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FBI Categorization of Domestic Terrorism

The World Learns of "Black Identity Extremism"

In August 2017, the Federal Bureau of Investigation (FBI, the Bureau), reportedly published an intelligence assessment that conceptualized a new form of domestic terrorism, "black identity extremism" (BIE). In October, *Foreign Policy* magazine's blog obtained a copy of the FBI assessment and made it publicly available. In recent years, the FBI (the lead federal law enforcement agency charged with counterterrorism investigations) and the Department of Justice (DOJ) have delineated a number of ideologies that domestic terrorists use to justify their crimes. Domestic terrorists/extremists commit crimes in the name of animal rights, environmental rights, anarchism, white supremacy, anti-government beliefs (such as those that inspire "sovereign citizens" and unauthorized militias), black separatism, as well as beliefs tied to abortion. It is unclear whether BIE somehow changes this list—for example, adding "black identity" as an "ideology" that can inspire extremists. The expression of any of these worldviews—minus the commission of crimes—typically involves constitutionally protected activity. As such, many individuals and movements openly and lawfully espousing these beliefs distance themselves from people who use these ideologies to justify their crimes.

What Is BIE?

It is unclear whether the Bureau holds that some sort of non-extremist "black identity" ideological movement gives rise to "black identity extremism" or whether BIE stands alone. The FBI assessment said little of the term's origins. According to media accounts, the assessment notes that black identity extremists draw on "BIE ideology," the outlines of which the Bureau has not publicly described in any detail. Open sources have suggested that based on the contents of the assessment, such extremism seems to describe people who combine anti-government, anti-law enforcement, and black separatist views with a penchant for violently targeting police.

The FBI assessment reportedly links six violent incidents to black identity extremists, including a much publicized example involving Micah Johnson. He shot and killed five police officers in Dallas, TX, in July 2015. Johnson is said to have "liked" groups on Facebook tied to black separatism. He purportedly told police that he wasn't affiliated with any groups at the time of the shooting, which ended with police killing him after he was cornered in a local community college building.

Media characterizations of the assessment and the scant official information available about BIE leave salient questions for policymakers. Aside from basic issues regarding the exact meaning of "black identity extremism," policymakers may be interested in the following points:

Does BIE represent a new category of domestic terrorist actor, distinct from the existing black separatist extremist category, or does it subsume and replace the latter, or is it a subset of the latter? Black identity extremism appears to combine black separatist ideas with other ideological elements. Will the FBI now pursue BIE cases, black separatist cases, or both?

Aside from adding BIE, is the FBI reconfiguring other strains of domestic terrorism? On occasion, the FBI alters its understanding of domestic terrorist threats. In recent years, the Bureau has switched from "anti-abortion extremists" to "abortion extremism," thus including individuals who may commit crimes to protect abortion rights. In the past, it also used terms such as "special interest," "right-wing," and "left-wing" to describe domestic terrorists, but it has shifted away from such usages. Within the current context, is the Bureau considering creating an analogous White Identity Extremism category?

What official process was involved in creating the new term from what has been reported as little information—six violent, recent incidents? The FBI has not made such details available. Is the assessment the product of a small group of individuals at the FBI, or does it represent a corporate revision of the domestic terrorist threat? Was the assessment developed with input from outside agencies or experts?

More generally, how does the FBI officially categorize or re-categorize domestic terrorist threats (e.g., white supremacist extremism, anarchist extremism, or anti-government extremism) over time? According to DOJ, the Domestic Terrorism Executive Committee (DTEC) is designed to "coordinate closely with U.S. Attorneys and other key public safety officials across the country to promote information-sharing and ensure an effective, responsive, and organized joint effort." DTEC includes DOJ leaders and is co-chaired by a member of the U.S. Attorney community, the DOJ National Security Division, and the FBI. Did DTEC weigh in on the creation of "BIE?" Who at the FBI determines exactly what constitutes an extremist ideology? Are there official procedures to identify these ideologies, or are such efforts informal, shaped by the analyses and opinions of investigators and analysts? Do thresholds exist for the identification of ideologies that spawn domestic terrorism? For example, how many crimes, and what type, committed in the name of an ideology make it potentially "extremist" and susceptible to inspiring terrorism?

