifiable product metrics” that focus on “the growth of their product or feature - are more people using it, is revenue growing, etc. [...] While user engagement and revenue metrics may be standard, user safety metrics are not.”⁷⁰⁷ Mr. Cox told Committee staff that compensation (including salaries and bonuses) for Meta employees may take into account the growth of the platform and products, among other criteria and depending on the role of the employee, but that he was not aware of any growth metrics that are specifically quantified when determining compensation.⁷⁰⁸ In a separate interview, Mr. Alison (Meta’s Head of the Facebook App) stated that some teams that work on Facebook’s News Feed are evaluated based on how effectively they have improved safety, and that the company has many different teams with different goals and objectives that determine how employees are evaluated, but he declined to specifically address whether all News Feed employees are evaluated based on safety criteria.⁷⁰⁹

As Cathy O’Neil, Chief Executive Officer of O’Neil Risk Consulting & Algorithmic Auditing, testified before the Committee, it is difficult for outside researchers to audit or glean insights on the inner-workings of the Meta recommendation algorithms, as the company is hesitant to allow external experts access to its information.⁷¹⁰ In August 2021, researchers from the New York University Ad Observatory were kicked off the platform for collecting information on targeted COVID-19 advertising on Facebook.⁷¹¹ In a recent study on racially or ethnically motivated violent extremism on social media, the RAND Corporation could not include Facebook in its study because:

Facebook generally does not allow its data to be readily accessed for public research, particularly data that would include network connections, and it has

⁷⁰⁶ Chris Cox, Chief Product Officer, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 20, 2022).

⁷⁰⁷ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Brian Boland, Former Vice President of Partnerships Product Marketing, Partner Engineering, Marketing, Strategic Operations, and Analytics, Meta, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁷⁰⁸ Chris Cox, Chief Product Officer, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 20, 2022).

⁷⁰⁹ Tom Alison, Head of Facebook App, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 27, 2022).

⁷¹⁰ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Cathy O’Neil, O’Neil Risk Consulting and Algorithmic Auditing, *Hearing on Social Media Platforms and the Amplification of Domestic Extremism & Other Harmful Content*, 117th Cong. (Oct. 28, 2021) (S. Hrg. 117-XX).

⁷¹¹ Shannon Bond, *NYU Researchers Were Studying Disinformation On Facebook. The Company Cut Them Off*, NPR (Aug. 4, 2021) (<https://www.npr.org/2021/08/04/1024791053/facebook-boots-nyu-disinformation-researchers-off-its-platform-and-critics-cry-f>).

hidden internal research on such topics as extremism. This is despite the fact that Facebook’s algorithms, according to the company’s own research, often have directed users to extreme content, and that Facebook has failed to remove known extremist movements or extremist content from its platforms.⁷¹²

Mr. Boland, the former Meta executive, also emphasized these concerns at the Committee’s September 2022 hearing, describing the “unprecedented lack of public transparency available from these platforms to analyze content and understand the impact from these tools.”⁷¹³

In an interview with Committee staff regarding Meta’s Oversight Board, Meta’s then-Vice President of Product Guy Rosen acknowledged that the company knows it can and should be more transparent, and that there is ongoing dialogue with the Oversight Board on how the company can be more transparent.⁷¹⁴ Despite this acknowledgement, Meta has allowed CrowdTangle – a social media analytics tool acquired by Meta in 2016 that was previously hailed as “perhaps the most effective transparency tool in the history of social media” – to effectively dissolve and cease functions.⁷¹⁵

Of the limited external research on Facebook’s recommendation algorithms, the RAND Corporation previously found that extremist groups use Facebook to amplify crowdfunding and expand their reach.⁷¹⁶ This study, in line with the aforementioned internal Meta research, found that the mechanics of social media platforms foster a sense of group identification by normalizing previously taboo views and reinforcing adherence to group values, norms, and attitudes.⁷¹⁷ This is especially relevant on Facebook, which RAND determined “encouraged the spread of misinformation and malicious content by boosting the dissemination of content that angered viewers.”⁷¹⁸

⁷¹² Heather J. Williams, et al., *Mapping White Identity Terrorism and Racially or Ethnically Motivated Violent Extremism: A Social Network Analysis of Online Activity*, Rand Corporation (2022) (https://www.rand.org/pubs/research_reports/RRA1841-1.html).

⁷¹³ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Brian Boland, Former Vice President of Partnerships Product Marketing, Partner Engineering, Marketing, Strategic Operations, and Analytics, Meta, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁷¹⁴ Guy Rosen, Chief Information Security Officer, Meta, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 20, 2022) (stated during Meta Chief Product Officer Chris Cox’s interview with Senate Homeland Security and Governmental Affairs staff).

⁷¹⁵ Senate Committee on the Judiciary, Testimony Submitted for the Record of Brandon Silverman, CrowdTangle, *Hearing on Platform Transparency: Understanding the Impact of Social Media*, 117th Cong. (May 4, 2022) (S. Hrg. 117-XX).

⁷¹⁶ Alexandra T. Evans and Heather J. Williams, *How Extremism Operates Online: A Primer*, Rand Corporation (2022) (<https://www.rand.org/pubs/perspectives/PEA1458-2.html>).

⁷¹⁷ *Id.*

⁷¹⁸ Alexandra T. Evans and Heather J. Williams, *How Extremism Operates Online: A Primer*, Rand Corporation (2022) (<https://www.rand.org/pubs/perspectives/PEA1458-2.html>). A contemporaneous study based on a large-scale audit of 30,925 videos posted on 349 channels (and the approximately 72 million associated comments)

Meta recently announced that it plans to change its News Feed recommendation algorithm to prioritize content that a user is more likely to engage with, rather than the previous prioritization of Facebook friends' posts.⁷¹⁹ Facebook whistleblower Francis Haugen recently expressed concern over this planned change, noting that Meta's own research has shown that users see less hate speech and violent content in their feeds when shown content from their friends.⁷²⁰

2. TikTok

TikTok's recommendation algorithms are some of the most opaque of these social media companies, with little research performed on their functions and implications.⁷²¹ However, similar to Meta, TikTok uses recommendation algorithms based on user engagement data, focusing on time spent consuming individual pieces of content.⁷²² TikTok relies less on social relationships, and instead assigns users categorical tags based on the content they interact with and promotes videos based on this continued consumption.⁷²³ In an investigation, the Wall Street Journal found that 90 to 95 percent of all videos a TikTok user will consume come from the recommendation algorithms, and that TikTok's algorithm directed accounts with "a general interest in politics" to videos "about election conspiracies and QAnon."⁷²⁴ In another analysis, Media Matters for America found that TikTok's recommendation algorithms circulate extremist content, including videos involving the Three Percenters, QAnon, Patriot Party, and Oath Keepers.⁷²⁵ Despite the fact that content relating to those groups is banned on TikTok, Media Matters found that "the company's algorithm appears to be both circulating their content and helping them to expand their following," noting that "it doesn't even require users to seek them out; TikTok hand-delivers the extremist movements to its users, many of whom are 14 or younger."⁷²⁶ Media Matters concluded that the "accelerated pattern of recommendations is

found evidence that "users consistently migrate from milder to more extreme content." Manoel Horta Ribeiro, et al., *Auditing Radicalization Pathways on YouTube*, Cornell University (Oct. 21, 2021).

