

**A Former United States Attorney's View on
Domestic Terrorism, 1791–2021**

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I. EXECUTIVE SUMMARY

In the words of Federal Bureau of Investigation (FBI) Director Christopher Wray, “January 6th [attack on the U.S. Capitol] was not an isolated event. The problem of domestic terrorism has been metastasizing across the country for a long time now, and it’s not going away anytime soon.”¹ Unbeknownst to most of the American public, the United States has a long history of domestic terrorism (DT) and is home to many groups that are capable of violence, but the U.S. justice system currently possesses no federal crime of DT. The January 6, 2021 attack on the U.S. Capitol was not an anomaly, but was a particularly large-scale flaring up of the historically persistent and growing undertones of DT and domestic violent extremism (DVE) in the United States.

Since the prospect of increased activity in DT and DVE is a daunting reality for 21st Century America, failure to take legislative action to create a federal crime of DT may seriously affect the government’s ability to deter and discourage DT. January 6 may only be the start of a growing culture of violent, far-right extremism fueled by racism and conspiracy to overthrow the U.S. government. Outside of political pressures, the events of January 6 must be labelled as an instance of ‘mass criminal violence’ at the minimum or ‘insurrection’ at the maximum. The issue of DT must gain top priority in the field of national security and federal criminal law.

The United States has always exhibited an incredible ability to unite in times of crisis and it is our firm belief that this exceptional country cannot be broken by those whose primary instruments of political change are violence and fear.

¹ “FBI Director Christopher Wray Testifies on Capitol Attack, Domestic Terrorism Full Hearing Transcript March 2,” *Rev.com*, March 3, 2021, <https://www.rev.com/blog/transcripts/fbi-director-christopher-wray-testifies-on-capitol-attack-domestic-terrorism-full-hearing-transcript-march-2>.

II. INTRODUCTION

The American people were given a sharp wake-up call to the underlying and persistent DT threat to America in the January 6, 2021, attack on the Capitol. The attack was instantly labeled as an incident of DT and kicked off the largest federal criminal investigation in the history of the country; an even larger investigation than what resulted from the catastrophic 9/11 attacks that killed nearly 3,000 people in New York City. While the Capitol has been attacked before, the immense scale of the January 6 attack is reason for particular concern given to the event.

The deep history and prevalence of DT in the fabric of American society and history is a fact most Americans are unaware of or unwilling to accept. This paper will draw from past and current research, news sources, and official government reports to present a comprehensive insight into the history, groups, and nature of DT in the United States, with the exception of ‘lone-wolf attacks’ that were not historically related to attacks on the Capitol. It will also uncover the significance of current DT threats and present potential solutions for future DT threats to national security. Our hope is that there is an increased interest within the general American public on DT and subsequent elevation of knowledge on the subject that can act as an additional layer of deterrence against the potential for such acts of violence.

III. THEORY ON DOMESTIC TERRORISM (DT)

Main Assertions:

1. The United States has a long history of DT and the January 6 attack on the Capitol cannot be classified as an anomaly.
2. A clear federal crime of DT is needed for violent extremist action to be clearly punishable by law and to deter future attacks.
3. The January 6 attack on the Capitol is an act of violent DT, but does not amount to a full-scale act of insurrection.

IV. LEGAL DEFINITION OF DOMESTIC TERRORISM (DT)

The FBI and Department of Homeland Security (DHS) have developed a standard definition of DT that is used to determine if an activity is considered as DT.² The following criteria is used in the assessment of activities determined to be DT:

- Involving an act that:
 - Is dangerous to human life or destructive of critical infrastructure or key resources.
 - Is a violation of the criminal laws of the United States or of any State.
- Appearing to be intended to:
 - Intimidate or coerce a civilian population.
 - Influence the policy of the government by intimidation or coercion.
 - Affect the conduct of government by mass destruction, assassination, or kidnapping.
- Occurring within the territorial jurisdiction of the United States.

It is important to note that the definition of DT utilized by the U.S. government is purely definitional and does not constitute a separate federal criminal violation. The Constitution allows individuals to possess and advocate some of the underlying ideologies of DT groups; however, when violent action is carried out as a result of these beliefs, the act becomes illegal and the official terminology changes to “Domestic Violent Extremism (DVE).”

² “Domestic Terrorism: Definitions, Terminology, and Methodology,” FBI.gov, November 12, 2020, <https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-definitions-terminology-methodology.pdf/view>.

V. CATEGORIES OF DOMESTIC VIOLENT EXTREMISM

The United States Government sorts the DT threat of DVE into five broad categories:

- (1) Racial or Ethnically Motivated Violent Extremism
- (2) Anti-Government or Anti-Authority Violent Extremism
- (3) Animal Rights/Environmental Violent Extremism
- (4) Abortion-Related Violent Extremism
- (5) All Other Domestic Terrorism Threats

Out of the categories, racial or ethnically motivated extremists and anti-government or anti-authority extremists present the most persistent and dangerous threats in the United States.³

The legal definition of each category follows:

1. **Racially or Ethnically Motivated Violent Extremism:** These extremists are concerned with the use of unlawful force or violence to advance their ideology of bias towards race or ethnicity. Political and religious justification often accompany the use of violence and racial objectives.
2. **Anti-Government or Anti-Authority Violent Extremism:** These extremists are concerned with the use of unlawful force or violence to advance their anti-government or anti-authority agenda. It is often accompanied by “perceived economic, social, or racial hierarchies, or perceived government overreach, negligence, or illegitimacy.”⁴
3. **Animal Rights/Environmental Violent Extremism:** These extremists are concerned with the use of unlawful force or violence to end or “prevent perceived cruelty or harm to

³ “National Strategy for Countering Domestic Terrorism.” The White House, June 2021: 6, <https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>.

⁴ “Domestic Terrorism: Definitions, Terminology, and Methodology,” FBI.gov.

animals and the perceived exploitation or destruction of natural resources and the environment.”⁵

4. **Abortion-Related Violent Extremism:** These extremists are concerned with the use of unlawful force or violence to advance ideology related to abortion and the support of either pro-life or pro-choice beliefs.
5. **All Other Domestic Terrorism Threats:** These threats include all unlawful threats of force or violence not defined under one of the other categories of DT.

⁵ Ibid.

VI. WHY ATTACK THE UNITED STATES CAPITOL BUILDING?

Few symbols resonate with Americans more than the U.S. Capitol Building in Washington, D.C. While some may argue that the Statue of Liberty or the White House is the preeminent American symbol; only the Capitol holds all elected federal officials from all states. Recall the 9/11 terrorist chose powerful American symbols—the World Trade Center and the Pentagon. While it is not clear what the target was for the third jet, it is likely it was the Capitol.⁶ The Senators and Representatives from every corner of America meet and vote in the Capitol. This is where the work of the nation is conducted. The Capitol is on a hill overlooking the city named in honor of the first U.S. President, George Washington.

Former President Ronald Reagan observed metaphorically about America being the, “Shining City on a Hill” (“America is, and always will be, a shining city on a hill.”)⁷ This in turn was based on Jesus’ words in the Gospel of Matthew: “You are the light of the world. A city set on a hill cannot be hidden.” (Matthew 5:14) The Capitol has a commanding view of the city. Members of Congress carry out their Constitutionally mandated duties in this one place. It is America condensed, with all of its peoples, and federal representatives, in one place.

It has also been a place of violence. While most Americans viewed the attacks on January 6, 2021 as an anomalous attack on democracy, there have been several prior attacks against this symbol of democracy over the past 100 years. What may not be well known by the public is that the first attack on the Capitol occurred during WWI, before the United States sent

⁶ Garrett M. Graff, “What Happened on Capitol Hill on 9/11,” *Time*, September 11, 2019, <https://time.com/5673607/september-11-congress/>.

⁷ Ronald Reagan, ““Shining City on a Hill”—Ronald Reagan, 1988 State of the Union Address,” C-SPAN, January 25, 1988, <https://www.c-span.org/video/?c4746361%2Fshining-city-hill-ronald-reagan-1988-state-union-address>.

its troops to Europe. All attacks were carried out by American citizens for a variety of reasons. Each attack will be discussed in chronological order.

**First Capitol Attack:
1915 : Erich Muentner (German Sympathizer)**

On July 2, 1915, a package containing three sticks of dynamite exploded in the reception room of the U.S. Capitol building.⁸ Former Harvard German professor, Erich Muentner, was identified as responsible for the bombing. His act of terrorism left no casualties, however, extensive damage was done to the interior of the Senate chamber.⁹ The timing of the explosion at midnight, when the Senate was out of session, showed the political intent of the bomb. Professor Muentner wrote a letter to a Washington, D.C. newspaper explaining the purpose behind the explosion as an effort to protest the U.S. provision of munition and aid to Great Britain during World War I.

Following the bombing, Muentner fled to New York where he went to wealthy industrialist J.P. Morgan's home and shot him twice for financing the war against Germany. It was later revealed in court that Professor Muentner intended to hold Morgan's family hostage until the shipment of war supplies to Great Britain, financed by Morgan, halted.¹⁰ Morgan's wounds proved to be non-fatal and Muentner was apprehended. He later committed suicide in his jail cell. Further investigation of Muentner revealed he had been living under a false alias after murdering his wife in 1906, fleeing to Boston, and resurfacing in 1908 in Dallas, Texas, as Frank Holt.¹¹

⁸ Becky Little, "A History of Attacks at the US Capitol," History.com, A&E Television Networks, January 7, 2021.

⁹ Library of Congress. "Erich Muentner's 'Reign of Terror': Topics in Chronicling America" Research Guides, <https://guides.loc.gov/chronicling-america-erich-muentners-reign-of-terror>.

¹⁰ Darla C. Shelton, "They Called It Patriotism," *Undergraduate Theses and Professional Papers*, (2017): 165.

¹¹ Joseph T. McCann, *Terrorism on American Soil: A Concise History of Plots and Perpetrators from the Famous to the Forgotten* (Boulder, CO: Sentient Publications, 2006).

Second Capitol Attack: 1954 : Puerto Rican Nationalists

On March 1, 1954, four Americans of Puerto Rican ancestry—Lolita Lebron, Irving Flores Rodriguez, Rafael Cancel Miranda, and Andrés Figueroa Cordero carried out an attack on the U.S. House of Representatives side in the U.S. Capitol building. The purpose of the attack was to demand Puerto Rico’s independence from the United States. The significance of the date was clear—a law had been passed on March 1, 1917, granting Puerto Ricans U.S. citizenship but no voting power. The four nationalists were not content with mere citizenship since they could not vote for the president and had no representation in Congress.¹²

The four assailants managed to bypass the security officer and made their way to the gallery overlooking 240 Congressional representatives where they fired their weapons indiscriminately, shouted pro-Puerto Rican independence slogans, and hung their flag.¹³ Five members of Congress were wounded by the shootings, but none were killed. The Puerto Rican nationalists offered little resistance when they were finally arrested.¹⁴

The four Puerto Ricans were labelled “terrorists” by the media, convicted, and sentenced to fifty-seven years in federal prison.¹⁵ Three of the Puerto Ricans, excluding Lolita Lebron, were charged with “assault with intent to kill” and all four were charged with “assault with a dangerous weapon.”¹⁶ After serving twenty-five years in prison, three of the nationalists were

¹² McCann, *Terrorism on American Soil*, 93.

¹³ *Ibid.*, 94.

¹⁴ *Ibid.*, 95.

¹⁵ *Ibid.*

¹⁶ Lolita Lebron, Appellant, v. United States of America, Appellee. Rafael Cancel Miranda, Appellant, v. United States of America, Appellee. Andres Figueroa Cordero, Appellant, v. United States of America, Appellee, Irving Flores Rodriguez, Appellant, v. United States of America, Appellee, 229 F.2d 16 (D.C. Cir. 1956), *Justia US Law*, <https://law.justia.com/cases/federal/appellate-courts/F2/229/16/202408/>.

pardoned by President Jimmy Carter and released.¹⁷ Convicted attacker Lolita Lebron continued to challenge being associated with the term, “terrorist,” well into her eighties.¹⁸

Third Capitol Attack: 1971: Weather Underground (Violent Anti-Vietnam War Group)

On March 1, 1971, a bomb exploded in the U.S. Capitol building causing \$300,000 in damages but injuring no one.¹⁹ An American anti-war group called Weather Underground²⁰ claimed responsibility for the bombing and said the attack was in protest of the Vietnam War and U.S. backed Laos invasion where the United States was engaged in an effort to overthrow the communist government allied with the Soviet Union and North Vietnam.²¹ According to their 1974 manifesto, *Prairie Fire*, members of Weather Underground engaged in violence, “to disrupt the [American] empire ... to incapacitate it, to put pressure on the cracks.”²² Their philosophy was grounded in Marxism and advocated the use of violence, particularly arson and bombing, to inspire political and social change. No one was arrested for the bombing.²³

Other Weather Underground (a.k.a. ‘Weathermen’) targets included the Long Island Court House, New York Police Department headquarters, the Pentagon, and the State Department.²⁴ The bombers always gave advanced warning purportedly so no one was killed in

¹⁷ McCann, *Terrorism on American Soil*, 96.

