



Report to the Ranking Member,
Committee on Homeland Security,
House of Representatives

February 2023

DOMESTIC TERRORISM

Further Actions Needed to Strengthen FBI and DHS Collaboration to Counter Threats

GAO Highlights

Highlights of [GAO-23-104720](#), a report to the Ranking Member, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

Domestic terrorism investigations have more than doubled since 2020, according to the FBI. FBI and DHS are the main federal entities charged with preventing terrorist attacks in the U.S. FBI has lead responsibility for federal domestic terrorism investigations and domestic intelligence efforts. DHS is responsible for producing terrorist threat information in coordination with federal, state and local government agencies, and private entities.

GAO was asked to review domestic terrorism threats, incidents, and related federal cases and charges. This report addresses, among other objectives, the extent to which the FBI and DHS I&A (1) track domestic terrorism investigations and incidents, and (2) followed leading collaboration practices in their efforts to counter domestic terrorism threats.

GAO reviewed FBI and DHS policies and guidance related to domestic terrorism, and analyzed FBI investigation data from fiscal year 2013-2021 and DHS incident data from 2010 to 2021, the most recent available. GAO also interviewed with FBI and DHS headquarters officials and field personnel from five Joint Terrorism Task Forces and fusion centers. GAO selected these five based on the number of domestic terrorism incidents in their locations, among other factors.

What GAO Recommends

GAO is making six recommendations, three each to the FBI and DHS, including to assess agreements in place and evaluate collaborative efforts.

View [GAO-23-104720](#). For more information, contact Triana McNeil at (202) 512-8777 or mcneilt@gao.gov.

February 2023

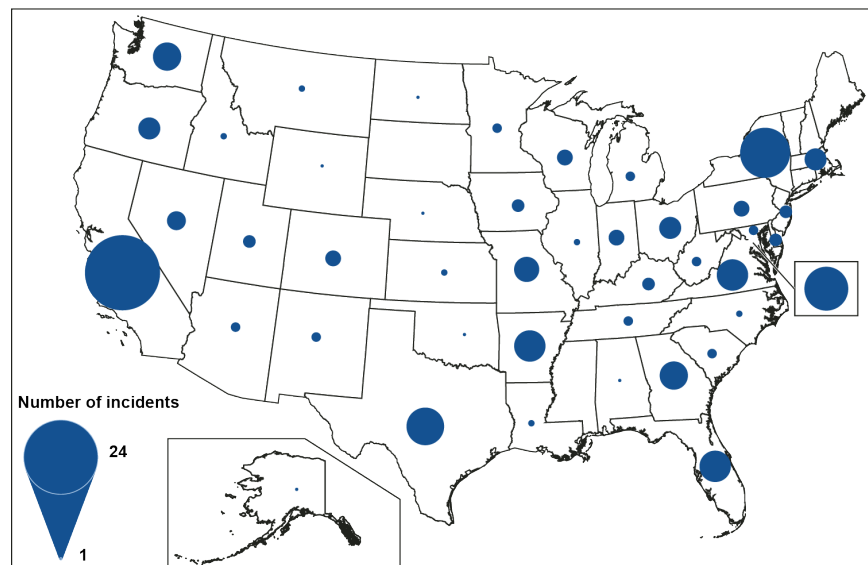
DOMESTIC TERRORISM

Further Actions Needed to Strengthen FBI and DHS Collaboration to Counter Threats

What GAO Found

According to U.S. law, domestic terrorism is generally defined as involving criminal acts dangerous to human life occurring in the U.S. that appear intended to coerce a civilian population or influence or affect the conduct of government. The Federal Bureau of Investigation (FBI) tracks cases (which it defines as investigations and disruptions) consistent with its investigative mission. The Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) tracks incidents which it defines attacks or plots, consistent with its definition of domestic terrorism. From fiscal years 2013 through 2021, the FBI's number of open domestic terrorism-related cases grew by 357 percent from 1,981 to 9,049. From calendar year 2010 to 2021, I&A tracked a total of 231 domestic terrorism incidents, with racially- or ethnically-motivated violent extremists committing the most violent incidents during the time period.

Domestic Terrorism Incidents by State, Calendar Years 2010 through 2021



Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

The FBI and DHS I&A collaborate via headquarters staff, fusion centers, and through serving on task forces, to identify and counter domestic terrorism threats. GAO found that they generally followed leading collaboration practices, but challenges remain. For example, FBI and DHS have agreements in place, but they have not assessed if these agreements fully reflect how their personnel should collaborate on their shared charge of preventing domestic terrorism. Due to the rapidly evolving threat landscape, having up-to-date, comprehensive formal agreements would enhance the two entities' collaboration. Further, FBI and DHS I&A have evaluated individual activities but have not consistently assessed the overall effectiveness of their collaborative efforts. Doing so can ensure both agencies are capitalizing on efforts that may lead to improved information to counter domestic terrorism threats.

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Abbreviations

CTMC	DHS Counterterrorism Mission Center
DHS	Department of Homeland Security
I&A	Department of Homeland Security Office of Intelligence and Analysis
EOUSA	Executive Office for U.S. Attorneys
FBI	Federal Bureau of Investigation
JTTF	Joint Terrorism Task Force
NCTC	National Counterterrorism Center

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February 22, 2023

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

Domestic terrorism has been perpetrated and promoted by a broad range of individuals and groups. It is generally defined as involving criminal acts dangerous to human life occurring in the U.S. that appear intended to coerce a civilian population; influence a policy of a government; or, affect the conduct of government.¹ According to a 2021 White House statement, domestic terrorism has evolved into the most urgent terrorism threat faced by the U.S.² In January 2022, Federal Bureau of Investigation (FBI) officials testified that the number of FBI investigations of suspected domestic violent extremists had more than doubled since the spring of 2020.³ Further, the Secretary of Homeland Security has stated that domestic violent extremism poses the most lethal and persistent terrorism-related threat to the homeland and must be treated as a national priority.⁴

¹More specifically, domestic terrorism is statutorily defined as activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping, and occur primarily within the territorial jurisdiction of the United States. 18 U.S.C. § 2331(5). Although domestic terrorism does not correlate to a federal charge, there are multiple other federal and state crimes available to prosecute domestic terrorists, including those related to federal firearms, federal tax evasion, assault and fraud.

²The White House, *Fact Sheet: National Strategy for Countering Domestic Terrorism* (Washington, D.C.: Jun. 15, 2021).

³*The Domestic Terrorism Threat One Year After January 6, Before the S. Comm. On Judiciary*, 117th Cong. (2022). (statement of Matthew G. Olsen and Jill Sanborn).

⁴Department of Homeland Security, *A Message from Secretary Alejandro N. Mayorkas on Preventing Domestic Violent Extremism within DHS* (Washington, D.C.: April 26, 2021). According to FBI and DHS documentation, a domestic violent extremist is an individual based and operating primarily within the U.S. or its territories without direction or inspiration from a foreign terrorist group or other foreign power, who seeks to further political or social goals wholly or in part through unlawful acts of force or violence. In FBI and DHS documentation the terms domestic terrorist and domestic violent extremist are used interchangeably.

The threat posed by domestic terrorism is on the rise, as evidenced by attacks in several U.S. cities over the past 10 years. For example, in July 2016, a racially motivated individual killed five police officers in Dallas, Texas. More recently, on January 6, 2021, thousands of demonstrators surrounded the U.S. Capitol Building, some of whom attacked and injured law enforcement officers and breached the building. In May 2022, a racially motivated individual shot and killed 10 individuals in Buffalo, New York. Law enforcement agencies have reported taking actions to disrupt these and other plots and threats to the homeland.

The FBI, within the Department of Justice (DOJ), and the Department of Homeland Security (DHS) are the main federal entities charged with preventing terrorist attacks in the U.S., including attacks conducted by domestic violent extremists. More specifically, the FBI is the lead agency responsible for federal terrorism investigations and domestic intelligence efforts involving terrorist activities or acts in preparation of terrorist activities in the U.S. DHS's Office of Intelligence and Analysis (I&A) is responsible for gathering and disseminating intelligence to federal, state, and local partners to support national and departmental missions to protect the homeland.⁵

In 2021, the White House's National Security Council released a *National Strategy for Countering Domestic Terrorism*. The Strategy noted that it was imperative that the federal government coordinate and collaborate on programmatic aspects of countering domestic terrorism, such as information sharing, training, prevention, and intervention efforts.⁶ Further, pursuant to the National Defense Authorization Act (NDAA) for Fiscal Year 2020, the FBI and DHS, in consultation with the Director of National Intelligence, are required to report on the domestic terrorism threat in the U.S. and actions taken to combat this threat. The Act also

⁵In support of performing investigative duties, the FBI also conducts information gathering activities in the areas of federal crimes, threats to national security, and foreign intelligence. In accordance with the Attorney General guidelines, the FBI may disseminate information obtained or produced through investigative activities outlined in the guidelines.

⁶Executive Office of the President, National Security Council, *National Strategy for Countering Domestic Terrorism*, (Washington, D.C.: Jun. 2021). The document broadly outlines four strategic goals to counter domestic terrorism, but detailed plans to implement the strategic pillars were not included in the strategy and are to be developed by individual agencies. The Strategy also describes the roles of other federal agencies, including the National Counterterrorism Center (NCTC), within the Office of Director of National Intelligence, which leads and integrates national terrorism efforts across the Intelligence Community.

requires the agencies to submit annual updates to Congress for 5 years on each completed or attempted incident of domestic terrorism that occurred in the U.S., and include the date, location, and a description of each incident.⁷

You asked us to compile a baseline assessment of domestic terrorism threats and incidents, and review collaboration between the FBI and DHS I&A. This report examines: (1) how FBI headquarters supported field operations to address domestic terrorism threats from calendar years 2011 through 2021; (2) the extent to which the FBI and DHS I&A track domestic terrorism investigations and incidents; (3) the extent to which the FBI and DHS I&A coordination to counter domestic terrorism threats followed leading collaboration practices; and, (4) what DOJ's Executive Office of United States Attorneys' data show about how many individuals were federally charged in domestic terrorism-related incidents from October 2010 through July 2021, and the corresponding charges.

To address the first objective, we analyzed FBI documents related to domestic terrorism investigative operations from calendar years 2011 through 2021. We selected this time period to cover the most recent 10-year period, which allowed us to observe any changes in FBI domestic terrorism operations. We reviewed policies and guidance regarding how the FBI, including its Joint Terrorism Task Forces (JTTFs),⁸ identifies and prioritizes domestic terrorism threats, and definitions of various threat types, or categories. In addition, we reviewed documentation on FBI headquarters and field office actions to counter domestic terrorism, such as agency strategies from fiscal year 2019 through 2021 and selected individual FBI field office strategic plans.⁹

To address the second objective, we reviewed the National Defense Authorization Act for Fiscal Year 2020 related to the preparation and submission of domestic terrorism data and reviewed the three

⁷Pub. L. No. 116-92, tit. LVI, § 5602(b), 133 Stat. 1198, 2154-59 (2019). The Act also required that the first report include incidents from 2009 to 2019. The NDAA for Fiscal Year 2020 does not require the FBI and DHS to create or maintain any record that they do not maintain in the ordinary course of business or pursuant to another provision of law. *Id.* § 5602(b)(4)(B), 133 Stat. at 2157–58.

⁸JTTFs are FBI-led investigative squads in the field.

⁹We reviewed field office strategic plans for the specific field offices selected for interviews, which is discussed later in this report.

submissions from the FBI and DHS to Congress in response to the Act.¹⁰ We analyzed data from FBI and DHS I&A's Counterterrorism Mission Center.¹¹ Specifically, regarding the FBI, we analyzed data from fiscal years 2013 through 2021 on its domestic terrorism investigations, including the number and type of investigation.¹² Regarding DHS, we analyzed data from calendar years 2010 through 2021 on domestic terrorism incidents.¹³ We interviewed cognizant FBI and DHS I&A officials at five selected locations to discuss coordination on incident and investigation data collection. To assess the reliability of the FBI and DHS data, we reviewed guidance and codebooks related to the data and met with knowledgeable agency officials, among other things. We determined that these data are sufficiently reliable for reporting statistics describing domestic terrorism investigations and incidents during the respective time periods noted above. We also reviewed FBI and DHS information and interviewed officials regarding coordination in tracking domestic terrorism incidents.

To address the third objective, we reviewed documents such as JTTF memoranda of understanding, agency strategic plans, and information sharing agreements. We also interviewed FBI and DHS headquarters and field officials responsible for domestic terrorism operations. We compared information we obtained on their coordination efforts against five core elements related to collaboration that were developed as part of an FBI-led initiative. Specifically, in 2017, the FBI partnered with officials from fusion centers, DHS I&A, and components of the Office of the Director of

¹⁰Pub. L. No. 116-92, tit. LVI, § 5602(a)(b), 133 Stat. 1198, 2156-58 (2019). Federal Bureau of Investigation and Department of Homeland Security. *Domestic Terrorism: Definitions, Terminology, and Methodology*. (Washington D.C.: Nov. 2020) and Federal Bureau of Investigation and Department of Homeland Security. *Strategic Intelligence Assessment and Data on Domestic Terrorism*. (Washington D.C.: May 2021); and FBI and DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Washington, D.C.: Oct. 2022).

¹¹The Counterterrorism Mission Center is located within DHS I&A, and is responsible for synthesizing and integrating counterterrorism information from all federal, state, and local partners.

¹²According to FBI officials, the FBI does not collect domestic terrorism incident-level data because it is not required to do so. In addition, the FBI was unable to provide investigation data for fiscal years 2011 to 2012 because the bureau transitioned from a paper-based system to an automated data system called Sentinel in fiscal year 2013, according to FBI officials.

¹³DHS officials told us that their tracking efforts began actively in 2016, and therefore they retroactively compiled domestic terrorism incident information from 2010 to 2015.

National Intelligence to create the State and Major Urban Area Fusion Center Enhanced Engagement Initiative (referred to in this report as the Enhanced Engagement Initiative).¹⁴ The five core elements of the initiative are best practices that the FBI identified through site visits with FBI field offices and fusion centers, during which officials examined interagency partnerships and collaborative efforts.

We also compared FBI and DHS I&A coordination actions against seven leading practices for collaboration among federal agencies, which we identified in our prior work.¹⁵ Each of these practices contains key considerations or questions, which we determined in our prior work to be relevant to coordination. In this report, we assessed whether FBI and DHS I&A actions, taken together, reflected the relevant considerations.¹⁶ Finally, we grouped the seven collaboration practices into five categories that aligned with the five core elements identified through the Enhanced Engagement Initiative.

We determined each practice to be either generally followed, where the collaboration reflected most of the relevant considerations of the practices, generally followed but with challenges remaining, or not followed. Specifically:

- **Generally followed.** Our assessment of agency documentation and actions found that FBI and DHS I&A applied most key considerations consistent with the collaboration practice.
- **Generally followed but challenges remain.** Our assessment of agency documentation and actions found that FBI and DHS I&A generally applied key considerations consistent with the collaboration practice, but challenges remain.
- **Not followed.** Our assessment of agency documentation and actions found that FBI and DHS I&A did not apply key considerations consistent with collaboration practices.

¹⁴Fusion centers are state or local-run centers that may be funded by DHS grants that serve as a focal point for intelligence gathering, analysis, and sharing of threat information among federal, state, and local partners. Federal Bureau of Investigation, *FBI Field Office and State and Major Urban Area Fusion Centers Enhanced Engagement Initiative* (September 2017).

¹⁵GAO, *Managing for Results: Key Considerations for Implementing Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

¹⁶Key considerations are GAO-identified questions that raise issues agencies should consider when implementing collaborative mechanisms. See [GAO-12-1022](#).

To address the fourth objective, we analyzed Executive Office for United States Attorneys (EOUSA) data from October 2010 to July 2021 on domestic terrorism-related federal prosecutions, which was the most recent information available at the time of our review. We analyzed data by fiscal year on cases opened, charges filed, and defendant case outcomes during this time period. To assess the reliability of the data, we reviewed EOUSA guidance and codebooks related to the data, interviewed EOUSA officials who could speak on the quality of the data, and conducted electronic testing to determine if there were any outliers or missing data. We made the calculations used throughout this objective by following GAO data reliability standards; however, EOUSA calculations for similar data may differ due to various factors including, but not limited to, the presence of sealed cases, which were not included in that data GAO reviewed. We determined that these data were sufficiently reliable for describing characteristics of federal domestic terrorism-related prosecutions and charges filed from fiscal year 2011 to July 2021.

For all of our objectives, we interviewed FBI and, DHS in five selected locations: Detroit, Houston, New York, Portland (Oregon), and Washington, D.C. We also interviewed attorneys at United States Attorney's Offices district offices in Michigan, New York, and Washington, D.C. We determined it was not necessary to interview U.S. Attorneys in the remaining two states (Oregon and Texas) because the information that we received from prior interviews was sufficient for our purposes. Lastly, we interviewed state-run fusion center managers in three of these cities.¹⁷ We selected these locations based on a variety of factors, including the number of domestic terrorism incidents in these locations we found through open source databases and FBI and DHS data, the presence of a primary fusion center with DHS I&A personnel, the presence of a JTTF, geographic dispersion, and variety of the domestic terrorism threats in that area.¹⁸ The information we obtained through these interviews is not generalizable to domestic terrorism operations in all locations. However, through these interviews, officials provided

¹⁷There are two types of fusion centers—primary centers and recognized centers. Primary fusion centers typically provide information sharing and analysis for an entire state. Recognized fusion centers provide information sharing and analysis for a major urban area. We discuss these fusion centers in more detail later in our report. We reached out to fusion center owners in all five of our selected cities; however, owners in Portland, Oregon and Detroit, Michigan declined the interview.

¹⁸We reviewed FBI agency strategies that outlined the variety of domestic terrorism threat group categories in each field office's area of responsibility. Five threat group categories help the FBI better understand criminal actors and help inform DHS's intelligence and threat prevention efforts. We discuss threat categories in more detail later in this report.

important insights into how each entity identifies and counters domestic terrorism threats, how they share information with federal, state, and local partners, and efforts to track domestic terrorism-related data and information. For more details on our scope and methodology, see appendix I.

We conducted this performance audit from January 2021 to February 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Definitions of Domestic Terrorism

Domestic terrorism is defined in federal law as activities that occur primarily within the territorial jurisdiction of the U.S.; involve acts dangerous to human life that are a violation of the criminal laws of the U.S. or of any state, and appear to be intended to:

- intimidate or coerce a civilian population;
- influence the policy of a government by intimidation or coercion; or
- affect the conduct of a government by mass destruction, assassination, or kidnapping.¹⁹

¹⁹18 U.S.C. § 2331(5). The definition of domestic terrorism was established by the Uniting and Strengthening America by Providing Appropriate Tools Required to Interrupt and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and differs from the definition of international terrorism by requiring the acts occur primarily within the U.S. territorial jurisdiction. Pub. L. No. 107-56, tit. VIII, § 802(a)(4), 115 Stat. 272, 376 (2001).

**Federal Bureau of Investigation (FBI)
Definition of Domestic Terrorism**

- Activities dangerous to human life and a violation of U.S. criminal laws or laws of any state; and
- Are intended to intimidate or coerce a civilian population to influence the policy of government by intimidation or coercion, or to affect the conduct of government by mass destruction, assassination or kidnapping; and
- Occur primarily within the territorial jurisdiction of the U.S.

Source: FBI and DHS, *Domestic Terrorism: Definitions, Terminology and Methodology*, (Washington, D.C.: 2020). | GAO-23-104720

The FBI and DHS use similar, but not identical, definitions of domestic terrorism. The FBI uses the above statutory definition at 18 U.S.C. § 2331(5) and the 18 U.S.C. § 2332b(g)(5) definition of “federal crimes of terrorism,” to guide its investigations of domestic terrorism threat actors, or domestic violent extremists.²⁰ DHS does not use this definition; rather, the department uses a definition of terrorism consistent with the Homeland Security Act of 2002.²¹ The Homeland Security Act definition applies to two categories of acts: (1) those dangerous to human life and (2) those potentially destructive of critical infrastructure or key resources.²² These reflect DHS’s statutory responsibility for critical infrastructure protection.²³

²⁰FBI and DHS. *Domestic Terrorism: Definitions, Terminology, and Methodology*. (Washington D.C.: Nov. 2020), responding to a requirement in the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, tit. LVI, § 5602(a)(1)(a), 133 Stat. 1198, 2154 (2019). Under FBI policy and federal law, no investigative activity may be based solely on First Amendment-protected activity, which could include the mere advocacy of political or social positions, political activism, use of strong rhetoric, and a generalized philosophic embrace of violent tactics. The FBI may collect First Amendment-protected activity only when it is logically related to an authorized investigative purpose. In the case of domestic terrorism, the authorized purpose must be related to a federal crime per the Attorney General Guidelines for Domestic FBI Investigations and the FBI’s Domestic Investigations and Operations Guide. As such, the FBI is not permitted to investigate, collect, or maintain information on US persons solely for the purpose of monitoring activities protected by the First Amendment.

²¹Pub. L. No. 107-296, §2(15), 116 Stat. 2135, 2141 (2002) (codified at 6 U.S.C. §101(18)). Because this definition can be applied to both domestic and international terrorism situations, DHS uses a definition in its incident tracking codebook to apply the definition to domestic terrorism incidents. To be a domestic terrorist incident, the terrorist acts must be committed by a group or individual located and operating entirely within the United States without direction or inspiration from a foreign terrorist group. Department of Homeland Security, Counterterrorism Mission Center, *Domestic Terrorism Incident Tracking Codebook* (Washington, D.C.: Jan. 2022).

²²Pub. L. No. 107 296, § 2(15)(A), 116 Stat. 2135, 2141 (2002) (codified at 6 U.S.C. § 101(18)(A)).

²³Various provisions of the Homeland Security Act address DHS’s infrastructure protection responsibilities, such as 6 U.S.C. § 654, Infrastructure Security Division, and 6 U.S.C. § 672, Designation of critical infrastructure protection program.

**Department of Homeland Security (DHS)
Definition of Domestic Terrorism**

- Activities dangerous to human life or potentially destructive of critical infrastructure or key resources; and are
- A violation of U.S. criminal laws or laws of any state or other subdivision of the U.S.; and
- Appear to be intended to intimidate or coerce a civilian population, to influence the policy of government by intimidation or coercion, or to affect the conduct of government by mass destruction, assassination or kidnapping
- There is no distinction between domestic and international terrorism.

Source: FBI and DHS, *Domestic Terrorism: Definitions, Terminology and Methodology*, (Washington, D.C.: 2020). | GAO-23-104720

While there is no federal crime of domestic terrorism, individuals whose conduct involves domestic terrorism may be federally prosecuted under a wide range of criminal statutes. For example, federal prosecutors can charge firearms violations or interstate threats when applicable. Moreover, if domestic terrorists are convicted of certain federal crimes, prosecutors may seek sentencing enhancements that can result in such individuals receiving longer sentences.²⁴ Lastly, states are not required to use the federal definition of domestic terrorism and may enact state-specific definitions or criminal offenses.²⁵ See appendix II and IV for more information on the federal definition of domestic terrorism, selected state laws, and charges brought in domestic terrorism related cases.

Federal Agency Roles and Responsibilities Related to Domestic Terrorism

The 2021 and 2022 strategic intelligence assessments on domestic terrorism note that both the FBI and DHS are charged with preventing terrorist attacks in the U.S.²⁶ The FBI is the lead agency responsible for federal terrorism investigations and domestic intelligence efforts involving terrorist activities or acts in preparation of terrorist activities in the U.S.²⁷

²⁴See U.S. Sent'g Guidelines Manual, § 3A1.4. See appendix II for more information on the application of United States Sentencing Guidelines for domestic terrorism related incidents.

