



Department of Justice

STATEMENT OF

**BRAD WIEGMANN
DEPUTY ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON HOMELAND SECURITY
U.S. HOUSE OF REPRESENTATIVES**

AT A HEARING ENTITLED

**“CONFRONTING THE RISE OF DOMESTIC TERRORISM
IN THE HOMELAND”**

PRESENTED

MAY 8, 2019

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Good morning Chairman Thompson, Ranking Member Rogers, and distinguished Members of the Committee, and thank you for the opportunity to testify on behalf of the Department of Justice. Protecting the American people from terrorism and other national security threats has long been the top priority of the Department. This includes protecting against both international and domestic terrorism.

Domestic terrorism continues to pose a significant threat to the public, as a number of recent attacks and plots amply demonstrate. In the United States, espousing an extremist ideology is not a crime, nor is expressing hateful views or associating with hateful groups. But where an individual tries to impose or promote an ideology through acts of violence, often on a mass scale, those acts can be among the most serious crimes we confront as a society. We have seen individuals conduct domestic terror attacks too many times, whether motivated by anti-government animus, racism, or other ideologies. At the Department of Justice, we are committed to protecting all Americans from such attacks, regardless of the motivation. No matter who is behind the violence and intimidation, we will use every tool at our disposal to deter and disrupt domestic terrorists and bring them to justice.

The FBI is the lead federal agency for investigating domestic terrorist threats. In my testimony today, I will focus first on how the Department of Justice is organized to handle domestic terrorism cases, working in close collaboration with the FBI. I will then describe the legal authorities we rely on in prosecuting domestic terrorists. Last, I will explain how we have used those authorities in some of our recent cases.

I.

On the front lines of our efforts to prosecute domestic terrorism as well as international terrorism are our 94 U.S. Attorney's Offices. Each U.S. Attorney's Office coordinates a group of federal, State, and local law enforcement in the district, called the Anti-Terrorism Advisory Council (“ATAC”). The ATAC works in close partnership with its corresponding FBI Joint Terrorism Task Force (“JTTF”) in each FBI field office across the country. The ATACs, in conjunction with the JTTFs, promote training and information-sharing among federal, State, and local law enforcement, as well as private sector partners, in matters relating to terrorism, both

international and domestic. This training and information-sharing is critical because there are many more local law enforcement officers on the ground than there are federal agents and they may be the first to come across individuals planning terrorist acts within their communities. We thus often have federal, State, and local officials evaluating the same threats, including assessing whether federal or State charges are available to disrupt them, with the goal being prevention of terrorist attacks before they occur. Each U.S. Attorney's Office has also designated a senior prosecutor to serve as the National Security/ATAC Coordinator. The National Security/ATAC Coordinator serves as the lead counterterrorism prosecutor for the district as well as the primary Point of Contact for the Department on terrorism matters. Many U.S. Attorneys' Offices have also designated National Security Sections or Units within the office that are specifically focused on counterterrorism and other national security matters. The National Security/ATAC Coordinator and other national security prosecutors in the U.S. Attorney's Offices are specially trained in domestic and international terrorism matters and work closely with the JTTFs to investigate and prosecute terrorism matters.

At Main Justice here in Washington, the National Security Division ("NSD") was created in 2006 to integrate, coordinate, and advance the Department's counterterrorism and other national security work nationwide. The National Security Division has a Counterterrorism Section with more than 40 attorneys, all of whom are equipped to work on both domestic and international terrorism cases in concert with U.S. Attorney's Offices. Those NSD attorneys include a Counsel for Domestic Terrorism and two domestic terrorism coordinators who focus on domestic terrorism cases. Our National Security Division is closely connected with the U.S. Attorney's Offices around the country for purposes of all terrorism matters. For example, NSD attorneys are notified and available to provide assistance when any domestic terrorism investigation or prosecution is initiated and when significant developments in those cases occur. They serve as important resources and partners in litigating legal issues and can also participate actively as co-prosecutors. Domestic terrorism cases share a core of practice, including common motions and defenses, which makes these attorneys' experience invaluable.

In addition, other divisions of the Department play an important role in countering domestic terrorism. The Civil Rights Division, for example, is responsible for overseeing the prosecution of hate crimes, some of which may also qualify as acts of domestic terrorism. Anti-government extremists who are engaged in domestic terrorism sometimes refuse to pay taxes. The Tax Division is responsible for overseeing prosecution of tax offenses committed by such individuals.