¹⁸ Ibid.

¹⁹ “Bomb Explodes in Capitol Building,” History.com, A&E Television Networks, November 16, 2009, <https://www.history.com/this-day-in-history/bomb-explodes-in-capitol-building>.

²⁰ The group named themselves after a lyrical line in the Bob Dylan song, “Subterranean Homesick Blues”: “You don’t need a Weatherman to know which way the wind blows.”

²¹ Jessica Pearce Rotondi, “Why Laos Has Been Bombed More Than Any Other Country,” History.com, A&E Television Networks, December 5, 2019, <https://www.history.com/news/laos-most-bombed-country-vietnam-war>.

²² “Weather Underground Bombings,” FBI.gov, May 18, 2016, <https://www.fbi.gov/history/famous-cases/weather-underground-bombings>.

²³ McCann, *Terrorism on American Soil*, 145.

²⁴ “Bomb Explodes in Capitol Building,” History.com.

any of their attacks.²⁵ As a result, some argue that the Weathermen cannot be categorized as terrorists because of the absence of human casualties in their attacks; however, the use of violence in the form of destroying property for political purposes fits within the legal definition of DT.²⁶

Fourth Capitol Attack: 1983: Armed Resistance Unit (ARU)

On November 7, 1983, a bomb exploded on the second floor of the U.S. Senate chambers of the Capitol building causing internal damage of approximately \$250,000 but no casualties.²⁷ Shortly after detonation, the *Washington Post* received a call from a group called the Armed Resistance Unit (ARU) who claimed responsibility for the explosion and stated the purpose was to protest the U.S. Military actions in Grenada and Lebanon.²⁸ Several ARU members—Susan Rosenberg, Timothy Blunk, Alan Berkman, and Elizabeth Duke were later arrested and indicted in connection to the bombing of the U.S. Capitol building.

Closer investigations into the ARU revealed many of its members were former members of the Weather Underground and Black Liberation Army (BLA).²⁹ Aside from the Capitol bombing, the ARU carried out other high-profile terrorist attacks to include assistance in the escape of BLA member Assata Shakur who was charged with the killing of a policeman, armored car robbery, and at least eight bombings around New York City and Washington D.C. Targets included the National War College at Fort McNair, Washington Navy Yard Computer

²⁵ McCann, *Terrorism on American Soil*, 146.

²⁶ *Ibid.*

²⁷ Little, “A History of Attacks at the US Capitol.”

²⁸ McCann, *Terrorism on American Soil*, 146.

²⁹ *Ibid.*

Center, FBI offices in New York City, and South African consulate in New York.³⁰ Several of the convicted were later pardoned by President Clinton and allowed to be released from prison.

Fifth Capitol Attack: 2021: Pro-Trump Rioters

On January 6, 2021, hundreds of rioters gathered outside the Capitol to protest the electoral victory of President-Elect Joe Biden and disrupt Congress' formal acceptance of the election results. Exact numbers have been hard to pin down, but with hundreds charged with crimes, it is logical that many more were present and not charged. Some members of the mob outside proceeded to storm the Capitol, pushing through police barricades and smashing windows to gain entrance. Little reported in her account—published the following day on January 7—that at least 138 officers were injured.³¹ Additionally, nine fatalities (including five officers and four protestors) were either directly or indirectly related to the January 6 events. The casualties included one female protestor who was shot at the Capitol during the riot; another female protestor who died soon after the riot from an indirect cause; two other male protestors who suffered from heart attacks before the riot broke out; one police officer who died from strokes the day after the attack; and four other officers who were reported to have committed suicide within the following weeks.³² The riot has resulted in the largest criminal investigation in American history and has been classified as DT by the FBI.³³

Particularly concerning is that rioters included prior and current members of the U.S. Military and law enforcement, militia groups, conspiracy groups, the Proud Boys (far-right

³⁰ Ibid., 147.

³¹ Little, “A History of Attacks at the US Capitol.”

³² Farley, Robert. “How Many Died as a Result of the Capitol Riot?” Factcheck.org, November 1, 2021, <https://www.factcheck.org/2021/11/how-many-died-as-a-result-of-capitol-riot/>

³³ NPR Staff, “The Capitol Siege: The Arrested and Their Stories,” NPR.org, June 17, 2021, <https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories>.

group), Oath Keepers (anti-government group), and even former members of the Latin Kings street gang.³⁴ Charges filed by the U.S. Attorney's Office in Washington, DC, against the rioters include committing conspiracy, committing acts of violence, causing property damage, and theft.³⁵

The question of whether the storming of the Capitol building was an insurrection or simply a rudderless act of violence remains to be adjudicated. Trials, or guilty pleas by those charged with either show a concerted effort to disrupt the election certification, or a spontaneous use of violence. The vast majority of those charged in federal court pled guilty. Currently close to 700 rioters have been charged with crimes.³⁶ There are a variety of explanations for this. Typically, they have confessed to federal crimes or they have been advised by defense counsel that their sentence will be reduced for "acceptance of responsibility." Spontaneous crimes of violence will likely be treated less harshly than a premeditated plan to disrupt. The FBI is doubtless going through reams of social media posts, cell phone records, cell phone tower records, surveillance camera imagery, and tips from friends of family members of the rioters. To be sure, the involvement of former President Donald Trump is problematic given the words he used, "We fight like hell. And if you don't fight like hell, you're not going to have a country anymore."³⁷ As a result, his role is surrounded by controversy. The incident, however, involves numerous federal crimes and meets the definition of domestic terrorism. The riot highlights the rise of extremism ideology into the public spotlight in the most symbolic place of government power, the United States Capitol.

³⁴ Ibid.

³⁵ "Capitol Breach Cases," Justice.gov, The U.S. Department of Justice, March 26, 2021, <https://www.justice.gov/usao-dc/capitol-breach-cases>.

³⁶ Ibid.

³⁷ Brian Naylor, "Read Trump's Jan. 6 Speech, a Key Part of Impeachment Trial," NPR.org, February 10, 2021, <https://www.npr.org/2021/02/10/966396848/read-trumps-jan-6-speech-a-key-part-of-impeachment-trial>.

VII. HISTORY OF DOMESTIC TERRORISM (DT) IN THE UNITED STATES

America is known for many positive strengths globally. We have the oldest representative democracy and constitution in the world. We are known to be a country of law and order. Our courts are fully functional and fair. We are known for peaceful transfer of power every four or eight years. We respect the rule of law. Corruption is not a significant problem among our government leaders. Yet, we emerged from a colonial state from Great Britain after a bloody rebellion in which we broke away from the British by force of arms. Some seventy years after the founding of the United States, its armed forces invaded Mexico and forcibly took the northern half of the country resulting in a doubling of the size of America. A mere 10 or so years after the Mexican-American War, we engaged in the costliest and deadliest war ever fought on American soil and one of the largest civil wars in the 19th Century.³⁸

We Americans established our country after engaging in a sustained military conflict with hundreds of indigenous American tribes and after millions of enslaved Africans had been shipped here to build an agricultural-based economy in the South. Vanquished indigenous Americans were forced at gunpoint to leave their ancestral lands and moved to “Indian Territories” (Oklahoma and other locations in the Southwest and Northwest). Large numbers of Irish Catholics and some 15,000–20,000 Chinese workers toiled to build our first transcontinental railroad.³⁹ Despite the awe-inspiring words penned by Thomas Jefferson that “all men were created equal,” that equality did not apply to all Americans until well into the 20th

³⁸ History.com Editors, “Civil War,” History.com, A&E Television Networks, October 15, 2009, <https://www.history.com/topics/american-civil-war/american-civil-war-history>.

³⁹ Lesley Kennedy, “Building the Transcontinental Railroad: How 20,000 Chinese Immigrants Made It Happen,” History.com, A&E Television Networks, May 10, 2019, <https://www.history.com/news/transcontinental-railroad-chinese-immigrants>.

Century. At first, America's light of freedom initially shone only for Protestant Western Europeans. That would change in the mid-to-late 20th Century when Congress passed a series of laws to mandate equality to non-Western European Americans.

The Insurrection Act was passed in 1807 and was signed into law by President Thomas Jefferson.⁴⁰ While the primary reason for creating the law was to stop Aaron Burr, a Revolutionary War officer and senator from New York, from raising an army and establishing his own dynasty in the Louisiana Territory or Mexico; two large insurrections prior to Burr demonstrated the need for authority to deploy the military in times of crisis.⁴¹ The two major insurrections prior to signing of the Insurrection Act involved hundreds of Americans who were protesting the tax policies of the new country; The Whisky Rebellion in 1791 and Shay's Rebellion in 1786–1787. By creating the Insurrection Act, Congress gave the President the ability to use the U.S. Military to quell large disturbances in which law enforcement cannot maintain order. It is an exception to the *posse comitatus* rule that the U.S. Military cannot be used for law enforcement purposes. Most of the uses have been in the mid- to late 1900s with the majority of the uses to establish order after a riot. While some of the uses have been for post-disaster relief, most uses were in the civil rights era when the state government initially refused to follow U.S. Supreme Court guidance. The landmark Supreme Court case of *Brown v. Board of Education* ended the “separate but equal” practice in our schools, but also resulted in significant backlash. The most famous example is probably when Alabama Governor George Wallace stood in the doorway to deny entry to the University of Alabama's first African American student.

⁴⁰ Dave Roos, “Thomas Jefferson Signed the Insurrection Act in 1807 to Foil a Plot by Aaron Burr,” History.com, A&E Television Networks, June 3, 2020, <https://www.history.com/news/insurrection-act-thomas-jefferson-aaron-burr>.

⁴¹ Ibid.

Sociologist Rutledge M. Dennis argues that racism is a fundamental thread in the political fabric of American society. He states, “in order to understand the dynamics and the impact of racism, we must view it as a faith and, for the American society, a permanent belief system rather than a transient apparition. Its longevity has been tried and tested. It now occupies a place in the American value pantheon alongside such concepts as democracy and liberty.”⁴² This uncomfortable epiphany is the critical piece of information needed to understand the rise and prevalence of the American far right. Racism is the same thread that led to the creation of the Ku Klux Klan (KKK) in 1865 and the passing of the Chinese Exclusion Act of 1882. Without acknowledging the role of racism in the United States, a complete or accurate picture of the American far right cannot be observed.

In 2020, the Columbia Studies in Terrorism and Irregular Warfare published a book titled, *American Zealots: Inside Right-Wing Domestic Terrorism*. The author, Professor Arie Perliger, takes a deep dive into the history, groups, ideology, and future of DT and the American far right. He argues that the roots of DT and far-right activity are much deeper than expected and, in an interview on C-SPAN, that the January 6 attack on the Capitol should not come as a surprise.⁴³ In his book, Dr. Perliger identifies the first far right extremist group as being the Know-Nothing Party in the mid-1850s.⁴⁴ They rose out of the desire to protect American “nativism, exclusionism, and bias toward ‘others.’”⁴⁵ While the desire of the Know-Nothing Party was to protect the Protestant dominance in America from the Catholicism brought in by waves of immigrants through political means, the far right groups that followed were not quite as

⁴² Rutledge M. Dennis, “Socialization and Racism: The White Experience,” in *Impacts of Racism on White Americans*, eds. Benjamin P. Bowser and Raymond G. Hunt (Thousand Oaks, CA: Sage, 1981), 71–85.

⁴³ “Arie Perliger Discusses Right-Wing Extremism in the U.S.,” Washington Journal, C-SPAN, January 17, 2021, <https://www.c-span.org/video/?507812-3%2Fwashington-journal-arie-perliger-discusses-wing-extremism-us>.