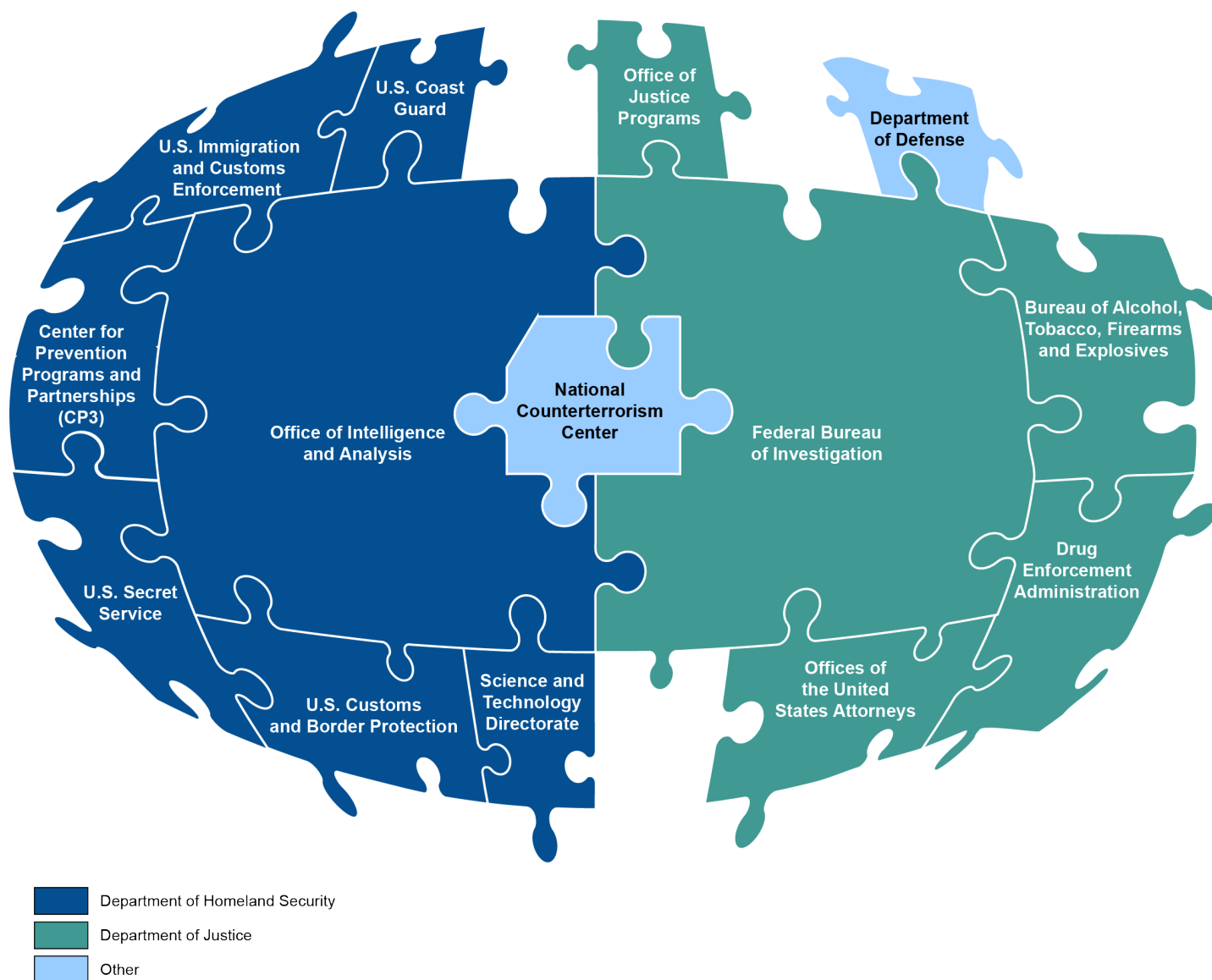
²⁵For example, Georgia and Vermont have each enacted state crimes of domestic terrorism, which differ from the federal definition of domestic terrorism and with each other. *Compare* 18 U.S.C. § 2331(5), *with* Ga. Code Ann. §§ 16-11-220(2), 16-11-221 and Vt. Stat. Ann. tit. 13, § 1703.

²⁶FBI and DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Washington, D.C.: May 2021); and FBI and DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Washington, D.C.: Oct. 2022).

²⁷By statute, the Attorney General has primary investigative responsibility for all federal crimes of terrorism, and the FBI exercises lead agency responsibility on the Attorney General's behalf. 18 U.S.C. § 2332b(f); 28 C.F.R. § 0.85(l). Per the *Attorney General Guidelines for Domestic FBI Investigations* and the FBI's *Domestic Investigations and Operations Guide*, the FBI may not investigate how U.S. persons exercise their free speech rights under the First Amendment of the U.S. Constitution, such as an individual's advocacy of political or social positions, political activism, use of strong rhetoric or a generalized philosophic embrace of violent tactics. However, the FBI may investigate a U.S. person's communications related to a federal crime. See 5 U.S.C. § 552a(e)(7) (an agency may "maintain no record describing how any individual exercises rights guaranteed by the First Amendment . . . unless pertinent to and within the scope of an authorized law enforcement activity").

DHS is primarily focused on gathering, analyzing, producing, and sharing information on emerging terrorist threats with federal, state, and local governments and private entities. The FBI and DHS also work with other entities within the federal government to receive and share information such as the National Counterterrorism Center (NCTC). Figure 1 depicts some of the key federal entities responsible for countering domestic terrorism.

Figure 1: Key Federal Agencies Responsible for Countering Domestic Terrorism



Source: GAO analysis of Department of Homeland Security, Department of Justice, and other federal entity documents. | GAO-23-104720

Note: This is not an exhaustive list of agencies and departments involved in identifying or countering domestic terrorism threats. In addition, the size and location of the puzzle piece does not necessarily indicate the significance of an agency's role in combatting domestic terrorism or relationship to another agency. The Department of Defense and National Counterterrorism Center are agencies not affiliated with the FBI or DHS that provide counterterrorism support related to domestic terrorism to either agency. Lastly, the National Counterterrorism Center is located in the center of the puzzle because they actively work with both the FBI and DHS. The National Counterterrorism Center

identifies and monitors international and transnational trends across a range of violent extremist actors and provides domestic counterterrorism support to the FBI and DHS.

DOJ. The FBI is responsible for leading law enforcement and domestic intelligence efforts to defeat terrorist attacks against U.S. persons and interests. Attorney General guidelines authorize the FBI to detect, obtain information about, and prevent or protect against federal crimes or threats to national security.²⁸ Within FBI headquarters, the Counterterrorism Division, created in 1999, manages the FBI's Domestic Terrorism Program.

Other DOJ components support countering domestic terrorism threats through prosecutions, intelligence information sharing, and research, among other things. Within DOJ, EOUSA supports 93 U.S. Attorneys who are responsible for prosecuting federal crimes including those related to domestic terrorism. Additionally, the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms, and Explosives participate on the JTTFs. The Office of Justice Programs also collects some information related to domestic terrorism.²⁹

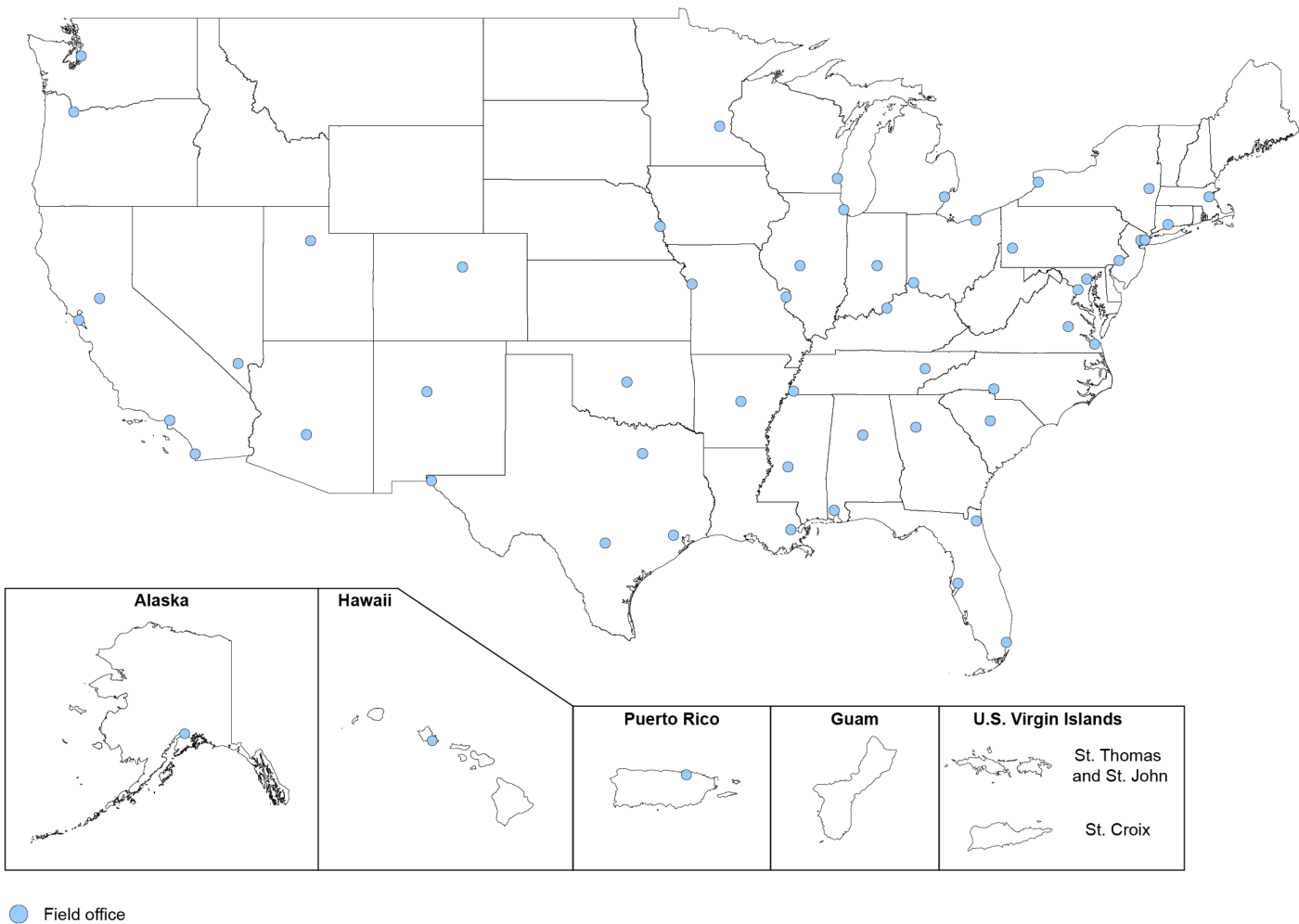
Joint Terrorism Task Forces. In the field, the FBI-led JTTFs serve as the front line of the FBI's counterterrorism mission, investigating both domestic and international terrorism threats, and according to officials, collecting and sharing information and intelligence. JTTFs are FBI investigative squads comprising task force officers from federal, state, and local law enforcement. According to FBI officials, JTTFs specifically comprise locally-based investigators, analysts, linguists and other specialists. These squads are specialized investigative units within the FBI field offices that combat certain issues such as domestic terrorism. The number of JTTFs has doubled since 2011, located in 182 JTTF

²⁸The *Attorney General's Guidelines for Domestic FBI Operations* define a national security threat as international terrorism, espionage and other intelligence activities, sabotage, and assassinations, conducted by, for, or on behalf of foreign powers, organizations, or persons; foreign computer intrusion; and other matters determined by the Attorney General consistent with Executive Order 12333 or any successor order. Department of Justice, *Attorney General Guidelines for Domestic FBI Operations* (Washington, D.C. Sept. 29, 2008).

²⁹Specifically, the Bureau of Justice Statistics within DOJ's Office of Justice Programs, collects EOUSA CaseView prosecution information. This database holds all information related to federal prosecutions by U.S. Attorneys. Officials told us that the Bureau of Justice Statistics Program links prosecution records across all stages of the case process such as arrest, indictment, and sentencing.

locations, with representation from all 56 FBI field offices. JTTF participation includes over 50 federal and over 500 state, local, tribal, and territorial agencies, as of January 2023 (see figure. 2).

Figure 2: Map of Federal Bureau of Investigation (FBI) Joint Terrorism Task Forces as of Fiscal Year 2022



Source: GAO analysis of Federal Bureau of Investigation data. | GAO-23-104720

Note: The FBI has 56 field offices centrally located in major metropolitan areas across the U.S. and Puerto Rico. As of January 6, 2023, according to officials, there are 56 FBI-led Joint Terrorism Task Forces across the U.S. with personnel located in 182 JTTF locations.

Participating agencies within JTTFs agree to provide law enforcement officers or other personnel to serve on the task force as an officer,

member, or participant.³⁰ These officials, co-located with the FBI, are trained on and have access to FBI systems, as appropriate. DHS officials from the U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement's Homeland Security Investigations, and the U.S. Secret Service, as well as state troopers and local law enforcement officers, are assigned to JTTFs to work alongside FBI agents to combat domestic terrorism.³¹ Further, according to FBI documentation, the FBI takes a leadership role in identifying and addressing emerging threats through the JTTFs. FBI officials told us that JTTFs allow the FBI to share information quickly and use the skill sets of each agency to combat domestic terrorism.

DHS. DHS I&A is the primary office within DHS responsible for collecting, analyzing, integrating, and disseminating intelligence and other information related to domestic terrorism. To carry out its mission, the Secretary of Homeland Security has broad statutory rights of access to information relating to threats of terrorism possessed by other federal agencies.³² As an Intelligence Community element, DHS I&A is charged with delivering intelligence to federal, state, local, and private sector partners and developing intelligence from those partners for the department and the Intelligence Community.³³ The office's specific responsibilities related to domestic terrorism activities include:

- Information collection and analysis – analyzing law enforcement and intelligence information to identify and assess terrorist threats against the U.S.; and
- Building an information sharing environment – analyzing and recommending improvements to policies and procedures regarding

³⁰Task Force Officers are federally deputized to actively participate in FBI investigations. Task Force Members are not law enforcement officers, but do have an active security clearance recognized by the FBI and therefore can participate in task force activities other than investigation of criminal activity. Task Force Participants do not otherwise qualify as a Task Force Officer or Member and can support limited task force activity.

³¹Additionally, almost 90 U.S. Citizenship and Immigration Services officers actively support the JTTF mission as Task Force Members though none are deputized or sworn law enforcement officers.

³²6 U.S.C. §§ 121(d)(4), 122(a)(1).

³³According to the Director of National Intelligence, the Intelligence Community refers to a federation of executive branch agencies and organizations that work separately and together to conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the U.S.

information sharing of homeland security, terrorism, and weapons of mass destruction information.

Another DHS intelligence element includes the Current and Emerging Threats Center (within DHS I&A), which provides 24-hour warning of threats facing the homeland. Additionally the Science and Technology Directorate, which is responsible for providing evidence-based scientific and technical perspectives to address a range of threats, provides support. In 2018, DHS I&A realigned its structure to create five mission centers each tasked with a goal focused on mitigating threats to the homeland. As shown in table 1, mission centers are to collect information to address DHS and national priorities and provide available reporting from federal, state, and local partners to the Intelligence Community and other partners.

Table 1: Department of Homeland Security (DHS) Office of Intelligence and Analysis Mission Centers

Center	Role
Counterintelligence Mission Center	Synthesizes intelligence on threats posed by adversaries and intelligence services.
Counterterrorism Mission Center	Synthesizes and integrates counterterrorism intelligence from all federal, state and local partners.
Cyber Mission Center	Provides cyber threat analysis.
Economic Security Mission Center	Provides intelligence on threats to U.S. economic competitiveness (e.g. intellectual property theft, supply chain threats, etc.).
Transnational Organized Crime Mission Center	Serves as the main strategic center in DHS, which integrates intelligence to counter transnational organized crime networks and facilitators (e.g. major drug smuggling organization, transnational gangs, human smuggling, etc.)

Source: GAO analysis of Department of Homeland Security documentation. | GAO-23-104720

Fusion centers. Fusion centers are state-run centers that may be funded in part by DHS grants that serve as a focal point for intelligence gathering, analysis, and sharing of threat information among federal, state, and local partners. For example, the Homeland Security Grant Program supports efforts related to building and sustaining law enforcement terrorism prevention capabilities and the maturation and enhancement of state and major urban area fusion centers. DHS I&A personnel are co-located at the fusion centers. There are 80 fusion centers across the country and approximately 120 DHS field office directorate personnel located within these centers, as of January 2023. Fusion centers and JTTFs may share information or coordinate within their areas of responsibility depending on the nature of specific threats.

National Counterterrorism Center (NCTC). Within the Office of the Director of National Intelligence, the NCTC leads and integrates the

national counterterrorism effort across the Intelligence Community. NCTC is the primary organization responsible for “analyzing and integrating” all national intelligence related to terrorism and counterterrorism, except for intelligence that pertains exclusively to domestic terrorism.³⁴ Although NCTC’s activities are focused primarily on international counterterrorism, it is authorized to receive domestic counterterrorism intelligence from other sources, such as DHS I&A, which has a statutory duty to support NCTC’s mission.³⁵ Further, NCTC officials stated that as soon as they determine a threat to be domestic in nature, NCTC notifies the FBI, who assumes the investigative lead role. NCTC supports the FBI and DHS in three main areas: analytic production and outreach to the Intelligence Community; real-time incident reporting; and investigative case support. NCTC conducts analytic work that focuses on trends, threats, and actors who have committed or attempted to commit crimes related to domestic terrorism.

Domestic Terrorism Threat Group Categories

In a November 2020 report to Congress, the FBI and DHS jointly identified five domestic terrorism threat group categories, which, according to officials, help the FBI to better understand criminal actors and help inform DHS’s intelligence and threat prevention efforts (see table 2).³⁶

³⁴50 U.S.C. § 3056(d)(1).

³⁵6 U.S.C. § 121(d)(1); 50 U.S.C. § 3056(e)(1)(noting that NCTC “may... receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.”). The Privacy Act of 1974 prohibits agencies from maintaining information about how U.S. citizens and lawful permanent residents exercise their First Amendment rights. A law enforcement exception authorizes agencies to maintain information about an individual’s First Amendment activities if “pertinent to and within the scope of an authorized law enforcement activity.” 5 U.S.C. § 552a(e)(7).

³⁶According to DHS officials, these threat categories were initially agreed to during an August 2019 National Security Council Meeting.

Table 2: Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS) Domestic Terrorism Threat Group Categories

Threat group category	Definition
Racially- or ethnically-motivated violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas derived from bias, often related to race or ethnicity, held by the actor against others or a given population group. Such extremists purport to use both political and religious justifications to support their racially or ethnically-based ideological objectives and criminal activities.
Anti-government or anti-authority violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas derived from anti-government or anti-authority sentiment, including opposition to perceived economic, social, or racial hierarchies, or perceived government overreach, negligence, or illegitimacy.
Animal rights/Environmental violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas by those seeking to end or mitigate perceived cruelty, harm, or exploitation of animals and/or the perceived exploitation or destruction of natural resources and the environment.
Abortion-related violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas relating to abortion, including individuals who advocate for violence in support of either pro-life or pro-choice beliefs.
All other domestic terrorism threats	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas which are not otherwise defined under or primarily motivated by one of the other domestic terrorism threat categories. Such agendas could flow from, but are not limited to, a combination of personal grievances and beliefs, including those described in the other domestic terrorism categories. Some actors in this category may also carry bias related to religion, gender, or sexual orientation.

Source: GAO analysis of Federal Bureau of Investigation and Department of Homeland Security documentation. | GAO-23-104720

Note: For the complete description of definitions of threat group categories, see the FBI and DHS, Strategic Intelligence Assessment and Data on Domestic Terrorism (Washington, D.C.: Oct. 2022).

Types of Domestic Terrorism Investigations and Plot Disruptions	According to FBI documentation, the FBI engages in four main types of investigations to respond to domestic terrorism (see table 3).
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Table 3: Types of Federal Bureau of Investigation (FBI) Investigations

Investigation Type	Definition
Assessment	May be opened when there is an authorized purpose and a clearly defined objective. ^a Assessments may be carried out to detect, obtain information about, or prevent or protect against federal crimes, threats to national security, or to collect foreign intelligence.
Preliminary investigation	May be opened on the basis of any allegation or information indicative of possible criminal activity or threats to the national security. The opening of a preliminary investigation by an FBI Field Office requires the approval of a Supervisory Special Agent, but does not require notice to the Department of Justice (DOJ), unless it involves a sensitive investigative matter. ^b

Investigation Type	Definition
Full investigation	May be opened if there is an articulable, factual basis that reasonably indicates the existence of federal criminal activity or a threat to national security, or to protect against such activity or threat. The opening of a full investigation must be approved by a Supervisory Special Agent, and notice to the FBI headquarters unit responsible for investigating that criminal activity must be provided within 15 days of opening. For a national security full investigation of a U.S. citizen FBI headquarters must notify DOJ within 30 days. ^c
Enterprise investigation	May be opened if there is an articulable, factual basis for the investigation that reasonably indicates that the group may have engaged in, may be engaged in, or may be engaged in planning, preparing, or providing support for domestic terrorism activities as defined by 18 U.S.C. § 2331(5). This type of full investigation examines the structure, scope, and nature of a group or organization. ^d According to FBI documentation, enterprise investigations cannot be conducted as preliminary investigations or assessments, nor may they be conducted for the sole purpose of collecting foreign intelligence. ^e

Source: GAO analysis of Federal Bureau of Investigation and Department of Homeland Security documentation. | GAO-22-104720

^aAccording to FBI documentation, the basis of an assessment cannot be arbitrary or groundless speculation, nor can an assessment be based solely on the exercise of First Amendment protected activities or on the race, ethnicity, gender, national origin, religion, disability, sexual orientation, or gender identity of the subject.

^bAccording to the FBI's Domestic Investigations and Operations Guide, a sensitive investigative matter is defined as an investigative matter involving the activities of a domestic public official or political candidate (involving corruption or a threat to the national security), religious or political organization or individual prominent in such an organization, the news media, an academic nexus (involving a college or university) or any other matter which, in the judgement of the official authorizing an investigation, should be brought to the attention of FBI headquarters and other DOJ officials.

^cPursuant to a March 2021 Attorney General Memorandum providing guidance regarding investigations and cases related to domestic violent extremism, according to FBI officials, FBI headquarters was to begin providing DOJ case notification letterhead memorandums for all domestic terrorism full investigations. Prior to the March 2021 Memorandum, DOJ notification of a domestic terrorism investigation was only necessary for sensitive investigative matters and enterprise investigations.

^dThis includes an organization's relationship, if any, to a foreign power; the identity and relationship of its members, employees, or other persons who may be acting in furtherance of its objectives; its finances and resources; its geographical dimensions; its past and future activities and goals; and its capacity for harm. A separate investigation must be opened for each subject of an enterprise investigation.

^eAccording to FBI documentation, a domestic terrorism enterprise investigation does not provide any additional investigative tools not already authorized in a full investigation.

According to FBI documentation, one successful result of an investigation is a plot disruption—interrupting or inhibiting a threat actor from engaging in criminal or national security related activity. A plot disruption is the result of direct actions and may include but is not limited to an arrest, a seizure of assets, or the impairment of the threat actors' operational capabilities. The FBI classifies disruptions as a type of statistical accomplishment and tracks disruptions as such.

FBI Provided Operational and Analytical Support to Field Offices during 2011 to 2021 to Help Counter Domestic Terrorism

Headquarters Units Supported JTTFs through Sharing Guidance, Resources, and Analysis

The majority of FBI's investigative personnel are stationed in field locations across the country where they work with regional and local law enforcement agencies to combat crime and counter domestic terrorism threats. Various FBI units at the headquarters level have provided a range of operational and analytical support to field offices in responding to domestic terrorism threats since 2011.³⁷ For example, in 2012, the FBI documented mission goals and objectives for its Domestic Terrorism Operations Section, which is responsible for providing domestic terrorism-related operational support to all field offices and satellite offices.³⁸ Initially, the Operations Section consisted of units that were to provide oversight, guidance, funding, and other resources to support JTTFs and other counterterrorism-related priorities. According to officials, more recently, it is dedicated to management of the domestic terrorism program within the Counterterrorism Division. For example, officials told us the section provides general operational support by issuing guidance to ensure that JTTFs use consistent terms and definitions, as well as support for specific domestic terrorism investigations.³⁹

³⁷The FBI has addressed domestic terrorism threats for more than 50 years and more recently streamlined its support of field offices. Since 2011, the first year of our timeframe for this review, the FBI has realigned headquarters units to help streamline oversight over domestic terrorism issues in the field and provide analytical support to field offices for domestic terrorism issues.

³⁸This section, consisting of Special Agents, intelligence analysts, and professional staff, provides operational and intelligence support to all 56 of the FBI's field offices and satellite offices.

³⁹Guidance can take several forms, including ensuring compliance with existing DOJ and FBI policies and implementing interim guidance pending updates to existing guidance.

Further, FBI officials told us that the Operations Section provides field offices with the overall landscape, scope, and nature of the threat around the country. For example, according to officials, the Operations Section drafts and disseminates tactical products such as Joint Intelligence Bulletins for JTTFs. These bulletins provide updated threat information and assessments to various federal, state, and local partners, among others. As of April 2022, the Operations Section comprised five units that cover different geographical areas. Four of the units are specific to domestic terrorism and the fifth unit is the combined Domestic Terrorism Hate Crime Fusion Cell.⁴⁰ FBI headquarters officials told us that the Counterterrorism Division also increased resources and operational management and support to counter domestic terrorism threats. For example, according to Domestic Terrorism Operations Section officials, FBI has increased the number of unit program managers supporting JTTFs in the field since 2011.

In addition, the FBI's Domestic Terrorism Strategic Unit has responsibilities for providing timely, all-source, expert intelligence support to the FBI's Domestic Terrorism Program, including JTTFs.⁴¹ This unit is responsible for establishing working relationships with investigative managers, field offices, and other analytic elements to determine information gaps and intelligence requirements. The unit is also responsible for supporting FBI headquarters, field offices, and state and local law enforcement with analysis of domestic terrorism threats. Officials told us that the unit reviews and provides feedback to the field on all FBI written products to help ensure the use of correct domestic terrorism terminology before dissemination. Additionally, officials told us that the Counterterrorism Analysis Section which includes the Strategic Unit, hosts a monthly roundtable call with all FBI field offices to present information on domestic terrorism trends.