⁷¹⁹ Mike Isaac, *Meta tweaks Facebook app to act more like TikTok*, New York Times (July 21, 2022) (<https://www.nytimes.com/2022/07/21/technology/facebook-app-changes-home.html>); Alex Heath, *Facebook is changing its algorithm to take on TikTok, leaked memo reveals*, Verge (June 15, 2022) (<https://www.theverge.com/2022/6/15/23168887/facebook-discovery-engine-redesign-tiktok>).

⁷²⁰ Queenie Wong, *Facebook Is Trying to Be More Like TikTok. Whistleblower Says It's a 'Bad Idea'*, CNET (Sep. 6, 2022) (<https://www.cnet.com/news/social-media/facebook-is-trying-to-be-more-like-tiktok-whistleblower-says-its-a-bad-idea/>).

⁷²¹ *Investigation: How TikTok's Algorithm Figures Out Your Deepest Desires*, Wall Street Journal (July 21, 2021) (<https://www.wsj.com/video/series/inside-tiktoks-highly-secretive-algorithm/investigation-how-tiktok-algorithm-figures-out-your-deepest-desires/6C0C2040-FF25-4827-8528-2BD6612E3796>) (hereinafter "TikTok Algorithms").

⁷²² *Id.*

⁷²³ *Id.*

⁷²⁴ *Id.*

⁷²⁵ Olivia Little, *TikTok is promoting users to follow far-right extremist accounts*, Media Matters (Mar. 26, 2021) (<https://www.mediamatters.org/tiktok/tiktok-prompting-users-follow-far-right-extremist-accounts>).

⁷²⁶ *Id.*

alarming and has the potential to push TikTok users down a far-right rabbit hole, further populating user feeds with the sort of extremist movements behind the Capitol attack.”⁷²⁷

In an interview with Committee staff, TikTok’s Chief Operating Officer Vanessa Pappas acknowledged that there could be problems with algorithms that are designed to recommend content. Ms. Pappas emphasized that extreme content is against the company’s community guidelines and therefore would not be expected to be found on the platform. However, she acknowledged that she did not believe TikTok had conducted research to evaluate whether the company’s algorithms promote extreme content.⁷²⁸ In a separate interview with Committee staff, when asked whether TikTok has conducted research to evaluate whether the company’s algorithms promote extreme content, TikTok’s Head of U.S. Safety Eric Han stated that the company looks at the issue internally but Mr. Han did not provide any specific research.⁷²⁹

Ms. Pappas told Committee staff that not every TikTok employee is necessarily measured on trust and safety metrics, and that while employees are compensated based on their performance—which for many product developers includes trust and safety issues broadly—there is no measure of trust and safety that directly affects compensation.⁷³⁰ According to data TikTok provided in response to written questions for the record following the Committee’s September 2022 hearing, the number of engineers who focus on product development is approximately five times the number of engineers who focus on trust and safety.⁷³¹ Regarding transparency, Ms. Pappas told Committee staff that the company can and should be working on providing outside researchers access to data about how the platform works.⁷³² TikTok announced in March 2020 plans to establish the TikTok Transparency Center to allow researchers direct access to TikTok’s “moderation systems, processes and policies in a holistic manner.”⁷³³ However, due to the COVID-19 pandemic, “the physical opening of [TikTok’s] Transparency and Accountability Centers has been delayed,” but guests may take virtual tours of the center.⁷³⁴ TikTok announced in July 2022 an expansion of research access to include

⁷²⁷ *Id.*

⁷²⁸ Vanessa Pappas, Chief Operating Office, TikTok, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 18, 2022).

⁷²⁹ Eric Han and Joshua Goodman, TikTok Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 27, 2021).

⁷³⁰ Vanessa Pappas, Chief Operating Office, TikTok, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 18, 2022).

⁷³¹ Senate Committee on Homeland Security and Governmental Affairs, Written Responses to Questions for the Record of TikTok, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁷³² Vanessa Pappas, Chief Operating Office, TikTok, Interview with Senate Committee on Homeland Security and Governmental Affairs (May 18, 2022).

⁷³³ Vanessa Pappas, *TikTok to launch Transparency Center for moderation and data practice* (Mar. 11, 2020) (<https://newsroom.tiktok.com/en-us/tiktok-to-launch-transparency-center-for-moderation-and-data-practices>).

⁷³⁴ TikTok, Transparency Center (accessed Oct. 26, 2022) (<https://tiktok.com/transparency/en-us/>).

Application Programming Interface (API) access to the platform and content moderation systems, along with other transparency measures.⁷³⁵

3. Twitter

Twitter employs a recommendation algorithm to generate lists of accounts to follow based on factors such as user engagement with similar accounts, topics users can follow, and a user's geographic location and contacts.⁷³⁶ A 2018 Knight Foundation study “examined more than 10 million tweets from 700,000 Twitter accounts that linked to more than 600 fake and conspiracy news sites.”⁷³⁷ The study found over 6.6 million Tweets linking to fake and conspiracy news outlets in the month before the 2016 election, and 4 million such Tweets from mid-March to mid-April 2017.⁷³⁸ Another study found that Twitter's algorithmic timelines exposed users to an increased proportion of “junk news.”⁷³⁹

In 2021, Twitter announced that the company had conducted research examining its algorithms' impact on content from “elected leaders from major political parties” from several countries and content from “far-left and far-right political groups.”⁷⁴⁰ The research found that Twitter's algorithms had been giving greater amplification to “Tweets posted by accounts from the political right” and “right-leaning news outlets.”⁷⁴¹ In an interview with Committee staff, Twitter's then-Head of Product Kayvon Beykpour noted that research, but Mr. Beykpour indicated that the company had not yet determined the underlying reasons why the algorithms were performing that way.⁷⁴²

In his recent whistleblower complaint against the company, former Twitter Chief Security Officer Mr. Peiter “Mudge” Zatko included a draft report by an outside firm that Twitter

⁷³⁵ Vanessa Pappas, *Strengthening our commitment to transparency* (July 27, 2022) (<https://newsroom.tiktok.com/en-us/strengthening-our-commitment-to-transparency>).

⁷³⁶ Twitter, *About Twitter's account suggestions* (accessed Oct. 4, 2022) (<https://help.twitter.com/en/using-twitter/account-suggestions#:~:text=How%20does%20Twitter%20find%20accounts,who%20already%20have%20Twitter%20accounts>).

⁷³⁷ Matthew Hindman and Vlad Barash, *Disinformation, 'Fake News' and Influence Campaigns on Twitter*, Knight Foundation (Oct. 2018) (<https://knightfoundation.org/features/misinfo/>).

⁷³⁸ *Id.*

⁷³⁹ Jack Bandy and Nicholas Diakopoulos, *Curating Quality? How Twitter's Timeline Algorithm Treats Different Types of News*, Sage (Sep. 6, 2021) (<https://journals.sagepub.com/doi/10.1177/20563051211041648>).

⁷⁴⁰ Ferenc Huszar, et al., *Algorithmic Amplification of Politics on Twitter*, Twitter (2021) (https://cdn.cms-twdigitalassets.com/content/dam/blog-twitter/official/en_us/company/2021/rml/Algorithmic-Amplification-of-Politics-on-Twitter.pdf).

⁷⁴¹ Rumman Chowdhury and Luca, *Examining algorithmic amplification of political content on Twitter*, Twitter (Oct. 21, 2021) (https://blog.twitter.com/en_us/topics/company/2021/rml-politicalcontent).