⁴⁴ Arie Perliger, *American Zealots: Inside Right-Wing Domestic Terrorism* (Columbia University Press, 2020), 39.

⁴⁵ Ibid.

civil. In the following sections, based on Dr. Perliger’s organization of far-right history in his book, *American Zealots: Inside Right-Wing Domestic Terrorism*, we will describe the historical background of America’s most notable far-right extremist groups.

Know-Nothing Party (1850–1860s)

During the 1850s, a record number of European immigrants entered the United States from Roman Catholic countries such as Italy and Ireland. As a result, the Know-Nothing Party gained popularity in major metropolitan areas, including New York, Philadelphia, and Baltimore, out of a growing concern among Protestant Americans about the increasing number of Catholic immigrants.⁴⁶ Combined with economic depression, inflation, and job competition in the mid-1850s, tension developed for immigrants and native born Americans.⁴⁷ Madison Grant, a prominent American eugenicist whose doctrine even became Adolf Hitler’s self-professed “bible,” wrote *The Passing of the Great Race* in 1916 about the immigrant fear. He writes:

These immigrants adopt the language of the native American, they wear his clothes, they steal his name, and they are beginning to take his women, but they seldom adopt his religion or understand his ideals and while he is being elbowed out of his own home the American looks calmly abroad and urges on others the suicidal ethics which are exterminating his own race.⁴⁸

Riding on the anti-Catholic and anti-immigrant sentiments, the Know-Nothing Party gained political traction and quickly spread across the northern United States under the label of the American Party.⁴⁹

⁴⁶ A. Cheree Carlson, “The Rhetoric of the Know-Nothing Party: Nativism as a Response to the Rhetorical Situation,” *Southern Communication Journal* 54, no. 4 (1989): 364–83.

⁴⁷ Perliger, *American Zealots*, 40.

⁴⁸ Adam Serwer, “White Nationalism’s Deep American Roots,” *The Atlantic*, Atlantic Media Company, April 7, 2020, <https://www.theatlantic.com/magazine/archive/2019/04/adam-serwer-madison-grant-white-nationalism/583258/>.

⁴⁹ Bruce Levine, “Conservatism, Nativism, and Slavery: Thomas R. Whitney and the Origins of the Know-Nothing Party,” *Journal of American History* 88, no. 2 (2001): 455; Carlson, “The Rhetoric of the Know-Nothing Party.”

Characteristics of the Know-Nothing Party involved in-group and out-group framing of issues, demonizing of immigrants and Catholics, and presenting of their mission as a continuation of the Revolutionary War.⁵⁰ Through this means, the Party was able to create an idealized image of the United States without the presence of immigrants for its followers. Finally, the secrecy of the organization created a sense of unity and empowerment for members. While most supporters of the Party eventually left for Republican or Democratic parties, the qualities and methods employed were later used by other populist far-right movements into the 20th Century.

Ku Klux Klan (from the 1860s to the 1870s)

The U.S. Civil War highlighted the deep rift between the cultural, economic, and societal conditions of the North and South. The issue of slavery was the most prominent flashpoint and issue of contention. Out of the subsequent Southern defeat and disillusionment, the Ku Klux Klan (KKK) was started by a group of six former Confederate officers in Pulaski, Tennessee, between 1865 and 1867. The group quickly spread its chapters across the South to include: Alabama, Mississippi, Kentucky, Virginia, West Virginia, South Carolina, and Georgia.⁵¹ There was an effort to centralize the organization under former Confederate General Nathan Bedford Forrest as the leader, or “grand wizard,” however, it failed because of limited logistical capacity and a proper chain of command was never established.⁵² At the time of this writing, his bust is still in a position of honor in the state capitol of Tennessee. It will be moved to a museum at some point in the future.

⁵⁰ Perliger, *American Zealots*, 41.

⁵¹ Perliger, *American Zealots*, 43.

⁵² Tyler Anbinder, *Nativism and Slavery: The Northern Know Nothings and the Politics of the 1850s* (New York: Oxford University Press, 1994).

The first iteration of the KKK primarily carried out independent acts of violence against African-Americans, Northern supporters for equality, and individuals engaged in interracial social activity. Their preferred methods of attack included assault, flogging, branding of victims, mutilation with acid, and physical beatings. At the height of the movement, Forrest claimed the total number of KKK members in the South was over half a million.⁵³ Generally, Northerners viewed the group as violent and extreme while Southerners viewed the group as patriotic and justified.⁵⁴ From 1869 to 1870 the federal government decided to crack down on the group and forced Forrest to disband the KKK in January of 1869. However, the violence still continued until late 1871.⁵⁵

Ku Klux Klan (KKK) Part II (from 1915 through the1940s)

In 1951, the KKK was re-established by William Joseph Simons who had previously enlisted in the U.S. Army and fought in the Spanish-American War. As a result of World War I, the United States saw an increase in the number of immigrants entering the country. Between 1900 and 1920 the United States admitted over 14.5 million immigrants into the country.⁵⁶ Combined with anti-immigrant sentiments and a poor labor market, the KKK spread a message of the old South and original white America. With the help of the Southern Publicity Association (SPA), a public relations firm, and effective recruiting system, the KKK was able to revive their organization and increase membership to several million.⁵⁷ By 1925, the

⁵³ “Interview with Nathan Bedford Forrest,” Wikisource, The Free Library (*Cincinnati Commercial*, August 28, 1868), http://en.wikisource.org/w/index.php?title=Interview_with_Nathan_Bedford_Forrest&oldid=3853811.

⁵⁴ Perliger, *American Zealot*, 44.

⁵⁵ “Ku Klux Act Passed by Congress.” *History.com*, A&E Television Networks, 9 Feb. 2010, <https://www.history.com/this-day-in-history/ku-klux-act-passed-by-congress>.

⁵⁶ “Mass Immigration and WWI,” USCIS.gov., July 30, 2020, <https://www.uscis.gov/about-us/our-history/mass-immigration-and-wwi>.

⁵⁷ Perliger, *American Zealot*, 45.

organization had anywhere from two to five million members and millions of more sympathizers.⁵⁸ The SPA helped spread KKK propaganda and allowed the group to spread into areas previously denied entry such as the Northeast and Midwest. They were also able to project a milder image of the KKK by focusing on national issues and convincing northerners that their movement was legitimate.⁵⁹

The second iteration of the KKK was transformed into a mass movement with a combination of a strict hierarchy and autonomy of regional chapters. The group was also able to finance operations by using a pyramid-scheme business model, in which recruiters would get a percentage of the initiation fee, and by selling KKK merchandise. Eventually, a combination of popular disdain because of corruption among leadership, the Great Depression, and change of leadership left the group financially unsustainable and forced to disband in 1944.

While perceptions of the second iteration of the KKK were less hostile compared to the original group, violence was still a primary instrument of the group. Between 1915 and World War II, the group was engaged in hundreds of violent attacks aimed at minority groups, government institutions, and commercial bodies that supported African-American rights. Klansmen carried out hundreds of beatings, whippings, and murders of non-whites.⁶⁰ They mixed xenophobia, religious prejudice, and white supremacy to advocate for the restoration of “true Americanism” and presented itself as a Christian moral reform organization.⁶¹ The Klan demonstrated that even moderate Americans had a tendency to resort to nativism, fear of the outsider, and acceptance of violence.

⁵⁸ Joshua D. Rothman, “When Bigotry Paraded Through the Streets,” *The Atlantic*, Atlantic Media Company, June 21, 2021, <https://www.theatlantic.com/politics/archive/2016/12/second-klan/509468/>.

⁵⁹ Rory McVeigh, *The Rise of the Ku Klux Klan: Right-Wing Movements and National Politics* (Minneapolis: University of Minnesota Press, 2009), 5–7.

⁶⁰ Rothman, “When Bigotry Paraded Through the Streets.”

⁶¹ *Ibid.*

American Nazism (from 1930 through the 1960s)

The National Socialist groups were never able to gain mass popularity like the KKK, however, they have always had a piece of the American social pie since the early 1930s. The first American Nazi sympathizers grew out of Chicago in 1930 through an organization called Friends of the New Germany (FotNG). FotNG were supporters of the Nazi Party in Germany and mainly consisted of German immigrants from Chicago and New York City.⁶² In 1936, FotNG was transformed into the German-American Bund under Fritz Kuhn, with the purpose of creating an American branch of the Nazi Party.⁶³ Unfortunately, for the Bund, the actual German Nazi Party never recognized or endorsed the American branch, citing increased anti-German sentiment in the United States as a result of the Bund's activity. As World War II dragged on, Fritz Kuhn had difficulty gathering support among German-Americans and perceptions of the Bund grew increasingly negative. Finally, in December of 1941, the Bund disbanded as an organization.⁶⁴

Following the conclusion of World War II, the United States saw the rise of a new brand of Nazism in the creation of the centralized neo-Nazi groups of the 1950s and 60s. These new groups included: the National Renaissance Party (NRP) established in 1949 and the American Nazi Party (ANP) established in 1959. The NRP was led by James Madole who conducted public demonstrations advocating the National Socialist message and spreading Nazi propaganda. Their operations were primarily in New York and the organization largely died out after Madole's death in 1978. In contrast, the ANP were relatively more successful as an

⁶² Betty A. Dobratz and Stephanie L. Shanks-Meile, *The White Separatist Movement in the United States: "White Power, White Pride!"* (Baltimore, MD: Johns Hopkins University Press, 2000), 55–57.

⁶³ Perliger, *American Zealots*, 48.

⁶⁴ Susan Canedy, *America's Nazis: a Democratic Dilemma: A History of the German American Bund* (Menlo Park, CA: Markgraf Publications Group, 1990), 224–25.

early far-right organization. It was founded by George Lincoln Rockwell in 1959 and quickly gained popularity through its charismatic leader and help of mass media. Most notable were the creation of the *Stormtrooper* and the *Rockwell Report*, which spread conspiracy theories against Jews, hatred against African-Americans, and ideas of racial segregation.⁶⁵ Rockwell had aspirations to become governor of Virginia by 1966 and President of the United States by 1972.⁶⁶ However, the number of members in the ANP never grew over a few hundred and the Nazism promoted by Rockwell didn't convince the post-World War II American public. Eventually, the assassination of George Rockwell in 1967 started the decline of the organization, which soon fragmented into smaller socialist organization unable to cooperate and primarily focused on distributing neo-Nazi literature.⁶⁷ It is also important to recognize that a distinctive characteristic of the NRP and ANP was the decision to promote Nazism ideology through nonviolent political means. National Socialist groups that followed weren't so peaceful.

American Nazism Part II (from 1970 through the 2000s)

The groups that came after the American Nazi Party refused the philosophy of non-violent political action and utilized violent means to bring change. In 1979, the National Socialist Party of America conducted a shooting attack against members of the Communist Workers Party in Greensboro, North Carolina, killing five communists; and in 1980, the National Socialist Liberation Front conducted a shooting attack against African -in Louisiana.⁶⁸ Also significant about the Greensboro massacre was that it was the first time members of the far-right,

⁶⁵ "American Nazi Party," FBI.gov, December 6, 2010, <https://vault.fbi.gov/American%20Nazi%20Party%20/American%20Nazi%20Party%20Part%201%20of%202/view>, 18–45.

⁶⁶ Ibid., 9.

⁶⁷ Dobratz and Shanks-Meile, *The White Separatist Movement in the United States*, 59–63.

⁶⁸ Shaun Assael and Peter Keating . "The Massacre that Spawned the Alt-Right," *Politico Magazine*, November 3, 2019, <https://www.politico.com/magazine/story/2019/11/03/greensboro-massacre-white-nationalism-klan-229873/>.

Nazis, and Klansmen, joined together to work in concert. As a result of the newly formed relationship between these far-right groups, Nazism in America took a more radical and violent approach.

The KKK was not the only group to mingle with the National Socialist Party, but white supremacy groups within the so-called “Christian Identity movement” also joined the assembly.⁶⁹ For example, the Aryan Nations, founded by Richard Butler in 1977, combines elements of the so-called Christian Identity movement with National Socialist Party ideas.⁷⁰ By the 1980s, the skinheads also entered the American neo-Nazi scene. They emerged as a youth subculture and punk movement in the United Kingdom before coming to the United States, where they adopted elements of white supremacy and engaged in more violent activity.⁷¹ Skinheads exposed to white supremacy, such as the group called Romantic Violence, later changed to CASH (Chicago Area Skinheads), engaged in violence against Hispanics and Jews. White-power music and propaganda also contributed to the increasingly racist and violent character of the skinhead culture.