Officials from all five JTTFs we interviewed stated they believe that DOJ's commitment to domestic terrorism has grown in the last 10 years. In the field, the FBI has nearly doubled the number of JTTF locations since

⁴⁰The FBI created the Domestic Terrorism Hate Crime Fusion Cell in 2019 to address the intersection of the FBI's counterterrorism and criminal investigative missions to combat domestic terrorism and assist victims of hate crimes.

⁴¹According to FBI officials, the Domestic Terrorism Analysis Unit was established in 1996 as part of the Counterterrorism Planning Section. The unit later moved to the Counterterrorism Division as part of the Counterterrorism Analysis Section. In 2020, the unit name was changed to the Domestic Terrorism Strategic Unit. According to officials, a second Strategic Unit was created in June 2022.

2011, bringing the total number to 56 JTTFs in 182 locations across the country. Officials from four out of five JTTFs we interviewed told us that resources related to domestic terrorism has increased. For example, officials told us that the number of FBI personnel assigned to JTTFs has also increased. DOJ and FBI leadership have supported reallocating existing resources by temporarily shifting FBI agents working other threats including international terrorism threats to domestic terrorism matters, while still ensuring proper coverage of all other threats. Additionally, officials within one FBI field office told us their JTTF created new working groups with external partners or added additional deputized task force officers from other agencies to supplement the number of JTTF members.

FBI Provided Analytical Support Through New Efforts to Prioritize and Address Domestic Terrorism Threats

The FBI initiated the Threat Review Prioritization Process in 2013 to help prioritize domestic terrorism threats. As part of this prioritization process, the FBI is to review threats annually and prioritizes them biennially.⁴²

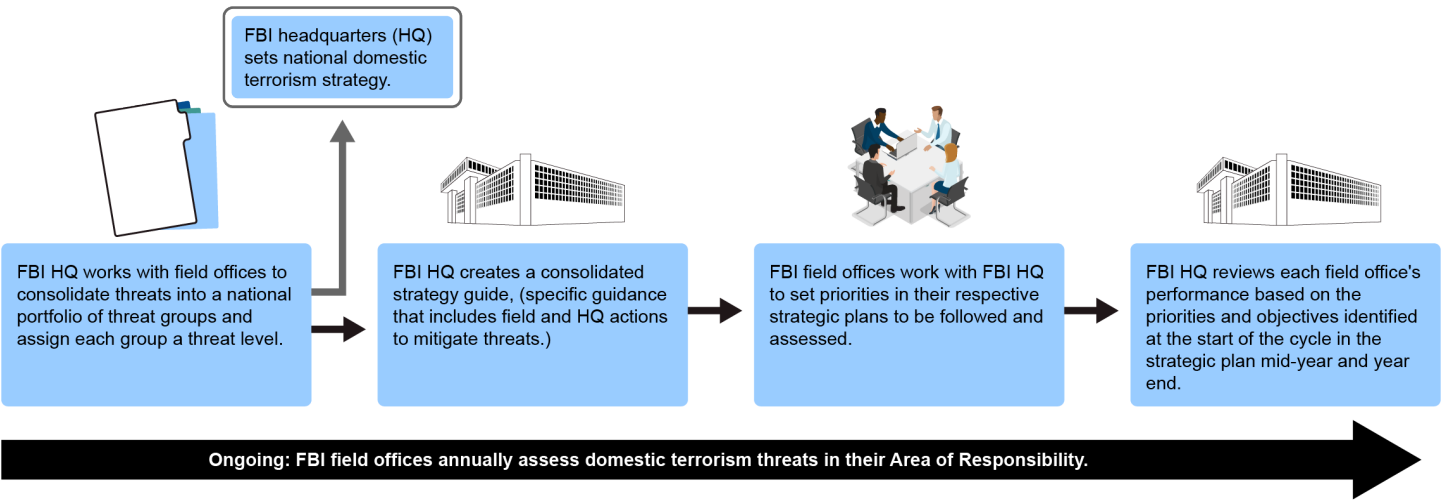
Every two years, the FBI undergoes the Threat Review Prioritization process, which prioritizes threat issues across all FBI investigative programs including those that reflect various ideologies such as racially motivated violent extremism, anti-government, anti-authority extremism, and other forms of violent extremism. As part of this process, FBI headquarters sends a prioritized list, along with recommended strategies to best counter the threat, to field offices in guidance known as a Consolidated Strategy Guide.⁴³ These guides contain definitions of domestic terrorism threat group categories, information to mitigate threats, new operational capabilities that the FBI needs to address the threat, specific actions for field offices and headquarters, and justification for a threat group's threat level (e.g., the priority level of the threat). Field offices are to conduct their own Threat Review Prioritization process to prioritize threats and identify mitigation strategies that work best for their Area of Responsibility. The field offices are to document their strategies in an annual Field Office Strategic Plan. Our review of field office strategic plans from selected cities confirmed that JTTFs noted area specific

⁴²According to officials, although the FBI-mandated process is biennial, they review threats annually and prioritization may change annually based on the threat picture.

⁴³For the domestic terrorism threats, the Domestic Terrorism Strategic Unit and the Domestic Terrorism Operations Section work with all Counterterrorism Division components and relevant stakeholders to consolidate this information into a national portfolio of threat categories in which each category receives a definition and threat level, among other things.

strategies to combat threats. Figure 3 illustrates the steps the FBI is to follow in the Threat Review Prioritization process.

Figure 3: Federal Bureau of Investigation’s (FBI) Threat Review Prioritization Process



Source: GAO analysis of Federal Bureau of Investigation documentation and testimonial information. | GAO-23-104720

FBI and DHS Track Differing Information on Domestic Terrorism-Related and Do Not Fully Share It

FBI Tracks Domestic Terrorism-Related Cases while DHS I&A Tracks Domestic Terrorism Incidents

The FBI and DHS I&A track domestic terrorism information respective to their agency missions. Regarding the FBI, the bureau uses data from its case management system to track its domestic terrorism-related cases, which include both assessments and investigations.⁴⁴ The FBI assigns each case a classification code in its system, known as Sentinel, and uses Domestic Terrorism Program classification codes to designate those investigations that involve domestic terrorism. FBI officials said

⁴⁴The FBI uses the term case to describe any investigation or assessment.

investigators can update case classifications during the course of an assessment or investigation, such as changing a case from an investigation involving racially motivated violent extremism to one involving an anti-government/anti-authority nexus.

According to our analysis of FBI data (see table 4)⁴⁵, overall, the number of FBI's open domestic terrorism-related cases grew by 357 percent (1,981 to 9,049), reaching the highest number at the end of fiscal year 2021.⁴⁶ An open case, as defined by the FBI, means any case worked at some point during the fiscal year.⁴⁷ More specifically, from 2013 to 2016, the total number of open domestic terrorism-related cases declined by over 400 (about 23 percent) but then increased by over 7,000 (about 490 percent) from fiscal years 2016 through 2021. The numbers of open full investigations, assessments, and disruptions also peaked in fiscal year 2021, while the number of open enterprise investigations was lower in each subsequent year than it was in fiscal year 2013 (see table 4).

⁴⁵Our methodology to tabulate the number of assessments and investigations presented in table 4 differs from how the FBI tracks and reports on these data: 1) our data capture assessments and investigations that were open at any point during each fiscal year. Similar data publically reported by the FBI represent the number of open assessments and investigations as of the end of each fiscal year; and 2) our data capture assessments and investigations for all case classifications that fall under FBI's Domestic Terrorism Program. This includes cases that are related to domestic terrorism threats, threat actors, or related training. According to FBI officials, FBI excludes these case classifications when publically reporting domestic terrorism data because the related threats or violations do not meet the statutory definition for domestic terrorism (18 U.S.C. § 2331 (5)). We use the larger universe of Domestic Terrorism Program case classifications because this report focuses on the issue of domestic terrorism threats more broadly, including related cases. For an example of the method FBI uses to present domestic terrorism data, see FBI and DHS, Strategic Intelligence Assessment and Data on Domestic Terrorism (Washington, D.C.: Oct. 2022).

⁴⁶The U.S. Capitol attack took place on January 6, 2021; however, the data do not allow us to analyze the extent to which the number of cases in 2021 reflect cases opened after the attack. Prior to fiscal year 2018, the FBI used Guardian, an FBI system, to track assessments. Prior to 2018, Guardian did not track assessment data by program and/or case classification. As such, the total number of assessments with the domestic terrorism classification from fiscal years 2013 through 2017 does not include assessments tracked in Guardian. The number of pending assessments from fiscal years 2013 through 2017 does not include the total number of FBI domestic terrorism assessments and is lower than the number of pending assessments in subsequent fiscal years.

⁴⁷If a case were opened on October 1, 2018 and closed on September 30, 2020, that investigation would be included in both fiscal years 2019 and 2020. We confirmed that no cases were double counted in the same year.

Table 4: Numbers of Federal Bureau of Investigation (FBI) Cases and Disruptions with Domestic Terrorism-Related Classification Codes, Fiscal Years 2013 through 2021

Fiscal Year	Assessment ^a	Preliminary ^b investigation	Full ^b investigation	Enterprise ^c investigation	Total ^d cases	Disruptions ^e
2013	91	317	1,530	43	1,981	136
2014	122	274	1,352	35	1,783	81
2015	133	212	1,235	26	1,606	142
2016	139	166	1,210	20	1,535	184
2017	487	142	1,241	20	1,890	220
2018	2,274	155	1,267	18	3,714	200
2019	2,612	165	1,299	16	4,092	183
2020	3,502	183	1,865	7	5,557	299
2021	5,507	223	3,311	8	9,049	456

Source: GAO analysis of Federal Bureau of Investigation data. | GAO-23-104720

Notes: The FBI collects information on its domestic terrorism investigations through its case management system, Sentinel. These data includes all cases, including investigations and assessments, worked at any point during the fiscal year. If the FBI opened an investigation on October 1, 2018 and closed it on September 30, 2020, that case is included in both fiscal years 2019 and 2020. Fiscal year 2021 data are as of August 11, 2021. Prior to fiscal year 2018, another FBI system, Guardian, tracked assessments. During this time period, Guardian did not track assessment data by program and/or case classification. As such, the total number of assessments with the domestic terrorism classification from fiscal year 2013 through fiscal year 2017 does not include assessments tracked in Guardian. As a result, the number of pending assessments between fiscal year 2013 and fiscal year 2017 does not depict the total number of FBI domestic terrorism assessments and is significantly lower than the number of pending assignments in subsequent fiscal years.

^aAn assessment is an investigative activity, which requires an authorized purpose and articulated objective(s).

^bPreliminary investigations may be initiated on the basis of any allegation or information indicative of possible criminal or national security-threatening activity, but more substantial factual predication is required for full investigations.

^cEnterprise investigations are a type of full investigation which permit a general examination of the structure, scope and nature of certain groups and organizations

^dTotal cases is the sum of all assessments, preliminary investigations, full investigations, and enterprise investigations in a given year

^eA disruption is the interruption or inhibition of a threat actor from engaging in criminal or national security-related activity.

Regarding DHS I&A, the office tracked 231 domestic terrorism incidents with known offenders from calendar years 2010 through 2021.⁴⁸

According to DHS, incidents include attacks where a weapon or tactic is purposefully deployed against a target for the purpose of causing injury, death, or property destruction. In addition, incidents include plots when

⁴⁸The term "known offenders" refers to offenders whose identity becomes known to law enforcement before, during, or after the event.

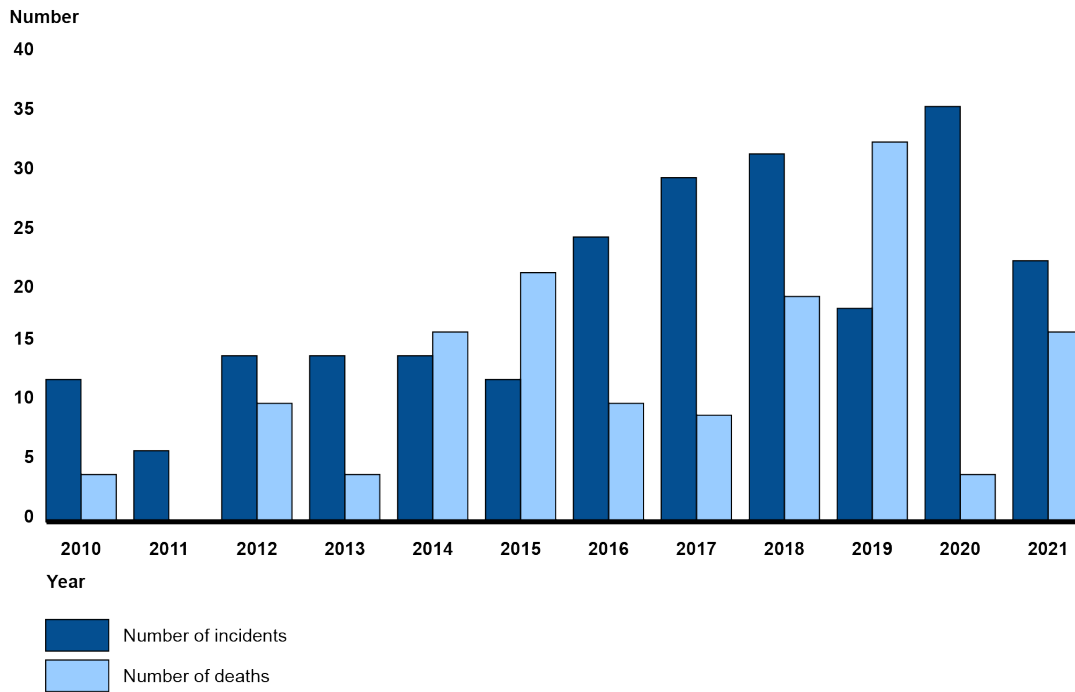
specific targets are identified and individuals have taken significant steps to acquire weapons or plan the tactics that they intend to use against the target. DHS I&A officials told us that they use information from a variety of sources to track these incidents, including open-source, as well as information considered Law Enforcement Sensitive, For Official Use Only, or classified information obtained from all relevant intelligence sources.⁴⁹

DHS began using an incident tracker to actively collect and code these data in 2016, and officials told us that they continually update the data to ensure the data set remains current. DHS I&A retroactively collected data going back to 2010, in response to our request, as well, according to officials. DHS I&A holds quarterly internal meetings to reach consensus on which new incidents meet their threshold to add to the incident tracker, and which previously recorded incidents should be updated based on new information DHS I&A receives. DHS I&A's data set includes metrics for incidents, including the number of incidents each year, their lethality, and their location.

Number of Incidents and Lethality by Year. According to DHS I&A's data, the number of domestic terrorism incidents with known offenders fluctuated but generally increased from 2010 through 2020, with a decrease in 2021 compared with 2020. The number of deaths from such incidents ranged from zero in 2011 to 32 in 2019, with 2015 and 2019 having the highest numbers of deaths (see figure 4).

⁴⁹According to DHS, open source information refers to unclassified information that has been published or broadcast in some manner to the general public, could lawfully be seen or heard by a casual observer, is made available at a meeting open to the public, or is obtained by visiting any place or attending any event that is open to the public. "Law Enforcement Sensitive" and "For Official Use Only" are designations given to unclassified information of a sensitive nature that requires protection for any number of reasons.

Figure 4: Number of Domestic Terrorism-Related Incidents and Plots with Known Offenders, and Deaths, Calendar Years 2010 through 2021

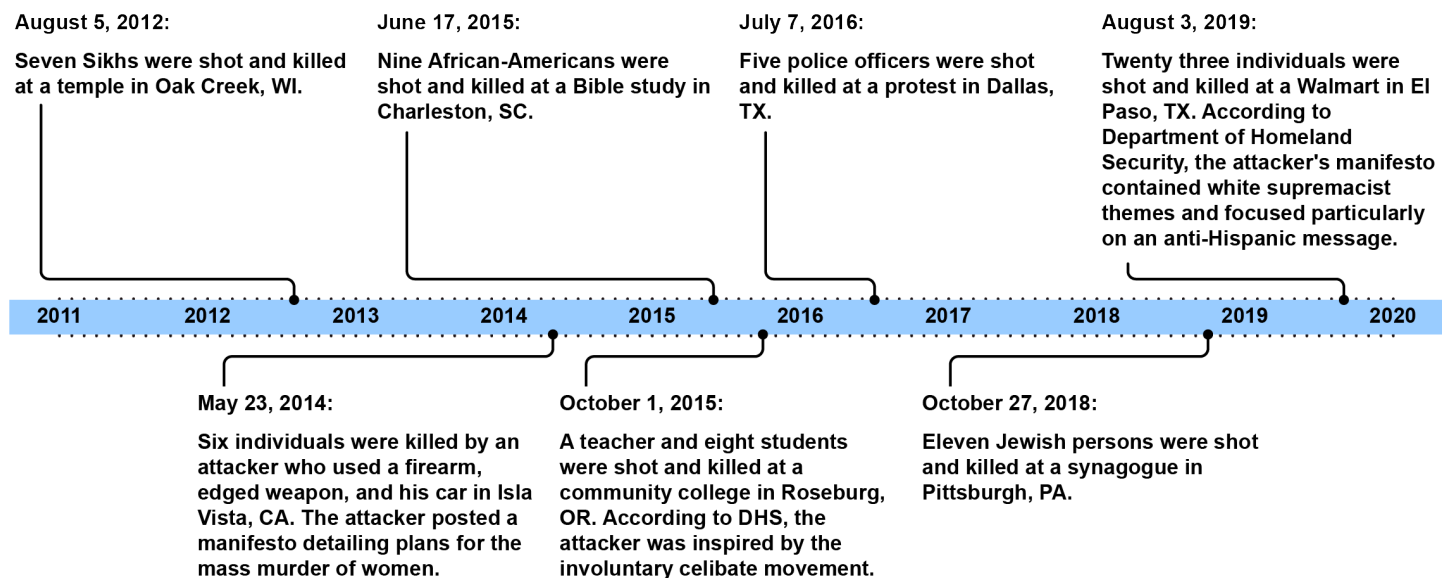


Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

Note: The term “known offenders” mean offenders whose identity become known to law enforcement before, during, or after the event. According to DHS, incidents include attacks where a weapon or tactic is purposefully deployed against a target for the purpose of causing injury, death, or property destruction. In addition, incidents include plots when specific targets are identified and individuals have taken significant steps to acquire weapons or plan the tactics they intend to use against the target.

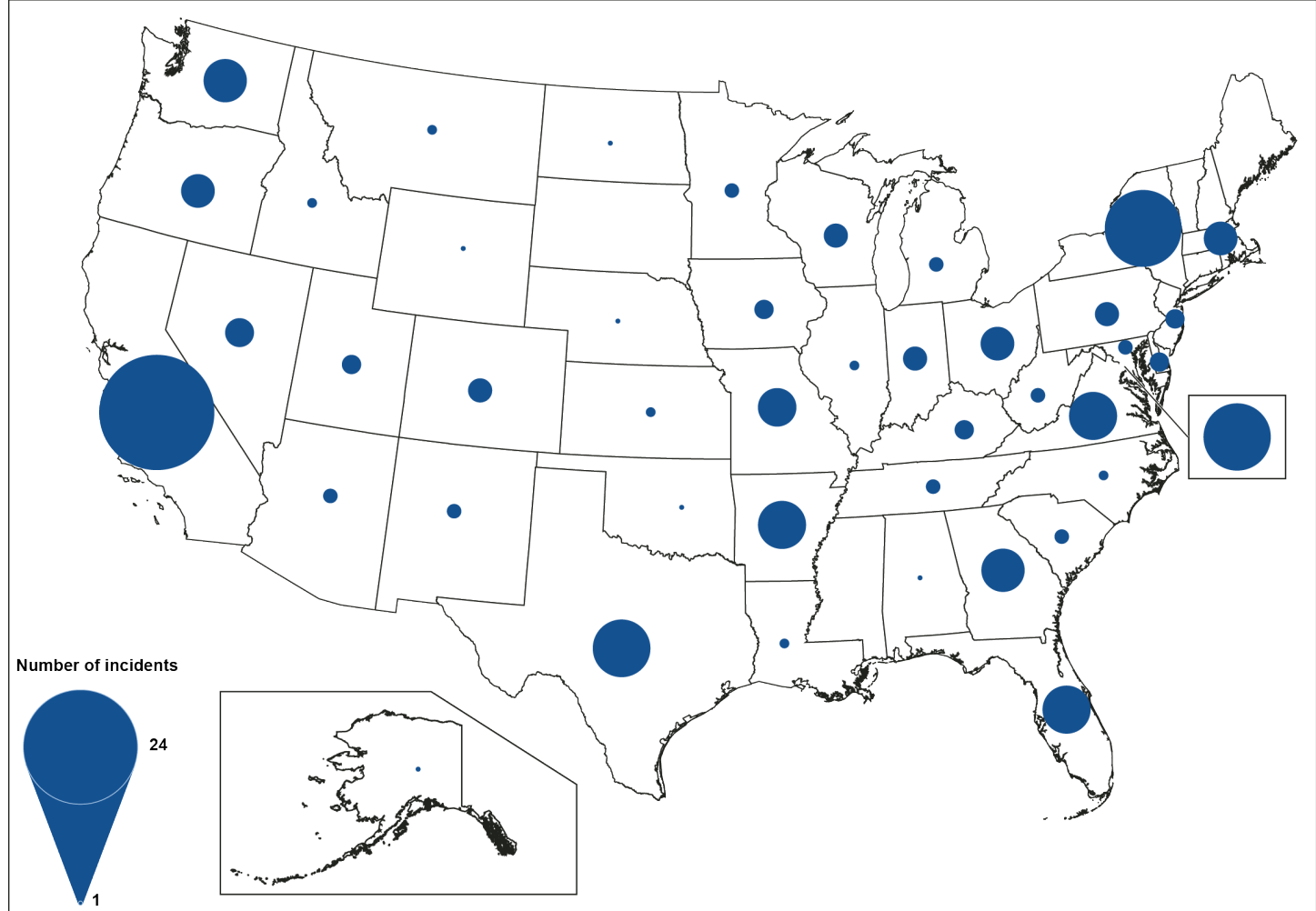
Figure 5 below provides examples of lethal attacks committed over this same period, according to DHS I&A data.

Figure 5: Examples of Lethal Domestic Terrorism Incidents, According to Department of Homeland Security's Office of Intelligence and Analysis



Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

Incident Locations. According to DHS I&A's data, domestic terrorism incidents occurred in a range of locations throughout the U.S. from 2010 through 2021, as shown in figure 6. The greatest number of attacks occurred in states with major metropolitan areas, such as California (Los Angeles, San Diego, and San Francisco), New York (New York City), and Washington, D.C. California had the most incidents during this time period, while several states (Connecticut, Hawaii, Maine, Mississippi, New Hampshire, Rhode Island, South Dakota, and Vermont) had none.



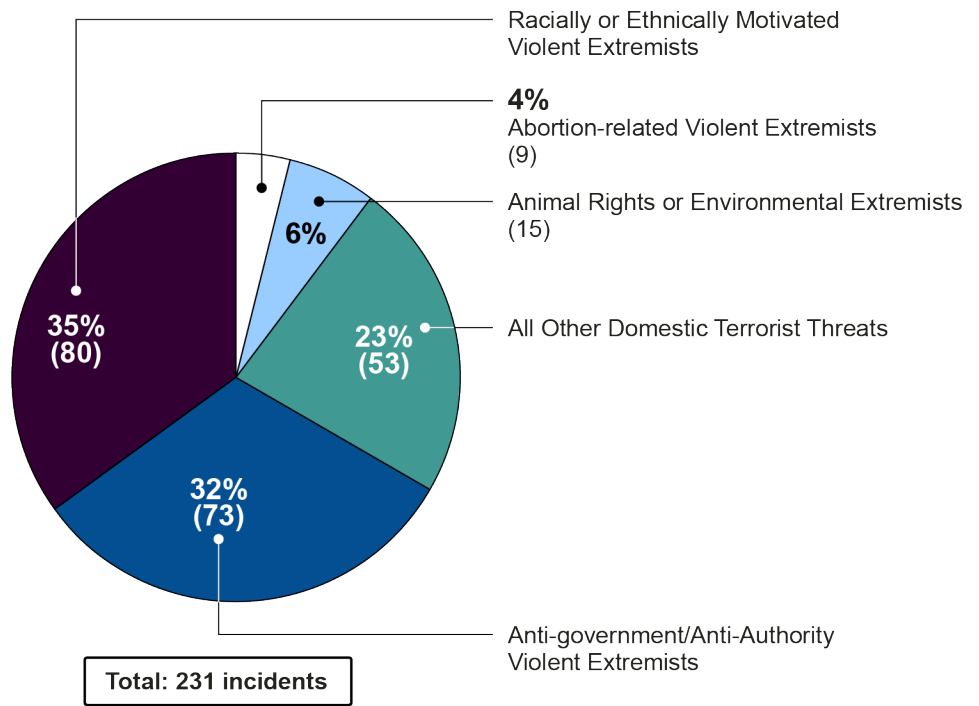
Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

Note: The results are not scaled for state population because populations fluctuated from 2010 to 2021 and because sometimes individuals from outside state lines travel to another state to commit an attack. According to DHS, incidents include attacks where a weapon or tactic is purposefully deployed against a target for the purpose of causing injury, death, or property destruction. In addition, incidents include plots when specific targets are identified and individuals have taken significant steps to acquire weapons or plan the tactics they intend to use against the target.