Finally, a Domestic Terrorism Executive Committee (DTEC) reports to the Attorney General. The DTEC includes representatives of the U.S. Attorney's Offices, the National Security Division, other divisions of Main Justice, the FBI, DHS, and other law enforcement agencies. The DTEC provides a national-level forum for information-sharing at the leadership level on domestic terrorism matters. Extensive collaboration within the Department, the whole federal government, and the nationwide law enforcement community is vital to addressing the threat from domestic terrorism.

II.

A.

The Department of Justice has prosecuted individuals whose conduct involves domestic terrorism or a threat thereof using a range of criminal statutes. These include weapons charges, *e.g.*, 18 U.S.C. §§ 922, 924; charges relating to use or possession of explosives, *e.g.*, 26 U.S.C. §§ 5845, 5861; threat, hoax, or riot charges, *e.g.*, 18 U.S.C. §§ 871, 875, 876, 1038, 2101; and charges proscribing attacks on federal officials or facilities, *e.g.*, *id.* § 111, 115, 351, 844, 930, 1114, 1361, 1751. Hate crimes charges, *e.g.*, *id.* § 249, may be appropriate where individuals engage in domestic terrorism that is motivated by biases against a race, religion, ethnicity, or other specified factors. Arson, *id.* § 844, or specific charges relating to violence against animal enterprises, *id.* § 43, may apply to eco-terrorists or animal rights terrorists. Moreover, several statutes reach conduct that may be associated with terrorism, without regard to whether the offense itself involves domestic or international terrorism. These include statutes relating to aircraft sabotage, *id.* § 32; weapons of mass destruction, *e.g.*, *id.* §§ 175, 175b, 175c, 229, 831, 832, 2332a, 2332h, 2332i; arson and bombing of federal property, *e.g.*, *id.* §§ 844, 2332a, 2332f; and causing injury or death to a federal official, *e.g.* *id.* §§ 111, 115, 351, 1114, 1751; among others. And it is a crime to provide material support or resources to another knowing or intending that they be used in preparation for or carrying out certain terrorism-related offenses. *Id.* § 2339A.

We also work closely with our State and local partners to confront domestic terrorism. Some cases of domestic terrorism do not involve violations of federal law, but are prosecuted by State and local authorities under state law. Other cases may involve violations of both federal law and State law, and the State charge, in some circumstances, may be the most effective way to prosecute an individual. In those circumstances, we support our State and local partners where we can.

It is important to emphasize that we prosecute domestic terrorists for their criminal acts, not for their beliefs or based on their associations. In fighting domestic terrorism, we respect the constitutional rights of freedom of speech, association, and assembly of all Americans. The FBI opens cases on suspected criminal violations, not ideologies. The FBI may not investigate solely on the basis of First Amendment-protected activity.

B.

The criminal code also includes a definition of “domestic terrorism” that enhances our authority in cases involving this conduct. The definition covers activities that—

- (A) involve 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; and

(C) occur primarily within the territorial jurisdiction of the United States[.]

18 U.S.C. § 2331(5).

Where incorporated into other authorities, this definition provides us with an array of expanded investigative tools and sentencing enhancements in domestic terrorism matters:

- Judges can issue nationwide search warrants in cases involving domestic terrorism, just as they are authorized to do in cases involving international terrorism. Typically, judges can only issue warrants pertaining to their districts. This expanded authority reduces delays and burdens on investigations with regional or national scope. Fed. R. Crim. P. 41(b)(3).
- Judges may grant orders giving investigators greater access to certain educational and taxpayer records in domestic and international terrorism investigations. 20 U.S.C. §§ 1232g(j)(1)(A), 9573(e); 26 U.S.C. § 6103(i)(7)(C).
- Investigative and law enforcement officers have additional authority to share intercepted communications and derivative evidence, including with appropriate federal, State, local, or foreign officials, when disclosing information revealing a threat of terrorism, including domestic terrorism. *See* 18 U.S.C. § 2517(8).
- Government attorneys also have additional authority to share grand-jury matter, including with those same officials, when disclosing information to prevent or respond to a threat of terrorism, including domestic terrorism. *See* Fed. R. Crim. P. 6(e)(3)(D).
- Some statutes, particularly ones relating to conduct that impedes our investigations, carry enhanced statutory maximums if the offense involves or is intended to facilitate domestic or international terrorism. *See id.* § 1001 (material false statements); *id.* § 1505 (obstruction of justice); *see also id.* § 1028 (fraudulent identification); *cf. id.* § 226 (including definition within an element of the offense for bribery affecting port security).