⁷⁴² Kayvon Beykpour, General Manager of Bluebird, Twitter, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 28, 2022).

hired to conduct a study of the company and suggest reforms.⁷⁴³ According to the draft report, the Trust & Safety team was sidelined during the process of launching products, noting that “While product teams do elicit feedback for new product launches, product managers are incentivized to ship products as quickly as possible and thus are willing to accept security risks.”⁷⁴⁴

At the Committee’s September 2022 hearing, Twitter’s former Senior Vice President for Engineering Alex Roetter testified about his experience at the company and the incentive structure that drives decision-making. Mr. Roetter testified, “The problem with trust and safety metrics ... is that is at odds with the other metrics, and the other metrics always win.”⁷⁴⁵ Mr. Roetter explained that if he recommended that Twitter not launch a new product due to trust and safety concerns, “I get zero credit for that; it’s as if I’ve done nothing for the company ... [it] is no different than if I just didn’t show up to work.”⁷⁴⁶ Regarding how Twitter evaluates employees and make promotions, Mr. Roetter testified:

[T]he impact [of trust and safety] isn’t valued as heavily as the core drivers of the company’s growth. For example, the fastest way to get promoted as a front-end engineer on a core product feature team is to show that you made changes that drove more viral growth or increased revenue. There is an inherent tension between this progress and improving trust and safety. The former nearly always wins over the latter.⁷⁴⁷

Unlike Meta and TikTok, at the time of this report’s release, Twitter had not provided sufficient information that would allow the Committee to calculate the disparity in engineers working on product development versus trust and safety.

4. YouTube

One of the key features of YouTube is Autoplay, which according to YouTube, “enables a ‘lean back’ experience and keeps videos playing without you having to select a new video when the video you’re watching finishes.”⁷⁴⁸ However, one researcher has referred to YouTube and its Autoplay feature as a “the Great Radicalizer,” as it “leads viewers down a rabbit hole of

⁷⁴³ Elizabeth Dwoskin, et al., *Racists and Taliban supporters have flocked to Twitter’s new audio service after executives ignored warnings*, Washington Post (Dec. 10, 2021) (<https://www.washingtonpost.com/technology/2021/12/10/twitter-turmoil-spaces/>).

⁷⁴⁴ *Id.*

⁷⁴⁵ Senate Committee on Homeland Security and Governmental Affairs, Testimony During Hearing of Alex Roetter, Former Vice President for Engineering, Twitter, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁷⁴⁶ *Id.*

⁷⁴⁷ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Alex Roetter, Former Vice President for Engineering, Twitter, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

⁷⁴⁸ YouTube, Autoplay (accessed Oct. 14, 2022) (<https://www.youtube.com/howyoutubeworks/user-settings/autoplay/>).

extremism, while Google racks up the ad sales.”⁷⁴⁹ An April 2022 RAND Corporation report also noted that YouTube’s content-recommendation system “has been criticized widely for privileging divisive or incendiary content and entrapping viewers in a ‘hate-inducing’ spiral of increasingly one-sided and extreme content.”⁷⁵⁰ This is concerning especially given that YouTube’s recommendation system generates over 70 percent of viewing time on the platform.⁷⁵¹

Previously, YouTube designed its algorithm to promote videos “that were similar to those viewers were watching, were on channels viewers had watched in the past, or were popular with viewers with similar interests.”⁷⁵² This prompted creators to post videos with sensational titles to game the algorithm.⁷⁵³ Currently, YouTube’s algorithm builds recommendations by focusing on characteristics about a user such “clicks, watchtime, survey responses, sharing, likes, dislikes and video search and watch history.”⁷⁵⁴ In 2015, Google’s artificial intelligence division built out YouTube’s algorithm to mimic brain neural networks. The neural network-based algorithm is reportedly able to identify consumption patterns, recommending videos that are shorter for mobile users and videos that are longer for laptop or TV users.⁷⁵⁵ The algorithm also considers demographic data including age, gender, and location in recommendations.⁷⁵⁶

⁷⁴⁹ Zeynep Tufekci, *YouTube, the Great Radicalizer* (May 10, 2018) (<https://www.nytimes.com/2018/03/10/opinion/sunday/youtube-politics-radical.html>).

⁷⁵⁰ Alexandra T. Evans and Heather J. Williams, *How Extremism Operates Online: A Primer*, Rand Corporation (2022) (<https://www.rand.org/pubs/perspectives/PEA1458-2.html>). A contemporaneous study based on a large-scale audit of 30,925 videos posted on 349 channels (and the approximately 72 million associated comments) found evidence that “users consistently migrate from milder to more extreme content.” Manoel Horta Ribeiro, et al., *Auditing Radicalization Pathways on YouTube*, Cornell University (Oct. 21, 2021).

⁷⁵¹ Jack Nicas, *How YouTube Drives People to the Internet’s Darkest Corners*, Wall Street Journal (Feb. 7, 2018) (<https://www.wsj.com/articles/how-youtube-drives-viewers-to-the-internets-darkest-corners-1518020478>).

⁷⁵² YouTube Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022); Neal Mohan, Chief Product Officer, YouTube, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 31, 2022); Spandana Singh, *Why Am I Seeing This? How Video and E-Commerce Platforms Use Recommendation Systems to Shape User Experiences*, New America (Mar. 25, 2020) (<https://www.newamerica.org/oti/reports/why-am-i-seeing-this/case-study-youtube/>).

⁷⁵³ Neal Mohan, Chief Product Officer, YouTube, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 31, 2022); Spandana Singh, *Why Am I Seeing This? How Video and E-Commerce Platforms Use Recommendation Systems to Shape User Experiences*, New America (Mar. 25, 2020) (<https://www.newamerica.org/oti/reports/why-am-i-seeing-this/case-study-youtube/>).

⁷⁵⁴ YouTube Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022); Neal Mohan, Chief Product Officer, YouTube, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 31, 2022); Spandana Singh, *Why Am I Seeing This? How Video and E-Commerce Platforms Use Recommendation Systems to Shape User Experiences*, New America (Mar. 25, 2020) (<https://www.newamerica.org/oti/reports/why-am-i-seeing-this/case-study-youtube/>).

⁷⁵⁵ Spandana Singh, *Why Am I Seeing This? How Video and E-Commerce Platforms Use Recommendation Systems to Shape User Experiences*, New America (Mar. 25, 2020) (<https://www.newamerica.org/oti/reports/why-am-i-seeing-this/case-study-youtube/>).

⁷⁵⁶ *Id.*

In a 2020 analysis of over 330,000 videos posted on 349 YouTube channels, researchers found that “users consistently migrate from milder to more extreme content.”⁷⁵⁷ A February 2021 ADL report stated, “the financial incentives that YouTube provides based on viewership and watch time may encourage creators to appeal to people with extreme views and provoke controversy.”⁷⁵⁸

In an interview with Committee staff, YouTube’s Chief Product Officer Neal Mohan noted outside academic research into the platform’s algorithms, but he could not identify any specific internal research conducted by YouTube evaluating whether its algorithms are recommending extreme content.⁷⁵⁹ Since this interview, YouTube announced the YouTube Researcher Program, where “eligible researchers from diverse disciplines can apply to use YouTube data to study a variety of topics.”⁷⁶⁰ In response to written questions for the record following the Committee’s September 2022 hearing, YouTube again pointed to outside academic research but did not provide any information to indicate that YouTube conducts internal research on extreme content on its platform or the extent to which YouTube’s recommendation algorithms promote extreme content.⁷⁶¹

Unlike Meta and TikTok, at the time of this report’s release, YouTube had not provided sufficient information that would allow the Committee to calculate the disparity in engineers working on product development versus trust and safety.