According to DHS I&A data, offenders classified as racially- or ethnically-motivated violent extremists committed the most incidents during the same time period (80 of 231 total incidents). Offenders classified as anti-government/anti-authority violent extremists committed the second

highest number of incidents (73 of 231 total incidents). See figure 7 for the number of incidents broken out by threat group category.

Figure 7: Proportion of Domestic Terrorism-Related Incidents Committed by Individuals by Threat Group Category, Calendar Years 2010 through 2021



Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

Note: DHS analysts track ideological alignment in the data set using the definitions provided in the report required by the National Defense Authorization Act for Fiscal Year 2020. All other domestic threats may include involuntarily celibate violent extremists or domestic violent extremists espousing an individualized a combination of other personal grievances or beliefs.

Table 5 shows the numbers of deaths and injuries incurred during domestic terrorism incidents that are committed by individuals from varying threat group categories, according to DHS I&A data. Racially- or ethnically-motivated violent extremists caused 94 out of the 145 total deaths from incidents (64.8 percent)—the most lethal attacks from any

one threat group category.⁵⁰ Animal Rights or Environmental Violent Extremists committed 15 incidents, which did not result in any deaths or injuries. For additional characteristics of DHS I&A’s incident data, see appendix III.

Table 5: Numbers of Deaths and Injuries Resulting from Domestic Terrorism-Related Incidents Committed by Individuals from Varying Ideologies, Calendar Years 2010 through 2021

Ideological alignment	Total deaths	Total injuries
Racially- or Ethnically-Motivated Violent Extremists	94	111
Animal Rights or Environmental Violent Extremists	0	0
Abortion-related Violent Extremists	3	9
Anti-government/Anti-Authority Violent Extremists	15	48
All Other Domestic Terrorist Threats ^a	33	202
Total	145	370

Source: GAO analysis of DHS I&A data. | GAO-22-104720

Note: DHS analysts track ideological alignment in the data set using the definitions provided in the report required by the 2020 National Defense Authorization Act. In 2019, the FBI abandoned the terms Black Identity Extremists and White Supremacy Extremists and combined them as Racially Motivated Violent Extremists.

^aThe All Other Domestic Terrorist Threats category includes involuntarily celibate violent extremists or domestic violent extremists espousing an individualized combination of other personal grievances or beliefs.

FBI and DHS I&A Did Not Report Comprehensive Domestic Terrorism Data in Response to 2020 Requirement

FBI and DHS I&A did not report comprehensive domestic terrorism incident data in their 2021 and 2022 strategic intelligence reports. The NDAA for Fiscal Year 2020 required the FBI and DHS, in consultation with the Office of the Director of National Intelligence, to submit several reports on domestic terrorism to specified congressional committees.⁵¹ In particular, the act requires the agencies submit a joint report on the standardization of terminology and procedures relating to domestic

⁵⁰On July 23, 2019, the FBI Director testified before the Senate Judiciary Committee that the FBI had abandoned the terms Black Identity Extremists and White Supremacy Extremists that had been used since 2017 and combined them as racially motivated violent extremists. According to DHS data, during calendar year 2010 to 2021, 7.8 percent of incidents (18 total incidents) were committed by Racially or Ethnically Motivated Violent Extremists identified as Black Separatists and 26.8 percent of incidents (62 total incidents) were committed by Racially or Ethnically Motivated Violent Extremists identified as White Supremacists.

⁵¹Pub. L. No. 116-92, tit. LVI, § 5602, 133 Stat. 1198, 2154-59 (2019).

terrorism annually.⁵² As part of this standardization report, the FBI and DHS, in consultation with the Director of National Intelligence are to jointly develop, to the fullest extent feasible and for purposes of internal recordkeeping and tracking, uniform and standardized methodologies for tracking incidents of domestic terrorism.⁵³ This would inform future mandated data reporting since a coordinated methodology would result in collecting consistent information.

In their first report pursuant to the Act, issued in November 2020, the FBI and DHS provided their respective definitions and threat categories related to domestic terrorism. However, the report did not include information on their methodologies for tracking incidents of domestic terrorism other than the FBI's description of an incident and a plot.⁵⁴ For example, the report did not include specific information related to how the FBI and DHS could reconcile differences in the inclusion of certain incidents or plots, the characteristics of incidents or plots they collected, the sources of information they used, and the frequency with which they collected information. Further, the FBI noted the agency makes an effort to track lethal and non-lethal incident data and reiterated that the agency did not specifically have a process to track incidents since they were not required to do so.

For the initial 2021 strategic intelligence assessment report, the NDAA for fiscal year 2020 instructed the FBI and DHS to jointly provide domestic terrorism statistics from January 1, 2009, to December 20, 2019, but did not require the FBI and DHS to create or maintain any record that they did not maintain in the ordinary course of business or pursuant to another provision of law.⁵⁵ To complete this section of the report, FBI officials told us that they completed a manual effort that required reviewing case files to determine applicable incidents and their characteristics. The report included a list of FBI-identified domestic terrorism incidents dating back to

⁵²*Id.* § 5602(a), (d), 133 Stat. at 2154, 2159.

⁵³*Id.* § 5602(a)(1)(B), 133 Stat. at 2154.

⁵⁴Federal Bureau of Investigation and Department of Homeland Security. *Domestic Terrorism: Definitions, Terminology, and Methodology*. (Washington, D.C.: Nov. 2020), required by Pub. L. No. 116-92, § 5602(a), 133 Stat. at 2154. As noted above, FBI reported using the criminal law definition of domestic terrorism at 18 U.S.C. § 2331(5), and DHS reported using a definition derived from the Homeland Security Act of 2002 at 6 U.S.C. § 101(18).

⁵⁵Pub. L. No. 116- 92, § 5602(b)(4)(B), 133 Stat. at 2157-58.

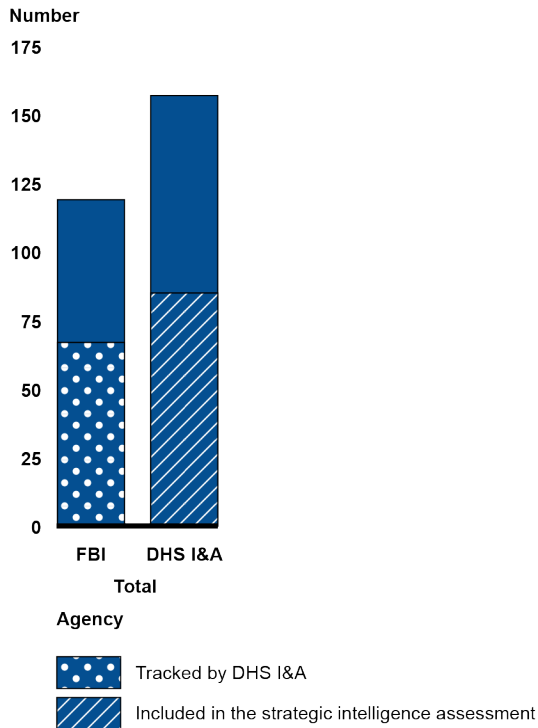
2015.⁵⁶ As mentioned previously, DHS I&A tracks overall domestic terrorism incidents while the FBI tracks assessments and investigations in their respective data systems.⁵⁷ The second strategic intelligence assessment report issued in October 2022 included two years of annual updates for fiscal years 2020 and 2021. According to the assessment, the report solely included incidents that the FBI investigated and identified as significant domestic terrorism incidents. The October 2022 report states that additional incidents that may meet the DHS threshold for what is considered domestic terrorism may not be included. According to documentation, these incidents may be investigated as a hate crime and offered to state and local law enforcement.

We analyzed the data the FBI provided in the May 2021 report and the October 2022 report and compared them with the incident data captured in DHS I&A's incident tracker for the same years (2015 to 2021). Our analysis indicates that there was overlap in incidents captured by the FBI in the two reports and by DHS I&A in its incident tracker. However, we also identified incidents that only one agency captured. In total, from 2015 through September 2021, DHS tracked 157 incidents and plots, 85 of which the FBI also captured as "significant domestic terrorism incidents and disrupted plots," while the FBI reported 119 incidents and plots, of which 67 DHS captured as well (see figure 8).

⁵⁶In the report, the FBI noted that, during 2014, the FBI moved from paper records to its electronic records system, and therefore stated that information for 2015 and beyond was most useful.

⁵⁷The FBI does not track domestic terrorism incidents because it is not required to do so. However it does collect lethal domestic incident data though this information is not limited to terrorism information. From 2015 to 2020, the FBI tracked 28 lethal incident cases. The FBI did not provide data on lethal incidents from 2011 to 2014 because those incidents are contained in a decommissioned Automatic Case Support system. FBI officials told us that reporting this information may result in a misunderstanding of what the data contain.

Figure 8: Domestic Terrorism Incidents Identified by Federal Bureau of Investigation (FBI) and Department of Homeland Security Office of Intelligence and Analysis (DHS I&A), Calendar Years 2015 to 2021



Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center Data and Federal Bureau of Investigation documentation. | GAO-23-104720

Note: DHS I&A tracks domestic terrorism incidents and the FBI tracks domestic terrorism investigations. For the purpose of including data in the May 2021 Strategic Intelligence Report jointly authored by FBI and DHS, the FBI completed a manual review of case files dating back to 2015 to generate a list of domestic terrorism incidents. According to the October 2022 Strategic Intelligence Report, the incidents included were those that the FBI investigated as a significant domestic terrorism event.

Though agency officials told us that they track information respective to their mission, and their methods differ, it is not clear in the first report how a determination was made to include certain incidents or the extent that the universe of all available DHS data was evaluated or considered for inclusion.⁵⁸ The October 2022 Strategic Intelligence report noted that the only incidents included were those investigated as a significant domestic terrorism incident.

⁵⁸DHS I&A officials told us that their determination of what events may be considered domestic terrorism may be different than that of another agency.

As mentioned above, DHS tracks classified, Law Enforcement Sensitive, For Official Use Only information, and open-source information related to known offenders. The FBI, on the other hand, primarily tracks investigation information, including information reported to the FBI by state and local law enforcement agencies. FBI officials we spoke with told us that they document lethal and non-lethal domestic terrorism incidents to the fullest extent feasible. However, according to officials, there is no mandatory incident reporting requirement for state and local law enforcement agencies to report criminal activity that appears to be motivated by a socio-political goal consistent with the federal statutory definition of domestic terrorism. According to FBI officials, if they do not receive notification regarding an incident they would not necessarily know to include that incident in their records.

DHS I&A officials told us that state-level information on incidents is difficult to track since they do not have visibility into arrests and would have to navigate many state websites to ensure I&A can obtain all court documents that describe charges. While the FBI and DHS I&A track incidents in different ways, and from different sources, to meet their respective missions, our analysis shows that FBI and DHS's combined incident data collection efforts would present a fuller picture of domestic terrorism than data collected by either agency alone.

FBI officials also told us that more support is needed for better reporting on domestic terrorism statistics. According to officials, the 2020 strategic intelligence report was compiled by individuals within the FBI specifically tasked with working on the report required for the NDAA for Fiscal Year 2020; however, FBI officials told us they do not have adequate staffing to do this for subsequent reports, similar to annual reporting completed in the 1990's and 2000's.⁵⁹ Additionally, FBI officials told us they did not use data from DHS I&A's incident tracker in compiling the incidents for the report because they were unaware of the data DHS was collecting. According to DHS officials we spoke with, they did not raise the incident tracker to their FBI counterparts because they were not asked for any data. FBI, as lead of domestic terrorism investigation matters, took the

⁵⁹FBI officials told us that previously in the 1990's, a headquarters unit was responsible for completing annual domestic terrorism reports. This unit no longer exists.

lead in authoring and compiling reports in response to the NDAA for Fiscal Year 2020.⁶⁰

FBI officials stated that they would welcome any additional data that DHS I&A wanted to share. DHS I&A officials told us that an infographic on domestic terrorism-related data was released by DHS I&A, widely to federal, state, local, tribal, territorial, and private sector partners labeled as For Official Use Only in August 2022. Although the October 2022 report confirmed that the FBI is now aware of DHS I&A's tracking efforts, the report does not articulate how a determination was made to not include certain additional incidents related to domestic terrorism. DHS I&A's tracker contained incidents, across a range of ideologies, that were not also reported by the FBI. For instance, according to the DHS I&A incident tracker, in April 2020, a United States citizen was charged with two counts of attempted arson for trying to set fire to a Jewish-sponsored assisted living facility for the elderly. The suspect placed a homemade incendiary device near the entrance of the facility. Prior to the attack, the suspect posted on a white supremacist social media platform his intention to attack the assisted living facility. As another example, a United States citizen allegedly made destructive devices and threatened to attack the Treasury Department in Harrisburg, Pennsylvania and the Central Intelligence Agency headquarters. The suspect had also allegedly possessed firearms and explosives. The suspect held anti-government views. Even if these incidents were investigated by other entities, assessing if the information is relevant to future reports could potentially paint a more comprehensive picture of domestic terrorism-related activities.

By collaborating to submit to Congress annual updates to the joint domestic terrorism report, specifically including joint domestic terrorism data, the FBI and DHS I&A would provide a more comprehensive account of domestic terrorism incidents occurring in the U.S.⁶¹ More complete information would also increase awareness about the prevalence and nature of domestic terrorism-related threats. This could better position both the FBI and DHS I&A to counter such threats, by providing

⁶⁰According to FBI officials, the FBI prepared a draft report with FBI input and then coordinated completion of the final report by requesting input of DHS and Office of the Director of National Intelligence, as required by the NDAA for Fiscal Year 2020.

⁶¹The NDAA for Fiscal Year 2020 mandate required annual updates to the first report for five years following submission of the report to Congress; however, the FBI and DHS did not submit any of the required updates until October 2022.

FBI and DHS I&A Generally Followed Most, but Not All, Leading Collaboration Practices to Jointly Counter Domestic Terrorism Respective to their Missions

information to inform trends that could support adjusting resources to focus on prevailing threats.

In 2017, the FBI partnered with officials from fusion centers, DHS I&A, and components of the Office of the Director of National Intelligence to create the *FBI and State and Major Urban Area Fusion Centers Enhanced Engagement Initiative* (referred to in this report as the Enhanced Engagement Initiative). The Enhanced Engagement Initiative outlined a set of leading practices—centered on five core elements—designed to facilitate terrorism information-sharing efforts. The five core elements are: (1) recognition that FBI field offices and fusion centers have unique capabilities and expertise that are complementary; (2) collaboration between FBI field office and fusion center leadership; (3) integration of personnel, systems and policies; (4) codified processes and policies that enable trust and relationships that survive personnel changes; and (5) clear expectations and defined roles and responsibilities including outcomes and accountability.⁶²

In addition, these core elements reflect collaboration practices that we have found, in our prior work, to be helpful for agencies as they address complex issues.⁶³ Specifically, we have identified seven leading collaboration practices and issues to consider when implementing collaborative mechanisms to enhance and sustain interagency collaboration. We compared Enhanced Engagement Initiative core elements with our leading practices and found that the leading collaboration practices can be categorized within the five core elements. For the purposes of this report, we merged the five core elements and the seven leading collaboration practices, collectively, into five “leading practices.”















We found that the FBI and DHS I&A generally followed three of the five leading practices. While the agencies also generally followed the two remaining leading practices, we found that they continued to face challenges in those areas. Figure 9 summarizes the extent to which FBI and DHS I&A coordination efforts followed the five leading practices

⁶²The Enhanced Engagement Initiative highlights how having clear expectations and defined roles and responsibilities can lead to positive outcomes and increased accountability, including increased efficiencies and more joint products with one voice on issues of importance.

⁶³See [GAO-12-1022](#).

identified through the FBI-led Enhanced Engagement Initiative and our leading collaboration practices.

Figure 9: GAO Analysis of Extent to which FBI and DHS I&A Followed 5 Leading Practices to Jointly Counter Domestic Terrorism Respective to Their Mission

	Enhanced engagement initiative core elements ^a (5)	Leading collaboration practices ^b (7)	Assessment of FBI and DHS I&A coordination efforts
	Recognition that field offices and fusion centers have unique capabilities and expertise that are complementary and can be mutually supporting	Bridging organizational cultures Including relevant participants	
	Coordination between field office and fusion center leadership	Identifying shared leadership	
	Integration of personnel, systems, and policies	Dedicating resources including technology	
	Codified processes and policies that enable trust and relationships that survive personnel changes	Having written guidance and agreements	
	Clear expectations and defined roles and responsibilities ^c	Having outcomes and accountability Clarifying roles and responsibilities	
	Generally followed – Agency's actions demonstrate that they have applied most key considerations		Generally followed, but challenges remain – Agency's actions demonstrate that they have applied key considerations with some challenges
			Not followed – Agency's actions do not demonstrate that they have applied key considerations

Source: GAO analysis of Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS) documentation and testimonial information. | GAO-23-104720

^aIn 2017, the FBI, fusion centers, DHS I&A, and components of the Office of the Director of National Intelligence partnered to create the FBI Field Office and State and Major Urban Area Fusion Centers Enhanced Engagement Initiative. This initiative identified a set of leading practices centered on five core elements designed to facilitate terrorism information sharing efforts, among other things.

^bOur prior work identified seven leading collaboration practices that can help agencies collaborate effectively. We compared Enhanced Engagement Initiative core elements with GAO leading practices and found that the leading collaboration practices can be categorized within the five core elements.

^cThe Enhanced Engagement Initiative highlights how having clear expectations and defined roles and responsibilities can lead to positive outcomes and increased accountability, including increased efficiencies and more joint products with one voice on issues of importance.

Recognition of unique capabilities and expertise. This leading practice calls for FBI and DHS I&A to recognize and leverage the skills and expertise of each other's staff when jointly countering domestic threats. We found that the FBI and DHS I&A generally followed this leading practice as both agencies coordinate through recurring interagency intelligence meetings, leveraging the knowledge with each other and with their counterparts and benefitting from co-location within fusion centers. JTTFs and fusion centers are in a unique position given their direct access to state and local partners who are often the first stop for identifying domestic terrorist activity. The FBI and DHS I&A leverage mission-related expertise through regular meetings at various levels within the organization. For example, agency officials told us that regular meetings occurred with FBI officials and their DHS I&A counterparts. Officials from the JTTF in New York told us that they held/attended weekly leadership meetings where squad supervisors briefed others on pertinent case and intelligence information. Additionally, officials stated that the FBI's Domestic Terrorism Strategic Unit and DHS I&A's Counterterrorism Mission Center analysts often engage with counterparts at NCTC to jointly author strategic intelligence products.⁶⁴ Further, though not all JTTFs are co-located within fusion centers, for those that are, officials stated that the direct access to relevant participants in the domestic terrorism arena fosters JTTF sharing of threat information.

Establishment of field office and fusion center leadership. We found that the FBI and DHS I&A generally followed this leading practice, which calls for there to be established leaders in the field offices and fusions centers, by clearly defining shared leadership roles and holding regular leadership meetings. An FBI Special Agent in Charge or Assistant Director in Charge leads the JTTFs, while a member of the state or local police department may lead the fusion centers. We found that these roles

⁶⁴Federal Bureau of Investigation and Department of Homeland Security. *Strategic Intelligence Assessment and Data on Domestic Terrorism*. (Washington D.C. May 2021). The FBI, in coordination with DHS and/or NCTC, produces Joint Intelligence Bulletins that communicate updated threat information and assessments to their federal, state, local, and tribal partners at the Unclassified // Law Enforcement Sensitive level.

are documented in memoranda of understanding governing the agencies coordination. At the headquarters level, DHS I&A has established leadership through the director of the newly established domestic terrorism unit within the Counterterrorism Mission Center while the FBI has established leadership within the Domestic Terrorism Operations Section, Operational Analysis Section, and Counterterrorism Analysis Section for the domestic terrorism program.⁶⁵ Officials from both agencies told us that both FBI and DHS I&A leadership working on domestic terrorism issues have open lines of communication by meeting together biweekly, as well as on an ad hoc basis, with NCTC to discuss domestic terrorism threats.

Integration of personnel and systems. We found that the FBI and DHS I&A generally followed this leading practice because both agencies use compatible technology to share information. For example, fusion centers and other federal, state, and local partners input tips and leads through a standardized suspicious activity reporting system. In addition, the FBI maintains the eGuardian database for law enforcement agencies, fusion centers, and the Department of Defense to enter tips, leads, and Suspicious Activity Reports related to terrorism.⁶⁶ Multiple agencies use the eGuardian system in all 50 states and the District of Columbia, U.S. territories, 78 fusion centers, and U.S. military bases and government facilities worldwide. Officials from the New York JTTF and Washington, D.C. fusion center told us that they rely on the eGuardian system daily to review threat reporting from state and local partners, which according to officials, has been instrumental in disrupting several domestic terrorism plots. Additionally, DHS maintains the Homeland Security Information Network as the primary means for disseminating both raw and finished intelligence reporting from all partners, to fusion centers, private sector security officials, and other federal, state, and local partners such as the FBI.

Following codified processes. We found that the FBI and DHS I&A generally followed this leading practice but with challenges because they and others have various interagency agreements in place on sharing information and articulating their working relationship. Our review of

⁶⁵The Special Agent in Charge or Assistant Director in Charge is responsible for administrative, operational, and intelligence matters directly associated with the division's JTTF.

⁶⁶The Nationwide Suspicious Activity Reporting Initiative is a joint collaborative effort between the FBI, DHS, and state, local, tribal and territorial law enforcement partners. Partners can report suspicious activity that they observed.

existing agency agreements and JTTF memoranda of understanding shows these agreements do not specifically address how FBI and DHS I&A personnel should collaborate to operationalize their shared charge of preventing domestic terrorism. There are various types of agreements ranging from a 2003 agency-wide memorandum of understanding to component level memorandums for the sharing of specific information and standard task force participant memoranda. FBI and DHS I&A highlighted the importance of formal agreements however testimonial evidence shows that both agencies are not aligned on their perspective of the utility of current agreements.

As mentioned previously, though the FBI sets national priorities at the headquarters level, field offices are responsible for prioritizing threats in their area of responsibility and making plans to address them. Plans and engagement with other partners may differ based on the individual office and how well interactions are between agency officials at the field level. For example, JTTF officials in Michigan told us they created a working group focused on domestic terrorism in response to a specific incident that occurred there. In contrast, JTTF officials from New York City told us that they deliberately apply the same approach they use to combat international terrorism to domestic terrorism.

A core element of the Enhanced Engagement Initiative recommends codified processes and policies that enable trust and relationships that survive personnel changes. Similarly, our collaboration practices highlight the importance of documenting how participating agencies will collaborate.

DOJ, DHS, and others have in place a 2003 interagency memorandum of information sharing with the Intelligence Community that covers overall information sharing procedures for all signatories of the memorandum.⁶⁷ The department-level interagency memorandum notes that the agreement is intended to mandate minimum requirements and procedures for accessing agencies' information, including from their respective databases. Further, it encourages departments and agencies to develop additional procedures and mechanisms to provide for greater information sharing and coordination. The FBI and DHS I&A also have agreements, such as memoranda of understanding that govern protocols

⁶⁷Additionally, there are statutory requirements, Presidential Directives and Executive Orders that address information sharing. Formal agreements such as memoranda of understanding between relevant agencies exist within the context of this broader legal framework.

and the ability of DHS personnel to access and use FBI information, among other things. Additionally, the FBI has several memoranda of agreement with DHS components that focus on the sharing of specific information such as passenger information data, or that are specific to a position on a JTTF.

However, the FBI and DHS I&A have not assessed the effectiveness of existing written agreements that govern information sharing and coordination with respect to domestic terrorism. In one case, the legacy memoranda pre-date the creation of DHS and therefore they may not accurately capture the roles and responsibilities of the present component or office. Further FBI officials told us that there is a memorandum of understanding between partners and field offices which is the standard agreement, signed at the field's discretion. According to officials, neither the National Joint Terrorism Task Force or the Domestic Terrorism Operations Section, FBI's headquarters level domestic terrorism partners, have a significant role in that.⁶⁸

DHS I&A officials told us that they were developing an agency-wide memorandum of understanding that defines the role of each DHS component within the JTTFs. Additionally, the officials also told us that they have engaged with their FBI counterparts since 2021 to create a memorandum of understanding focused on access to operational information, including having access to national investigative data to support DHS situational awareness and threat analysis. However, the FBI has not agreed to that request, according to DHS I&A officials. FBI officials told us that they did not see a reason why DHS I&A needed such information since the FBI already conducts analysis, creates intelligence products, and provides information to the same external customers. FBI officials also noted that DHS I&A personnel can already access this type of information if they are an embedded participant in a JTTF; however, their use of the information is limited to their role on the JTTF.

Even though not specific to direct access to operational information, FBI has previously created a memorandum of understanding with the Department of Defense that outlined counterterrorism information sharing. Specifically, this agreement articulates responsibilities for both the FBI

⁶⁸According to FBI officials, the standard agreement related to JTTF membership and participation was developed by the National Joint Terrorism Task Force.

and Department of Defense related to reporting information specific to their agency's mission.

