

Questions for the Record from Senator Charles E. Grassley
Hearing on “Examining the ‘Metastasizing’ Domestic Terrorism Threat After the Buffalo
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Michael German

Fellow

Liberty and National Security Program

Brennan Center for Justice

Washington, DC

- 1. You’ve retweeted and been quoted in numerous articles espousing the notion that white supremacy is infiltrating law enforcement and affecting bias in its operations. A recent FBI assessment Congress received found no evidence of this. What specific studies, figures, or other factual information can you provide to substantiate those claims?**

Any FBI assessment provided to Congress that found no evidence of white supremacist infiltration or bias in law enforcement is directly contradicted by contemporaneous internal reporting by FBI agents and analysts, as well as significant academic research and national news reporting. FBI officials reportedly made a similar false claim to Rep. Jamie Raskin in September 2020, while refusing to testify at a subcommittee hearing he chaired on the topic.¹ Just few months later, 39 sworn police officers from 17 states were revealed to be among those who assaulted the Capitol on January 6, 2021, at least six of whom were charged with crimes, including an active agent of the Drug Enforcement Agency.² These law enforcement officers were part of a broader seditious conspiracy organized by white supremacist and far-right militant groups like the Proud Boys, Oath Keepers, and Three Percent militia.³ They allegedly committed these crimes alongside

¹ U.S. House of Reps., Cmte. on Gov. Oversight, Subcmte. on Civil Rights and Civil Liberties, *Confronting White Supremacy (Part IV): White Supremacists in Blue – The Infiltration of Local Police Departments*, September 29, 2020, <https://oversight.house.gov/legislation/hearings/confronting-violent-white-supremacy-part-iv-white-supremacy-in-blue-the>.

² Jonathan Ben-Menachem, “The Cops at the Capitol,” *The Appeal*, January 13, 2021, <https://theappeal.org/the-cops-at-the-capitol/>; Hannah Rabinowitz, “Ex-DEA Agent Charged With Bringing Gun to Capitol Grounds on January 6 and Lying to FBI,” CNN, July 20, 2021, <https://www.cnn.com/2021/07/20/politics/dea-agent-charged-capitol-insurrection/index.html>; Vida B. Johnson, “The Capitol Insurrection and White Supremacist Infiltration of US Police,” *Yes Magazine*, January 19, 2021, <https://www.yesmagazine.org/opinion/2021/01/19/capitol-insurrection-police-white-supremacy>.

³ Natalie Reneau, et al., “How the Proud Boys Breached the Capitol on January 6: Rile Up the Normies,” *New York Times*, June 17, 2022, <https://www.nytimes.com/video/us/politics/10000008392796/rile-up-the-normies-how-proud-boys-breached-the-capitol.html>.

people openly carrying well-known symbols of white supremacy.⁴ Afterward, *ABC News* reported on a leaked February 2021 memo from the FBI's San Antonio office warning that white supremacists inspired by a popular neo-Nazi newsletter were "very likely" seeking law enforcement affiliation and would "almost certainly" use these careers to gain access to law enforcement information.⁵ The memo said it was based on information gathered from FBI investigations conducted from 2016 to 2020, and from informants who had "excellent access." Rep. Raskin sought a meeting with the FBI to discuss this conflicted intelligence reporting, but no public statements were released.⁶

Unfortunately, the FBI does not collect or publish data about the white supremacists in law enforcement identified in its domestic terrorism or civil rights investigations, but the February 2021 memo was not the first time that internal intelligence reports documented that white supremacist infiltration of law enforcement was a serious concern to counterterrorism agents and analysts. My 2020 Brennan Center research paper on this topic recounted warnings given to me by my FBI superiors as an undercover agent preparing for assignments against white supremacist and far-right militant groups in the 1990s, and later documentation of similar warnings.⁷ For instance, the FBI's 2015 Counterterrorism policy guide warned agents investigating domestic terrorism cases against white supremacists and far-right militants that the subjects of these investigations, "often have identified active links to law enforcement officers."⁸ In an indication of the seriousness in which the FBI viewed this potential compromise of its investigations, the policy guide instructs agents investigating white supremacists and far-right militants to modify their normal tactics to prevent other law enforcement agencies from seeing terrorist watch list entries for these subjects. An October 2006 FBI intelligence assessment entitled, *White Supremacist Infiltration of Law Enforcement*, identified several white supremacist groups that had encouraged members to infiltrate law enforcement. It noted that "active and retired law enforcement personnel are known to have joined the [neo-Nazi group National Alliance] and in some cases have held regional leadership roles in the organization."⁹ The 2006 assessment referenced a case in which

⁴ Kristin Romey, "Decoding The Hate Symbols Seen at the Capitol Insurrection," *National Geographic*, January 12, 2021, <https://www.nationalgeographic.com/history/article/decoding-hate-symbols-seen-at-capitol-insurrection>.