⁷⁵⁷ Tanya Basu, *YouTube’s algorithm seems to be funneling people to alt-right videos*, MIT Technology Review (Jan. 29, 2021) (<https://www.technologyreview.com/2020/01/29/276000/a-study-of-youtube-comments-shows-how-its-turning-people-onto-the-alt-right>); Manoel Horta Ribeiro, et al., *Auditing Radicalization Pathways on YouTube*, Cornell University (Oct. 21, 2021).

⁷⁵⁸ Anti-Defamation League, *Exposure to Alternative & Extremist Content on YouTube* (May 3, 2022) (<https://www.adl.org/resources/report/exposure-alternative-extremist-content-youtube>).

⁷⁵⁹ Neal Mohan, Chief Product Officer, YouTube, Interview with Senate Committee on Homeland Security and Governmental Affairs (Jan. 31, 2022).

⁷⁶⁰ YouTube, YouTube Researcher Program (accessed Oct. 26, 2022) (<https://research.youtube/>).

⁷⁶¹ Senate Committee on Homeland Security and Governmental Affairs, Written Responses to Questions for the Record of YouTube, *Hearing on Social Media’s Impact on Homeland Security*, 117th Cong. (Sep. 14, 2022) (S. Hrg. 117-XX).

X. CONCLUSION

Domestic terrorism, and in particular white supremacist and anti-government extremists, continues to pose a persistent and lethal threat to homeland security. This investigation found that the federal government – specifically DHS and FBI – is not adequately addressing this growing threat. These agencies have failed to systematically track and report data on domestic terrorism incidents and the agencies’ allocation of resources to address these threats, as required by federal law. Without better data, Congress and the agencies themselves cannot fully evaluate the federal government’s allocation of resources in response to the threat.

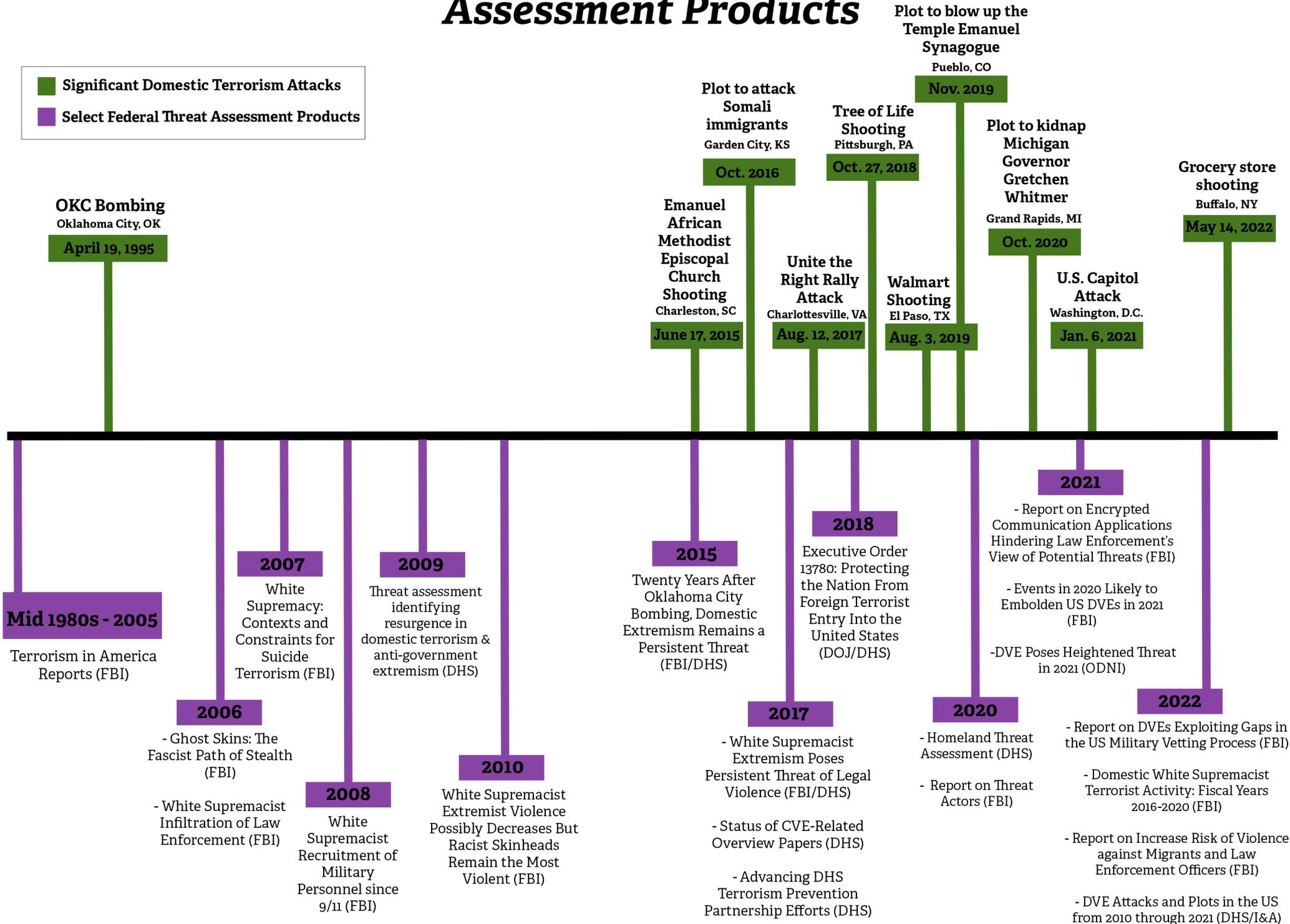
This investigation also found that from the limited data that is available, DHS and FBI have not appropriately allocated their resources to match the current threat, despite recent increased investments and efforts. DHS and FBI have also not aligned and clarified their definitions and classifications to make their investigations consistent and their actions proportional to the threat of domestic terrorism. In particular, this investigation found that the classification of all racially or ethnically motivated violent extremist incidents under one reporting category distorts the threat specifically posed by white supremacists.

This investigation also found that social media companies have failed to meaningfully address the growing presence of extremism on their platforms. The business models of the four companies the Committee examined – Meta, TikTok, Twitter, and YouTube – are based on maximizing user engagement, growth, and profits, which incentivizes increasingly extreme content. These companies point to the voluminous amount of violative content they remove from their platforms, but that ignores the role their own recommendations algorithms and other features and products play in the proliferation of that content in the first place, driven by these companies’ business models. Absent new incentives or regulation, extremist content will continue to proliferate on these platforms and companies’ content moderation efforts will continue to be inadequate to stop its spread.

This report examines three years of investigation into domestic terrorism by the Majority Committee staff for U.S. Senator Gary Peters, Chairman of the Senate Homeland Security and Governmental Affairs Committee. The Committee will continue to examine the evolving federal response to domestic terrorism and the actions taken by social media companies to address the continued spread of extremist content on their platforms.

Significant Domestic Terrorist Attacks and Select Federal Threat Assessment Products

■ Significant Domestic Terrorism Attacks
■ Select Federal Threat Assessment Products



APPENDIX I: FEDERAL THREAT ASSESSMENT PRODUCTS

The following are selected Department of Homeland Security (DHS) and Federal Bureau of Investigation (FBI) threat assessment products that the Committee received specific to the domestic terrorism threat.