In 1986, Thomas Metzger hijacked the movement by combining white supremacy ideology of the KKK with the skinheads to form the White Aryan Resistance (WAR) group. WAR engaged in a mass propaganda campaign to raise its appeal among youth and spread white power music to unite skinheads around the country. It culminated into the first national white-power music festival hosted by WAR. WAR skinheads also engaged in vandalism against Jewish businesses and synagogues, attacks against African-Americans and homosexuals, and assaults

⁶⁹ ‘Christian Identity’ is an anti-Semitic religious ideology that believes white Europeans are the true descendants of Israel and all non-whites are “mud peoples.”

⁷⁰ Southern Poverty Law Center (SPLC), “Aryan Nations,” Southern Poverty Law Center (SPLC), n.d., , <https://www.splcenter.org/fighting-hate/extremist-files/group/aryan-nations>.

⁷¹ Perliger, *American Zealots*, 57.

against immigrants. A particularly violent group of skinheads that began in 1987 were the Confederate Hammerskins, which eventually united with other Hammerskins as the Hammerskin Nation (HSN) in 1994.⁷² At the height of HSN, there were 30 chapters spread throughout the country, hundreds of racially motivated crimes, and the first law enforcement death of Denver police Officer Bruce Vander Jagt by a racist skinhead in 1997.⁷³ By the 2000s, internal disagreement about leadership led to groups with the HSN to break off and new independent skinheads chapters emerged. These newer groups were also less likely to engage in violence and criminal activity, operating more as a gang rather than a conventional neo-Nazi group.⁷⁴

Ku Klux Klan Part III (from 1950 through the 1990s)

The KKK was revived in the 1950s and 60s out of the landmark Supreme Court decision on education and racial integration in schools. White Americans, particularly in the South, felt the effects of the civil rights movement and looked to the KKK to protect the status quo and resist racial integration. Out of the U.S. Supreme Court's *Brown v. Board of Education* decision to desegregate schools, southern whites staged a massive resistance effort and the KKK formally reorganized in 1955.⁷⁵ Between the 1950s and 60s, the KKK engaged in hundreds of attacks against African Americans, white supporters of integration, Jews, and civil rights activists.

The new KKK organizations included groups such as Americans for the Preservation of the White Race and United Klan of America (UKA). With the increase in organization and support, the KKK was able to carry out coordinated bombings on religious facilities, shooting

⁷² "Racist Skinheads: Understanding the Threat," Southern Poverty Law Center (SPLC), June 25, 2012, <https://www.splcenter.org/20120625/racist-skinheads-understanding-threat>.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ "Ku Klux Klan in the Twentieth Century," *New Georgia Encyclopedia*, November 8, 2020, <https://www.georgiaencyclopedia.org/articles/history-archaeology/ku-klux-klan-twentieth-century>.

attacks, and lynchings. The close relationship they retained with local law enforcement also allowed them immunity from legal punishment.⁷⁶ The violence and social disturbance caused by the KKK eventually got the Federal Bureau of Investigation (FBI) involved, which greatly disrupted Klan activities. As a result, by the 1970s, the KKK had largely been dissolved to a couple thousand active members.⁷⁷

Attempts to revive the KKK were started by individuals like David Duke and Thomas Metzger in the 1970s and 80s. They wanted to create a “Klean Klan” that appealed to educated and urban whites by becoming a legitimate political force advocating for the rights of white people.⁷⁸ In an attempt to separate themselves from the violent image of the KKK, they started independent white supremacy groups that would allow them more flexibility. David Duke began the National Association for the Advancement of White People and Tom Metzger started the White Aryan Resistance.⁷⁹ The 1980s and 90s also saw increased cooperation between such “Klean Klan,” white supremacy groups, and other far-right groups such as the neo-Nazis and Christian Identity organizations. The views on violence differed among members of the Klean Klan as did their perceptions of mobilizing support. However, by the 1990s the KKK was largely weakened and overshadowed by other far-right groups. A combination of law enforcement action and unpopular public opinion also contributed to its collapse.

The American Militia Movement (1990 to the present)

⁷⁶ Perliger, *American Zealots*, 52.

⁷⁷ “Ku Klux Klan in the Twentieth Century.”

⁷⁸ Perliger, *American Zealots*, 53.

⁷⁹ Dobratz and Shanks-Meile, *The White Separatist Movement in the United States*, 48–49.

The embrace of paramilitary culture and concept of militia is a prominent feature of far-right groups. Since the American Revolutionary War against Great Britain, militias have played a critical role in resistance by means of violence and provision of security against oppressive authorities. However, the militia culture took an unexpected turn in the 1980s and '90s when the enemy was redefined as the federal government and a heightened fear of federal authorities began being manifested in future members of militia groups.

The first signs of trouble started with the increasing disconnect between rural and urban America in the 1980s and 90s. The “1980s farm financial crisis” left many rural Americans in farm debt and with little support.⁸⁰ As a result, rural Americans were left to fend for themselves and many felt abandoned by the federal government. Then in August of 1992, the events at Ruby Ridge, where Randy Weaver and his family engaged in a standoff with the FBI for eleven days, demonstrated to far-right Americans the need for personal protection from the federal government who mishandled the situation, resulting in the death of Randy’s wife, son, and a U.S. Marshal.⁸¹ The siege at Waco in April of 1993, further solidified hostilities towards the federal government when the Branch Davidians, a radical religious group led by David Koresh, engaged in a fifty-one day standoff with the U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF) as well as the FBI in their compound called Mt. Carmel. The result was the death of nearly 80 people, 25 of them being children, to include Branch Davidians as well as federal agents, and an exponentially increased fear of governmental abuse of authority.⁸² Ruby Ridge and the Waco

⁸⁰ Steve H. Murdock, F. Larry Leistritz, and Rita R. Hamm, “Impacts of the Farm Financial Crisis of the 1980s on Resources and Poverty in Agriculturally Dependent Counties in the United States,” *Review of Policy Research* 7, no. 4 (June 1988): 810–27; Lia Bryant, “Social Aspects of the Farm Financial Crisis,” in *Agriculture, Environment, and Society*, eds. Geoffrey Lawrence, Frank Vanclay, and Brian Furze (London: Macmillan Education UK, 1992), 157–72.

⁸¹ “Ruby Ridge,” *Encyclopædia Britannica*, May 6, 2021, <https://www.britannica.com/event/Ruby-Ridge>.

⁸² “Waco Siege,” *Encyclopædia Britannica*, <https://www.britannica.com/event/Waco-siege>.

siege demonstrated to far-right groups that the federal government could not be trusted and that Second Amendment rights were being threatened. A combination of such thinking led to the rise of many militia groups in the 1990s and eventually motivated U.S. Army combat veteran Timothy McVeigh to conduct the Oklahoma City Bombing, which killed 168 people and was the worst U.S. terrorist attack to that date on April 19, 1995.⁸³

The first significant far-right militia group, United Citizens for Justice (UCJ), was founded one year after the Ruby Ridge incident. It was the result of a meeting conducted at Estes Park, Colorado, in 1992 where 160 members of American far-right groups met to discuss the overstep of federal authority and the threat to constitutional rights.⁸⁴ They perceived the Ruby Ridge incident as a precursor to a growing federal authority and agreed on the need for independent militias, leaderless resistance, and the creation of a new antifederal movement.⁸⁵ The UCJ only lasted for a couple years, however, three of its members would go on to found the first modern American militia.

Members of the Tochmann family—John, David, and Randy—established the Montana Militia (MOM) in 1994. The MOM were primarily concerned with propaganda and promotion of their anti-government ideology rather than violent militant action. For the American militia culture, the MOM opened the door for increased publicity and loyalty among people with similar views across the country. Other militia groups started appearing independently in rural areas comprised mostly of lower and middle class white men. They expressed contempt towards the federal government, communists, bankers, the United Nations, and circulated conspiracy

⁸³ History.com Editors, “Ruby Ridge,” History.com, A&E Television Networks, January 19, 2018, <https://www.history.com/topics/1990s/ruby-ridge>.

⁸⁴ Robert L. Snow, *Terrorists Among Us: The Militia Threat* (Cambridge, MA: Perseus, 1999), 13–14.

⁸⁵ Perliger, *American Zealots*, 63.

theories.⁸⁶ These early militia groups stayed within the law and were hesitant to engage in violent militant activity.

The second, and more violent, brand of militias were developed in the mid-1990s with the creation of the Michigan Militia. The militia was started by Norman Olson who militarized the group creating a paramilitary structure, conducting training, and accumulating hundreds of firearms and ammunition.⁸⁷ In a press release in 1996, Olson warned of a civil war, retaliation against the FBI, and claims that thousands of patriots had vowed against another Waco or Ruby Ridge.⁸⁸ Timothy McVeigh, the individual behind the Oklahoma City Bombing, was also accused of having links to the Michigan Militia. Other groups, such as the Viper Militia and Oklahoma Constitutional Militia, hatched plots to bomb important government and civilian facilities such as the Internal Revenue Service (IRS), ATF, Southern Poverty Law Center (SPLC), and abortion clinics.⁸⁹

The Oklahoma City Bombing in 1995 had mixed results for the American militia movement. While the incident increased public exposure to the militias, which temporarily increased recruitment, it also increased federal law enforcement efforts bringing militia leaders under extra scrutiny. By 1996, every state had at least one militia group and the movement began to express an increasingly criminal nature. Arrests related to illegal weapons possession and conspiracy charges were common to the Blue Ridge Hunt Club, Georgia Republic Militia, Arizona Viper Militia, and West Virginia Mountaineer Militia.⁹⁰ As a result, the militia movement started to decline in the late 1990s. For instance, the Tri-States Militia, an ambitious

⁸⁶ Jack Levin, *Domestic Terrorism* (New York: Chelsea House, 2006), 39.

⁸⁷ Robert L. Snow, *Terrorists Among Us: The Militia Threat* (Reading, MA: Perseus, 2002), 14.

⁸⁸ Norm Olson, "Northern Michigan Regional Militia (Press Release)," 1996.

⁸⁹ Perliger, *American Zealots*, 65.

⁹⁰ Anti-Defamation League (ADL), "The Militia Movement," <https://www.adl.org/education/resources/backgrounders/militia-movement>.

attempt to bring several militia groups together, collapsed once they realized their leader had been an FBI informant, the Montana Freeman demonstrated the movement's lack of response when it fell after an 81-day standoff with the FBI, and early militia leaders voluntarily started dropping out.⁹¹ Still there were those who became more radicalized following the Oklahoma City Bombing and formed splinter groups to carry out more attacks. For example, members of the North American Militia planned to target federal buildings in Michigan and assassinate government officials, but were unsuccessful and arrested in 1998.⁹² Militia members continued to get into trouble with law enforcement and continued to engage in criminal activity. However, the start of the 21st Century dealt the most decisive blow to the militia movement.

Towards the end of the 20th Century, militia leaders had promoted the conspiracy of the Y2K software bug, which they claimed would collapse the country's infrastructure, cause the government to declare martial law, and begin the New World Order.⁹³ When the year 2000 passed without much incident, militia leaders lost credibility and the movement saw an overall decline in popularity. However, the revival of the militia movement began in 2008 with the election of Democratic President Barack Obama, economic crisis, and introduction of unpopular policies among right-wing activists. During this time, the rise of the Internet and social media contributed to the distribution of militia propaganda and increased membership from younger people in their twenties.⁹⁴ It was out of this tension in 2008 that Mike Vanderboegh created the Three Percenters movement and Stewart Rhodes created the Oath Keepers. The Three Percenters are founded on the belief that only three percent of the American population engaged

⁹¹ Ibid.

⁹² Ibid.

⁹³ Norman Olson, "The Militia and Y2K" (1999); "Y2K Policy Statement," *Virginian Citizens Militia*, March 6, in Mulloy, *Homegrown Revolutionaries*, 453–62.