Our prior work has found that agencies that articulate their agreements in formal documents can strengthen their commitment to working collaboratively.⁶⁹ Additionally, an interagency memorandum already in place between both the FBI and DHS encourages agencies to develop additional procedures and mechanisms to increase information sharing. Both FBI and DHS I&A acknowledge that they are both charged with preventing terrorist attacks—FBI leading federal terrorism investigations and domestic intelligence efforts and DHS gathering, analyzing, and disseminating intelligence to federal, state, and local partners. Due to the rapidly evolving threat landscape, assessing existing agreements would help create a better foundation for the FBI's and DHS I&A's engagement and collaboration on their joint charge of addressing domestic terrorism threats. Further, it will allow these agencies, which have overlapping responsibilities, to clearly define their role as it pertains to domestic terrorism and to further leverage resources as appropriate. By assessing established formal agreements to determine if they fully articulate a joint process for working together to counter domestic terrorism threats and share relevant domestic terrorism information, the FBI and DHS I&A could enhance and sustain their collaborative efforts by enabling trust and relationships that survive personnel changes.

Setting clear expectations and defined roles including outcomes and accountability. We found that the FBI and DHS I&A generally followed this leading practice but with challenges, as they generally have defined roles respective to their legal authorities to identify and combat domestic terrorism. However, the agencies have not consistently assessed the results of their collaborative efforts in preventing and addressing domestic terrorism incidents.

According to the Enhanced Engagement Initiative, one of the core elements of collaboration is to identify clear expectations of the agencies involved in a collaborative effort, as well as to define their roles. Further, this element highlights how having clear expectations and defined roles and responsibilities can lead to positive outcomes and increased accountability, including increased efficiencies and more joint products with one voice on issues of importance.

⁶⁹ See [GAO-12-1022](#).

According to our leading collaboration practices, key considerations for collaborative efforts also include whether agencies have defined expected outcomes of their efforts, and have developed a way to monitor progress toward these outcomes. The practices also note that agencies that create a means to monitor, evaluate, and report the results of collaborative efforts can better identify areas for improvement. We found that the FBI and DHS I&A do not routinely assess the results of their collaborative actions, such as whether the efforts have been successful and whether or not actions are meeting the needs of participants. The following are examples of collaborative efforts that the FBI and DHS I&A have engaged in:

- **Joint development of intelligence products.** FBI officials told us that their Operations Section and Strategic Unit created a joint analytical cell with DHS and NCTC to write intelligence products. According to officials, the cell published the first product in January 2022. Additionally, officials told us that the cell collaborated to issue the U.S. Violent Extremist Mobilization Indicator booklet.⁷⁰ Additionally, DHS I&A officials also told us they produce numerous joint intelligence products with the FBI and NCTC. Though, according to DHS I&A officials, participation in the development of products may

⁷⁰The U.S. Violent Extremist Mobilization Indicators is a coordinated effort between NCTC, the FBI and DHS to provide a catalog of observable behaviors that could signal whether individuals are pursuing ideologically-motivated violent extremist activities.

not have always been equal, intelligence products continued to be produced.⁷¹

- **Sharing of threat tips through eGuardian.** Members of fusion centers, law enforcement agencies and other government entities use eGuardian to submit tips about suspected terrorism, cyber and criminal threats, and other suspicious activities. The FBI, in turn, is to review the tips and determine whether or not to take action in the form of an investigation.
- **Ad hoc recurring meetings to address specific threats.** An official from the National Fusion Center Association told us that leading up to the Capitol attack, officials from fusion centers wanted to share law enforcement information with the D.C. Homeland Security and Emergency Management Agency's Fusion Center but were unable to do so. The D.C. Homeland Security and Emergency Management Agency's Fusion Center is an all-hazards emergency management agency therefore they do not have law enforcement authority and cannot receive certain information. According to the D.C. Homeland Security and Emergency Management Agency's Fusion Center officials, FBI created a recurring monthly meeting with partners. DHS I&A officials said participation in the meetings is beneficial due to the direct access to FBI personnel who provide current threat information on a continuous basis.

Regarding the process for sharing threat tips through eGuardian, DHS I&A officials we spoke with said they do not have visibility into whether

⁷¹DHS I&A officials told us that they believe a fair amount of these joint products are based on case data to which DHS I&A has not been provided access, affecting their ability to contribute equally to the joint production of these products. FBI officials stated that because the FBI and DHS I&A create intelligence products for the same customers and regularly work together on joint intelligence products, they were unsure why DHS I&A officials would require direct access to FBI information. Further, FBI officials told us that they were unsure what legal authorities DHS I&A had to receive access to their information regardless of whether it was needed to complete intelligence products. Regarding access to information, FBI officials told us that NCTC has access to FBI's case management system because Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004 and amended the National Security Act of 1947, establishing NCTC as the primary organization to integrate intelligence pertaining to terrorism and counterterrorism. According to FBI officials, DHS does not have the same mission, purpose, or responsibility identified in the National Security Act. DHS I&A officials noted in a May 2022 memo that the Homeland Security Act of 2002 established I&A to "access, receive, and analyze" intelligence and investigatory information from a variety of sources, including federal partners, in support of the Department's responsibilities, including to identify and assess terrorist threats to the homeland. See 6 U.S.C. § 121(d); See also 6 U.S.C. § 122(a)(1), (b)(1)-(2)(describing additional authority provided to the Secretary to access information the Secretary deems necessary to carry out intelligence related responsibilities).

information or tips entered into eGuardian result in an FBI investigation. According to the officials, this makes it difficult for fusion center officials to provide adequate feedback to state and local partners on the usefulness of the eGuardian information they provide, for example. Fusion center officials told us that analysts spend a great deal of time developing threat information and often do not know the end result or impact. Similarly, regarding the recurring meetings the FBI set up with agency partners following the Capitol attack, DHS officials stated these meetings ended shortly after they were initiated, with no evaluation of the usefulness of the meetings to partners and their ability to counter domestic terrorism threats.

Both FBI and DHS have varying agency-specific performance metrics in place that can measure outcomes and increase accountability. For example, as part of DHS I&A's grant program, fusion centers must also engage in collaborative activities measured by analytical metrics. These metrics provide more information regarding the impact of DHS I&A's efforts on the intelligence community through actions such as the number of records loaded into an intelligence community partner database or the number of an intelligence community partners' intelligence products disseminated that cite DHS data, among other measures. Additionally, FBI officials told us that they undertake certain actions to track the level of engagement among JTTFs, law enforcement and intelligence community partners. For example, the FBI has a performance measure to track the number of JTTF Executive Board meetings per year, and considers JTTFs to be "high performing" if they hold four or more meetings each year. While this helps to measure the quantity, it does not capture how well the effort was conducted or how successful it was in achieving agencies' desired outcomes. Specifically, the current metrics in place would not have provided information on the utility of the ad hoc meeting that were initiated after the Capitol attack.

FBI officials also told us that the Enhanced Engagement Initiative is an example of an effort to collect best practices. While the 2017 initiative yielded an important set of leading practices, collaborative efforts for addressing domestic terrorism evolve. Though the Office of Partner Engagement receives feedback regarding best practices and recommendations for enhanced engagement, officials told us that there are no plans to update the Enhanced Engagement Initiative template. Further, officials told us that the Enhanced Engagement Initiative was not considered enforceable as guidance or policy. Officials noted that implementation of best practices is dependent upon the leadership of the field office and their relationships with other partners.

DOJ Charged 1,584 Defendants with Various Charges in Federal Domestic Terrorism-related Cases from October 2010 to July 2021

Periodic evaluations of the results of their collaborative efforts to address domestic terrorism would help the FBI and DHS determine their effectiveness and enable them to take actions if needed to improve any efforts. This could include enhancing the process by the Office of Partner Engagement to gather and periodically assess and update practices, or share feedback to include regular updates to the Enhanced Engagement Initiative materials.

According to our analysis of EOUSA data, prosecutors charged 1,584 defendants in 1,255 cases in federal district court with crimes that were related to domestic terrorism from October 2010 through July 2021.⁷²

Once law enforcement refers an investigative matter to a U.S. Attorney's Office for prosecution, the office uses one or more codes to label the crime category in EOUSA's case management system, known as CaseView.⁷³ According to our analysis, in 136 cases, prosecutors

⁷²EOUSA provided case data on September 8, 2021 that included information from October 2010 through July 2021. Changes after that date would not be reflected in our analysis. We considered defendants against whom charges were filed starting in fiscal year 2011. We excluded defendants whose cases were opened before October 1, 2010, but were still open between fiscal years 2011 and fiscal year 2021. We made the calculations used throughout this objective by following GAO data reliability standards; however, EOUSA calculations for similar data may differ due to various factors including, but not limited to, the presence of sealed cases, which were not included in that data GAO reviewed.

⁷³In CaseView, the domestic terrorism code is applicable to cases that involve violent criminal acts in furtherance of ideological goals stemming from domestic influences, such as racial bias or anti-government sentiment; or involve acts, including threats or conspiracies to engage in such acts, which are violent or otherwise dangerous to human life, appear motivated by an intent to coerce, intimidate, or retaliate against a government or a civilian population, and occur primarily within the U.S. and do not involve a foreign terrorist organization. A March 2021 Deputy Attorney General memorandum clarified that going forward prosecutors should notify the Counterterrorism Section of the National Security Division of any investigation designated as a domestic terrorism investigation or case where a subject is believed to have engaged, or attempted to engage, in domestic violent extremism in the past. FBI officials said they have day-to-day coordination and communication with DOJ concerning domestic terrorism threats and trends. As they open new cases, they send an official letter to notify DOJ about the case. Officials told us that EOUSA uses standard business rules to produce and calculate CaseView data.

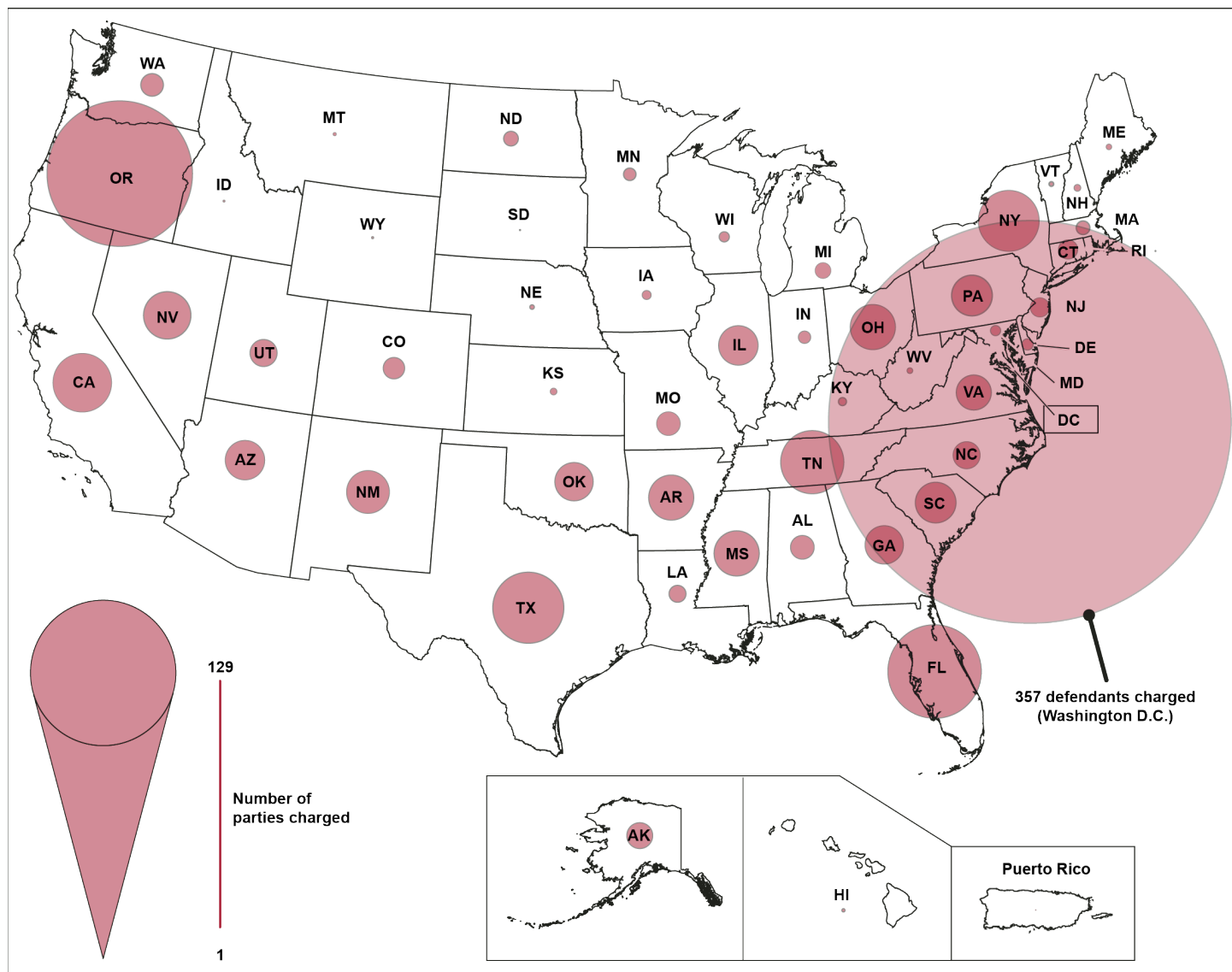
charged multiple defendants under a single case. Within 136 cases, a total of 465 individuals were charged.⁷⁴

Defendants charged by federal judicial districts within states.

EOUSA's CaseView data tracks the federal judicial district where prosecutors filed charges against defendants for domestic terrorism-related incidents. Some states have more than one federal judicial district, which we consolidated to identify the total number of charges by state. As our analysis of the data show, the District of Columbia had the highest number of defendants charged (357), followed by Oregon (129), and Florida (83). Additionally, every state, as well as Puerto Rico and the District of Columbia, had at least one defendant charged. Figure 10 shows the relative geographic dispersion of defendants charged in federal domestic terrorism cases in each state.

⁷⁴We based our analysis of domestic terrorism incidents on federal prosecution data for federal district court cases. Our analysis excluded less serious cases handled by federal magistrate judges, who may be authorized by a district court to conduct misdemeanor trials and impose misdemeanor sentences, the maximum sentence for which is one-year imprisonment. 18 U.S.C. §§ 3401, 3559(a)(6). Our analysis does not include state prosecution data.

Figure 10: Defendants Charged in Federal District Courts for Domestic Terrorism-Related Incidents, October 2010 through July 2021



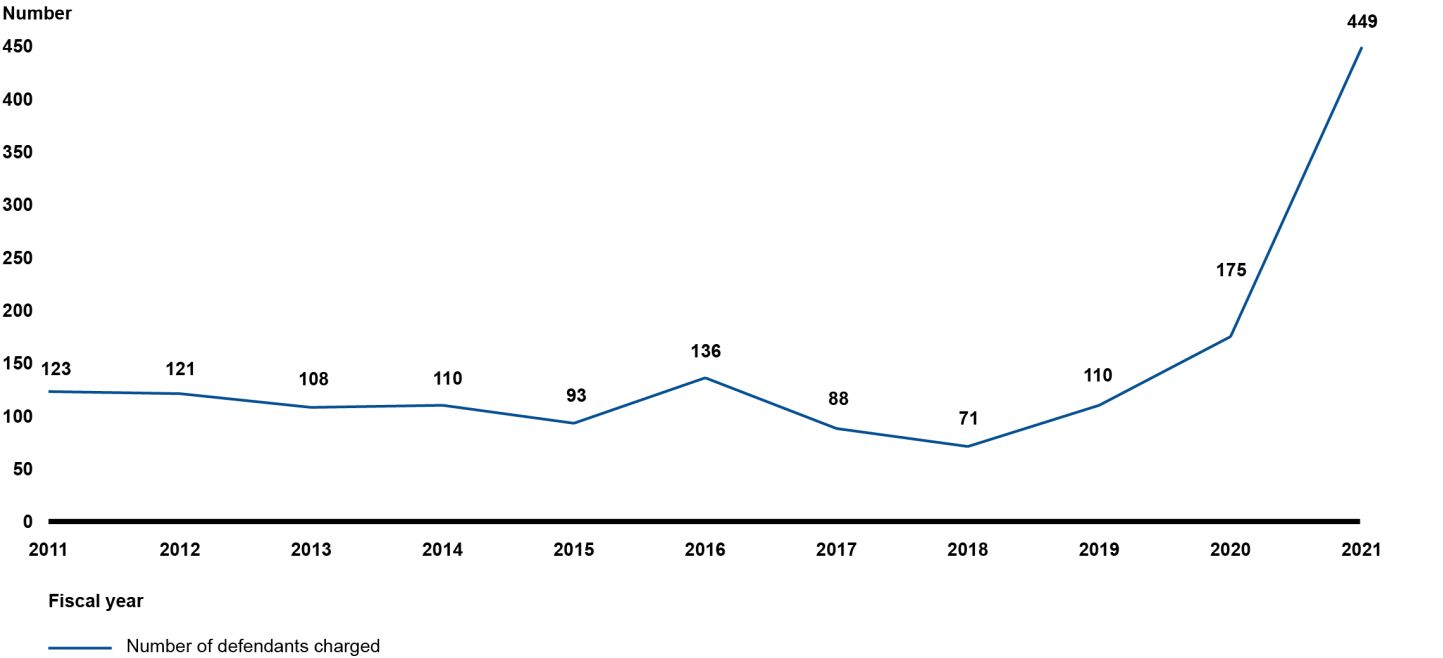
Source: GAO analysis of Executive Office for United States Attorneys data. | GAO-23-104720

Note: The results are not scaled for state population. There were also no defendants charged in Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

Defendants charged. From fiscal years 2011 to 2015, EOUSA data indicate that the number of defendants whom prosecutors charged in domestic terrorism cases each year remained generally constant. From

fiscal years 2016 through 2018, the number of defendants decreased and then began rapidly increasing through July 2021. The period from October 2020 through July 2021 had the highest number of new defendants charged, with more than a six-fold increase from fiscal year 2018—the year with the lowest number of defendants charged since fiscal year 2011.⁷⁵ Figure 11 below depicts the number of federal defendants charged in domestic terrorism cases by fiscal year.

Figure 11: Number of Federal Defendants Charged in Domestic Terrorism-Related Cases, October 2010 through July 2021



Source: GAO analysis of Executive Office for United States Attorneys data. | GAO-23-104720

Note: For purposes of the data in this figure, a defendant refers to an individual charged in a criminal case. Fiscal year 2021 data are through July 2021.

On average for cases opened from October 2010 through July 2021, a case against a defendant was open for 456 days, with one defendant's

⁷⁵Fiscal year 2021 also coincided with the January 6, 2021 attack on the U.S. Capitol. EOUSA's data does not explicitly state which cases in the dataset are tied to the January 6th attacks. We conducted additional analyses to see how many cases had charges filed in Washington, D.C. in fiscal year 2021 and found that 319 out of the 357 defendants in Washington D.C. were charged in this fiscal year.

case open over 3,000 days and 15 defendants' cases open for less than a day.⁷⁶

Filed Charges. From October 2010 through July 2021, our analysis of EOUSA data indicate that federal prosecutors used over 300 separate criminal charges in domestic-terrorism-related cases.⁷⁷ Although “domestic terrorism” is not a federal crime, there are multiple other crimes available to prosecute domestic terrorists, including those related to federal firearms, federal tax evasion, assault, and fraud.⁷⁸ U.S. Attorney’s Office officials we spoke with told us that the type of charge they use depends on the criminal conduct at issue. For instance, a U.S. Attorney’s Office official in New York told us that some common charges in that district are different violations of explosives, interstate commerce, and civil disorder.

The official further told us that violations of Title 18 U.S.C. §§ 2381 - 2390 (Treason, Sedition and Subversive Activities) were common charges associated with the protests and riots after the 2020 presidential election. Our analysis of EOUSA data found that prosecutors charged 41 percent of defendants with one crime, over 37 percent of defendants with three or more crimes, and 1 percent (19 defendants) were charged with 10 or more crimes. Table 6 illustrates the five most common crimes prosecutors charged from October 1, 2010 through July 31, 2021 in domestic

⁷⁶According to EOUSA officials, U.S. Attorneys’ offices, enter a case’s closing date into CaseView and the exact date of closing depends on different factors. EOUSA notes that a case is closed when all defendants in the case have been terminated and a disposition is entered for each. We calculated the average number of days that a case is “open” to include the time elapsed from the file date to the final sentencing date. This necessarily includes the time elapsed after a plea or a trial while awaiting final sentencing. For a variety of reasons, some defendants have multiple sentencings, including mandatory resentencings in certain drug and violent crime cases, which lengthens the “average open time” calculation. In addition, some defendants who have pleaded guilty cooperate with the government, which can extend their final disposition date by months or years. If we include defendants where the length of time their case was open was zero, the average was 449 days.

⁷⁷ EOUSA’s CaseView Codes and Values Manual states that domestic terrorism involves acts, including threats or conspiracies to engage in such acts, which are violent or otherwise dangerous to human life, which appear motivated by an intent to coerce, intimidate, or retaliate against a government or a civilian population (“terrorist motive”), and which occur primarily within the United States and do not involve a foreign terrorist organization.

⁷⁸The definition of domestic terrorism in the federal criminal code appears at 18 U.S.C. §2331(5). For more information on charges filed in federal domestic terrorism-related cases, please see Appendix II and IV.

terrorism-related cases and how many defendants were charged with each crime (see table 6). For a complete list of charge categories and their frequency, see appendix IV.

Table 6: Five Most Common Charges in Domestic Terrorism-Related Cases from October 2010 through July 2021 and Number of Defendants Charged

Charge	Description	Number of defendants charged
18 U.S.C. § 1752(a)(2)	Disorderly and disruptive conduct in a restricted building or grounds	293
40 U.S.C. § 5104	Unlawful activities involving the U.S. Capitol building or grounds	293
18 U.S.C. § 1752(a)(1)	Entering or remaining in a restricted building or grounds	291
18 U.S.C. § 875(c)	Threats to kidnap or injure	142
18 U.S.C. § 1512(c)(2)	Obstruction of, or an intent to obstruct, an official proceeding	137

Source: GAO analysis based on Executive Office for United States Attorneys data and federal statutes. | GAO-23-104720

Adjudication and imprisonment. The majority of individuals charged in domestic terrorism-related cases were found guilty in federal court on at least one charge, as shown in table 7.⁷⁹ The following table reflects the most common types of disposition outcome for defendants, showing that 770 of them (82.7 percent) either pled guilty or were found guilty on at least one charge. Of the remaining defendants, 26 were found not guilty (2.79 percent). Of the defendants remaining after that, 127 defendants had at least one charge dismissed (13.64 percent).

Table 7: Dispositions in Federal Domestic Terrorism-Related Cases, October 2010 through July 2021

Disposition type	Number of defendants	Percentage of defendants
Dismissed	127	13.6
Not guilty	26	2.79
Guilty	770	82.7
Other ^a	8	0.86

Source: GAO analysis based on Executive Office of United States Attorneys data. | GAO-23-104720

⁷⁹The disposition of charges varied, because a defendant may be found guilty of one charge and not guilty of another. For the purpose of counting the disposition of defendant adjudications, we looked at the outcome of all charges. We made the following decisions: 1) If an individual was found guilty of at least one charge, they were counted as “guilty”; 2) of the remaining individuals, those who were found not guilty of at least one charge were counted as “not guilty”; 3) of the remaining individuals those who had at least one charge dismissed, either with prejudice or without prejudice, were counted as “dismissed”; 4) the remaining individuals fell into the “other” category. “Other” includes cases that were declined for prosecution, cases where the defendant was adjudicated in juvenile delinquency proceedings, and cases that were opened in error.

Note: If an individual was found guilty of at least one charge, they were counted as “guilty”; 2) of the remaining individuals, those who were found not guilty of at least one charge were counted as “not guilty”; 3) of the remaining individuals, those who had at least one charge dismissed either with prejudice or without prejudice, were counted as “dismissed”; 4) the remaining individuals fell into the “other” category. “

^a“Other” includes cases that were declined for prosecution, cases where the defendant was adjudicated in juvenile delinquency proceedings, and cases that were opened in error.

In addition, EOUSA tracks incarceration statistics for those defendants who were found guilty. Specifically, EOUSA tracks the number of months of incarceration imposed by the court. In total, our analysis found that 772 of the defendants in the time period of our review were sentenced to incarceration for domestic terrorism-related incidents and 223 defendants were sentenced to incarceration for less than a month.⁸⁰ Of the remaining 549 defendants who were sentenced to one month or more of incarceration, the average length of imposed incarceration was 94 months (nearly 8 years), as shown in table 8, and the median length of imposed incarceration was 40 months. The maximum months an individual was sentenced to be incarcerated for was 4320 months, or 360 years.⁸¹

Table 8: Sentences of Incarceration for Defendants Convicted in Federal Domestic Terrorism-Related Cases, October 2010 through July 2021

Measurement Method	Number of Defendants Sentenced to Incarceration (total)	Mean Length of Imposed Incarceration
Sentences for Defendants of At Least One Month of Imprisonment	549	94 months
All Defendants Sentenced to Imprisonment	772	66.9 months

Source: GAO analysis based on Executive Office of United States Attorneys data. | GAO-23-104720

Note: A total of 772 defendants were included in our sample. Of that number, 223 defendants were sentenced to a term of imprisonment of less than one month.