Mid-1980s – 2005

As discussed in the report, FBI did not name domestic terrorism as a persistent threat until 2018, and did not identify it as a primary focus until 2020. However, in the past, FBI issued reports that identified rising incidents involving domestic terrorists. Starting in the mid-1980s, FBI began issuing annual *Terrorism in America* reports, with the years 1996 through 2005 being available online.⁷⁶² These reports provided annual data on terrorism attacks and analysis of trends and tactics used, such as the 1999 report that noted “violent domestic extremism in the United States has been closely linked to contemporary political/social concerns.”⁷⁶³ Another trend FBI identified in the 2000/2001 report was that the attacks those years kept “with a longstanding trend, in fact, domestic extremists carried out the majority of terrorist incidents in both years.”⁷⁶⁴ Since the 1996 report, FBI recognized domestic extremists as conducting the majority of terrorist attacks in the United States.⁷⁶⁵ The below chart provides a breakdown of the data provided in the publicly available reports for the years 1996 – 2005.⁷⁶⁶

⁷⁶² Federal Bureau of Investigation, *Terrorism 2002-2005* (2005) (https://www.fbi.gov/file-repository/stats-services-publications-terrorism-2002-2005-terror02_05.pdf/view).

⁷⁶³ Federal Bureau of Investigation, *Terrorism in the United States 1999* (1999) (https://www.fbi.gov/file-repository/stats-services-publications-terror_99.pdf/view).

⁷⁶⁴ Federal Bureau of Investigation, *Terrorism 2000/2001* (2001) (<https://www.fbi.gov/stats-services/publications/terror>).

⁷⁶⁵ Federal Bureau of Investigation, *Terrorism in the United States 1996* (1996) (https://www.fbi.gov/file-repository/stats-services-publications-terror_96.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1997* (1997) (https://www.fbi.gov/file-repository/stats-services-publications-terror_97.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1998* (1998) (https://www.fbi.gov/file-repository/stats-services-publications-terror_98.pdf/view); Federal Bureau of Investigation, *Terrorism in the United States 1999* (1999) (https://www.fbi.gov/file-repository/stats-services-publications-terror_99.pdf/view); Federal Bureau of Investigation, *Terrorism 2000/2001* (2001) (<https://www.fbi.gov/stats-services/publications/terror>); Federal Bureau of Investigation, *Terrorism 2002-2005* (2005) (https://www.fbi.gov/file-repository/stats-services-publications-terrorism-2002-2005-terror02_05.pdf/view).

⁷⁶⁶ *Id.*

Figure 12: FBI Terrorism Incident Data Provided in *Terrorism in America* Reports

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Domestic Terrorism Incidents	3	2*	5	12**	8	12** *	7	6	5	5
Domestic Terrorism Incidents Prevented	5	10	12	5	1	2	1	5	5	1
International Terrorism Incidents	0	2	0	0	0	1	1	0	0	0
International Terrorism Incidents Prevented	0	11	0	2	0	0	0	0	0	2

Source: Majority Committee staff analysis of FBI *Terrorism in America* reports.

*2 Suspected Domestic Terrorist Incidents

**2 Suspected Domestic Terrorist Incidents

***1 Additional Non Determined Terrorist Incident

2006

In 2006, FBI released a bulletin called *Ghost Skins: The Fascist Path of Stealth*, which warned of new tactics that white supremacy extremists (WSEs) groups might use.⁷⁶⁷ This bulletin explained the tactic of “ghost skins,” which WSEs describe as “the concept as a form of role-playing, in which ‘undercover white power warriors’ maintain over ‘politically correct’ personas in order to avoid law enforcement scrutiny.”⁷⁶⁸ FBI warned that WSEs might use these tactics to join and target members of the military and law enforcement.⁷⁶⁹ Later in 2006, FBI issued an intelligence assessment, *White Supremacist Infiltration of Law Enforcement*, illustrating how that warning had materialized.⁷⁷⁰ FBI explained that WSEs target law enforcement and military members.⁷⁷¹

⁷⁶⁷ Federal Bureau of Investigation, *Ghost Skins: The Fascist Path of Stealth* (Oct. 17, 2006) (<https://nsarchive.gwu.edu/document/23893-federal-bureau-investigation-ghost-skins-fascist-path-stealth-october-17-2006>).

⁷⁶⁸ *Id.*

⁷⁶⁹ *Id.*

⁷⁷⁰ Federal Bureau of Investigation, *White Supremacist Infiltration of Law Enforcement* (Oct. 17, 2006) (<https://www.justsecurity.org/wp-content/uploads/2021/06/Jan-6-Clearinghouse-FBI-Intelligence-Assessment-White-Supremacist-Infiltration-of-Law-Enforcement-Oct-17-2006-UNREDACTED.pdf>).

⁷⁷¹ *Id.*

2007

In 2007, FBI issued the intelligence assessment *White Supremacy: Contexts and Constraints for Suicide Terrorism*.⁷⁷² FBI warned that “the threat of suicide terrorism from the movement derives less from groups engaging in coordinated, well-orchestrated campaigns of violence, and more from individuals acting alone upon the messages of hate espoused by these groups.”⁷⁷³ FBI reported to the Committee that it “authored this intelligence assessment to address the lack of existing literature discussing the threat of suicide attack against the US homeland by white supremacist extremist groups, because the existing literature discussed suicide terrorism focused on foreign or domestic jihadist groups.”⁷⁷⁴

2008

In 2008, FBI expanded on the tactic of WSEs targeting military personnel for recruitment in its intelligence assessment *White Supremacist Recruitment of Military Personnel since 9/11*.⁷⁷⁵ In this assessment, FBI assessed with “high confidence” that “extremist leaders seek to recruit members with military experience in order to exploit their discipline, knowledge of firearms, explosives, and tactical skills and access to weapons and intelligence.”⁷⁷⁶ FBI also found that “military experience is found throughout the white supremacist extremist movement as the result of recruitment campaigns by extremist groups and self-recruitment by veterans sympathetic to white supremacist causes.”⁷⁷⁷

2009

In 2009, DHS issued a threat assessment to law enforcement partners identifying a resurgence in domestic terrorism and anti-government extremism.⁷⁷⁸ DHS assessed that, although threats at the time were not imminent, “the consequences of a prolonged economic downturn—including real estate foreclosures, unemployment, and an inability to obtain credit—could create a fertile recruiting environment for rightwing extremists and even result in confrontations between

⁷⁷² Federal Bureau of Investigation, *White Supremacy: Contexts and Constraints for Suicide Terrorism* (Apr. 20, 2007) (<https://nsarchive.gwu.edu/document/23894-federal-bureau-investigation-white-supremacy-contexts-and-constraints-suicide>).

⁷⁷³ *Id.*

⁷⁷⁴ Department of Justice and Federal Bureau of Investigation Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 5, 2022).

⁷⁷⁵ Federal Bureau of Investigation, *White Supremacist Recruitment of Military Personnel since 9/11* (July 7, 2008) (https://documents.law.yale.edu/sites/default/files/FBI_WHITE_SUPREMACY-2008-ocr.pdf).