⁹⁴ "The Militia Movement (2020)," Anti-Defamation League (ADL).
<https://www.adl.org/resources/backgrounders/the-militia-movement-2020>.

in resistance against the British during the Revolutionary War and a small group of patriots could do the same for what Three Percenters perceive as a modern U.S. tyranny.⁹⁵ While Vanderboegh encouraged illegal and violent activism against the government, the requirements to become a Three Percenter are incredibly low. No paramilitary action is required and an individual must simply declare they are a Three Percenter. The Oath Keepers are another modern anti-government militia movement, but their primary recruitment focuses on former military and law enforcement. They have actively been involved in disputes with the federal authorities throughout the 2010s and several were found at the January 6 attack on the Capitol.⁹⁶

Conversely, the 2016 election of former President Donald Trump saw the support of many members of the militia movement and a shift in attention from the federal government to other enemies such as Antifa.⁹⁷ However, newer anti-government extremist movements like the “boogaloo” movement (slang for future civil war) have not embraced former President Trump and have accused other militia movements of bending to authority by supporting Trump.⁹⁸ As a result, the type and purpose of the militia movement varies and continues to evolve.

Christian Identity (1950s–present)

Religion and extremism often go hand in hand. While the so-called Christian Identity movement began as an ideological endeavor in Britain during the 19th Century in an attempt to redefine the interpretation of Scripture, the ideology gained popularity among right-wing circles when it entered the United States. In Britain, a group of religious thinkers advanced the idea,

⁹⁵ Ibid.

⁹⁶ Michael Kunzelman and Richer, Alanna Durkin, “Charges after US Capitol Insurrection Roil Far-Right Groups,” AP News, June 2, 2021, <https://apnews.com/article/capitol-insurrection-charges-roil-far-right-groups-1e0560dbd5572944e3435e225f8be616>.

⁹⁷ “The Militia Movement (2020),” Anti-Defamation League (ADL).

⁹⁸ Ibid.

known as British Israelism, that modern Europeans were descended from the “Lost Tribes” of the ancient Israelites in the Old Testament.⁹⁹ Racist or anti-Semitic sentiments were not part of the original ideology. However, when the doctrines of British Israelism reached the United States in the late 19th Century, the ideology began to evolve and an increasingly anti-Semitic attitude was adopted. The belief that only white Europeans were the “true” Israelites and that most European Jews were “false” Israelites began to circulate throughout the United States. Edward Hine is credited with stimulating the movement in the United States with his five-year lecture tour around the Northeast and the Great Lakes area.¹⁰⁰ Howard Rand and William J. Cameron were responsible for the growth of anti-Semitic tendencies in the movement during the 1930s through use of literary publications and media.¹⁰¹

The face of the British Israelism movement transformed into the so-called Christian Identity movement with Wesley Swift in the 1940s. Swift was active in extreme right-wing groups and developed friendships with prominent anti-Semitic leaders such as Gerald L. K. Smith.¹⁰² As a result, Swift started the Church of Jesus Christ Christian and began to link the Christian Identity groups with other far-right ideologies.¹⁰³ He was a charismatic and talented speaker who was also openly anti-Semitic, which appealed to members of the KKK and other white supremacy groups.¹⁰⁴ The 1960s saw a new group of Christian Identity leaders who spread the movement among far-right circles. Among the leadership were disciples of Wesley Swift—James K. Warner, William Potter Gale, and Richard Butler.

⁹⁹ “Christian Identity,” Anti-Defamation League (ADL). <https://www.adl.org/resources/backgrounders/christian-identity>.

¹⁰⁰ Perliger, *American Zealots*, 69.

¹⁰¹ Ibid.

¹⁰² “Christian Identity,” Anti-Defamation League (ADL).

¹⁰³ Ibid.

¹⁰⁴ Perliger, *American Zealots*, 71.

The Identity groups also started to become more violent with the emergence of groups like the Christian Defense League, Gale's Posse Comitatus, Swift's Church of Jesus Christ Christian, and Aryan Nations. William Gale's Posse Comitatus group gave rise to other posse associations that were anti-Semitic, hostile to federal authority, especially towards the Internal Revenue Service, and militant in the 1970s. Richard Butler's Aryan Nations became a full-fledged white supremacist group by the 1980s and began recruiting within correctional facilities.¹⁰⁵

The so-called Christian Identity movement has been the primary force behind several violent domestic terror attacks in the 1980s and 90s. In 1983, a member of the Identity, Gordon Kahl, killed two U.S. Marshals and a local sheriff, in a manhunt that ensued, before killing himself. In the same year, a white supremacy terrorist group called The Order was founded by Robert Matthews who was an Identity activist from Idaho.¹⁰⁶ They engaged in counterfeiting, armed robbery, and violent attacks throughout the '80s. Their primary target was the "ZOG" or Zionist Occupation Government. Notable attacks by The Order included the robbery of \$3.8 million from an armored vehicle, the assassination of Denver area media personality Alan Berg (Jewish radio host), the bombing of a synagogue in Idaho, bombing of the house of a Catholic priest, and the David Tate incident in which a Missouri State Highway Patrol officer was killed trying to enter an Identity compound called "the Covenant the Sword and the Arm of the Lord (CSA)."¹⁰⁷ By the mid-1980s, the leadership of The Order were rounded up and convicted and the CSA was also suppressed by the FBI who raided their main compound.¹⁰⁸

¹⁰⁵ Ibid., 73.

¹⁰⁶ "Christian Identity," Anti-Defamation League (ADL).

¹⁰⁷ Ibid.

¹⁰⁸ Perliger, *American Zealots*, 75.

The 1990s saw a weakened Aryan Nations with the death of Butler and civilian lawsuits against members, leaving the organization financially troubled. Competing organizations such as Pastor Pete Peters' La Porta Church of Christ and its outreach arm Scriptures for America, asserted their influence over the Identity movement and promoted their message via mass media. However, the '90s also saw an increase in DT by associates of the Identity. Notable incidents include the 81-day standoff with the Montana Freeman, whose leaders were Identity; Eric Rudolph's bombing of gay bars and abortion clinics; and the 1998 shooting at the Jewish Community Center in Los Angeles by Buford Furrow in which children and teenagers were killed.¹⁰⁹ Another Identity group called the Phineas Priesthood was also started in 1990 by Richard Kelly Hoskins who urged followers to conduct violent attacks against race-mixers, gays, and abortionists. The contemporary Identity movement is spread throughout the United States and remains a potential source of DT.

¹⁰⁹ Ibid.

VIII. THE PRESENT CONDITION OF DOMESTIC TERRORISM (DT)

I. Office of the Director of National Intelligence (ODNI)

A. On March 1, 2021, the Office of the Director of National Intelligence (ODNI) released a report on the heightened threat of Domestic Violent Extremism (DVE) in the United States.¹¹⁰ The main findings from the report include the potential for political and societal events to encourage DVE, the heightened threat of lone offenders, the lethality of racial and militia violent extremists, and the exploitation of social media platforms to increase publicity and aid in recruitment. The ODNI report also categorizes DVE into the categories of racial/ethnically motivated violent extremists, animal rights/environmental violent extremists, abortion-related violent extremists, anti-government/anti-authority violent extremists, and other domestic terrorism threats.¹¹¹

II. FBI Director Christopher Wray's Testimony on DT

A. On March 2, 2021, FBI Director Christopher Wray testified before the Senate on the January 6, 2021 attack on the U.S. Capitol and the state of DT in the United States. During the course of the three-and-a-half hour testimony, Director Wray made numerous statements on DT and the Capitol attack.¹¹² The most important claims were taken from the transcript of Director Wray's testimony, along with supporting evidence and time when the statement was stated, have been included below:

¹¹⁰ "Domestic Violent Extremism Poses Heightened Threat in 2021," Office of the Director of National Intelligence (ODNI), March 1, 2021, <https://www.dni.gov/files/ODNI/documents/assessments/UnclassSummaryofDVEAssessment-17MAR21.pdf>.

¹¹¹ Ibid.

¹¹² "Director Wray Testifies on Capitol Attack Domestic Terrorism Full Hearing Transcript March 2," *Rev.com*.

1. The attack on January 6, 2021 was not an anomaly.
 - a) **Director Wray:** “January 6th was not an isolated event. The problem of domestic terrorism has been metastasizing across the country for a long time now, and it’s not going away anytime soon.” (26:46).
2. The Capitol attack was an act of DT.
 - a) **Director Wray:** “Certainly the Capitol Attack involved violent extremists. As I said, we, the FBI, consider this a form of domestic terrorism... So we’ve got a number who self-identify with the Proud Boys or the Oath Keepers.” (37:52).
3. The number of racially motivated extremists is on the rise.
 - a) **Director Wray:** “White supremacists last year were almost triple the number it was in my first year as director... I think we had more arrests of anarchist violent extremists than in the prior three years combined.” (43:23).
 - b) **Director Wray:** “Racially motivated violent extremism is the biggest chunk of our domestic terrorism portfolio, if you will, overall.” (48:21).
4. There exists no legally charging definition of DT.
 - a) **Director Wray:** “There is no legal designation of domestic terrorist group.” (1:03:19).
Senator Graham: “My point is I don’t know if we should have one or not, but I think it’s time to think about it” (1:03:23).
5. Legal designation of DT is the missing tool in the toolbox.
 - a) **Senator Cornyn:** “And as I look at the range of charges that the FBI and the department of justice have made against the people that have been investigated for the events of January the sixth, I read a list of assaulting federal officers, tampering with documents or proceedings, unlawful entry, disorderly conduct, conspiracy, theft of government property. Do you think the current laws are adequate to deal with this threat? It strikes me that these are a lot of different tools that are available, but don’t really get to the whole heart of domestic terrorism.” (01:13:53).
Director Wray: “Well, I guess I’d say a couple of things in response to that. It’s of course, a very good question. I think number one, our folks, which is one of the things I love about the

men and women of the FBI have proven time and again, that they will work with the tools they have and they are resourceful and entrepreneurial, and we've had remarkably good success at disrupting attacks using the tools that we have. Sometimes those tools, and some of the offenses that you listed off, have the virtue of being quite simple and straightforward to prove. And so sometimes that's actually a blessing, but certainly I think you would be hard pressed to find any FBI director that wouldn't welcome more tools in the toolbox." (01:14:37).

6. Domestic violent extremists were a small but dangerous group in the riot.

a) **Director Wray:** "The third group, the smallest group numerically, but by far and away, the most serious group are those who breached the Capitol grounds, who engaged in violence against law enforcement, who attempted to disrupt the members of Congress in the conduct of their constitutional responsibilities. And of those, some of those people clearly came to Washington, we now know, with plans and intentions to engage in the worst kind of violence we would consider domestic terrorism." (01:46:51).

7. The most dangerous threat to America are lone violent extremists.

a) **Director Wray:** "What we view as the most dangerous threat to Americans today is largely lone actors, some cases small cells, if you will, largely radicalized online, already here in the United States, attacking soft targets, using crude readily-accessible weapons, motivated either by jihadist inspirations or by a variety of domestic inspirations. So we have the HVEs, the homegrown violent extremists, which are the jihadist-inspired, and we have the DVEs, the domestic violent extremists who are inspired by domestic sources. That bucket, which have a lot in common with each other, is the greatest terrorism threat we face as a country." (02:40:05).

B. Director Wray's testament makes it clear that the threat of DT is only growing in size and potential for violence. The lack of a legal designation for DT makes the threat difficult to challenge in a court of law and discourage potential perpetrators of DVE. The greatest threat is also posed by lone violent extremists.

III. The White House National Strategy for Combating DT

A. In June 2021, the White House National Security Council, under the Presidency of Joe Biden, released a report on DT titled, *National Strategy for Countering Domestic Terrorism*.¹¹³ The report details four broad “pillars” related to dealing with the DT threat:

1. **Pillar 1:** Understand and Share Domestic Terrorism-Related Information.

- a) The first pillar engages the information sharing, analysis, and tracking of DT. It emphasizes the importance of identifying the DT threat, dissemination of the information, and foreign nation cooperation to prevent the spread of violence across international boundaries.
- b) “All told, a better, more holistic, and coordinated understanding of and information sharing on today’s threat will allow a more effective and comprehensive response. That response will address not just current and imminent incarnations of the DT threat but also its contributing factors before they can generate still more violence in the future.”¹¹⁴

2. **Pillar 2:** Prevent Domestic Terrorism Recruitment and Mobilization to Violence.

- a) The second pillar engages the prevention of DT recruiting and capacity to carry out violent action. This includes building resilience to disinformation online, increase of public awareness,

¹¹³ “National Strategy for Countering Domestic Terrorism,” The White House.

¹¹⁴ *Ibid.*, 19.

and utilization of resources involving social media to prevent DT recruitment and mobilization.

