

CRS Insights

Sifting Domestic Terrorism from Other Illegal Activity

Jerome P. Bjelopera, Specialist in Organized Crime and Terrorism (jbjelopera@crs.loc.gov, 7-0622)

June 24, 2015 (IN10299)

Domestic terrorism cases differ from ordinary criminal activity in key ways. Most importantly, unlike ordinary criminals—who are often driven by self-centered motives such as profit and tend to opportunistically seek easy prey—domestic terrorists are driven by a cause or ideology. If the motives involved eventually align with the definition laid out in [18 U.S.C. §2331\(5\)](#), presumably the case becomes a domestic terrorist investigation.

- The Federal Bureau of Investigation (FBI) [defines domestic terrorism](#) as "acts of violence that [violate] the criminal laws of the United States or any state, committed by individuals or groups without any foreign direction, and appear to be intended to intimidate or coerce a civilian population, or influence the policy of a government by intimidation or coercion, and occur primarily within the territorial jurisdiction of the United States."
- The Department of Homeland Security (DHS) offers a [similar definition](#).

[Domestic terrorists are a widely divergent lot](#), drawing from [many philosophies and worldviews](#) to justify their illegal acts. They can be motivated to commit crimes in the name of ideas such as [animal rights](#), [environmental rights](#), [white supremacy](#), [anti-government beliefs](#), and [anarchism](#), for example. Importantly, the expression of these worldviews—minus the commission of crimes—involves constitutionally protected activity. As such, individuals and movements openly and *legally* espousing such beliefs distance themselves from terrorists who use the ideas to justify their own criminal actions.

From the perspective of federal law enforcement, the FBI safeguards against cases focused [solely on constitutionally protected activities](#). All FBI investigations have to be conducted for an authorized national security, criminal, or foreign intelligence collection purpose. Investigations may not solely monitor the exercise of First Amendment rights. Finally, the Department of Justice and the FBI visualize domestic terrorism in terms of threats, not named or designated groups or actors

Hate Crime

[Current federal law defines hate crimes](#) to include any crime against either person or property in which the offender intentionally selects the victim because of the victim's actual or perceived race, color, religion, national origin, gender, gender identity, disability, or sexual orientation. [Hate crimes](#) may appear to involve ideological issues. However, [as described by one federal official](#), a "hate crime" "generally involve[s] acts of personal malice directed at individuals" and is missing the broader motivations driving acts of domestic terrorism. For investigators, distinguishing between "personal malice" and ideologically motivated actions may be difficult in specific cases. This suggests that sorting domestic terrorism from hate crimes depends on the degree of a suspect's intent. Did the suspect articulate an ideology, belong to a domestic terrorist group, or follow an extremist movement? The grey area between domestic terrorism and hate crime hints that in some instances, suspects with links to domestic terrorist movements or ideologies supporting domestic terrorism may be charged with hate crimes. It is unclear to what extent this influences how the government understands the threat posed by extremist movements that hold racist beliefs. If some individuals of this ilk commit crimes against police or judges, for example, is the government more apt to label this activity as terrorism while individuals sharing these same racist motivations but targeting ordinary citizens based on race, religion, disability, ethnic origin, or sexual orientation are charged with hate crimes?

The Harpham Case

The FBI's public description of the case of confessed would-be bomber Kevin Harpham exemplifies how difficult

it may be to characterize acts as domestic terrorism. Initially the FBI viewed the case as domestic terrorism. In 2011, Harpham, allegedly motivated by white supremacist ideology, left a bomb—which never detonated—along the route of a parade in Spokane, WA, honoring Dr. Martin Luther King, Jr. The FBI's Northwest Joint Terrorism Task Force [led the investigation](#). In [prepared public remarks](#) framing the "current state of the terrorism threat" from April 2011, the then FBI Assistant Director for the Counterterrorism Division noted that Harpham's case was one of "several recent domestic terrorism incidents [that] demonstrate the scope of the threat." Harpham eventually pled guilty to committing a federal hate crime and attempting to use a weapon of mass destruction. Thereafter, the [bureau described the case](#) as the successful prevention of a "horrific hate crime."

Homegrown Violent Extremists

The FBI and DHS have [popularized the phrase](#) "homegrown violent extremist" (HVE). It separates domestic terrorists from U.S.-based terrorists motivated by the ideologies of foreign terrorist organizations. According to DHS and the FBI, a HVE is "a person of any citizenship who has lived and/or operated primarily in the United States or its territories who advocates, is engaged in, or is preparing to engage in ideologically-motivated terrorist activities (including providing support to terrorism) in furtherance of political or social objectives promoted by a foreign terrorist organization, but is acting independently of direction by a foreign terrorist organization." They also assert that an HVE is not a domestic terrorist—these are two distinct categories of terrorist actors.

Figure 1. Who Are Domestic Terrorists?

Domestic Terrorists Are . . .

*Americans driven by **U.S.-based extremist ideologies** committing crimes against other Americans. In other words, they operate in the United States and also lack foreign inspiration.*

While not naming specific *groups*, The Department of Justice (DOJ) has openly delineated domestic terrorist *threats*.

DOJ has identified domestic terrorism threats to include criminal activity by "animal rights extremists, eco-terrorists, anarchists, anti-government extremists such as 'sovereign citizens' and unauthorized militias, [b]lack separatists, [w]hite supremacists, and anti-abortion extremists."

They Are Not . . .

*Homegrown violent extremists, i.e. ideologically-driven individuals operating in the United States who are inspired by **foreign terrorist organizations** but do not receive direction or assistance from such groups.*

Foreign terrorist organizations are officially designated as such by the State Department.

These include groups such as Al Qaeda, Al Qaeda in the Arabian Peninsula, Al-Shabaab, Hezbollah, and the Nusra Front.

They Are Not . . .

*Perpetrators of **Hate Crime**, i.e. individuals who commit a crime against either person or property, in which the offender **intentionally selects** the victim because of the victim's actual or perceived race, color, religion, national origin, gender, gender identity, disability, or sexual orientation.*

Intent broadly involves acts of personal malice directed at individuals and lacks the broader motivations driving acts of domestic terrorism

Divining intent in such cases may be difficult, especially because individuals who commit hate crimes can pull motives from the same ideological milieus that attract domestic terrorists.

Source: CRS graphic derived from information in: https://www.fbi.gov/about-us/investigate/civilrights/hate_crimes/overview; <https://www.fbi.gov/news/testimony/animal-rights-extremism-and-ecoterrorism>; Department of Justice, *Counterterrorism White Paper*; https://www.fbi.gov/news/stories/2009/september/domterror_090709; <http://www.dhs.gov/topic/countering-violent-extremism>.