⁷⁷⁶ *Id.*

⁷⁷⁷ *Id.*

⁷⁷⁸ Department of Homeland Security, Office of Intelligence and Analysis, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment* (IA-0257-09) (Apr. 7, 2009).

such groups and government.”⁷⁷⁹ DHS’s assessment also concluded that domestic terrorism groups sought to capitalize on the election of the first Black president to “recruit new members” and “mobilize existing supporters.”⁷⁸⁰ In this assessment, DHS warned “the possible passage of new restrictions on firearms and the return of military veterans facing significant challenges reintegrating into their communities could lead to the potential emergence of terrorist groups or lone wolf extremists capable of carrying out violent attacks.”⁷⁸¹

After the report’s issuance, DHS faced significant backlash for its conclusions, which were publicly criticized as an “attack on conservative ideologies,” leading DHS to rescind the original report, re-release an edited form, and re-organize the unit that wrote it.⁷⁸² This led to the resignation of the report’s lead author.⁷⁸³ This concern over political backlash reportedly caused DHS to reduce its monitoring of the threat from domestic violent extremism.⁷⁸⁴ Despite the criticism DHS faced after its 2009 report, the threats it originally anticipated foreshadowed the increase in actual instances of domestic terrorism and attacks by domestic violent extremists, including white supremacists, neo-Nazis, anti-government, violent conspiracy, and other actors throughout the following decade.⁷⁸⁵

⁷⁷⁹ Department of Homeland Security, Office of Intelligence and Analysis, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment* (IA-0257-09) (Apr. 7, 2009).

⁷⁸⁰ *Id.*

⁷⁸¹ *Id.*

⁷⁸² Jeffrey Smith, *Homeland Security Department curtails home-grown terror analysis*, Washington Post (June 7, 2011) (https://www.washingtonpost.com/politics/homeland-security-department-curtails-home-grown-terror-analysis/2011/06/02/AGQEaDLH_story.html?utm_term=.b2311ede4422&itid=lk_inline_manual_5); Zolan Kanno-Youngs and David E. Sanger, *Extremists Emboldened by Capitol Attack Pose Rising Threat, Homeland Security Says*, New York Times (Jan. 27, 2021) (<https://www.nytimes.com/2021/01/27/us/politics/homeland-security-threat.html>); Department of Homeland Security Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022).

⁷⁸³ Daryl Johnson, *I warned of right-wing violence in 2009. Republicans objected. I was right.*, Washington Post (Aug. 21, 2017) (<https://www.washingtonpost.com/news/posteverything/wp/2017/08/21/i-warned-of-right-wing-violence-in-2009-it-caused-an-uproar-i-was-right/>).

⁷⁸⁴ Jeffrey Smith, *Homeland Security Department curtails home-grown terror analysis*, Washington Post (June 7, 2011) (https://www.washingtonpost.com/politics/homeland-security-department-curtails-home-grown-terror-analysis/2011/06/02/AGQEaDLH_story.html?utm_term=.b2311ede4422&itid=lk_inline_manual_5); Ben Woffard, *The GOP Shut Down a Program That Might Have Prevented Dallas and Baton Rouge*, Politico (July 24, 2016) (<https://www.politico.com/magazine/story/2016/07/gop-veteran-radicalization-dhs-dallas-baton-rouge-214089/>); Department of Homeland Security Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022).

⁷⁸⁵ See Department of Homeland Security, Office of Intelligence and Analysis, *Domestic Violent Extremist Attacks and Plots in the United States From 2010 Through 2021* (DHS-IV-2022-02599) (Aug. 22, 2022) (on file with Committee).

2010

In a 2010 bulletin called *White Supremacist Extremist Violence Possibly Decreases But Racist Skinheads Remain the Most Violent*, FBI estimated, based on open-source information and its own data, WSEs conducted 53 acts of violence from 2007 to 2009.⁷⁸⁶ It also predicted that “acts of violence by WSEs are expected to continue for the foreseeable future.”⁷⁸⁷

2015

In 2015, FBI and DHS issued a Joint Intelligence Bulletin (JIB) called *Twenty Years After Oklahoma City Bombing, Domestic Extremism Remains a Persistent Threat*.⁷⁸⁸ The JIB briefly discussed the evolution of domestic extremism since the 1995 Oklahoma City bombing.⁷⁸⁹ In this JIB, “FBI and DHS assess with high confidence that domestic extremism will remain a persistent threat through the end of 2015 and beyond...based on prior patterns of behavior, current investigations, and observation of factors significant to domestic extremists.”⁷⁹⁰

2017

In 2017, DHS and FBI issued a Joint Intelligence Bulletin (JIB) to law enforcement partners, entitled *White Supremacist Extremism Poses Persistent Threat of Legal Violence*, warning of the persistent lethal threat posed by white supremacist extremists.⁷⁹¹ The JIB warned “lone actors and small cells within the white supremacist extremist (WSE) movement likely will continue to pose a threat of lethal violence over the next year.”⁷⁹² The JIB noted that white supremacist extremists “were responsible for 49 homicides in 26 attacks from 2000 to 2016, more than any other domestic extremist movement,” although only one of those lethal attacks occurred in 2016.⁷⁹³

In September 2017, the interagency Countering Violent Extremism (CVE) Task Force, co-led by DHS, issued reference aids on topics including ISIS and al-Qaida-Inspired Homegrown Violent Extremists, U.S. Foreign Fighters, ISIS and al-Qaida Messaging, Violent White Supremacist Extremists, and Responding to Misperceptions about Countering Violent

⁷⁸⁶ Federal Bureau of Investigation, *White Supremacist Extremist Violence Possibly Decreases But Racist Skinheads Remain the Most Violent* (Jan. 28, 2010) (<https://info.publicintelligence.net/fbiwhitesupremacistdecline.pdf>).

⁷⁸⁷ *Id.*

⁷⁸⁸ Department of Homeland Security and Federal Bureau of Investigation, *Twenty Years After Oklahoma City Bombing, Domestic Extremism Remains a Persistent Threat* (IA-0163-15) (Apr. 16, 2015).

⁷⁸⁹ *Id.*

⁷⁹⁰ *Id.*

⁷⁹¹ See Department of Homeland Security and Federal Bureau of Investigation, *White Supremacist Extremism Poses Persistent Threat of Lethal Violence* (IA-0154-17) (May 10, 2017) (<https://s3.documentcloud.org/documents/3924852/White-Supremacist-Extremism-JIB.pdf>).

⁷⁹² *See id.*

⁷⁹³ *See id.*

Extremism Efforts.”⁷⁹⁴ In November 2017, DHS issued *Advancing DHS Terrorism Prevention Partnership Efforts*, which discussed DHS’s terrorism prevention efforts.⁷⁹⁵ This document focused primarily on threats from ISIS and al-Qaida, and these organizations’ usage of social media.⁷⁹⁶ It also detailed the “reorienting [Office of Community Partnerships] within DHS to ensure it can successfully carry out its mission and ensuring continued DHS leadership of the interagency Countering Violent Extremism Task Force.”⁷⁹⁷ While DHS acknowledged the more severe threat of white supremacist extremists in its 2017 JIB, its internal policies and practices continued to prioritize threats from foreign terrorist organizations.

2018

On January 16, 2018, DOJ and DHS issued a report entitled, *Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into the United States*, in conjunction with Executive Order 13769 or the “Travel Ban.”⁷⁹⁸ This report falsely alleged that the majority of recent terrorism related offenses in the U.S. were committed by foreign born individuals.⁷⁹⁹ In response, under the Information Quality Act (IQA), Protect Democracy, the Brennan Center for Justice, Michael F. Crowley, and Benjamin Wittes filed a complaint in federal court against DOJ and DHS, alleging that the report manipulated data to mischaracterize the threat of international terrorism, and omitted data on domestic terrorism.⁸⁰⁰ In January 2019, DOJ and DHS admitted that the report “could be criticized” for failing to “promote the perception of objectivity.”⁸⁰¹ In December 2019, Massachusetts district court judge Douglas Woodlock heard the government’s motion to dismiss the lawsuit.⁸⁰² This case is still ongoing; however, this report exacerbated the federal government’s poor record of reliably collecting and reporting data on this threat.