- b) “While those who break the law in furtherance of domestic terrorism must face investigation and prosecution for their crimes, it is equally important that the Federal Government engage in efforts to prevent individuals from being drawn into the grip of domestic terrorism in the first instance.”¹¹⁵

3. **Pillar 3:** Disrupt and Deter Domestic Terrorism Activity.

- a) The third pillar involves the active disruption and deterrence of DT activity through law enforcement, intelligence, and investigative capabilities. It also details the expanded prioritization of DT and the need for potential legislative reform to introduce new criminal laws to assist the government in tackling DT.
- b) “Even as Federal law enforcement does critical work to protect Americans from domestic terrorism threats and a wide range of other challenges, it is often state, local, tribal, and territorial law enforcement that serve as the first line of defense against domestic terrorism in communities across the United States, much as they do for many other threats to public safety. Therefore, it is essential that we empower these vital non-Federal partners to effectively address today’s domestic terrorism threat and to anticipate tomorrow’s evolution of that threat.”¹¹⁶

¹¹⁵ Ibid.

¹¹⁶ Ibid., 24.

4. **Pillar 4:** Confront Long-Term Contributors to Domestic Terrorism.

- a) The fourth pillar engages the long-term issues contributing to DT: namely racism and radical religiosity. The underlying racism in American society is acknowledged and the need to rebuild trust in the government within the American public is clearly stated.
- b) “On the other hand, tackling the threat posed by DT over the long term demands substantial efforts to confront the racism that feeds into aspects of that threat. We are, therefore, prioritizing efforts to ensure that every component of the government has a role to play in rooting out racism and advancing equity for under-served communities that have far too often been the targets of discrimination and violence. This approach must apply to our efforts to counter domestic terrorism by addressing underlying racism and bigotry.”¹¹⁷

B. The report also finds the most lethal elements of DT to be racially/ethnically motivated violent extremists and anti-authority extremists.¹¹⁸ The four pillars that form the national strategy to combat DT have purposefully been selected to address the short- and long-term threat, enhance information sharing, deter recruitment, and better equip state and federal law enforcement to deal with the threat. If the objectives of the four pillars are effectively met, then the U.S. national security system will better protect the homeland.

¹¹⁷ Ibid., 28.

¹¹⁸. “FACT SHEET: National Strategy for Countering Domestic Terrorism,” The White House, June 15, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/fact-sheet-national-strategy-for-countering-domestic-terrorism/>.

IX. JANUARY 6 ATTACK ON THE U.S. CAPITOL

*“January 6, 2021 marked not only an attack on the Capitol Building—it marked an attack on democracy. The entities responsible for securing and protecting the Capitol Complex and everyone onsite that day were not prepared for a large-scale attack, despite being aware of the potential for violence.”*¹¹⁹ –U.S. Senate Report on Capitol Attack

On June 8, 2021, the U.S. Senate released a bi-partisan, 9/11 style, report titled: *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6*. The findings in the report detail the timeline of events on January 6, who holds responsibility, and the actions of perpetrators and law enforcement. Ultimately, one police officer died the day after the attack, four others committed suicide in the weeks following. One woman who was a protestor was shot and died during the attack and another woman was reported to have died after the riot from indirect causes. Two other male protestors were deemed to have died from heart attacks outside the Capitol building before the riot broke out. Those dying from indirect causes were deemed to have had “medical emergencies,” related to heart failure, according to DC police reports¹²⁰. The Capitol building was also vandalized and ransacked. With the January 6 attack being the most significant breach of the Capitol in over 200 years, the findings of the report hold deep national security significance.¹²¹ Several important points from the report are included below:

¹¹⁹ “Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6: Staff Report,” U.S. Senate, Committee on Homeland Security and Governmental Affairs, Committee on Rules and Administration, 2021, 95.

¹²⁰ Robert Farley, “How Many Died as a Result of Capitol Riot?” Factcheck.org, November 1, 2021, <https://www.factcheck.org/2021/11/how-many-died-as-a-result-of-capitol-riot/>

¹²¹ Amy Sherman, “A History of Breaches and Violence at the US Capitol,” *POLITIFACT*, Jan. 7, 2021, <https://www.politifact.com/article/2021/jan/07/history-breaches-and-violence-us-capitol/>.

1. The Intelligence Community—primarily FBI and DHS—did not issue an appropriate threat assessment on the potential for violence at the Capitol.
2. The FBI and DHS dismissed the seriousness of online extremist violence threats.¹²²
3. The United States Capitol Police (USCP) were not adequately prepared to face the violent actions of the crowd.
4. The District of Columbia National Guard (DCNG) was unable to quickly activate, stage, and respond to an attack on the Capitol as a result of decision-making delays and failure of USCP to request assistance prior to January 6.¹²³
5. Former President Trump’s rally on January 6 may have influenced the actions of the mob.

While identifying the points of failure that led to the Capitol attack on January 6, 2021, are important, the factor that sets the event apart from previous incidents of violence at the Capitol is in the scale of the attack. A year later, over 700 people have been arrested and charged in connection with the Capitol attack.¹²⁴ The investigation is ongoing as the FBI continues to receive tips from friends and family of individuals who were involved in the riot and investigate video footage, social media, and phone data.¹²⁵ Only time will tell of the extent of far-right extremist participation in the attack, however, early examinations by the National Public Radio (NPR) revealed several commonalities among the defendants. NPR reporter Sean McMinn found that 17% of defendants had ties to extremist or fringe groups or ideas, 14% had military or

¹²² “Examining the U.S. Capitol Attack: Staff Report,” 34.

¹²³ *Ibid.*, 3.

¹²⁴ Madison Hall, et al, “691 People Have Been Charged in the Capitol Insurrection So Far. This Searchable Table Shows Them All.,” *Insider*, Oct. 28, 2021, <https://www.insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1>.

¹²⁵ *Ibid.*

law enforcement history, and 8% were charged with conspiracy.¹²⁶ A majority of the rioters were also white and male.¹²⁷ A separate report by AP News found multiple leaders, members, and associates of the far-right groups, Proud Boys and Oath Keepers, at the scene.¹²⁸ The eventual conclusion of the criminal investigation will likely help the U.S. government get a better sense of the depth of the DT threat and produce the means to a more effective national security response to DT.

X. INSURRECTION OR VIOLENCE?

This is not an academic exercise. Violence can be used for any number of reasons ranging from pecuniary benefit, revenge or preemptive warning. Insurrection, on the other hand, is violence for the purpose of overthrowing a government. It has a uniquely political function in the way that mere violence does not. Insurrection implies a group effort, a shared ideology, and a commonality of purpose to establish a new government in place of the one that is being attacked. A caveat must be issued at this juncture, since not all the facts are known about the attack on the Capitol. As cases are litigated and pleaded, we will have a better understanding of the amount of planning used for the attack. U.S. District Judge Royce Lamberth said during the sentencing of one of the defendants, Anna Moran-Lloyd, that it was an “accident.”¹²⁹ While this may be true of the older woman he sentenced, it remains to be seen if the riot was spontaneous or

¹²⁶ “The Capitol Siege,” NPR.

¹²⁷ Amanpour and Company, “Studies Show Capitol Rioters Were Majority White Men.” PBS, May 6, 2021, <https://www.pbs.org/video/studies-show-capitol-rioters-were-majority-white-men-ryn3m2/>.

¹²⁸ Kunzelman and Richer, “Charges after US Capitol Insurrection.”

¹²⁹ Jenni Fink, “Capitol Rioter Anna Morgan-Lloyd Avoids Jail Time for Role in Insurrection,” *Newsweek*, June 23, 2021, <https://www.msn.com/en-us/news/crime/capitol-rioter-anna-morgan-lloyd-avoids-jail-time-for-role-in-insurrection/ar-AALmGd0?ocid=uxbndlbing>.

premeditated. That in turn will have a direct bearing on whether it was mere criminal violence or an abortive attempt at insurrection. One key fact to be determined was how many weapons were seized from the protestors. Insurrections do not occur in the absence of weapons, in particular firearms.

According to the Senate report a large group of extremists who supported former President Donald J. Trump came to Washington, D.C. in early January to protest the election results.¹³⁰ Whether their intent was merely to protest peacefully or to interfere with Congress' role in certifying the results of the election and thereby making President Joe Biden's victory official is the bone of contention. To be sure, former President Trump addressed a group of 25,000 to 30,000 protestors and used the following words, "And we fight. We fight like hell. And if you don't fight like hell, you're not going to have a country anymore."¹³¹ Was this just hyperbole? Did the President intend his words to cause the protestors to cross over from lawful assembly and free speech to unlawful insurrection? This is the critical question that must be answered before deciding that the attack on the Capitol was a lawless riot or an attempt to overthrow the government. If it was an attempt to overthrow the government, where is the evidence? Regimes fall when there is an organized attack by well-armed insurrectionists. So far, the evidence points to a rabble of violent extremists who were protesting without the necessary numbers, plan, or firepower to overthrow the government.

¹³⁰ U.S. Senate. "Examining the U.S. Capitol Attack: Staff Report," 22.

¹³¹ Ibid., B-22.

XI. CRIMINALIZING DOMESTIC TERRORISM (DT)

It is a truism that the law sometimes lags behind reality. Think of the delay between emerging technology and criminal laws that are created to combat crimes such as identity theft. In the world of DT, we observe a similar phenomenon, but it is more inexplicable since insurrection laws were first passed in the Jefferson administration. There is no federal crime of DT like there is for international terrorism. The State Department maintains a list of foreign terrorist organizations, but there is no analogous official list of domestic terrorist groups maintained by the FBI, Homeland Security, or other federal law enforcement agencies.¹³² The chart below highlights the similarity in language used in the legal definitions for international and domestic terrorism:

Comparison of Legal Definitions for Terrorism (18 U.S.C. § 2331)

International Terrorism	Domestic Terrorism
<p>The term “international terrorism” means activities that:</p> <p>(A) involve violent acts or 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;</p> <p>(B) Appear to be intended—</p> <p style="padding-left: 40px;">(i) to intimidate or coerce a civilian population;</p>	<p>The term “domestic terrorism” means activities that:</p> <p>(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;</p> <p>(B) Appear to be intended—</p> <p style="padding-left: 40px;">(i) to intimidate or coerce a civilian population;</p>

¹³² “Foreign Terrorist Organizations—United States Department of State,” U.S. Department of State, March 16, 2021, <https://www.state.gov/foreign-terrorist-organizations/>.

<p>(ii) to influence the policy of a government by intimidation or coercion; or</p> <p>(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and</p> <p>(C) Occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;</p>	<p>(ii) to influence the policy of a government by intimidation or coercion; or</p> <p>(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and</p> <p>(C) Occur primarily within the territorial jurisdiction of the United States;</p>
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The major difference is in the location of the criminal act, either outside the United States or within the United States. There are numerous types of international terrorism and can be charged in a myriad of ways. See the chart below:

Charge	Description
18 U.S. Code section 2332a	Use of weapons of mass destruction
18 U.S. Code section 2332b	Acts of terrorism transcending national boundaries
18 U.S. Code section 2332d	Financial transactions
18 U.S. Code section 2332e	Requests for military assistance to enforce prohibition in certain emergencies
18 U.S. Code section 2332f	Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities
18 U.S. Code section 2332g	Missile systems designed to destroy aircraft
18 U.S. Code section 2332h	Radiological dispersal devices
18 U.S. Code section 2332i	Acts of nuclear terrorism

18 U.S. Code section 2338	Exclusive Federal jurisdiction
18 U.S. Code section 2339	Harboring or concealing terrorists
18 U.S. Code section 2339A	Providing material support to terrorists
18 U.S. Code section 2339B	Providing material support or resources to designated foreign terrorist organizations
18 U.S. Code section 2339C	Prohibitions against the financing of terrorism
18 U.S. Code section 2339D	Receiving military-type training from a foreign terrorist organization

Penalties range from a misdemeanor crime of making a terrorist threat to the death penalty. One of the most potent sentencing weapons in the federal prosecutor’s armory is section 2339B, providing material support. It is enormously expansive and has been used to charge virtually any support of a terrorist group.