In addition, the criminal code contains a definition of “Federal crime of terrorism,” which means an offense that “is calculated to influence or affect the conduct of government by

intimidation or coercion, or to retaliate against government conduct,” and violates one of the enumerated statutes prohibiting terrorism-related offenses, such as statutes related to weapons of mass destruction. 18 U.S.C. § 2332b(g)(5). That definition includes domestic as well as international terrorism. It enhances our authority with respect to investigations, detention, sentencing, and supervised release. Congress has extended the statute of limitations, *id.* § 3286, and created a rebuttable presumption of pretrial detention for the offenses listed in the definition of “Federal crime of terrorism,” *id.* § 3142(e)(3). The Sentencing Guidelines then provide a significant sentencing enhancement for offenses that involve, or are intended to promote, a “federal crime of terrorism”—often increasing the guideline range to the statutory maximum. *See* USSG § 3A1.4. The Sentencing Guidelines also provide for a similar upward departure for other offenses that were calculated to influence or affect the conduct of government by intimidation or coercion, to retaliate against government conduct, or to intimidate or coerce a civilian population. *See id.* cmt. n.4. Further, once a sentence has been served, Congress has authorized lifetime supervised release for the offenses listed in the definition of “Federal crime of terrorism,” *see* 18 U.S.C. § 3583(j), which helps to prevent recidivism.

III.

As noted above, the Department’s goal is to stop terrorist attacks before they occur, and to bring the perpetrators of such attacks to justice. While we do not always succeed in preventing attacks, we will use whatever legal authorities are available in support of this objective.

Our U.S. Attorney’s Offices and National Security Division have worked together in recent cases to bring charges under a variety of terrorism-related statutes, including ones prohibiting weapons of mass destruction. In several, we have disrupted, prosecuted, and convicted domestic terrorists before violence occurred:

- David Ansberry was arrested in October 2016 after placing an improvised explosive device (IED) in the parking lot of the Nederland, Colorado Police Department, believing that law enforcement had murdered a member of a 1960s-1970s counterculture group of which he had also been a member. He was indicted for use and attempted use of a weapon of mass destruction, in violation of 18 U.S.C. § 2332a. Ansberry pleaded guilty and, in January 2019, was sentenced to 27 years.
- Jerry Varnell was arrested in August 2017 after trying to detonate an inoperable Vehicle Borne Explosive Device at the BancFirst building in downtown Oklahoma City to send an anti-government message. He was indicted for attempting to use a weapon of mass destruction, in violation of 18 U.S.C. § 2332a, and attempting to destroy by fire or explosive a property used in interstate commerce, in violation of 18 U.S.C. § 844(i). Varnell was convicted on both counts in February 2019.
- Cesar Sayoc was arrested in October 2018 for mailing 16 IEDs to 13 victims throughout the United States, including Democratic politicians and a media outlet. He was charged in the Southern District of New York with use of a weapon of mass

destruction, in violation of 18 U.S.C. § 2332a; interstate transportation of explosives, in violation of 18 U.S.C. § 844(d); threatening interstate communications, in violation of 18 U.S.C. § 875(c); illegal mailing of explosives, in violation of 18 U.S.C. § 1716(j)(2); and use of explosives to commit a felony, in violation of 18 U.S.C. § 844(h). Sayoc pleaded guilty in March 2019.

We continue to work on pending domestic terrorism cases as well:

- William Allen was arrested in October 2018 for allegedly sending threatening letters to the President, Secretary of Defense, Director of the CIA, Director of the FBI, Secretary of the Air Force, and Chief of Naval Operations. He was indicted in Utah for threatening to use a biological toxin, ricin, as a weapon, in violation of 18 U.S.C. § 175(a); mailing a threat against the President, in violation of 18 U.S.C. § 871(a), and mailing threatening communications to an officer or an employee of the United States, in violation of 18 U.S.C. § 876(c).
- In late 2018, Robert Rundo, Robert Boman, Tyler Laube, and Aaron Eason were indicted in the Central District of California for rioting, in violation of 18 U.S.C. § 2101, and conspiring to riot, in violation of 18 U.S.C. § 371. Benjamin Daley, Thomas Gillen, Michael Miselis, and Cole White were indicted in the Western District of Virginia in connection with the same conduct. They are purported members of the white supremacist group Rise Above Movement, and are alleged to have assaulted multiple people at political rallies, including at the Unite the Right rally in Charlottesville, Virginia. Some have pleaded guilty.
- Joseph Dibee, an alleged environmental extremist and member of a group known as “The Family,” was indicted in 2006, along with 12 co-conspirators in California, Oregon, and Washington. “The Family” has been linked to over 40 criminal acts and \$45 million in property damage. Dibee was charged with arson, conspiracy to commit arson, conspiracy to destroy an energy facility, and other offenses, in violation of 18 U.S.C. §§ 371, 844(f), (i), (n), 924(c), and 1366. He was returned from Cuba to the United States in August 2018, and his trial is set for October 2019.