⁷⁹⁴ Department of Homeland Security, *Memorandum for the Acting Director, CVE Task Force: Status of CVE-Related Overview Papers* (Sep. 29, 2017) (on file with Committee); Department of Homeland Security Correspondence to Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 1, 2022).

⁷⁹⁵ Department of Homeland Security, *Decision Memorandum for the Acting Secretary: Advancing DHS Terrorism Prevention Partnership Efforts* (Nov. 15, 2017) (on file with Committee).

⁷⁹⁶ *Id.*

⁷⁹⁷ *Id.*

⁷⁹⁸ Department of Homeland Security and Department of Justice, *Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into the United States Initial Section 11 Report* (Jan. 2018) (<https://www.dhs.gov/sites/default/files/publications/Executive%20Order%2013780%20Section%2011%20Report%20-%20Final.pdf>).

⁷⁹⁹ *Id.*

⁸⁰⁰ Plaintiffs’ Complaint for Declaratory and Injunctive Relief (May 3, 2018), *Protect Democracy Project v. Department of Justice*, D. Mass. (No. 1:18-cv-10874).

⁸⁰¹ Protect Democracy, *Trump Administration Concedes Fault in Distorted Terrorism Report But Refuses to Retract It* (Jan. 4, 2019) (<https://protectdemocracy.org/update/trump-administration-concedes-fault-distorted-terrorism-report/>).

⁸⁰² *Id.*

2020

In the October 2020 *Homeland Threat Assessment*, DHS predicted that “among [Domestic Violent Extremists], racially and ethnically motivated violent extremists—specifically white supremacist extremists...will remain the most persistent and lethal threat in the Homeland,” and it noted that “since 2018, [white supremacist extremists] have conducted more lethal attacks in the United States than any other DVE movement.”⁸⁰³ DHS attributes the rise of domestic terrorism, including anti-governmental extremism, to factors that include the “domestic situation surrounding the COVID-19 pandemic” and the “spread [of] violent extremist ideologies, especially via social media.”⁸⁰⁴ The report identified increased social and political tensions as a catalyst for DVE attacks and warned that DVE posed an elevated risk through early 2021.⁸⁰⁵ DHS warned that some personal circumstances associated with COVID-19, such as increased isolation, could contribute to conditions that lead to higher risks of mobilization.⁸⁰⁶ The assessment stated that violent extremists will exploit public fears associated with COVID-19 and social grievances during lawful protests to promote their ideology.⁸⁰⁷ DHS warned that violent extremist ideologies will almost certainly be spread through social media.⁸⁰⁸

FBI also provided the Committee an analytical report from 2020, *Threat Actors Very Likely Will Continue to Experiment and Deploy Hazardous Devices in Violence Parallel to Recent Lawful Protest, Unlikely to Reach Chemical, Biological, or Radiological Attack Weaponry*.⁸⁰⁹ FBI analyzed in this report that “threat actors very likely will continue to deploy and experiment in an uncoordinated and unorganized fashion with weaponry and tactics such as hazardous devices and hoax devices against law enforcement targets as civil unrest continues amidst the current political and social protests.”⁸¹⁰

⁸⁰³ Department of Homeland Security, *Homeland Threat Assessment* (Oct. 2020) (https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf).

⁸⁰⁴ *Id.*

⁸⁰⁵ *Id.*

⁸⁰⁶ *Id.*

⁸⁰⁷ *Id.*

⁸⁰⁸ *Id.*

⁸⁰⁹ Federal Bureau of Investigation, *Threat Actors Very Likely Will Continue to Experiment and Deploy Hazardous Devices in Violence Parallel to Recent Lawful Protest, Unlikely to Reach Chemical, Biological, or Radiological Attack Weaponry* (Oct. 8, 2020) (on file with Committee).

⁸¹⁰ *Id.*

2021

In January 2021, FBI issued the analytical report entitled *Increased Use of Encrypted Applications Very Likely Allowed Some US-Based Domestic Violent Extremists to Covertly Communicate, Hindering Law Enforcement's View of Potential Threats*.⁸¹¹ This report warns of the “very likely” increase in use of encrypted communication platforms by “domestic violent extremists (DVEs), specifically racially or ethnically motivated violent extremists (RMVEs) driven by a belief in the superiority of the white race.”⁸¹² A week later, FBI issued the analytical report entitled *Events in 2020 Likely to Embolden US Domestic Violent Extremists in 2021*, warning that “major social and political issues” from 2020 that persist into 2021, including violence at otherwise lawful protests, COVID-19 restrictions, claims of election fraud, and policy or legislative changes, will very likely continue to embolden DVEs.⁸¹³ This report also noted the surge of activity from Anti-Government or Anti-Authority Violent Extremists in 2020.⁸¹⁴

On March 1, 2021, the Office of the Director of National Intelligence issued an intelligence community (IC) assessment entitled *Domestic Violent Extremism Poses Heightened Threat in 2021*.⁸¹⁵ The IC assessed that “domestic violent extremists (DVEs) who are motivated by a range of ideologies and galvanized by recent political and societal events in the United States pose an elevated threat to the Homeland in 2021,” and noted in particular the threat from “lone offenders or small cells of DVEs.”⁸¹⁶ The IC also assessed that “racially or ethnically motivated violent extremists (RMVEs) and militia violent extremists (MVEs) present the most lethal DVE threats.”⁸¹⁷ The IC noted that DVEs exploit social media platforms and other online tools “to recruit new adherents, plan and rally support for in-person actions, and disseminate materials that contribute to radicalization and mobilization to violence.”⁸¹⁸

In July 2021, FBI issued an intelligence bulletin named *Domestic Violent Extremists Very Likely Employ Advanced Operational Security Measures, Complicating Law Enforcement Detection*.⁸¹⁹ FBI noted that domestic violent extremist groups engaged in high-profile and

⁸¹¹ Federal Bureau of Investigation, *Increased Use of Encrypted Applications Very Likely Allowed Some US-Based Domestic Violent Extremists to Covertly Communicate, Hindering Law Enforcement's View of Potential Threats* (Jan. 25, 2021) (on file with Committee).

⁸¹² *Id.*

⁸¹³ Federal Bureau of Investigation, *Events in 2020 Likely to Embolden US Domestic Violent Extremists in 2021* (Feb. 1, 2021) (on file with Committee).

⁸¹⁴ *Id.*

⁸¹⁵ Office of Director of National Intelligence, *Domestic Violent Extremism Poses Heightened Threat in 2021* (Mar. 1, 2021) (<https://www.dni.gov/files/ODNI/documents/assessments/UnclassSummaryofDVEAssessment-17MAR21.pdf>).