Conclusions

Multiple agencies have roles and responsibilities related to countering domestic terrorism. The FBI is the nation’s lead federal law enforcement agency for investigating and preventing acts of domestic and international terrorism, in addition to sharing intelligence information collected through

⁸⁰This includes defendants who were incarcerated for less than a month. We did not include defendants who received a sentence of probation rather than incarceration.

⁸¹A review of sentences was outside the scope of our review. However, it is possible that individuals in these domestic terrorism cases may have received longer sentences based on a variety of authorities or factors taken into consideration by the sentencing judge. See appendix II for more information on sentencing enhancements.

investigative activity. DHS's role is to gather, analyze, produce and share information and intelligence on terrorism issues—including domestic violent extremist-related threats and other information with federal, state, local, and tribal governments, and the private sector to support national and departmental missions to protect the homeland.

The FBI and DHS I&A track domestic terrorism information specific to their agencies' missions. As agencies with different missions and data sources, FBI and DHS I&A track some of the same incidents related to domestic terrorism, but also additional incidents that the other agency does not capture. As such, coordinating with each other to report on all available incident data would increase the FBI's and DHS I&A's awareness of domestic terrorism threats across the nation. Additionally, in response to the National Defense Authorization Act of Fiscal Year 2020's requirement for domestic terrorism data, more complete information would be consistent with the law.

The FBI and DHS have agreements such as MOUs for task force participation in addition to an interagency memorandum that identifies minimum information sharing requirements. However, they have not assessed the extent to which these agreements fully reflect FBI's and DHS I&A's charge to jointly prevent domestic terrorism attacks respective to their role. Evaluating the relevance of written agreements is critical to strengthening agencies commitment to working together. By assessing formal agreements, the FBI and DHS I&A could enhance each agency's ability to effectively mitigate these threats respective to their agency's mission.

The JTTFs and Fusion Centers form a growing and an integral part of the federal effort to prevent, track, and investigate domestic terrorism. In striving to achieve the FBI's and DHS I&A's shared outcomes, periodically evaluating their collaborative efforts could help the agencies identify how or whether they are achieving the intended outcomes of their collaboration.

Recommendations for Executive Action

We are making a total of six recommendations, including three to the FBI and three to DHS I&A. Specifically:

The Director of the FBI should, in coordination with the DHS Undersecretary for Intelligence and Analysis, report domestic terrorism

incident data from both agencies in response to the annual update requirement in the NDAA for fiscal year 2020. (Recommendation 1)

The Under Secretary for Intelligence and Analysis should, in coordination with the Director of the FBI, report domestic terrorism incident data from both agencies in response to the annual update requirement in the NDAA for fiscal year 2020. (Recommendation 2)

The Director of the FBI should, in collaboration with the DHS Under Secretary for Intelligence and Analysis, implement a process to periodically evaluate the effectiveness of collaborative practices to identify and counter domestic terrorism threats. (Recommendation 3)

The DHS Under Secretary for Intelligence and Analysis should, in collaboration with the Director of the FBI, implement a process to periodically evaluate the effectiveness of collaborative practices to identify and counter domestic terrorism threats. (Recommendation 4)

The Director of the FBI should, in collaboration with the DHS Under Secretary for Intelligence and Analysis, assess existing formal agreements to determine if they fully articulate a joint process for working together to counter domestic terrorism threats and sharing relevant domestic terrorism-related information and update and revise accordingly. (Recommendation 5)

The DHS Under Secretary for Intelligence and Analysis should, in collaboration with the Director of the FBI, assess existing formal agreements to determine if they fully articulate a joint process for working together to counter domestic terrorism threats and sharing relevant domestic terrorism-related information and update and revise accordingly. (Recommendation 6)

Agency Comments

We provided a draft of this report to DOJ and DHS for review and comment. FBI concurred with all 3 recommendations directed at it for executive action and provided written comments which are summarized below and reproduced in appendix V. Within DOJ, the FBI and EOUSA also provided technical comments which we incorporated as appropriate. DHS also concurred with all 3 recommendations directed at it for executive action and provided written comments which are summarized below and reproduced in appendix VI. DHS I&A provided technical comments which we incorporated as appropriate.

In its written comments, FBI stated that despite areas where FBI and DHS I&A generally followed best practices to collaborate, challenges remained. Specifically they noted that additional coordination efforts could be made and periodic reviews of policy and information sharing agreements to evaluate agency effectiveness can be conducted. Additionally, FBI highlighted the evolution of the domestic terrorism threat and resolved to adapt accordingly to stay ahead of the threat.

With regard to our second recommendation, DHS responded that they would incorporate unique data from I&A's domestic terrorism incident tracking initiative to complement FBI's investigative data in the next strategic intelligence assessment. DHS estimated completing their efforts by December 29, 2023.

With regard to fourth recommendation, DHS responded that leadership from I&A's Domestic Terrorism Branch and the Office of Regional Intelligence will prioritize coordination with their FBI headquarters and field-based counterparts to specifically discuss identifying potential new domestic terrorism-related collaborative initiatives and evaluate the effectiveness of existing initiatives. DHS estimated completing their efforts by March 31, 2023.

With regard to our sixth recommendation, DHS responded that they would pursue discussions with DOJ and FBI regarding I&A analysts at DHS facilities obtaining access to FBI investigative case information. In FBI's technical comments they stated that they had previously denied I&A's request and considered it a closed matter. As noted in the report, both agencies are charged with preventing domestic terrorism therefore it is imperative that they first review existing agreements to determine if they fully articulate a joint process for working together respective to their mission. DHS estimated completing their efforts by September 29, 2023.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 6 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Attorney General, and the Secretary of the Department of Homeland Security. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or McNeilT@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on

the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

A handwritten signature in black ink, appearing to read "Triana McNeil". The signature is fluid and cursive, with a large initial "T" and "M".

Triana McNeil
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

This appendix provides additional information on our objectives, scope, and methodology. This report examines: (1) how FBI headquarters supported field operations to address domestic terrorism threats from calendar years 2011 through 2021; (2) the extent to which the FBI and DHS I&A track domestic terrorism investigations and incidents; (3) the extent to which the FBI and DHS I&A coordination to counter domestic terrorism threats followed leading collaboration practices; and, (4) what DOJ's Executive Office for United States Attorneys' data show about how many individuals were federally charged in domestic terrorism-related incidents from October 2010 through July 2021, and the corresponding charges.

To address the first objective, we analyzed FBI documents related to domestic terrorism investigative operations from calendar year 2011 through calendar year 2021. We selected this time period to cover the past 10 years, which allowed us to observe changes in FBI domestic terrorism operations. We reviewed policies and guidance regarding how the FBI, including its Joint Terrorism Task Forces (JTTFs), identifies and prioritizes threats, and definitions of various threat types or categories. In addition, we reviewed documentation on FBI headquarters and field office actions to counter domestic terrorism such as agency strategies from fiscal year 2019 through 2021, and selected individual FBI field office strategic plans from Detroit, New York, Portland (Oregon), and Washington, D.C.¹

To address the second objective, we reviewed the National Defense Authorization Act for Fiscal Year 2020 related to the preparation and submission of domestic terrorism data and reviewed the three submissions from the FBI and DHS to Congress in response to the Act.² According to the FBI, they manually collected domestic terrorism incident data by reviewing their Sentinel case management system assessments and investigations and collecting pertinent information, such as date and

¹We reviewed field office strategic plans for the specific field offices selected for interviews, which is discussed later in this appendix.

²Pub. L. No. 116-92, tit. LVI, § 5602(a)(b), 133 Stat. 1198, 2156-58 (2019). Federal Bureau of Investigation and Department of Homeland Security. *Domestic Terrorism: Definitions, Terminology, and Methodology*. (Washington D.C.: Nov. 2020) and Federal Bureau of Investigation and Department of Homeland Security. *Strategic Intelligence Assessment and Data on Domestic Terrorism*. (Washington D.C. May 2021); and FBI and DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (Washington, D.C.: Oct. 2022).

location and perpetrator category. We analyzed FBI domestic terrorism investigation data from Sentinel, including statistics on the number of cases, which includes investigations and assessments, and disruptions, related to domestic terrorism from fiscal year 2013 through fiscal year 2021. FBI officials provided data for these metrics from fiscal year 2013 through fiscal year 2021 based on case classification codes in their Sentinel system.³ FBI officials explained to us that data prior to fiscal year 2013 could not be provided because data were kept in paper form until fiscal year 2013 and would therefore require a manual review of all casefiles. We further obtained FBI documentation, such as their data retention policy, to understand FBI's process for maintaining investigation information. We held interviews with knowledgeable FBI officials to ensure that the data provided was suitable for our purposes. We determined that FBI data was sufficiently reliable for the purpose of reporting summary information on FBI domestic terrorism investigations and disruptions from fiscal year 2013 through fiscal year 2021, as tracked by the FBI.

We also reviewed and analyzed domestic terrorism incident data from DHS I&A's Counterterrorism Mission Center from calendar years 2010 to 2021.⁴ Data included information on perpetrators, weapons and tactics used, targets of the incidents, ideological affiliation of the perpetrator(s) of the incident, and casualty information. To complete our analysis, we used the following steps: first, we grouped ideologies affiliated with each incident according to the definitions of each ideology provided by DHS. Specifically, we combined Racially or Ethnically Motivated Violent Extremist-Black Separatist and Racially or Ethnically Motivated Violent Extremist-White Supremacist; Animal Rights Violent Extremist and Environmental Violent Extremists; Anarchist Violent Extremists, Militia Violent Extremists, Other Anti-Government or Anti-Authority Violent Extremists, and Sovereign Citizen Violent Extremists; and Involuntary Celibate Violent Extremists and All Other Domestic Terrorism Threat Actors. Second, the Counterterrorism Mission Center tracker included up to two targets—primary and secondary—per incident and one sub-target

³The FBI provided summary data for fiscal year 2018 to 2021 and raw data for disruptions, cases and Guardian assessments for fiscal year 2013 to 2021. We confirmed that the raw data totaled the summary data previously provided for fiscal year 2018 to 2021 therefore we determined that it was appropriate to use the raw data for our analysis.

⁴Officials told us that their tracking efforts began actively in 2016, and therefore they retroactively compiled domestic terrorism incident information from 2010 to 2015.

for each.⁵ We counted both primary and secondary targets (but not their sub-targets) in our analysis. We decided that if a target of an incident is government and the sub-target is law enforcement, the target becomes government-law enforcement. If the sub-target is not law enforcement, it becomes government-other. We included government-law enforcement as a separate target in our analysis because the largest number of incidents targeted law enforcement members. Additionally, in our analysis, we determined that there may be more than one target per incident. Third, even though there were up to three weapons and up to three tactics per incident we decided to use only the primary weapon and primary tactic in our report because we were reporting deaths per weapon.

We assessed the reliability of these data by performing electronic testing for obvious errors in accuracy and completeness; reviewing data codebooks; and interviewing relevant DHS I&A Counterterrorism Mission Center officials. Further, we followed up with DHS I&A's Counterterrorism Mission Center officials about any updates to the data set and spoke with them about data maintenance and collection. We determined that the data during this period were sufficiently reliable for reporting on descriptive statistics for domestic terrorism incidents during this time period.

Lastly, we compared DHS I&A's Counterterrorism Mission Center's incident tracker to the incidents included in the National Defense Authorization Act for Fiscal Year 2020 strategic intelligence assessment reports, and to the FBI's lethal incidents data to analyze any overlap in incidents reported and tracked. Our analysis was a manual review of incident dates, locations, and descriptions across data sets to determine if the same incident was described in multiple data sets or was unique to a particular data set.

To address the third objective, we reviewed documents such as JTTF memoranda of understanding, agency strategic plans, and information sharing agreements. We also interviewed FBI and DHS headquarters and field officials responsible for domestic terrorism operations. We compared information we obtained on their coordination efforts against five core

⁵According to DHS documentation, to facilitate a range of responses to customer needs, target coding is organized into broader categories and subcategories. Each subcategory only corresponds to a single broad category. For our purposes in discussing targets, we refer to subcategories as sub-targets.

elements related to collaboration that were developed as part of an FBI-led initiative. Specifically, in 2017, the FBI partnered with officials from fusion centers, DHS I&A, and components of the Office of the Director of National Intelligence to create the State and Major Urban Area Fusion Center Enhanced Engagement Initiative (referred to in this report as the Engagement Initiative).⁶ The five core elements of the initiative are best practices that the FBI identified through site visits with FBI field offices and fusion centers, during which officials examined interagency partnerships and collaborative efforts. These elements include (1) field office and fusion center leadership, (2) codified processes and policies that enable trust and relationships that survive personnel changes, (3) clear expectations and defined roles and responsibilities, (4) integration of personnel, systems, and policies, and (5) recognition that field offices and fusion centers have unique capabilities and expertise that are complementary and can be mutually supporting.

We also compared DHS I&A and FBI coordination actions against our seven leading practices for collaboration among federal agencies, which we identified in our prior work.⁷ Each of these practices contains key considerations or questions of which we determined in our prior work to be relevant to coordination. We found that the Enhanced Engagement Initiative aligns with all seven leading practices, specifically (1) identifying leadership, (2) bridging organizational cultures, (3) involving relevant participants, (4) identifying dedicated resources, (5) outcomes and accountability, (6) clarity in roles and responsibilities, and (7) written guidance and agreements. Finally, we grouped seven collaboration practices into five categories consistent with the five core elements identified by the FBI-led initiative.

We determined each practice to be either generally followed, where the collaboration reflected most of the relevant considerations of the practices, or generally followed but with challenges remaining. Specifically:

⁶Fusion centers are state and local-run centers that may be funded by DHS grants that serve as a focal point for intelligence gathering, analysis, and sharing of threat information among federal, state, and local partners. Federal Bureau of Investigation, *FBI Field Office and State and Major Urban Area Fusion Centers Enhanced Engagement Initiative* (September 2017).

⁷GAO, *Managing for Results: Key Considerations for Implementing Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

- **Generally Followed.** Our assessment of agency documentation and actions found that DHS I&A and the FBI applied most key considerations consistent with the collaboration practice.
- **Generally Followed with Challenges Remaining.** Our assessment of agency documentation and actions found that DHS I&A and the FBI generally applied key considerations consistent with the collaboration practices, but challenges remain. For any elements that are generally followed, with some challenges remaining, we determined whether a deficiency is present and if there is room for improvement.
- **Not followed.** Our assessment of agency documentation and actions found that FBI and DHS I&A did not apply key considerations consistent with collaboration practices.

To determine the rating, we assessed whether FBI and DHS I&A actions, taken together, reflected the relevant considerations.⁸ A first analyst established an initial rating and a second analyst reviewed supporting evidence, verified that the actions selected by the first analyst were appropriate and determined a second rating. If there were discrepancies, both analysts discussed the evidence and assessment and made a final determination of the rating. Further, we evaluated information from all documentation, interviews, and results of our collaboration assessment against agency documentation such as the Attorney General's Guidelines for Domestic FBI Operations, FBI's Domestic Investigations and Operations Guide, the Federal Bureau of Investigation's National Information Sharing Strategy, DHS's Strategic Framework for Countering Terrorism and Targeted Violence, and Office of Intelligence and Analysis Strategic Plan (2020-2024).

To address the fourth objective, we analyzed Executive Office for United States Attorneys (EOUSA) CaseView data from October 2010 to July 2021 on domestic terrorism-related federal prosecutions, which was the most recent information available at the time of our review. The CaseView system has a domestic terrorism program category variable and domestic terrorism has its own code within this category.⁹ Therefore, we requested data for all cases and related defendants that were categorized as

⁸Key considerations are questions we identified that raise issues agencies should consider when implementing collaborative mechanisms. See [GAO-12-1022](#).

⁹EOUSA's CaseView is a case management system that contains information from 94 U.S. Attorneys' Offices regarding criminal and civil matters, cases, appeals, and personnel resources.

domestic terrorism.¹⁰ Our scope included any individual charged in a case filed in Fiscal Year 2011 or later. The EOUSA data we received contained separate spreadsheets of data for all cases filed, all cases pending and all cases closed from fiscal year 2011 through July 2021.¹¹

We merged the 10 years of data longitudinally, to examine the status of cases across time. Our scope of work includes federal charges for domestic terrorism-related cases filed in federal district court. Because our scope of work was to review charged violations of federal law, our analysis excludes District of Columbia charges filed in federal district court, which EOUSA officials said prosecutors sometimes add to federal charges. Our analysis also excludes charged violations of the Code of Federal Regulations and misdemeanor charges handled by federal magistrate judges on behalf of a federal district court.¹² We did so because the maximum sentence is one year imprisonment for a misdemeanor, which would skew our analysis of more serious crimes.¹³ Next, in determining the most prevalent charges, we decided not to include charges that were in any way related to international terrorism, specifically 18 U.S.C. § 2339B. If this was the only charge filed against a defendant, we did not include that defendant in our scope. In determining the most prevalent charges, we looked at the latest charges against that defendant in our data, as sometimes charges changed while the defendant's case was still open.

EOUSA's charge data did not use the same format as a statutory citation, so we converted the raw charges into statutory citations supported by legal research. For example, we determined that 40:5104 matched 40 U.S.C. § 5104, Unlawful activities involving the U.S. Capitol buildings and grounds. Because the raw charges generally lacked parentheses indicating statutory subsections, there were a few instances where it was not possible to determine which of two statutes applied. In these instances, we used our best legal judgement to determine the probable

¹⁰ Each defendant could fall under up to five program categories. If the domestic terrorism program category was any one of the five categories, even if there were also four other different program categories, it was included in our analysis.

¹¹In some situations, cases may occur on multiple spreadsheets. For example, a case and defendants may be counted as charged and sentenced in the same year.

¹²18 U.S.C. § 3401.

¹³18 U.S.C. § 3559(a)(6).

statute and, in two case, we excluded a raw charge that did not correspond with any federal statute.

After finalizing the data within the scope of our review, we found the following: 1) cases that were never closed but last appeared as filed or pending cases before 2021; 2) cases that were never filed but were listed as either pending or closed after 2011; and 3) cases that were closed more than once or filed more than once. Upon analysis, we concluded that these anomalies had no significant impact on reliability of the data.¹⁴ We calculated the length of time a defendant's case was open as the time elapsed from the first formal charge to the final sentencing date. Each case could involve multiple defendants and closure may have occurred for each defendant and not the overall case. Additionally, each defendant may have several charges. Further, for some defendants, the list of charges changed between filing and closing. In these situations we used the most recent list of charges. Since disposition information was only present for closed defendant data, we determined that it was appropriate to use those charges in our analysis.

Our analysis of the charge data found that, in some cases where a defendant had multiple chargers filed against them, they may be found guilty of one charge and not guilty of another. For all defendants who had a disposition in their case we made the following decisions: 1) If an individual was found guilty of at least one charge, they were counted as "guilty"; 2) of the remaining individuals those who were found not guilty of at least one charge were counted as "not guilty"; 3) of the remaining individuals, those who had at least one charge dismissed, either with prejudice or without prejudice, were counted as "dismissed"; 4) the remaining individuals fell into the "other" category.¹⁵ This category included individuals whose cases were declined for prosecution, adjudicated in juvenile delinquency proceedings, or opened in error.

¹⁴EOUSA officials told us that the sealing and unsealing of cases may impact GAO calculations. Cases may be sealed and/or unsealed at any point in the investigation and prosecution, and the status may have changed after the data was provided in September 2021. EOUSA stated that they could provide aggregate information that included sealed cases; however, record-level data is required to provide the specific analysis in this report and thoroughly assess the reliability of that data.

¹⁵Other includes cases that were declined for prosecution or referred to state prosecutors where the defendant was adjudicated in juvenile delinquency proceedings, and cases that were opened in error.

Finally, we checked that all defendants with a value for length of incarceration had a guilty disposition for at least one charge. Only two cases had a value for length of incarceration without a guilty disposition recorded in the data.

Prior to finalizing our data methodology and analyses, we discussed all data issues and discrepancies with EOUSA. Further, we assessed the reliability of these data by performing electronic testing for obvious errors in accuracy and completeness; reviewing existing information about the data and the systems that contain these data, such as relevant guidance and codebooks; reviewing and cross-checking charges listed in the data set with the statutes in the U.S. Code; and interviewing relevant EOUSA officials as appropriate. We determined that CaseView data during this period were sufficiently reliable for reporting on descriptive statistics for federal prosecutions of domestic terrorism-related incidents during this time period.

To address all of our objectives, we interviewed cognizant FBI and DHS officials in five selected cities: Detroit, Houston, New York, and Portland (Oregon). We used a two-phase process for selection wherein we interviewed officials in three locations, Detroit, New York, and Washington and then determined the need for the number and location of additional interviews. Officials we interviewed provided their experience and lessons learned on informal and formal collaboration efforts with federal, state, and local partners, definitions of domestic terrorism, information and data sharing, and tracking of domestic terrorism information, among other topics. We also interviewed managers of three state-run fusion centers that interacted with both the FBI and DHS I&A to gain perspectives on overall collaboration within the center.¹⁶ These interviews provided contextual information about co-location of FBI and DHS personnel and coordination efforts between DHS I&A, the FBI, and other state and local partners.

We also interviewed attorneys at United States Attorney's Offices district offices in Michigan, New York, and Washington, D.C. We determined it was not necessary to interview U.S. Attorneys in the remaining two states (Oregon and Texas) because the information that we received from prior interviews was sufficient for our purposes. These interviews provided context on definitions of domestic terrorism, the coordination of domestic

¹⁶We reached out to fusion center owners in all five of our selected cities however, owners in Detroit, Michigan and Portland, Oregon declined the interview. As mentioned previously in the report, fusion centers are state-owned and operated.

terrorism investigations between federal and state law enforcement agencies, and charging decisions in federal prosecutions. Additionally, officials provided anecdotal information related to domestic terrorism information tracked and charges generally associated with domestic terrorism incidents. We chose the locations for all interviews based on a variety of factors, including the number of domestic terrorism incidents in these locations found via open source databases, the National Defense Authorization Act for Fiscal Year 2020 strategic intelligence report and the DHS I&A incident tracker over the past 10 years, the presence of a primary fusion center with DHS I&A personnel, the presence of a JTTF, geographic dispersion, and diversity of the domestic terrorism threats in that area as defined by FBI documentation related to domestic terrorism threats in each area of responsibility.¹⁷ The information we obtained through these interviews is not generalizable to domestic terrorism operations in all locations. However, through these interviews, officials provided important insights into how each entity identifies and counters domestic terrorism threats, how they coordinate and share information with federal, state, and local partners, and efforts to track domestic terrorism-related data and information.

We conducted the performance audit from January 2021 to February 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁷There are two types of fusion centers, a primary fusion center and a recognized fusion center. Primary fusion centers are to provide information sharing and analysis for an entire state. Recognized fusion centers provide information sharing and analysis to a major urban area.

Appendix II: Federal Definition of Domestic Terrorism and Select State Laws

Federal Definition of Domestic Terrorism and Its Legislative History

Federal criminal law defines domestic terrorism as acts dangerous to human life that are a violation of U.S. criminal law, occur primarily within the territorial jurisdiction of the United States, and which appear intended to (i) intimidate or coerce a civilian population, (ii) influence the policy of a government by intimidation or coercion, or (iii) affect the conduct of a government by mass destruction, assassination, or kidnapping.¹ According to its legislative history, the “domestic terrorism” definition was included “for the limited purpose of providing investigative authorities (i.e., court orders, warrants, etc.) for acts of terrorism within the territorial jurisdiction of the United States.”²

Domestic Terrorism Investigations

The definition of domestic terrorism appears in various statutes that enact special authorities for terrorism investigations. Below are a few examples of the special authorities available if an investigation involves domestic terrorism—

- single-jurisdiction search warrants issued by a magistrate judge, which are valid not just in a particular judicial district but nationwide,³ and,
- court orders permitting the Attorney General (or designee) to collect, retain, disseminate and use confidential education records from an

¹18 U.S.C. § 2331(5). The domestic terrorism definition is a companion to a previously established international terrorism definition, which appears in the same statute. 18 U.S.C. § 2331(1) (international terrorism definition). The domestic terrorism definition was enacted by the Uniting and Strengthening America by Providing Appropriate Tools Required to Interrupt and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and differs from the international terrorism definition by requiring the acts that occur primarily within the U.S. territorial jurisdiction. Pub. L. No. 107-56, tit. VIII, § 802(a)(4), 115 Stat. 272, 376 (2001).

²147 Cong. Rec. H7199 (daily ed. Oct. 23, 2001); 147 Cong. Rec. S11012 (daily ed. Oct. 25, 2001).