There is no equivalent crime of DT. Federal prosecutors have to sift through the many thousands of potential charges to bring the “most serious readily provable offense” as has been the policy of the Justice Department since the Carter Administration. One such charge was highlighted when the married couple were charged with misdemeanor and admitted to violating a federal law that prohibits “parading, demonstrating, or picketing” inside the Capitol without proper authorization.¹³³

This paper proposes legislation creating a separate federal crime of DT using the language extant for international terrorism. There is no need to recreate the wheel since similar

¹³³ Jan Wolfe, “Virginia Couple Plead Guilty in U.S. Capitol Riot, Setting Precedent,” Reuters, June 14, 2021, <https://www.msn.com/en-us/news/us/virginia-couple-plead-guilty-in-us-capitol-riot-setting-precedent/ar-AAL2B0T?ocid=uxbndlbing>.

language already exists. For sentencing purposes, judges may use sentencing guidelines in much the same way as for international terrorism. The problem will not lie in drafting the language, but rather, if partisan politics interferes with the use of the new offense. On the far right and left, there will be opposition. Any American who supports the rule of law, the power of deterrence and a steely-eyed view of our present situation will support this new federal crime.

This paper does not address all concerns, but takes a utilitarian view based on the lead author's experience as a state, federal and military prosecutor. The lead author also has first-hand experience with political pressure being put on him to file non-provable voter fraud cases during his time as U.S. Attorney. Whether or not a new DT law is used for partisan purposes will depend on the U.S. Attorney facing political pressure. Doing the right thing involves filing provable cases with competent evidence. Federal prosecutors base charging decisions on the law and the evidence without regard to the politics of the case. Appointed U.S. Attorneys file questionable prosecutions at their own peril because the public and media will be watching and the appellate courts will be standing by for review.

XII. THE FUTURE VIABILITY OF DOMESTIC TERRORISM (DT)

It is doubtful that DT will fade. What drove Pennsylvania farmers to rebel against the Whiskey Tax with violence in the Washington Administration of the 1790's still exists. The spirit of the No Nothing Party in the 1850's of demonizing immigrants still exists. What is different is the ability to organize at the speed of light through the use of social media. Since many extremists rely on alternative news sources that peddle bizarre, non-provable conspiracies such as Q-Anon, it is fertile ground for extreme beliefs not based on the evidence, rational thought, or scientific method. In the era of "alternate news," an unfortunate phrase coined by the former White House Press secretary Kellyanne Conway, where objective truth is traded for subjective beliefs despite the data, we are in a dangerous place. The assault on objective truth is one that leads to Soviet-style tyranny where the state defines what truth means despite evidence to the contrary. As a result, federal law enforcement must vigorously investigate and refer for prosecutions those groups that take concrete steps to overthrow our government.

XIII. CONCLUSION

We are at a crossroads in America. We must tread carefully so we do not create a solution as bad or worse than the underlying problem. We must respect the First Amendment's guarantee of freedom of speech and assembly. But freedom of speech is not unlimited. Advocating a violent overthrow of the United States is not protected speech or assembly. We respect the rule of law and lawbreakers will be brought to justice.


There is a long, violent history of challenging the American government that began just a few years after our independence from Britain. That culminated in the worst, bloodiest war of our history in the 1860s. America is a great country, but it is also a fractious, violent country in which our right to be armed is a constitutionally protected right. Nativists will always focus on just part of the American experience, that of Western European Protestants. The rest of the story is not so tidy as Indigenous Americans, African-Americans, Irish-Americans, Chinese and Japanese Americans, Eastern Europeans, Ashkenazi Jews from the world over, and Roman Catholics will attest to. Are we *E Pluribus Unum* or something else? It is my view that America is indeed the "last best hope of the world" as President Lincoln noted.¹³⁴ We have to get it right because the world is watching and hoping for a morally courageous America.

¹³⁴ Abraham Lincoln. "Annual Message to Congress—Concluding Remarks," Abraham Lincoln Online, December 1, 1862, <http://www.abrahamlincolnonline.org/lincoln/speeches/congress.htm>.

APPENDIX:

CHART OF DOMESTIC TERROR GROUPS IN THE UNITED STATES




DT groups who engage in violent extremist activity differ in purpose, philosophy, and methods. In 2018, Barry J. Balleck published an encyclopedia on DT titled, *Modern American Extremism and Domestic Terrorism: An Encyclopedia of Extremists and Extremist Groups*. The most influential far-right extremist groups have been selected from Dr. Balleck’s encyclopedia and included in the entries in the chart on the following pages:

Insignia	Name	Size	Type ¹³⁵	Description
 <p>Source: 2021, <i>American Freedom Party Platform</i>, 2021, http://theamericanfreedomparty.us/platform/.</p>	<p>American Freedom Party (American Third Position)</p>	<p>UNK¹³⁶</p>	<p>REM</p>	<p>Formally known as the American Third Position or A3P, the American Freedom Party was founded in 2009 as a white nationalist party to promote the interest of white Americans and resist the changing demographic makeup of the United States.¹³⁷ The greatest concern of the American Freedom Party is losing a recognizable white America.</p>

¹³⁵REM: *Racially or Ethnically Motivated*
 1) AGAA: *Anti-Government or Anti-Authority*
 2) ARE: *Animal Rights/Environmental*
 3) AR: *Abortion-Related*

¹³⁶UNK: *Unknown*


¹³⁷ Barry J. Balleck, *Modern American Extremism and Domestic Terrorism: An Encyclopedia of Extremists and Extremist Groups* (Santa Barbara, CA: ABC-CLIO, 2018), 4.

 <p>Source: (Wikimedia Commons, n.d.), https://commons.wikimedia.org/wiki/File:Flag_of_the_American_Nazi_Party.svg.</p>	American Nazi Party	25,000 ¹³⁸	REM	The American Nazi Party was founded by George Lincoln Rockwell in 1959 and continues to promote the goals of national socialism as defined by Nazi Germany and uphold the 14 Words: “We must secure the existence of our people and a future for white children.” ¹³⁹ The group is highly anti-Semitic, promotes the white race, and endorsed the candidacy of Donald Trump in 2016.
 <p>Source: <i>American Patriot Party</i>, n.d., http://americanpatriotparty.com.</p>	American Patriot Party	UNK	AGAA	The American Patriot Party (APP) was created in 2011 to promote state and local governance instead of federal control. Their mission is to educate members of the rights of American citizens and the virtues of states’ rights and local control. ¹⁴⁰ The platform of the APP is founded on a strict interpretation of the Constitution, Declaration of Independence, and founding documents.
 <p>Source: <i>Forbidden Symbols</i>, n.d.,</p>	Animal Liberation Front	UNK	ARE	The Animal Liberation Front (ALF) is an animal rights extremist organization that was founded in 1971 by Ronnie Lee and Cliff Goodman who believed in the need to engage in direct action to end the perceived abuse and exploitation of animals. ALF

¹³⁸ Membership in 1939. Source: United States Holocaust Memorial Museum, <https://encyclopedia.ushmm.org/content/en/article/german-american-bund>.


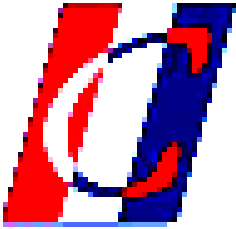
¹³⁹ Ibid., 5.

¹⁴⁰ Ibid., 7.

<p>http://www.forbiddensymbols.com/animal-liberation-front/.</p>				<p>targets farms, laboratories, and facilities where animals are kept, setting the animals free, and destroying the infrastructure needed to run the operation. The ALF has been responsible for millions of dollars in damages and their actions have been labeled by the FBI as “ecoterrorism.”¹⁴¹</p>
 <p>Source: Donald Spitz (Wikipedia, n.d.), https://upload.wikimedia.org/wikipedia/en/thumb/7/7c/Donald_Spitz_holds_Army_of_God_Banner.jpg/1200px-Donald_Spitz_holds_Army_of_God_Banner.jpg.</p>	<p>Army of God</p>	<p>UNK</p>	<p>AR</p>	<p>The Army of God (AOG) is a Christian terrorist organization that carries out attacks against abortion clinics and abortion providers. The organization has engaged in the kidnapping of doctors who perform abortions and the bombing of abortion clinics. They also maintain an active website where biblical scripture is used to justify their violence and graphic images of aborted fetuses can be found.¹⁴²</p>
 <p>Source: Syrus54, February 2, 2014, <i>Deviant Art</i>, February 2, 2014, https://www.deviantart.com/</p>	<p>Aryan Nations</p>	<p>UNK</p>	<p>REM</p>	<p>Aryan Nations (AN) is a white supremacist group founded by Richard Butler, a Christian Identity member, in 1977 to promote Nazism, anti-Semitism, and white supremacy. Members of the group were connected to a variety of violent crimes and factions of the AN would form more radical ideologies on the use of violence. The death of</p>

¹⁴¹ Ibid., 12.


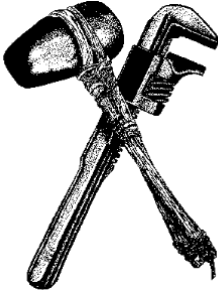
¹⁴² Ibid., 21.

<p>syrus54/art/Aryan-Nations-Logo-431280235.</p>				<p>Richard Butler in 2004 effectively began the steady decline in relevance and authority among white supremacy for the AN before officially disbanding on November 15, 2015.¹⁴³</p>
 <p>Source: <i>The American Institute of Theology</i>, n.d., https://kingidentity.com/ait.htm.</p>	<p>Christian Identity</p>	<p>25,000-50,000¹⁴⁴</p>	<p>REM</p>	<p>Christian Identity is an anti-Semitic and racist movement that rose in the 1980's and 90's through William Potter Gale who promoted the movement. The basic beliefs of the movement involve the belief that modern-day Jews are illegitimate and white Europeans are the true descendants of Israel. These beliefs have led the Identity to influence other movements like Posse Comitatus, Aryan Nations, and The Covenant, Sword, and the Arm of the Lord.</p>
 <p>Source: <i>Conservative Headlines</i>, n.d., http://cofcc.us.</p>	<p>Council of Conservative Citizens</p>	<p>20,000¹⁴⁵</p>	<p>REM</p>	<p>The Council of Conservative Citizens (CCC) was founded in 1985 by Gordon Baum as an organization that opposes the mixing of races and supports white nationalism. The CCC was found to have connections with many Southern politicians and continues to advocate the message of “black-on-white” crimes.</p>

¹⁴³ Ibid., 25.


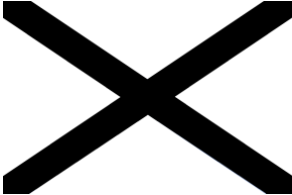

¹⁴⁴ “Christian Identity.” Anti-Defamation League (ADL).

¹⁴⁵ Estimated size of group. Source: “Council of Conservative Citizens,” *Encyclopedia.com*, June 16, 2021, <https://www.encyclopedia.com/politics/legal-and-political-magazines/council-conservative-citizens>.

 <p>Source: <i>The Covenant, Sword, and the Arm of the Lord</i> (Wikipedia, n.d.), https://en.wikipedia.org/wiki/The_Covenant,_the_Sword,_and_the_Arm_of_the_Lord#cite_note-1.</p>	<p>The Covenant, The Sword, and The Arm of the Lord</p>	<p>90-120¹⁴⁶</p>	<p>AGAA</p>	<p>The Covenant, Sword, and Arm of the Lord (CSA) was a militant white supremacist and Christian Identity group founded by James Ellison in 1970 and based out of Arkansas. Central to the CSA belief was the preparation for a race war and resistance against the federal government which they believed was controlled by Jews. CSA was finally dissolved in 1985 when FBI and ATF¹⁴⁷ officials surrounded their compound and closed it down.</p>
 <p>Source: Earth First Activist, <i>Earth First Monkey Wrench</i> (Wikipedia, February 5, 2009), http://en.wikipedia.org/wiki/File:Earthfirstmonkeywrench.gif.</p>	<p>Earth Liberation Front</p>	<p>UNK</p>	<p>ARE</p>	<p>The Earth Liberation Front (ELF) was originally founded by John Hanna in 1977 as a guerilla force that would engage in direct action to protect the earth. Followers of the ELF call themselves “Elves,” and members engage in arson, destruction of property, and sabotage against entities, such as logging companies and ski resorts, they believe are harmful to the environment. The FBI classifies the activities of ELF as “ecoterrorism.”</p>

¹⁴⁶ Estimate size of group in 1970s. Source: FBI. “The Covenant, The Sword, and The Arm of the Lord, Part 1 of 2,” (FBI.org: The Vault, December 6, 2010), <https://vault.fbi.gov/The%20Covenant%20The%20Sword%20The%20Arm%20of%20the%20Lord%20The%20Covenant%20The%20Sword%20The%20Arm%20of%20the%20Lord%20Part%201%20of%202/view>.