⁸¹⁶ *Id.*

⁸¹⁷ *Id.*

⁸¹⁸ *Id.*

⁸¹⁹ Federal Bureau of Investigation, *Domestic Violent Extremists Very Likely Employ Advanced Operational Security Measures, Complicating Law Enforcement Detection* (July 6, 2021) (on file with Committee).

coordinated actions throughout 2020 and early 2021, including planned attacks in Georgia on perceived members of ANTIFA, threats to overthrow the Michigan government, and the January 6th attack on the Capitol.⁸²⁰ On September 30, 2021, FBI issued an intelligence bulletin entitled *Domestic Violent Extremists Likely Will Exploit Additive Manufacturing to Produce Improvised Explosive Device and Delivery System Components, Increasing Risk of Future Attacks*.⁸²¹ This bulletin warned of the use of 3D printing “to manufacture, customize, or disguise weapons,” and noted that this technology has become cheaper and easier to use, making it more accessible to a wider population than just six year ago.⁸²² In December 2021, FBI warned in *Afghanistan Withdrawal Very Likely Will Aggravate Some Domestic Violent Extremists and Motivate Hate Crimes in the US, Increasing Threat to Civilian and Government Targets*, of rising threats to government and military officials, as well as to “US-based Muslims and immigrants from predominantly Muslim countries.”⁸²³

2022

In January 2022, FBI issued an analytical report entitled *DVEs Likely Exploit Gaps in the US Military Vetting Process, Increasing Operational Capabilities*, highlighting concerns in “the nationwide military recruitment, background, and vetting process.”⁸²⁴ This report noted recent instances where individuals were not disqualified from beginning military training, “despite the existence of in-person or online indicators of extremism.”⁸²⁵

In April 2022, FBI submitted to Congress a summary report entitled, *Combatting Domestic Terrorism*.⁸²⁶ In this report, FBI found “the greatest threat to our Homeland today is posed by lone actors or small cells who typically radicalize online and look to attack soft targets with easily accessible weapons.”⁸²⁷ In its threat assessment, FBI noted 2020 events will likely embolden DVEs, Anti-Government/Anti-Authority Violent Extremists (AGAAVEs) and AAVEs activity surged in 2020, and DVEs’ involvement in the U.S. military posed a threat to U.S. interests in 2020.⁸²⁸ FBI also noted the disruption of potential RMVE attacks and the importance

⁸²⁰ *Id.*

⁸²¹ Federal Bureau of Investigation, *Domestic Violent Extremists Likely Will Exploit Additive Manufacturing to Produce Improvised Explosive Device and Delivery System Components, Increasing Risk of Future Attacks* (Sep. 30, 2021) (on file with Committee).

⁸²² *Id.*

⁸²³ Federal Bureau of Investigation, *Afghanistan Withdrawal Very Likely Will Aggravate Some Domestic Violent Extremists and Motivate Hate Crimes in the US, Increasing Threat to Civilian and Government Targets* (Dec. 10, 2021) (on file with Committee).

⁸²⁴ Federal Bureau of Investigation, *DVEs Likely Exploit Gaps in the US Military Vetting Process, Increasing Operational Capabilities* (Jan. 13, 2022) (on file with Committee).

⁸²⁵ *Id.*

⁸²⁶ Federal Bureau of Investigation, *Combatting Domestic Terrorism* (Apr. 2022). See also Consolidated Appropriations Act of 2021, Pub. L. No. 116-93.

⁸²⁷ Federal Bureau of Investigation, *Combatting Domestic Terrorism* (Apr. 2022).

⁸²⁸ *Id.*

of bystander reporting in detecting potential DVEs.⁸²⁹ FBI provided a list of 19 domestic terrorism incidents or attempted incidents that occurred in 2020, including the month and state the incident occurred and a summary of events.⁸³⁰ In response to the groups and factions definition requirements, FBI explained that it “does not maintain such a list of DT or violent extremist groups,” due to individuals’ First Amendment protections and because “the U.S. Government does not maintain a DT organization list analogous to the Foreign Terrorist Organization list maintained by the Department of State.”⁸³¹ Lastly, FBI summarized the resources it uses to address domestic terrorism.⁸³² FBI noted that Joint Terrorism Task Forces (JTTFs) act as the FBI’s frontline for both domestic and international counterterrorism efforts.⁸³³ FBI stated that, in 2020, FBI had approximately 200 JTTFs, with approximately 4,400 investigators across them, and 56 FBI Field Offices.⁸³⁴ FBI explained that JTTFs and FBI Field Offices are dedicated to the counterterrorism mission but are not assigned specifically to domestic or international terrorist matters.⁸³⁵

FBI issued a second summary report to Congress in April 2022 entitled, *Domestic White Supremacist Terrorist Activity: Fiscal Years 2016-2020*.⁸³⁶ This report provided additional domestic terrorism investigation data from FY 2020 that primarily focuses on RMVEs who “advocate for the superiority of the white race.”⁸³⁷ FBI noted that, overall in Fiscal Year 2020, it conducted approximately 1,400 domestic terrorism investigations, arrested approximately 180 domestic terrorism subjects, and had 308 investigations that involved prosecutorial actions.⁸³⁸

In June 2022, FBI released another analytic report, *Domestic Violent Extremists Traveling to the Southwest Border Likely Will Increase Risk of Violence against Migrants and Law Enforcement Officers, and Impede Law Enforcement Operations*.⁸³⁹ In this report, FBI noted that threats came from multiple domestic extremist groups, including Anti-Authority

⁸²⁹ *Id.*

⁸³⁰ *Id.*

⁸³¹ *Id.*

⁸³² *Id.*

⁸³³ *Id.*

⁸³⁴ *Id.*

⁸³⁵ *Id.*

⁸³⁶ Federal Bureau of Investigation, *Domestic White Supremacist Terrorist Activity: Fiscal Years 2016-2020* (Apr. 2022) (on file with Committee). *See also* Consolidated Appropriations Act of 2021, Public Law 116-260.

⁸³⁷ Federal Bureau of Investigation, *Domestic White Supremacist Terrorist Activity: Fiscal Years 2016-2020* (Apr. 2022) (on file with Committee).

⁸³⁸ *Id.*

⁸³⁹ Federal Bureau of Investigation, *Domestic Violent Extremists Traveling to the Southwest Border Likely Will Increase Risk of Violence against Migrants and Law Enforcement Officers, and Impede Law Enforcement Operations* (June. 7, 2022) (on file with Committee).

Violent Extremists (AAVEs), Militia Violent Extremists (MVEs), and Racially or Ethnically Motivated Violent Extremists (RMVEs), and each with varied ideological motivations.⁸⁴⁰

In August 2022, I&A issued an intelligence product entitled *Domestic Violent Extremist Attacks and Plots in the United States from 2010 through 2021*.⁸⁴¹ This report provided aggregated data on 169 domestic violent extremist incidents from 2010 through 2021.⁸⁴² The report found that Racially or Ethnically Motivated White Supremacists accounted for the most perpetrators at 30.2 percent.⁸⁴³ The next highest common extremist ideology category was Militia Violent Extremists at 15.4 percent.⁸⁴⁴

⁸⁴⁰ *Id.*

⁸⁴¹ Department of Homeland Security, Office of Intelligence and Analysis, *Domestic Violent Extremist Attacks and Plots in the United States From 2010 Through 2021* (DHS-IV-2022-02599) (Aug. 22, 2022) (on file with Committee) (explaining that DVEs involved in the attack on the Capitol on January 6, 2021 “were not included because these investigations are ongoing”).

⁸⁴² Department of Homeland Security, Office of Intelligence and Analysis, *Domestic Violent Extremist Attacks and Plots in the United States From 2010 Through 2021* (DHS-IV-2022-02599) (Aug. 22, 2022) (on file with Committee).

⁸⁴³ *Id.*

⁸⁴⁴ *Id.*