³Fed. R. Crim. P. 41(b)(3), as enacted by the USA PATRIOT Act, Pub. L. No. 107-56, §§ 219, 802(a)(4), 115 Stat. at 291, 376.

educational agency or institution for official purposes related to an investigation of an act of domestic terrorism.⁴

Domestic Terrorism Prosecutions

While federal law does not have a crime of domestic terrorism, prosecutors can charge individuals with federal crimes constituting acts dangerous to human life committed while planning for, or carrying out, an act of domestic terrorism. This represents a broad range of potential charges. According to FBI documentation, DOJ prosecutes domestic terrorists using weapons charges, charges relating to use or possession of explosives, threat, hoax, or riot charges, and charges prohibiting attacks on federal officials or facilities.⁵ Prosecutors can seek to convict a person for these crimes without having to prove that their motive was to commit domestic terrorism.⁶

Domestic Terrorism Sentences

We identified four federal crimes that authorize an increase in their maximum statutory sentencing based on the domestic terrorism definition. The sentencing increase is available if the person's reason—or motive—for committing the crime involved domestic terrorism. See table 9 for the four identified crimes and the sentencing increase associated with each of them.

⁴20 U.S.C. § 1232g(j) (court orders for the release of education records by an educational agency or institution); 20 U.S.C. § 9573(e) (court orders for the release of National Center for Education Statistics survey information by the Secretary of Education). To obtain a court order under either provision, the Attorney General, or a designee not lower than an Assistant Attorney General, must certify that there are specific and articulable facts giving reason to believe that the information sought is likely to contain information relevant to a terrorism investigation. Both provisions were enacted by the USA PATRIOT Act. Pub. L. No. 107-56, §§ 507, 508, 802(a)(4), 115 Stat. at 367, 368, 376.

⁵Federal Bureau of Investigation and Department of Homeland Security. *Strategic Intelligence Assessment and Data on Domestic Terrorism*. (Washington D.C. May 2021).

⁶ However, bribery affecting seaport security is specific to bribes made with the intent to commit domestic terrorism. 18 U.S.C. § 226(a). For this crime, prosecutors must prove, among other things, that a person directly or indirectly, corruptly gave, offered, or promised anything of value to someone with intent to commit domestic terrorism, or that an official who likewise demanded, sought, received, accepted or agreed to receive or accept such bribe knew that the influence over them will be used for international or domestic terrorism. Otherwise, the person may not be found guilty of this crime, and the bribe cannot be punished under this statute.

**Appendix II: Federal Definition of Domestic
Terrorism and Select State Laws**

Table 9: Identified Federal Crimes that Authorize an Increase in their Maximum Statutory Sentence Based on the Domestic Terrorism Definition^a

Federal Crime	Maximum Statutory Sentence	Maximum Statutory Sentence if Motive Involved Terrorism	Citation
False statements or entries ("False Statements Act")	5 years	8 years	18 U.S.C. § 1001
Various forms of identify (ID) fraud (e.g., trafficking in, or profiting from, fake IDs; producing, transferring or possessing document-making implements)	15 years	30 years	18 U.S.C. § 1028(b)(1), (4)
Other forms of identity (ID) fraud (e.g., using a fake ID with an intent to commit, or to aid and abet, a crime)	5 years	30 years	18 U.S.C. § 1028(b)(2), (4)
Obstruction of proceedings before departments, agencies, and committees	5 years	8 years	18 U.S.C. § 1505

Source: GAO analysis of federal crimes whose penalty provisions incorporate the terrorism definition at 18 U.S.C. § 2331(1), (5).| GAO-23-104720

^aThe definition of domestic terrorism appears at 18 U.S.C. § 2331(5).

To illustrate the information above, in a False Statements Act prosecution, prosecutors do not need to prove that the reason a defendant lied to FBI agents was related to a terrorist plot. Rather, the prosecution need only prove the defendant lied.⁷ If the prosecution successfully presents such evidence, the defendant may be found guilty. However, the maximum statutory sentence for a violation of the False Statements Act is 5 years. The sentencing increase, which would adjust the sentence for a possible maximum sentence of 8 years, is only available if prosecutors prove the lie involved domestic terrorism, or relates to certain other listed offenses.⁸

The maximum statutory sentence is not the sole criteria used to determine a defendant's sentence. While a sentence cannot exceed the statutory maximum, which is tailored to reflect the severity of the crime,

⁷See 18 U.S.C. § 1001; *see generally*, *U.S. v. Rodgers*, 466 U.S. 475 (1984). "Lied" refers to having knowingly or willfully falsified, concealed, covered up by any trick, scheme, or device a material fact; made any materially false, fictitious, or fraudulent statement or representation; or made or used any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry. See 18 U.S.C. § 1001(a).

⁸See also *Apprendi v. New Jersey*, 530 U.S. 466, 489 (2000) ("[A]ny fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.").

the offender's criminal history, and any applicable sentencing adjustments may be taken into consideration.⁹ One of these sentencing adjustments is specifically related to terrorism to increase the sentencing range for crimes that meet the definition of a "federal crime of terrorism" as defined by 18 U.S.C. §2332b(g)(5).¹⁰ Some crimes that meet the definition of "domestic terrorism" may also meet the definition of "federal crime of terrorism" and be eligible for the adjustment, while others may not.¹¹ In these cases, it is within a judge's discretion to make an upward departure from the sentencing range, equal to what the range would have been had the terrorism adjustment been applied.¹²

State Domestic Terrorism Laws

The federal definition of domestic terrorism relates to acts dangerous to human life that violate U.S. criminal laws. This definition encompasses violations of both federal and state criminal laws. However, states may choose to enact statutes providing for a state specific definition and crime of domestic terrorism. For example, Vermont has enacted a domestic terrorism statute, which provides a 20-year maximum sentence for engaging in, or taking a substantial step to commit, a violation of state law with the intent to cause death or serious bodily injury to multiple persons, or threaten any civilian population with mass destruction, mass killings, or kidnapping.¹³ Georgia has also enacted a domestic terrorism law, which applies to certain acts of violence or property damage, carried out with an intent to (i) intimidate the state's civilian population; (ii) alter, change, or coerce any policy of the state government by intimidation or coercion; or (iii) affect the conduct of the state government through the use of destructive devices, assassination, or kidnapping.¹⁴

⁹*United States v. Booker*, 543 U.S. 220, 264 (2005).

¹⁰U.S. Sent'g Guidelines Manual, § 3A1.4.

¹¹U.S. Sent'g Guidelines Manual, § 3A1.4, cmt. n. 1. Unlike the definition of domestic terrorism, the definition of a federal crime of terrorism is limited to specific federal crimes calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct. Domestic terrorism may similarly involve an intent to affect the conduct (or influence the policy) of government by various means, but additionally applies where there is an intent to intimidate or coerce a civilian population. *Compare* 18 U.S.C. § 2331(5) (definition of domestic terrorism) *with* 18 U.S.C. § 2332b(g)(5) (definition of a federal crime of terrorism).

¹²U.S. Sent'g Guidelines Manual, § 3A1.4, cmt. n. 4.

¹³Vt. Stat. Ann. tit. 13, § 1703.

¹⁴Ga. Code Ann. §§ 16-11-220(2), 16-11-221.

Appendix III: Additional Characteristics of Domestic Terrorism Incident Data

To understand various characteristics of domestic terrorism incidents that occurred from 2010 to 2021, we conducted an in-depth analysis of the Department of Homeland Security’s Office of Intelligence and Analysis (DHS I&A) domestic terrorism data. DHS I&A maintains a domestic terrorism incident tracker with recorded acts from known offenders where a weapon or tactic is purposefully deployed against a target for the purpose of causing injury, death, or property destruction.¹ We performed analysis to show the number of incidents by ideology, weapons used and lethality, the number of attacks or plots against specific targets and the number of incidents and deaths by tactic.

Ideology. The FBI and DHS have five main threat categories that are the basis for ideological affiliation when identifying domestic terrorism incidents. See table 10 for categories and definitions.

Table 10: Federal Bureau of Investigation and Department of Homeland Security Domestic Terrorism Threat Group Categories

Threat Group Category	Definition
Racially or ethnically-motivated violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas derived from bias, often related to race or ethnicity, held by the actor against others or a given population group. Such extremists purport to use both political and religious justifications to support their racially or ethnically-based ideological objectives and criminal activities.
Anti-government or anti-authority violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas derived from anti-government or anti-authority sentiment, including opposition to perceived economic, social, or racial hierarchies, or perceived government overreach, negligence or illegitimacy.
Animal rights/Environmental violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas by those seeking to end or mitigate perceived cruelty, harm, or exploitation of animals and/or the perceived exploitation or destruction of natural resources and the environment.
Abortion-related violent extremism	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas relating to abortion, including individuals who advocate for violence in support of either pro-life or pro-choice beliefs.
All other domestic terrorism threats	Potentially unlawful use or threat of force or violence in furtherance of ideological agendas which are not otherwise defined under or primarily motivated by one of the other domestic terrorism threat categories. Such agendas could flow from, but are not limited to, a combination of personal grievances and beliefs, including those described in the other domestic terrorism categories. Some actors in this category may also carry bias related to religion, gender, or sexual orientation.

Source: GAO analysis of Federal Bureau of Investigation and Department of Homeland Security Documentation | GAO-23-104720

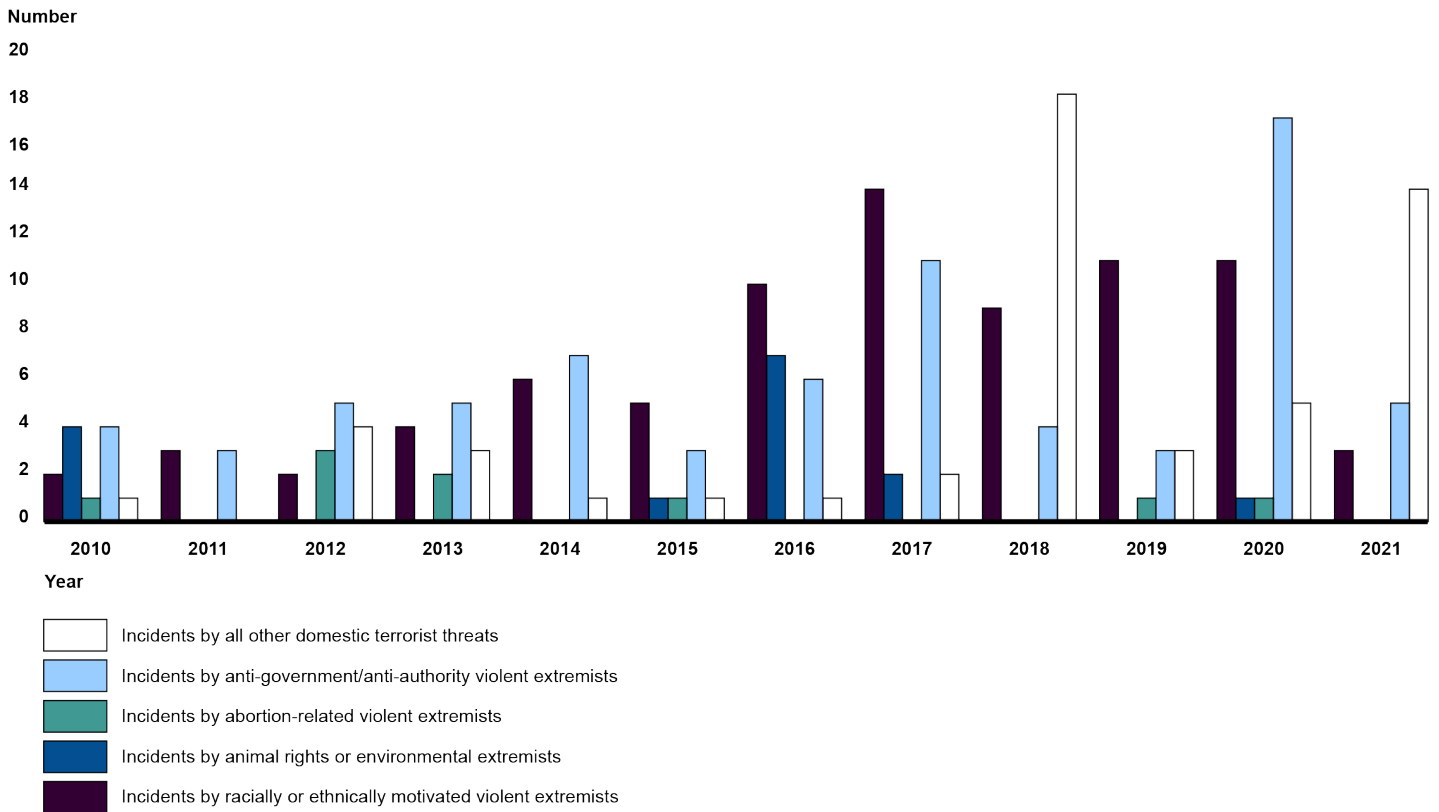
Threat categories have evolved over time. For instance, FBI officials told us that in 2020, the FBI increased prioritization of Racially or Ethnically

¹The term known offenders refers to offenders whose identity becomes known to law enforcement before, during, or after the event.

Motivated Violent Extremist threats by combining the previously separate White Supremacist and Black Separatist categories, and ensuring all field offices were prioritizing Racially or Ethnically Motivated Violent Extremists in their area of responsibility. FBI officials stated that the creation of Racially or Ethnically Motivated Violent Extremists as a category was made to help field offices prioritize threats. Further, officials said investigations drive the creation of threat categories, which helps the FBI to understand the increase and decline of threats and sub-threat activities. This information is used to determine resources, prioritize threats as well as direct intelligence collection.

Though the number of incidents overall generally increased from 2010 to 2020 with a slight drop in 2021, incidents by ideology fluctuated across the years. As figure 12 shows, incidents by all other domestic terrorism threats were particularly prominent in 2018 and 2021. The most incidents by racially or ethnically motivated violent extremists occurred from 2016 to 2020 and there was a large spike in incidents by anti-government or anti-authority violent extremists in 2020.

Figure 12: Number of Domestic Terrorism Incidents by Individuals From Each Ideology, Calendar Years 2010-2021



Source: GAO Analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

Weapons and Lethality. Firearms were the most commonly used weapon, comprising 92 incidents or 39.8 percent of all incidents. Improvised explosive devices were the second most commonly used weapon, comprising 38 incidents or 16.5 percent of all incidents. Firearms caused by far the most number of deaths in all incidents, resulting in 132 out of 145 total deaths. The data also demonstrate the variety of weapons used, with 11 categories of weapons identified by DHS I&A analysts. See figure 13.

Figure 13: Weapons Use and Lethality in Domestic Terrorism Incidents, Calendar Years 2010-2021

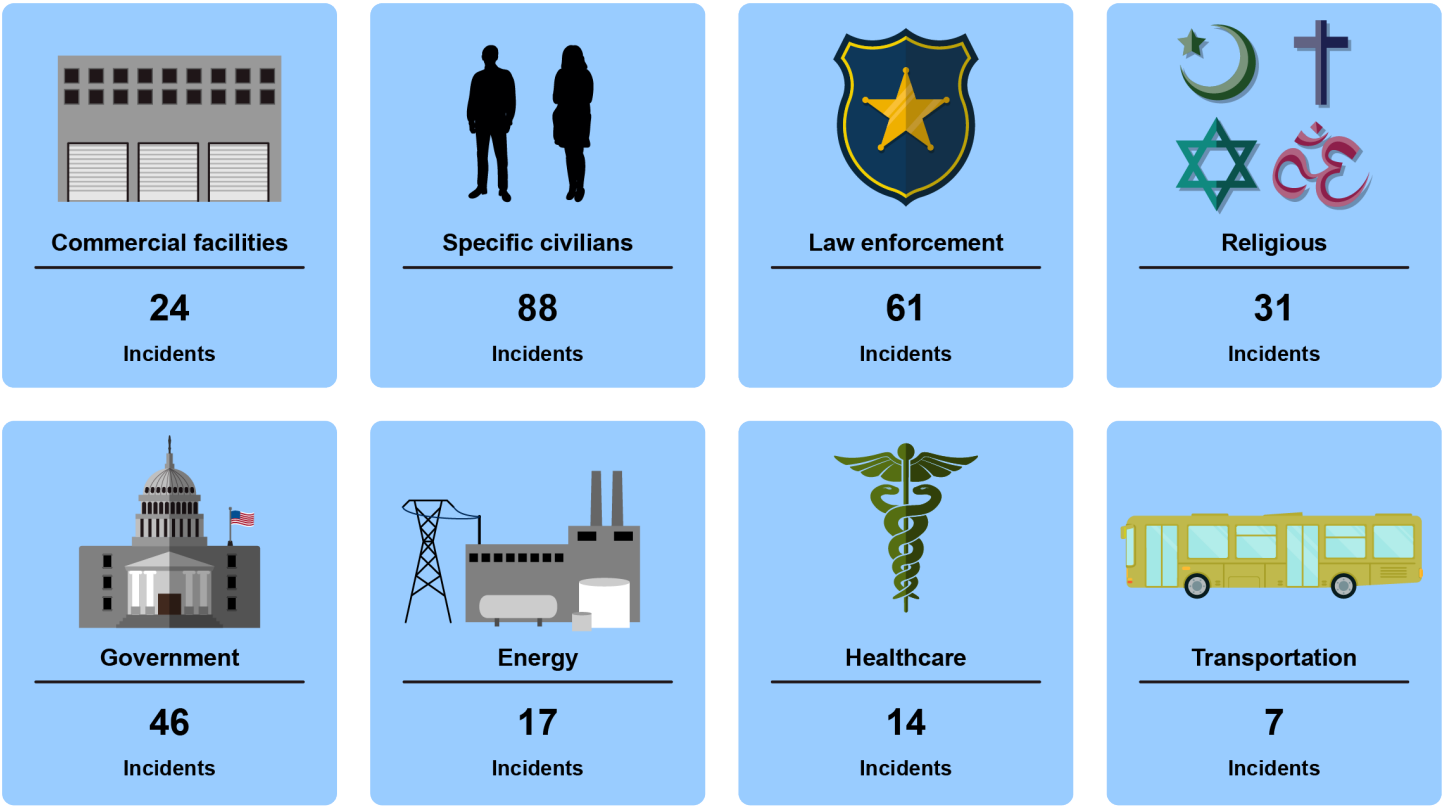


Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

^aNone does not mean no weapon, but rather is a catch-all category for other weapon types, such as punching, inciting a melee, or sabotage/destruction that may have involved a tool (not a weapon).

Attacks or Plots Per Target. The greatest number of attacks and plots from 2010 to 2021 occurred against specific civilians.² The second highest number of attacks and plots targeted law enforcement personnel (61 incidents). See figure 14.

Figure 14: Number of Attacks or Plots Against Each Target in Domestic Terrorism Incidents, Calendar Years 2010-2021



Source: GAO analysis of Department of Homeland Security Counterterrorism Mission Center data. | GAO-23-104720

²DHA I&A defines specific civilians as individuals targeted because of a particular non-religious characteristic: Gender-Based, Ideological/Political Opponents, Known to Attacker, Race/Ethnicity-Based. We counted both primary and secondary targets (but not their sub-targets) in our analysis. We decided that if a target of an incident is government and the sub-target is law enforcement, the target becomes government-law enforcement. If the sub-target is not law enforcement, it becomes government-other.

Appendix III: Additional Characteristics of
Domestic Terrorism Incident Data

Incidents and Deaths by Tactic. Armed assaults were the most commonly used tactic and arson was the second most commonly used (see table 11).

Table 11: Number of Domestic Terrorism Incidents and Deaths by Type of Tactic, Calendar Years 2010-2021

Tactics	Number of Incidents	Percent of Total Incidents	Number of Deaths
Armed Assault	98	42.4	139
Armed Detention	4	1.73	0
Arson	45	19.5	0
Assault	17	7.36	1
Bombing	27	11.7	0
Kidnapping	5	2.16	0
Mailed	13	5.63	0
Other Use of Fire as a Weapon	1	0.43	1
Poison	2	0.87	0
Property Destruction/Sabotage	12	5.19	0
Vehicle Ramming	7	3.03	4

Source: GAO Analysis of Counterterrorism Mission Center data. | GAO-23-104720

Appendix IV: Expanded List of Charges in Federal Domestic Terrorism-Related Cases

There is no federal crime of domestic terrorism; however, prosecutors can charge domestic terrorists with other federal crimes corresponding to their conduct. We reviewed data from the Executive Office for United States Attorneys (EOUSA) and found that there were over 300 charges filed against individuals in federal domestic terrorism-related cases between October 2011 and July 2021. For purposes of analysis, we grouped these charges into categories, using the organizational structure of the U.S. Code as a guide. The U.S. Code divides laws into different titles based on broad subject matter categories. Each category known as a “title” then arranges laws with further specificity, dividing them into different parts and chapters. Some of our categories mirror the U.S. Code, e.g., the charges in our Assault category are from chapter 7, Assault, of title 18, Crimes and Criminal Procedure. Other categories combine crimes from different titles and chapters of the U.S. Code because the crimes reflect similar tactics, targets or weapons a terrorist might use. For example, firearms, dangerous weapons and explosives is a combined category that includes violations of federal firearms laws in title 18, Crimes and Criminal Procedure, and title 26, Internal Revenue Code. Finally, a few categories are limited to a single charge, which were not sufficiently similar to the charges in any other category to justify including them in a combined category.

Table 12 shows the domestic terrorism categories used in this report and the federal charges associated with each of them. The statutes cited as federal charges include all subsections of a statute that federal prosecutors may have charged in a given case.

Table 12: Categories for Federal Charges Filed in Domestic Terrorism-Related Cases, October 2010 through July 2021	
Category	Charges ^a
Adulteration, misbranding and inspection charges	21 U.S.C. § 333, Penalties ^b ; and 21 U.S.C. § 641, Prohibition of subchapter I inspection of articles not intended for use as human food; denaturation or other identification prior to distribution in commerce; inedible articles
Animal rights extremism charges	18 U.S.C. § 43, Force, violence, and threats involving animal enterprises
Assault charges	18 U.S.C. § 111, Assaulting, resisting, or impeding certain officers or employees; 18 U.S.C. § 112, Protection of foreign officials, official guests, and internationally protected persons; 18 U.S.C. § 113, Assaults within special maritime and territorial jurisdiction; and 18 U.S.C. § 115, Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member
Civil rights charges	18 U.S.C. § 241, Conspiracy against rights; 18 U.S.C. § 245, Federally protected activities; 18 U.S.C. § 247, Damage to religious property; obstruction of persons in the free exercise of religious beliefs; 18 U.S.C. § 248, Freedom of access to clinic entrances;18 U.S.C. § 249, Hate crime acts; and 42 U.S.C. § 3631, Violations; penalties

**Appendix IV: Expanded List of Charges in
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Category	Charges^a
Controlled substances charges	21 U.S.C. § 841, Prohibited acts A; 21 U.S.C. § 843, Prohibited acts C; 21 U.S.C. § 844, Penalties for simple possession; 21 U.S.C. § 844a, Civil penalty for possession of small amounts of certain controlled substances; 21 U.S.C. § 846, Attempt and conspiracy; 21 U.S.C. § 853, Criminal forfeitures; 21 U.S.C. § 856, Maintaining drug-involved premises; and 21 U.S.C. § 858, Endangering human life while illegally manufacturing controlled substance
Counterfeiting, forgery and evasion charges	18 U.S.C. § 472, Uttering counterfeit obligations or securities; 18 U.S.C. § 505, Seals of courts; signatures of judges or court officers; 18 U.S.C. § 510, Forging endorsements on Treasury checks or bonds or securities of the United States; 18 U.S.C. § 511, Altering or removing motor vehicle identification numbers; 18 U.S.C. § 513, Securities of the States and private entities; 18 U.S.C. § 514, Fictitious obligations; and 31 U.S.C. § 5324, Structuring transactions to evade reporting requirement prohibited
Criminal conspiracy charges	18 U.S.C. § 371, Conspiracy to commit offense or to defraud United States; 18 U.S.C. § 372, Conspiracy to impede or injure officer; and 18 U.S.C. § 373, Solicitation to commit a crime of violence
Criminal role charges	18 U.S.C. § 2, Principals; 18 U.S.C. § 3, Accessory after the fact; and 18 U.S.C. § 4, Misprision of felony
Cybersecurity charges	18 U.S.C. § 2701, Unlawful access to stored communications
Federal tax charges	26 U.S.C. § 7201, Attempt to evade or defeat tax; 26 U.S.C. § 7203, Willful failure to file return, supply information, or pay tax; 26 U.S.C. § 7206, Fraud and false statements; and 26 U.S.C. § 7212, Attempts to interfere with administration of internal revenue laws
Firearms, dangerous weapons and explosives charges	18 U.S.C. § 842, Unlawful acts; 18 U.S.C. § 844, Penalties; 18 U.S.C. § 922, Unlawful acts; 18 U.S.C. § 924, Penalties; 18 U.S.C. § 930, Possession of firearms and dangerous weapons in Federal facilities; 18 U.S.C. § 931, Prohibition on purchase, ownership, or possession of body armor by violent felons; 26 U.S.C. § 5822, Making; 26 U.S.C. § 5841, Registration of firearms; 26 U.S.C. § 5845, Definitions; 26 U.S.C. § 5861, Prohibited acts; and 26 U.S.C. § 5872, Forfeitures
Fraud and other misrepresentation charges	7 U.S.C. § 2024, Violations and Enforcement; 18 U.S.C. § 287, False, fictitious or fraudulent claims; 18 U.S.C. § 912, Officer or employee of the United States; 18 U.S.C. § 915, Foreign diplomats, consuls or officers; 18 U.S.C. § 1001, Statements or entries generally; 18 U.S.C. § 1028, Fraud and related activity in connection with identification documents, authentication features, and information; 18 U.S.C. § 1028A, Aggravated identity theft; 18 U.S.C. § 1029, Fraud and related activity in connection with access devices; 18 U.S.C. § 1030, Fraud and related activity in connection with computers; 18 U.S.C. § 1038, False information and hoaxes; 18 U.S.C. § 1341, Frauds and swindles; 18 U.S.C. § 1342, Fictitious name or address; 18 U.S.C. § 1343, Fraud by wire, radio, or television; 18 U.S.C. § 1344, Bank fraud; 18 U.S.C. § 1349, Attempt and conspiracy; 42 U.S.C. § 408, Penalties; and 42 U.S.C. § 1320a-7b, Criminal penalties for acts involving Federal health care programs
General forfeiture charges ^c	18 U.S.C. § 981, Civil forfeiture; 18 U.S.C. § 982, Criminal forfeiture; and 28 U.S.C. § 2461, Mode of recovery
Homicide-related charges	18 U.S.C. § 1111, Murder; 18 U.S.C. § 1113, Attempt to commit murder or manslaughter; 18 U.S.C. § 1114, Protection of officers and employees of the United States; and 18 U.S.C. § 1117, Conspiracy to murder
Immigration and customs charges	8 U.S.C. § 1324, Bringing in and harboring certain aliens; 8 U.S.C. § 1325, Improper entry by alien; 8 U.S.C. § 1326, Reentry of removed aliens; 18 U.S.C. § 554, Smuggling goods from the United States; and 18 U.S.C. § 1425, Procurement of citizenship or naturalization unlawfully
Indian country charges	18 U.S.C. § 1153, Offenses committed within Indian country
Kidnapping and hostage taking charges	18 U.S.C. § 1201, Kidnapping; and 18 U.S.C. § 1203, Hostage taking

