

# Sifting Domestic Terrorism from Hate Crime and Homegrown Violent Extremism

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*In light of the violence related to events over recent years, including the [2017 protests](#) in Charlottesville, VA, [2020 protests](#) across the nation related to policing practices and police-community relations, and [2021 security breach](#) of the U.S. Capitol, policymakers may be interested in how the concepts of domestic terrorism, hate crime, and homegrown violent extremism compare with one another. They are fairly distinct ideas that federal law enforcement agencies use to categorize certain types of individuals whose unlawful actions are at least partly ideologically motivated.*

## Domestic Terrorism

Domestic terrorism differs from other criminal activity in key ways. Importantly, unlike most offenders—who may be driven by self-centered motives—domestic terrorists are driven by a cause or ideology. The Federal Bureau of Investigation (FBI), the agency with lead responsibility for terrorism investigations at the federal level, generally relies on two definitions of domestic terrorism. First, the [Code of Federal Regulations](#) characterizes *terrorism* as including “the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.” Second, [18 U.S.C. §2331\(5\)](#) more narrowly defines *domestic terrorism* as occurring primarily within U.S. territorial jurisdiction, and involves

- (A) ... acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
- (B) appear to be intended—
  - (i) to intimidate or coerce a civilian population;
  - (ii) to influence the policy of a government by intimidation or coercion; or
  - (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping...

[Domestic terrorists are widely divergent](#), 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. Expression of these ideas—minus the commission of crimes—may involve constitutionally protected activity.

The FBI safeguards against cases focused [solely on constitutionally protected activities](#). All FBI investigations must 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 FBI conceptualizes domestic terrorism in terms of threats, not groups or ideas. In September 2020,

FBI Director Wray stated in congressional testimony that “regardless of the specific ideology involved, the FBI requires that all domestic terrorism investigations be predicated based on activity intended to further a political or social goal, wholly or in part involving force, coercion, or violence, in violation of federal law.”

## Hate Crime

Among other things, [current federal law defines hate crimes](#) to include conduct involving bodily injury in which certain jurisdictional prerequisites are met and 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 former FBI 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. The line may sometimes be blurry, and some cases may be [investigated as both](#) a hate crime and an act of domestic terrorism. This suggests that sorting domestic terrorism from hate crimes may depend on the 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 suggests that in some instances, suspects with links to domestic terrorist movements or ideologies supporting domestic terrorism may be charged with hate crimes.

While an individual’s actions may be consistent with the definition of domestic terrorism, domestic terrorism is not a chargeable offense on its own. There is no federal criminal statute that establishes criminal penalties solely for domestic terrorism, although it may be an element of other federal crimes or [provide an enhanced sentence](#). Unlike domestic terrorism, there are federal criminal statutes that allow individuals to be charged with hate crimes and that establish penalties for individuals convicted of hate crimes.

### *The Charlottesville Case*

James Fields pled guilty to federal hate crimes related to his driving a car into a crowd of counter-protesters, killing one and injuring dozens more in Charlottesville, VA, in August 2017. The [DOJ public description of the sentencing of Fields](#) exemplifies how difficult it may be to characterize acts as hate crimes or domestic terrorism, or distinguish between them. In describing Fields’ crimes and sentence, DOJ characterized his actions as both domestic terrorism and hate crimes.

## Homegrown Violent Extremism

The FBI and Department of Homeland Security (DHS) have [popularized the phrase](#) homegrown violent extremist (HVE). Unlike domestic extremists or terrorists, HVEs are motivated by the ideologies of foreign terrorist organizations. According to DHS and the FBI, [an 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.

Similarly, DHS and the FBI distinguish HVEs from domestic violent extremists (DVEs), who are not directed or inspired by foreign terrorist goals but support achieving political or social goals at least in part through unlawful force or violence. [DHS asserts that](#) DVEs present the “most persistent and lethal threat” to the homeland. The [FBI made a similar assessment](#), stating that “trends may shift, but the underlying drivers for domestic violent extremism—such as perceptions of government or law enforcement overreach, sociopolitical conditions, racism, anti-Semitism, Islamophobia, misogyny, and reactions to

legislative actions—remain constant.” According to Director Wray, the top DVE threat is from those the FBI identifies as racially/ethnically motivated violent extremists.

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