

# HSA@20 Episode Companion: Domestic Terrorism

December 26, 2023

This Insight accompanies the “Domestic Terrorism” episode of *The Homeland Security Act at 20* podcast series and includes background information on the issues discussed during the podcast.

## Defining Terms

The federal government defines *terrorism* as well as *domestic and international terrorism* in agency policy documents and in statute in different places.

### *Terrorism*

Federal Bureau of Investigation (FBI) [policy documents](#) define *terrorism* as “an ideologically-driven criminal act, including threats made to or acts of violence against specific victims, in furtherance of a domestic political and/or social goal.”

### **FBI Statutory Terrorism Definitions: [18 U.S.C. §2331](#)**

Statutory definitions of *domestic and international terrorism* contain a common thread:

Activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State (or that would be a criminal violation if committed within the jurisdiction of the United States or of any State); and appear to be intended to:

intimidate or coerce a civilian population;

influence the policy of a government by intimidation or coercion; or

affect the conduct of a government by mass destruction, assassination, or kidnapping.

For an act to be *domestic terrorism*, it must “occur primarily within the territorial jurisdiction of the United States” ([18 U.S.C. §2331\(5\)](#)). The specific statutory definition of *domestic terrorism* establishes it as a potential descriptor of a range of criminal acts. There is no federal criminal statute that establishes criminal penalties solely for “domestic terrorism.”

For activities to be *international terrorism*, they must “occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are

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accomplished, the persons they appear intended to intimidate or coerce, or the locale in which the perpetrators operate or seek asylum” (18 U.S.C. §2331(1)). Some of the provisions in the [federal terrorism statute](#) (Title 18, Chapter 113B) expressly relate to international conduct or foreign terrorist organizations.

### **DHS Terrorism Definition: 6 U.S.C. §101(18)**

*Terrorism* is defined as (distinctions from 18 U.S.C. §2231 italicized):

Activities that involve 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*; and appears to be intended to:

intimidate or coerce a civilian population;

influence the policy of a government by intimidation or coercion; or

affect the conduct of a government by mass destruction, assassination, or kidnapping.

The Department of Homeland Security (DHS) [Office of Intelligence and Analysis, Intelligence Oversight Program and Guidelines](#) has a slightly different definition of *international terrorism*, including in the first line *violent acts* but dropping the reference to critical infrastructure and key resources. The definition also uses a similar qualifier to the FBI’s for the international aspect, except the activities must “occur *entirely outside*” the United States.

The same document classifies *domestic terrorism* simply as “terrorism that is not international terrorism.”

Neither set of statutory definitions has been updated since 2002.

### ***Domestic Violent Extremism***

The FBI and DHS both define a *domestic violent extremist* in [policy documents](#) as “an individual based and operating primarily within the territorial jurisdiction of the United States who seeks to further their ideological goals wholly or in part through unlawful acts of force or violence.”

The FBI notes that:

- “strong rhetoric does not constitute violent extremism, and in some cases direct or specific threats of violence must be present to constitute a violation of federal law”; and
- DHS uses the terms *domestic terrorist* and *domestic violent extremist* interchangeably.

#### **Boston Marathon Bombing: Domestic or International Terrorism?**

The April 2013 Boston Marathon bombing was carried out by two brothers born overseas, one of whom was a naturalized U.S. citizen and one whose application was in process. Dzhokhar Tsarnaev, the surviving perpetrator, indicated he and his brother were motivated by radical Islam and not working with an outside group, but they had learned about bomb-making from an al-Qaeda online magazine. His brother was suspected of having contact with militants in Dagestan in the months before the bombing and was in the Terrorist Identities Datamart Environment (TIDE) database—the federal government’s central repository of information on international terrorist identities. TIDE contains the names of known or suspected international terrorists. According to the domestic terrorism statute, the bombing could have potentially been considered domestic terrorism. However, according to [FBI testimony on terrorism](#), they do not consider terrorism involving inspiration from foreign terrorist organizations to be domestic terrorism. Tsarnaev was charged with use of a weapon of mass destruction and malicious destruction of property resulting in death, which carried the death penalty.

### **The FBI, DHS, and Domestic Terrorism**

The FBI and DHS share counterterrorism responsibilities.

## *Investigations*

The [FBI](#) is the historical center of U.S. counterterrorism investigations.

- [Joint Terrorism Task Forces](#) (JTTFs)
- [Fusion Centers](#)

## *Protection of Civil Liberties*

- FBI Office of Integrity and Compliance
- Department of Justice, [Office of Privacy and Civil Liberties](#)
- Attorney General's Guidelines for Domestic FBI Operations
- DHS [Office of Civil Rights and Civil Liberties](#)

## *Oversight*

Section 5602 of the National Defense Authorization Act, 2020 (P.L. 116-92), requires a [joint FBI and DHS report to Congress](#) on domestic terrorism and threat assessment, developed in consultation with the Director for National Intelligence, to be annually updated for five years.

## *January 6, 2021*

- House Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol [Report and Supporting Materials](#)
- Department of Justice January 6 [case information](#)
- [Some January 6 offenders have received additional years in prison because their crimes were acts of domestic terrorism](#)

## *DHS Countering Domestic Terrorism Activities*

- [National Terrorism Advisory System](#) (NTAS)
- [Center for Prevention Programs and Partnerships](#) (CP3)

## **For Further Information**

For further reading on domestic terrorism and other issues discussed in the podcast, see the following CRS products:

- [Domestic Terrorism: Overview of Federal Criminal Law and Constitutional Issues](#)
- [Domestic Terrorism and the Attack on the U.S. Capitol](#)
- [Law Enforcement Investigations of Extremist Calls to Action on Social Media](#)
- [Sifting Domestic Terrorism from Domestic Violent Extremism and Hate Crime](#)

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## Author Information

William L. Painter, Coordinator  
Specialist in Homeland Security and Appropriations

Lisa N. Sacco  
Analyst in Illicit Drugs and Crime Policy

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