In addition, the Department’s Civil Rights Division has worked with U.S. Attorney’s Offices and the National Security Division to pursue domestic terrorism cases involving hate crimes or violations of civil rights statutes. 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. Last year, 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 to violate the housing rights of their victims, in violation of 18 U.S.C. § 241. They received sentences between 25 and 30 years.

The Civil Rights Division has led other domestic terrorism cases involving civil rights charges too, including some of the most serious attacks in recent years:

- In June 2015, Dylann Roof killed nine African-American parishioners engaged in religious worship and Bible study at Emmanuel African Methodist Episcopal Church in Charleston, South Carolina. In December 2016, he was convicted of 33 counts of federal hate crimes, civil rights, and firearms charges, including nine capital counts of obstruction of exercise of religion 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. In January 2017, the jury sentenced Roof to death on all 18 capital counts. The sentence of death has been imposed by the court but not yet carried out.
- In August 2017, James Fields Jr. intentionally drove a car into a diverse crowd of counter-protestors at the Unite the Right rally in Charlottesville, Virginia, killing one woman and injuring dozens. 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. He has not yet been sentenced, but each of the 29 counts carries a maximum sentence of life imprisonment.
- In October 2018, Robert Bowers killed 11 Jewish congregants gathered to engage in religious worship at the Tree of Life Synagogue in Pittsburgh, Pennsylvania, according to the indictment. Bowers has been indicted with 63 counts of hate crimes and firearm offenses, including 11 counts of obstruction of free exercise of religious beliefs resulting in death, in violation of 18 U.S.C. § 247, and 11 counts of use and discharge of a firearm to commit murder during and in relation to a crime of violence, in violation of 18 U.S.C. § 924.

The Department also supports efforts to prosecute domestic terrorists under State and local laws. For example, in 2013, the Department secured the first conviction under the District of Columbia's Anti-Terrorism Act. Floyd Corkins was charged for an attempted shooting at the Family Research Council. He was motivated based on disagreement with the organization's stance against gay marriage. He was sentenced to 25 years. Our State and local partners have been successful in prosecuting domestic terrorism cases too. For example, in January 2019, James Jackson pleaded guilty to New York state offenses of murder, terrorism, hate crimes, and weapons offenses relating to a racially motivated stabbing of an African-American man. In February, he was sentenced to life in prison.

Some domestic terrorists never get prosecuted because they die in the course of their attack. In July 2016, Micah Johnson killed five police officers in Dallas, Texas, out of racial animus in the deadliest incident for U.S. law enforcement since 9/11. Later that month, Gavin Long shot six police officers in Baton Rouge, Louisiana, killing three. In June 2017, James Hodgkinson wounded four people at a congressional baseball practice, including House Majority Whip Steve Scalise. The perpetrators died in those cases, but the Department's role continued. When domestic terrorists are killed during their attacks, the Department's Main Justice divisions and U.S. Attorney's Offices will assist the FBI and other law enforcement to run down possible leads, including any domestic conspirators or copycats.

In recent weeks, we have been seeing a disturbing trend, set off by the mass shooting in Christchurch, New Zealand, in which religiously motivated or racially motivated violent extremists seek to outdo one another by targeting innocent people, purportedly inspired by or retaliating for prior attacks. The tragic attack at the Chabad of Poway synagogue and the planned bombing in Southern California are two examples. The Department's Main Justice Divisions and U.S. Attorney's Offices have been assisting the FBI and local law enforcement with those cases and will continue to do so. Domestic terrorism cases are top priorities.

* * *

The Department is committed to using every tool, and working with every partner, to fight domestic terrorism. I appreciate the opportunity to discuss these issues with you, and I would be pleased to answer your questions.