¹⁴⁷ U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF).

 <p>Source: <i>Blood Drop Cross, Ku Klux Klan</i> (Wikipedia, August 26, 2007), https://en.wikipedia.org/wiki/Ku_Klux_Klan#/media/File:Emblem_of_the_Ku_Klux_Klan.svg.</p>	Ku Klux Klan	3,000 ¹⁴⁸	REM	The Ku Klux Klan or KKK is perhaps the most prominent white supremacy group known for their violence, racism, and extremism. The KKK had three periods of heightened historical activity: in 1865 with its creation, in 1915 during World War I, and in 1954 with the US Supreme Court ruling of <i>Brown v. Board of Education</i> . The Klan's primary targets of violence were African-Americans, supporters of desegregation, and all non-whites.
 <p>Source: JayCoop, <i>League of the South</i> (Wikipedia, September 24, 2017), https://en.wikipedia.org/wiki/League_of_the_South#/media/File:Southern_Nationalist_flag.svg.</p>	League of the South	UNK	REM AGAA	The League of the South (LOS) is a white supremacy organization that adopts neo-Confederate ideology and advocates for the secession of Southern states from the federal government. ¹⁴⁹ The LOS is anti-immigration, white-nationalist, and pro-Christian.
	Michigan Militia	10,000 ¹⁵⁰	AGAA	The Michigan Militia was founded in 1994 by Norman Olson and Ray Southwell in order to resist gun control and the federal government. The central belief of the Michigan Militia is that the government is overreaching its powers and

¹⁴⁸ Estimated current size of group. Source: Anti-Defamation League (ADL). "Tattered Robes: The State of the Ku Klux Klan in the United States," n.d., <https://www.adl.org/education/resources/reports/state-of-the-kkk>.




¹⁴⁹ Balleck, *Encyclopedia of Extremists and Extremist Groups*, 193.

¹⁵⁰ Self-reported size at peak of militia. Source: Mark Potok, "Militant Militia Fringe Is Setting Off Alarms," *USA Today*, April 17, 1996.

<p>Source: Tetsou TheIronman, <i>Patch Worn by Members of Militia</i>. (Wikimedia Commons, August 27, 2020), https://commons.wikimedia.org/w/index.php?curid=93601917.</p>				<p>individual liberties are being destroyed. The activity of the militia has largely been dependent on the political party holding executive office.</p>
 <p>Source: Montana Flag, <i>Worn by Members of Militia</i>. (Wikimedia Commons, n.d.), https://commons.wikimedia.org/w/index.php?curid=527559.</p>	<p>Militia of Montana</p>	<p>UNK</p>	<p>AGAA</p>	<p>The Militia of Montana (MOM) was founded by John and David Trochmann in 1994 as a means to prevent events like Ruby Ridge and the Waco standoff. It rose out of antigovernment sentiments and is often believed to be the first militia group in the modern era of the militia movement.¹⁵¹ They advocate organizing, arming, and defending against the “tyranny” of the US government.</p>
 <p>Source: <i>National Alliance (United States)</i> (Wikipedia, February 9, 2010), https://en.wikipedia.org/w/index.php?curid=26128667.</p>	<p>National Alliance</p>	<p>UNK</p>	<p>REM</p>	<p>The National Alliance was founded in 1974 by Professor William Pierce and ruled as the most dangerous and organized neo-Nazi group in America for decades.¹⁵² The ideology calls for the eradication of Jews and creation of an all-white homeland.</p>

¹⁵¹ Ibid., 225.

¹⁵² “National Alliance,” Southern Poverty Law Center (SPLC), n.d., <https://www.splcenter.org/fighting-hate/extremist-files/group/national-alliance>.

 <p>Source: NSM Flag, <i>Forbidden Symbols</i>, n.d., http://www.forbiddensymbols.com/national-socialist-movement-u-s/.</p>	National Socialist Movement	400 ¹⁵³	REM	The National Socialist Movement (NSM) is a neo-Nazi group that grew out of the original American Nazi Party of 1959 and was officially founded in 1994 by Jeff Shoep. The NSM advocates an ideology that idolizes Adolf Hitler, uses violent antisemitic rhetoric, and supports white supremacy. ¹⁵⁴
 <p>Source: <i>Square Land Battle Flag of Confederate States of America., Battle Flag of the Confederate States of America</i> (Wikimedia Commons, October 4, 2019), https://commons.wikimedia.org/w/index.php?curid=488535.</p>	Neo-Confederates	UNK	AGAA REM	The neo-Confederates are a new generation of 20th and 21st centuries nativists and secessionists who are attempting to revive pro-Confederate sentiments in the United States. ¹⁵⁵ Neo-Confederates are segregationist, white supremacist, antigovernment, and Christian.
 <p>Source: Antonio Martins and Mark Sensen, September 5,</p>	Neo-Nazis	UNK	REM	The neo-Nazis are the modern sympathizers of Nazi Germany who harbor views of white nationalism, white supremacy, anti-Semitism, and discrimination of minority groups. The movement began

¹⁵³ Reported size in 2010. Source: Jesse McKinley, “Neo-Nazi Father Is Killed; Son, 10, Steeped in Beliefs, Is Accused,” *The New York Times*, May 11, 2011, <https://www.nytimes.com/2011/05/11/us/11nazi.html>.



¹⁵⁴ “National Socialist Movement Southern Poverty Law Center (SPLC), <https://www.splcenter.org/fighting-hate/extremist-files/group/national-socialist-movement>.

¹⁵⁵ Balleck, *Encyclopedia of Extremists and Extremist Groups*, 245.

<p>2012, <i>National Socialist German Worker's Party (Germany)</i>, September 5, 2012, https://www.crwflags.com/otw/flags/de%7Dnsdap.html.</p>				<p>with George Lincoln Rockwell in 1959 when he founded the American Nazi Party. Neo-Nazism continues to fuel hatred of Jews, violent action, and far-right extremism.</p>
 <p>Source: <i>Oath Keepers</i>, n.d., https://www.oathkeepers.org/wp-content/uploads/2014/08/Oath-Keepers-Logo-w-url-TM-01.svg.</p>	<p>Oath Keepers</p>	<p>1,000-3,000¹⁵⁶</p>	<p>AGAA</p>	<p>The Oath Keepers is an anti-government organization founded by Elmer Stewart Rhodes in 2009. It recruits primarily from former members of the military, police, and first responders who have sworn an oath to the Constitution. The Oath Keepers are based on conspiracy theories about the federal government and the coming “New World Order.”¹⁵⁷</p>
 <p>Source: <i>The Order</i> (ADL, n.d.), https://www.adl.org/education/references/hate-symbols/the-order.</p>	<p>The Order</p>	<p>UNK</p>	<p>AGAA REM</p>	<p>The Order, Bruder Schweigen or Silent Brotherhood, was founded in 1983 by Robert Jay Mathews and eight other men who swore to wage a war against the American government. They believed the white race was in danger and engaged in counterfeiting, armed robbery, and an assassination throughout the 80s.</p>

¹⁵⁶ Estimated size of group. Source: Anti-Defamation League (ADL). “Oath Keepers,” n.d., <https://www.adl.org/resources/backgrounders/oath-keepers>.

¹⁵⁷ “Oath Keepers,” Southern Poverty Law Center (SPLC), n.d., <https://www.splcenter.org/fighting-hate/extremist-files/group/oath-keepers>.

 <p>Source: <i>Posse Comitatus Symbol</i>, n.d., http://www.forbiddensymbols.com/wp-content/uploads/posse_comitatus_symbol_emblem.jpg.</p>	Posse Comitatus	UNK	AGAA	<p>The Posse Comitatus is the group that began the modern patriot movement in 1967 when Henry Lamont “Mike” Beach started the organization to resist any perceived overreach of federal authority. This involves active protest against law enforcement and government functions such as taxation. Posse Comitatus also influenced Christian Identity and vice versa.¹⁵⁸</p>
 <p>Source: <i>Hammerskin Nation Logo</i>, (Wikipedia, n.d.), https://en.wikipedia.org/wiki/Hammerskins#/media/File:Hammerskin_Nation_logo.jpg.</p>	Racist Skinheads	UNK	REM	<p>The racist skinheads are neo-Nazis who are known for their violent and dangerous tendencies with various factions spread across the United States. Shaved heads, combat boots, racist tattoos, and bomber jackets are the trademark look of the skinheads.¹⁵⁹ The hate group was particularly popular among the younger generation.</p>

¹⁵⁸ Balleck, *Encyclopedia of Extremists and Extremist Groups*, 290.



¹⁵⁹ “Racist Skinhead,” Southern Poverty Law Center, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/racist-skinhead>.

 <p>Source: Sovereign Citizens Logo. <i>Simple Survival</i>, n.d., https://www.simplesurvival.us/why-prepare/a-collapse-8-civil-war-revolution/.</p>	Sovereign Citizens Movement	300,000 ¹⁶⁰	AGAA	<p>The Sovereign Citizens Movement began as a movement influenced by Posse Comitatus where individuals believed they were only subject to the laws established by the US Constitution. As a result, sovereign citizens don't pay taxes, possess driver's licenses, or listen to governmental authority. Criminal activity and violence against law enforcement makes the group particularly dangerous.</p>
 <p>Source: <i>Students for a Democratic Society</i>, n.d., https://www.sds-1960s.org.</p>	Students for a Democratic Society	50,000 ¹⁶¹	AGAA	<p>Students for a Democratic Society (SDS) was created in the 1960s by Alan Haber and Tom Hayden as a reaction against the Vietnam War. They envisioned a “participatory democracy” that would confront the dangers that threatened to destroy the country.¹⁶² The group eventually fractured into the more radical and violent Weather Underground and Revolutionary Youth Movement (RYM).</p>


¹⁶⁰ Estimated size of group in 2012. Source: Clem Taylor, “A Look at the ‘Sovereign Citizen’ Movement,” CBS News, CBS Interactive, September 12, 2012, <https://www.cbsnews.com/news/a-look-at-the-sovereign-citizen-movement/>.

¹⁶¹ Estimated size of participants in 1968–1969. Source: James P. O’Brien, “Students for a Democratic Society,” *Dictionary of American History*. *Encyclopedia.com*, June 17, 2021, <https://www.encyclopedia.com/history/dictionaries-thesauruses-pictures-and-press-releases/students-democratic-society>.

¹⁶² Balleck, *Encyclopedia of Extremists and Extremist Groups*, 350.

 <p>Source: <i>Three Percenters</i> (ADL, n.d.), https://www.adl.org/resources/backgrounders/three-percenters.</p>	<p>Three Percenters</p>	<p>UNK</p>	<p>AGAA</p>	<p>The Three Percenters are a group that formed following the election of former President Barack Obama in 2008. The group claims that “3 percent” came from the total percentage of the American population that took up arms against the British during the American Revolution. Three Percenters are largely ex-military and law enforcement who are concerned with overreach of government authority and Constitutional limits.</p>
 <p>Source: <i>Weather Underground</i> (Wikipedia, n.d.), https://en.wikipedia.org/wiki/Weather_Underground#/media/File:Weather_Underground_logo.jpg.</p>	<p>Weather Underground</p>	<p>UNK</p>	<p>AGAA</p>	<p>Weather Underground was started in 1969 as the radical offshoot of Students for a Democratic Society which had the aim of overthrowing the US government. Members called themselves “Weathermen” and engaged in acts of public violence protesting the Vietnam War. Targets included the New York City Police headquarters, US Capitol Building, Pentagon, and US Department of State.¹⁶³</p>

¹⁶³ Ibid., 389.

 <p><i>White Aryan Resistance</i> (ADL, n.d.), https://www.adl.org/education/references/hate-symbols/white-aryan-resistance.</p>	<p>White Aryan Resistance</p>	<p>UNK</p>	<p>REM</p>	<p>White Aryan Resistance (WAR) is a neo-Nazi group founded by Tom Metzger as an organization that engages in racial discrimination and is concerned with the survival of the white American population. WAR promotes an anti-Semitic message and is known for violence against minorities such as the killing of an Ethiopian graduate student in 1988.¹⁶⁴</p>
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¹⁶⁴ Ibid., 398.

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