How does the FBI mitigate against bias in its framing of domestic terrorist threats? This may be particularly salient given concerns, especially from watchdog

organizations such as the American Civil Liberties Union, that the FBI could use BIE to justify investigations of law-abiding activists. The FBI safeguards against cases focused solely on constitutionally protected activities. Formal FBI investigative activity has to be conducted, *at the very least*, for an authorized national security, criminal, or foreign intelligence collection purpose and in pursuit of a clearly defined objective. Investigative activity may not solely monitor the exercise of First Amendment rights. However, some may wonder whether the FBI could use collecting intelligence on activities tied to "black identity extremism" as a justifiable purpose to begin official investigative work targeting activists lawfully protesting shootings of black suspects by police. How does the Bureau avoid cognitive or research biases that may seep into analytical or investigative work as well as implicit biases based on things such as race or gender?

Who Is a Domestic Terrorist?

Questions related to BIE may lead observers to wonder who is a domestic terrorist. The federal government does not designate domestic terrorist *organizations*. In other words, there is no official open-source roster of domestic groups that the FBI or other federal agencies target as terrorist organizations. The lack of such a designation likely springs partly from First Amendment concerns. Such a list could discourage speech and expression related to the ideologies underpinning the activities of named groups. This contrasts with international counterterrorism efforts, where the United States maintains a well-established—legally and procedurally prescribed—regimen regarding the identification of foreign terrorist organizations. Even if producing a domestic equivalent is impossible for the U.S. government, its lack may add to confusion among the public as well as policymakers regarding exactly who is a domestic terrorist.

> The Bureau offers little public information about the process it uses to identify ideologies such as BIE that may foster domestic terrorism. As a result, independent observers cannot verify if an official process exists to define such ideologies, which then become the bases for organizing, prioritizing, and implementing domestic terrorism investigative subprograms at the FBI.

The FBI relies on the following definition of domestic terrorism: "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 definition says nothing about the specific ideological motivations of domestic terrorists.

At least three issues tangle efforts to sort out which ideologies may give rise to domestic terrorism:

First, defining a domestic ideology linked to extremism—The FBI's practical, shorthand definition of domestic terrorism is "Americans attacking Americans based on U.S.-based extremist ideologies." However, some of the *U.S.-based* extremist ideologies driving what the Bureau views as domestic terrorism *are not* purely domestic. They have international roots and active followings abroad. The ideologies supporting eco-extremism and animal rights extremism readily come to mind, and people have long committed crimes in their names outside the United States. At least in part, their origins lay in the United Kingdom. Nazism—with its German origins and foreign believers—is an element within domestic white supremacist extremism. Anarchism, the philosophy followed by anarchist extremists, also has European roots. The racist skinhead movement traces its origins abroad as well. These examples help illustrate the challenge the FBI faces in selecting U.S.-based ideologies to help frame the threat of domestic terrorism.

Second, as one may infer from the above material, the *overwhelming majority* of people espousing the ideologies the FBI has marked as susceptible to extremist exploitation never become terrorists. Also, membership in an organization espousing these extreme ideologies does not make one a terrorist. Given such a context, sifting hardcore true believers from dilettantes, let alone law-abiding activity from terrorist activity, can prove challenging—especially if law enforcement takes a preventive posture, attempting to infiltrate groups or stop individuals before they commit crimes.

Third, the ideological landscape changes over time. Ideologies rise and fall in popularity. For example, in the 1990s deadly confrontations between federal law enforcement and private citizens at Ruby Ridge, ID, and a site near Waco, TX, helped stimulate interest in beliefs adopted by anti-government militia extremists. Timothy McVeigh's bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, made such views less popular in the late 1990s and early 2000s. Although McVeigh's bombing cannot fully account for the dip in militia activity, experts have noted that it affected the movement by causing some groups to temper their rhetoric (fearing law enforcement investigations), while others grew more extreme. For a time, militias generally became more marginalized. Since the early 2000s, there has been a general expansion in militia activity, with activity periodically rising and falling but still greater than in the period immediately after the bombing in Oklahoma City.

A changing ideological landscape may have inspired the FBI to create the label "black identity extremism." However, without further explanation of the term and its origins, policymakers and the public will be hard pressed to understand its investigative application, utility, and validity within the current threat environment.

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