**Appendix IV: Expanded List of Charges in
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Category	Charges^a
National security and foreign relations charges	18 U.S.C. § 793, Gathering, transmitting or losing defense information; 18 U.S.C. § 794, Gathering or delivering defense information to aid foreign government; 18 U.S.C. § 951, Agents of foreign governments; 18 U.S.C. § 956, Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country; 18 U.S.C. § 970, Protection of property occupied by foreign governments; 22 U.S.C. § 612, Registration statement; 22 U.S.C. § 2778, Control of arms exports and imports; and 50 U.S.C. § 1705, Penalties
Nature and wildlife conservation areas charges	16 U.S.C. § 152, Additional land withdrawn; payment; management and control; regulations; sale of improvements; penalties; town lots; 16 U.S.C. § 460k-3, Charges and fees; permits; regulations; penalties; enforcement; 16 U.S.C. § 668, Bald and golden eagles; 16 U.S.C. § 703, Taking, killing, or possessing migratory birds unlawful
Obstruction of justice charges	18 U.S.C. § 152, Concealment of assets; false oaths and claims; bribery; 18 U.S.C. § 401, Power of court; 18 U.S.C. § 1071, Concealing person from arrest; 18 U.S.C. § 1503, Influencing or injuring officer or juror generally; 18 U.S.C. § 1509, Obstruction of court orders; 18 U.S.C. § 1512, Tampering with a witness, victim, or an informant; 18 U.S.C. § 1513, Retaliating against a witness, victim, or an informant; 18 U.S.C. § 1519, Destruction, alteration, or falsification of records in Federal investigations and bankruptcy; 18 U.S.C. § 1521, Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title; 18 U.S.C. § 1621, Perjury generally; 18 U.S.C. § 1623, False declarations before grand jury or court; 18 U.S.C. § 2232, Destruction or removal of property to prevent seizure; and 18 U.S.C. § 3056, Powers, authorities, and duties of United States Secret Service
Passport and visa fraud charges	18 U.S.C. § 1542, False statement in application and use of passport; and 18 U.S.C. § 1546, Fraud and misuse of visas, permits, and other documents
Prison and release condition charges	18 U.S.C. § 1791, Providing or possessing contraband in prison; 18 U.S.C. § 3146, Penalty for failure to appear; 18 U.S.C. § 3147, Penalty for an offense committed while on release; 18 U.S.C. § 3551, Authorized sentences; 18 U.S.C. § 3565, Revocation of probation; 18 U.S.C. § 3583, Inclusion of a term of supervised release after imprisonment; and 18 U.S.C. § 4013, Support of United States prisoners in non-Federal institutions
Property damage and trespass charges	18 U.S.C. § 81, Arson within special maritime and territorial jurisdiction; 18 U.S.C. § 1361, Government property or contracts; 18 U.S.C. § 1363, Buildings or property within special maritime and territorial jurisdiction; 18 U.S.C. § 1365, Tampering with consumer products; 18 U.S.C. § 1366, Destruction of an energy facility; 18 U.S.C. § 1382, Entering military, naval, or Coast Guard property; and 40 U.S.C. § 1315, Law enforcement authority of Secretary of Homeland Security for protection of public property
Protected persons and places charges	18 U.S.C. § 1751, Presidential and Presidential staff assassination, kidnapping, and assault; penalties; 18 U.S.C. § 1752, Restricted building or grounds; and 40 U.S.C. § 5104, Unlawful activities
Racketeering and organized crime charges	18 U.S.C. § 1951, Interference with commerce by threats or violence; 18 U.S.C. § 1952, Interstate and foreign travel or transportation in aid of racketeering enterprises; 18 U.S.C. § 1956, Laundering of monetary instruments; 18 U.S.C. § 1957, Engaging in monetary transactions in property derived from specified unlawful activity; 18 U.S.C. § 1958, Use of interstate commerce facilities in the commission of murder-for-hire; 18 U.S.C. § 1959, Violent crimes in aid of racketeering activity; 18 U.S.C. § 1962, Prohibited activities; and 18 U.S.C. § 1963, Criminal penalties
Robbery and burglary charges	18 U.S.C. § 2111, Special maritime and territorial jurisdiction; 18 U.S.C. § 2112, Personal property of United States; 18 U.S.C. § 2113, Bank robbery and incidental crimes; and 18 U.S.C. § 2119, Motor vehicles
Sedition charges	18 U.S.C. § 2384, Seditious conspiracy
Sexual misconduct, domestic violence and stalking charges	18 U.S.C. § 2250, Failure to register; 18 U.S.C. § 2252, Certain activities relating to material involving the sexual exploitation of minors; 18 U.S.C. § 2252A, Certain activities relating to material constituting or containing child pornography; 18 U.S.C. § 2253, Criminal forfeiture; 18 U.S.C. § 2261, Interstate domestic violence; 18 U.S.C. § 2261A, Stalking; and 18 U.S.C. § 2442, Coercion and Enticement

**Appendix IV: Expanded List of Charges in
Federal Domestic Terrorism-Related Cases**

Category	Charges^a
Terrorism charges	18 U.S.C. § 2331, Definitions; 18 U.S.C. § 2332, Criminal penalties; 18 U.S.C. § 2332a, Use of weapons of mass destruction; 18 U.S.C. § 2332f, Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities; 18 U.S.C. § 2339, Harboring or concealing terrorists; 18 U.S.C. § 2339A, Providing material support to terrorists; and 18 U.S.C. § 2339B, Providing material support or resources to designated foreign terrorist organizations
Theft and stolen property charges	18 U.S.C. § 641, Public money, property or records; 18 U.S.C. § 659, Interstate or foreign shipments by carrier; State prosecutions; 18 U.S.C. § 661, Within special maritime and territorial jurisdiction; 18 U.S.C. § 1832, Theft of trade secrets; 18 U.S.C. § 2312, Transportation of stolen vehicles; 18 U.S.C. § 2314, Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting; and 18 U.S.C. § 2320, Trafficking in counterfeit goods or services
Threats and other unlawful communications charges	18 U.S.C. § 871, Threats against President and successors to the Presidency; 18 U.S.C. § 875, Interstate communications; 18 U.S.C. § 876, Mailing threatening communications; 18 U.S.C. § 877, Mailing threatening communications from foreign country; 18 U.S.C. § 879, Threats against former Presidents and certain other persons; and 47 U.S.C. § 223, Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications
Transportation Systems Charges	14 U.S.C. § 88, Saving life and property (renumbered as 14 U.S.C. § 521); 18 U.S.C. § 32, Destruction of aircraft or aircraft facilities; 18 U.S.C. § 33, Destruction of motor vehicles or motor vehicle facilities; 18 U.S.C. § 35, Imparting or conveying false information; 18 U.S.C. § 37, Violence at international airports; 18 U.S.C. § 39A, Aiming a laser pointer at an aircraft; 18 U.S.C. § 1992, Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air; 49 U.S.C. § 40103, Sovereignty and use of airspace; 49 U.S.C. § 46306, Registration violations involving aircraft not providing air transportation; 49 U.S.C. § 46308, Interference with air navigation; 49 U.S.C. § 46312, Transporting hazardous material; 49 U.S.C. § 46314, Entering aircraft or airport area in violation of security requirements; 49 U.S.C. § 46502, Aircraft piracy; 49 U.S.C. § 46504, Interference with flight crew members and attendants; 49 U.S.C. § 46505, Carrying a weapon or explosive on an aircraft; 49 U.S.C. § 46506, Application of certain criminal laws to acts on aircraft; 49 U.S.C. § 46507, False information and threats; and 49 U.S.C. § 60123, Criminal penalties
U.S. Postal Service charges	18 U.S.C. § 1705, Destruction of letter boxes or mail; 18 U.S.C. § 1708, Theft or receipt of stolen mail matter generally; 18 U.S.C. § 1716, Injurious articles as nonmailable; and 18 U.S.C. § 1731, Vehicles falsely labeled as carriers
Violent unrest charges	18 U.S.C. § 231, Civil disorders; and 18 U.S.C. § 2101, Riots
Weapons of mass destruction charges	18 U.S.C. § 175, Prohibitions with respect to biological weapons; 18 U.S.C. § 229, Prohibited activities; and 18 U.S.C. § 831, Prohibited transactions involving nuclear materials

Source: GAO analysis of EOUSA data. | GAO-23-104720

^aThe statutes in this table are based on federal domestic terrorism charges filed in federal district court between fiscal years 2011 and 2021, according to data from the Executive Office for United States Attorneys (EOUSA). Because our scope of work was to review federal domestic terrorism-related charges, our analysis excludes District of Columbia charges filed in federal district court, which EOUSA officials said prosecutors sometimes add to federal charges. Our analysis also excludes charged violations of the Code of Federal Regulations and misdemeanor charges handled by federal magistrate judges on behalf of a federal district court. 18 U.S.C. § 3401(a). We did so because the maximum sentence is one-year imprisonment for a misdemeanor, which would skew our analysis of more serious crimes. 18 U.S.C. § 3559(a)(6). Charges in this column include any violations of a statute's subsections. For example, 8 U.S.C. § 1324, Bringing in and harboring certain aliens, includes charges under the following subsections of the statute—8 U.S.C. § 1324(a)(1)(A), (a)(1)(A)(ii), (iii), (v)(i), and (a)(2)(B).

^bThis charge was 21 U.S.C. § 333(a), which applies to the adulteration or misbranding of any food, drug, device, tobacco product, or cosmetic under 21 U.S.C. § 331.

^cThis category applies to general forfeiture statutes, which can be charged for a variety of crimes to compel the transfer of a person's property to the government as punishment for the crime. Forfeiture

**Appendix IV: Expanded List of Charges in
Federal Domestic Terrorism-Related Cases**

statutes that apply to specific crimes appear in the charge category associated with those crimes. For example, criminal forfeiture under 21 U.S.C. § 853 applies to controlled substances violations and therefore appears as “controlled substances charge.”

Protected persons and places charges make up the largest composition of offense categories, followed closely by firearms, dangerous weapons, and explosives charges. Combined, the two categories comprise nearly 50 percent of all charges (see table 14).

Table 13: Charges Filed Against Individuals in Federal Domestic Terrorism-Related Cases, October 2010 through July 2021

Offense Category	Number of Charges	Percent of Charges
Protected persons and places charges	962	25.2
Firearms, dangerous weapons, and explosives charges	826	21.6
Threats and other unlawful communications charges	292	7.64
Obstruction of justice charges	232	6.07
Assault charges	224	5.86
Criminal conspiracy charges	175	4.58
Fraud and other misrepresentation charges	173	4.53
Racketeering and organized crime charges	159	4.16
Violent unrest charges	146	3.98
Controlled substances charges	143	3.93
Transportation systems charges	65	1.70
Property and trespass charges	43	1.13
Civil rights charges	35	0.92
Theft and stolen property charges	34	0.89
Sexual misconduct, domestic violence and stalking charges	31	0.84
Terrorism charges	29	0.76
Forfeiture charges	25	0.65
Federal tax charges	24	0.63
Counterfeiting, forgery and evasion charges	23	0.60
Criminal detention and supervision charges	21	0.55
Immigration and customs charges	20	0.52
Weapons of mass destruction charges	19	0.50
General forfeiture charges	18	0.47
Homicide-related charges	18	0.47
Criminal role charges	14	0.37
Kidnapping and hostage taking charges	9	0.26

**Appendix IV: Expanded List of Charges in
Federal Domestic Terrorism-Related Cases**

Offense Category	Number of Charges	Percent of Charges
National security and foreign relations charges	9	0.24
U.S. Postal Service charges	9	0.24
Robbery and burglary charges	6	0.16
Animal rights extremism charges	5	0.13
Nature and wildlife conservation areas charges	5	0.13
Passport and visa fraud charges	4	0.10
Adulteration, misbranding, and inspection charges	2	0.05
Counterfeiting, forgery and financial systems charges	1	0.03
Cybersecurity charges	1	0.03
Indian country charges	1	0.03
Prison and release condition charges	1	0.03
Property damage and trespass charges	1	0.03

Source: GAO analysis of EOUSA data. | GAO-23-104720

Appendix V Comments from the Federal Bureau of Investigation



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

January 10, 2023

Ms. Triana McNeil
Director
Homeland Security and Justice
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. McNeil:

Preventing terrorist attacks, from any place, by any actor, remains the Federal Bureau of Investigation's (FBI) top priority. The FBI uses all available tools to combat domestic terrorism. The threat posed by domestic violent extremism and hate crimes is on the rise in recent years, and the number of FBI investigations has increased significantly. Last week marked the second anniversary of the January 6 assault on the U.S. Capitol, and the unprecedented efforts by the Department of Justice, including the FBI, to investigate and hold accountable all who engaged in violence, destruction of property, and other criminal activity on that day. The FBI continues to reflect on its role in preventing domestic terrorism, and appreciates the Government Accountability Office's (GAO) interest in this crucial issue.

As noted in GAO's report, the FBI is the lead federal agency responsible for investigating all crimes involving terrorist activities or acts in preparation of terrorist activities within the statutory jurisdiction of the United States. Within the United States, these responsibilities include the collection, coordination, analysis, management, and dissemination of intelligence and criminal information as appropriate. In addition to our statutory authorities, the FBI understands that to be successful in the counterterrorism mission, it is crucial that we continue to work effectively with our federal, state, local, tribal, territorial, and foreign partners. The FBI has established Joint Terrorism Task Forces (JTTFs) across all 56 FBI field offices, to leverage enduring partnerships with federal, state, local, tribal, and territorial agencies to detect, identify, and disrupt terrorist threats. There are many more state, local, tribal, and territorial law enforcement officers on the ground than there are federal agents, and they may be the first to encounter individuals planning terrorist acts within their communities.

We are grateful that GAO also recognized the hard work and effort of the FBI, the Department of Homeland Security's Office of Intelligence and Analysis (DHS I&A), and our partners in helping to prevent domestic terrorism. GAO found that both the FBI and DHS I&A have collaborative mechanisms in place to identify and counter domestic terrorism threats, and each agency recognized and effectively leveraged our skills and expertise. In addition, GAO found that the FBI and DHS I&A have leadership with clearly defined roles and responsibilities, and regularly engage with their counterparts to ensure appropriate coordination on efforts. GAO also found that the FBI and DHS I&A have appropriately tried to integrate personnel and use technology to help share information.

**Appendix V Comments from the Federal
Bureau of Investigation**

Ms. Triana McNeil

Despite areas where the FBI and DHS I&A generally followed best practices, successfully worked together, and coordinated effectively in addressing intelligence assessment data, challenges remained, additional coordination efforts could be made, and periodic reviews of policy and information sharing agreement to evaluate agency effectiveness can be conducted. The FBI's ongoing search for ways to improve our efforts in combatting domestic terrorism will be informed by GAO's extensive fact gathering and thorough analysis in this report. The domestic terrorism threat evolves, and we resolve to adapt accordingly to stay ahead of the threat.

The FBI appreciates the GAO's coordination and collaboration in drafting this report. The FBI accepts the GAO's three recommendations and looks forward to updating the GAO on its progress as we work with DHS I&A toward resolving them.

Sincerely,



Robert R. Wells
Assistant Director
Counterterrorism Division

Appendix VI Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

January 25, 2023

Triana McNeil
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO 23-104720, "DOMESTIC
TERRORISM: Further Actions Needed to Strengthen FBI and DHS Collaboration
to Counter Domestic Threats"

Dear Ms. McNeil:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's recognition that the DHS Office of Intelligence and Analysis (I&A) and the Federal Bureau of Investigation (FBI) have collaborative mechanisms in place to work with fusion centers and task forces to identify and counter domestic terrorism threats, and followed leading collaboration practices.

Enhancing our collective ability to prevent all forms of terrorism and targeted violence is a top priority for DHS. In June of 2021, the White House released the first "National Strategy for Countering Domestic Terrorism"¹ to address this challenge to America's national security and improve the federal government's response. This strategy provided a nationwide framework for the U.S. Government to understand and share domestic terrorism-related information; prevent domestic terrorism recruitment and mobilization to violence; disrupt and deter domestic terrorism activity; and confront long-term contributors to domestic terrorism, while embracing the protection of privacy, civil rights, and civil liberties as a national security imperative. DHS worked closely with our federal interagency partners in the development of the strategy, and continues to work closely

¹ <https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>

with these partners, as well as our state, local, tribal, and territorial (SLTT) and non-governmental partners, as we support its implementation.

DHS has taken a number of steps to expand our focus on this threat, while ensuring all available resources are devoted to combating domestic terrorism. These include:

1. I&A established a Domestic Terrorism Branch in March 2021 to ensure DHS has the expertise necessary to produce the sound, timely intelligence needed to combat threats posed by domestic terrorism. Through this team, I&A has enhanced its ability to analyze, produce, and disseminate products that address domestic terrorism threats and inform our stakeholders.
2. In order to be successful in countering threats of terrorism, DHS must have strong partnerships across the federal government and with the local partners we serve. Therefore, I&A has increased our collaboration with the FBI, the Intelligence Community, and other federal interagency and SLTT partners to more comprehensively understand and assess domestic terrorism threats. For example, in October 2022, I&A established a Deputy Under Secretary for Intelligence Partnerships to elevate I&A's partner engagement efforts. This new position and structure elevate our engagement, liaison, and outreach efforts under a single position, ensuring our senior leadership maintains close connectivity with our partners, and providing those partners with a single senior-level touch point within I&A.

In executing this mission, DHS also works closely with Homeland Security Advisors in every state and territory to increase the preparedness of local communities, and through our partnership with the National Network of Fusion Centers. In addition, DHS deploys personnel to the field to share information on a broad range of threats, including terrorism. In support of this collaboration, DHS issued the first ever "Fusion Center Engagement and Information Sharing Strategy" in May 2022,² which outlines our commitment to supporting our law enforcement and homeland security partners in states and cities nationwide and describes how DHS enables information sharing vital to fusion centers' missions and our national security. Further reflecting our collaboration with our federal and SLTT partners, including the FBI and fusion centers, I&A hosted a national Intelligence Summit in August 2022. This summit focused on identifying opportunities to further enhance our domestic information-sharing architecture across all levels of government.

Additionally, in May 2021, DHS established the Center for Prevention Programs and Partnerships (CP3) to enhance the Department's ability to combat terrorism and targeted violence, consistent with privacy protections, civil rights and civil liberties, and other

² https://www.dhs.gov/sites/default/files/2022-06/22_0513_ia_dhs-fusion-center-info-sharing-508.pdf

**Appendix VI Comments from the Department
of Homeland Security**

applicable laws. CP3 works to build safer communities that work together to prevent targeted violence and terrorism, by providing individuals and organizations with funding, training, increased public awareness, and the development of partnerships across every level of government, the private sector, and in local communities across our country.

DHS has also prioritized providing increased grant funding to assist our partners in countering domestic terrorism. For example, the Secretary of Homeland Security designated domestic violent extremism (DVE) as a “National Priority Area” within DHS’s Homeland Security Grant Program in both 2021 and 2022 to support the efforts of our partners prevent, protect against, and respond to threats from DVE.

The draft report contained six recommendations, including three for DHS with which the Department concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for GAO’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H CRUMPACKER Digitally signed by JIM H
CRUMPACKER
Date: 2023.01.25 08:50:24 -05'00'

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Enclosure

**Enclosure: Management Response to Recommendations
Contained in GAO-23-104720**

GAO recommended that the Under Secretary for I&A:

Recommendation 2: In coordination with the Director of the FBI, report domestic terrorism incident data from both agencies in response to the annual update requirement in the NDAA [National Defense Authorization Act] for fiscal year 2020.

Response: Concur. In May of 2021³ and October of 2022,⁴ DHS I&A partnered with the FBI to publish the “Strategic Intelligence Assessment and Data on Domestic Terrorism” reports (NDAA reports) covering the period from 2017-2021. In 2023, I&A’s Domestic Terrorism Branch will again collaborate with FBI to produce an updated NDAA report covering domestic terrorism trends and data from 2022, which will incorporate unique data from I&A’s domestic terrorism incident tracking initiative to complement FBI’s investigative data.

Estimated Completion Date (ECD): December 29, 2023.

Recommendation 4: In collaboration with the Director of the FBI, implement a process to periodically evaluate the effectiveness of collaborative practices to identify and counter domestic terrorism threats.

Response: Concur. DHS I&A’s Domestic Terrorism Branch and FBI’s Domestic Terrorism Strategic Unit currently hold biweekly meetings to discuss deconflicting and developing joint intelligence assessments about ongoing developments with the threat environment. In addition, intelligence analysts from these respective units typically engage daily to discuss the domestic terrorism threat, coordinate intelligence assessments, and collaborate to produce joint assessments on an as-needed basis. Similarly, I&A’s field-based intelligence officers coordinate locally with FBI field offices on domestic terrorism issues and responses to specific incidents to ensure consistency in messaging and information sharing.

Leadership from I&A’s Domestic Terrorism Branch and the Office of Regional Intelligence will prioritize coordination with their FBI headquarters and field-based counterparts to specifically discuss identifying potential new domestic terrorism-related collaborative initiatives and evaluate the effectiveness of existing initiatives.

³ https://www.dhs.gov/sites/default/files/publications/21_0514_strategic-intelligence-assessment-data-domestic-terrorism_0.pdf

⁴ https://www.dhs.gov/sites/default/files/2022-10/22_1025_strategic-intelligence-assessment-data-domestic-terrorism.pdf

ECD: March 31, 2023.

Recommendation 6: In collaboration with the Director of the FBI, assess existing formal agreements to determine if they fully articulate a joint process for working together to counter domestic terrorism threats and sharing relevant domestic terrorism-related information and update and revise accordingly.

Response: Concur. I&A and FBI currently have an existing Memorandum of Understanding (MOU), dated March 4, 2003, “Memorandum of Understanding between the Intelligence Community, Federal Law Enforcement Agencies, and the Department of Homeland Security,” to produce Joint Intelligence Bulletins intended primarily for DHS’s state, local, tribal, territorial, and private sector partners. DHS will pursue discussions with the Department of Justice and FBI leadership regarding I&A analysts located at DHS facilities obtaining access to FBI investigative case information related to domestic and international terrorism, consistent with this existing MOU as well as 6 United States Code (U.S.C.) § 121, “Information and Analysis and Infrastructure Protection,” and 6 U.S.C. § 122, “Access to information.”

ECD: September 29, 2023.

Appendix VII: GAO Contact and Staff Acknowledgements

GAO Contact

Triana McNeil, (202) 512-8777, McNeilT@gao.gov

Staff Acknowledgements

In addition to the above contacts, Dave Lutter (Assistant Director), Jennifer Kamara (Analyst-in Charge), Joshua Ash, Ben Crossley, Christine Davis, Cynthia Grant, Susan Hsu, Amanda Miller, Jan Montgomery, Jon Najmi, Kevin Reeves, Hannah Sachtleben, Aaron Safer-Lichtenstein, Celia Sawyer, Abena Serwaa, Janet Temko-Blinder, Mary Turgeon, Sarah Veale, and Chris Zubowicz made key contributions to this report.

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