⁵ Josh Margolin, "White Supremacists 'Seek Affiliation' with Law Enforcement to Further Their Goals, Internal FBI Report Warns," *ABC News*, March 8, 2021, <https://abcnews.go.com/US/white-supremacists-seek-affiliation-law-enforcement-goals-internal/story?id=76309051>.

⁶ Letter from Rep. Jamie Raskin to FBI Director Christopher Wray, March 9, 2021, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-03-09.JR%20to%20Wray-FBI%20re%20White%20Supremacist%20Infiltration.pdf>.

⁷ Michael German, "Hidden in Plain Sight: Racism, White Supremacy, and Far-Right Militancy in Law Enforcement," *Brennan Center for Justice*, August 27, 2020, https://www.brennancenter.org/our-work/research-reports/hidden-plain-sight-racism-white-supremacy-and-far-right-militancy-law#footnoteref4_cpraj2h.

⁸ Federal Bureau of Investigation, Counterterrorism Division, *Counterterrorism Policy Directive and Policy Guide*, April 1, 2015 (updated November 18, 2015), 89, <https://assets.documentcloud.org/documents/3423189/CT-Excerpt.pdf>.

⁹ Federal Bureau of Investigation, Counterterrorism Division, Intelligence Assessment, *White Supremacist Infiltration of Law Enforcement*, October 17, 2006, 4, <http://s3.documentcloud.org/documents/402521/doc-26-white-supremacist-infiltration.pdf>.

the federal government leveled civil rights charges against a Boonsboro, Maryland police officer it indicated was possibly affiliated with the Ku Klux Klan for making racist phone calls threatening to shoot Black schoolchildren and a Black city council member. It referenced another case against a California corrections officer who was convicted of Racketeering for assisting the Nazi Low Riders in distributing drugs and committing assaults.¹⁰ These anecdotal references do not reflect the full scope of the problem, however, as racial bias is expressed in other conduct. Between 2008 and 2017, the Justice Department's Civil Rights Division negotiated 23 reform agreements with police departments across the country, after finding a pattern-and-practice of civil rights violations that often involved racial and gender bias and discrimination.¹¹

Though they don't have access to FBI domestic terrorism investigations or DOJ civil rights investigations cited in these reports, academic researchers and journalists have regularly documented law enforcement officials affiliating with white supremacist and far-right militant groups. Georgetown Law professor Vida B. Johnson compiled a spreadsheet of police officers from over 100 different law enforcement agencies in 49 states that were accused of involvement in white supremacist groups and/or engaging in overtly racist behavior.¹² *USA Today* reported that a leak of Oath Keeper membership applications included over 200 applicants who claimed they were current or former law enforcement officers, including 21 people the paper confirmed were still active police officers.¹³ A 2020 article in *The Atlantic* reported that in addition to state and local police officers, Oath Keeper membership applications included individuals claiming employment in Immigration and Customs Enforcement, the Secret Service, and the FBI.¹⁴ Police officers in California, Washington, and Connecticut were fired or retired after their affiliations with the Proud Boys were exposed in the media.¹⁵ A fourth officer from Florida, who joined the Proud Boys in 2019, was charged with obstructing law

¹⁰ FBI, *White Supremacist Infiltration of Law Enforcement*, at 6; Associated Press, "Ex-Md. Cop Pleads Guilty to Civil Rights Crimes," August 8, 2006, <https://www.nbcnews.com/id/wbna14254762>.

¹¹ United States Department of Justice, Civil Rights Division, *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994-present*, 15, 2017, <https://www.justice.gov/crt/file/922421/download>.

¹² Vida B. Johnson, "KKK in the PD: White Supremacist Police and What to Do About It," *Lewis and Clark Law Review*, April 1, 2019, <https://law.lclark.edu/live/files/28080-lcb231article2johnsonpdf>.

¹³ Will Carless, et al., "Hack Exposes Law Enforcement Officers Who Signed Up to Join Anti-Government Oath Keepers," *USA Today*, Oct. 2, 2021, <https://www.usatoday.com/story/news/nation/2021/10/02/oath-keepers-hack-exposes-law-enforcement-officers-across-us/5949281001/>.

¹⁴ Mike Giglio, "A Pro-Trump Militant Group Has Recruited Thousands of Police, Soldiers, and Veterans," *The Atlantic*, November 2020, <https://www.theatlantic.com/magazine/archive/2020/11/right-wing-militias-civil-war/616473/>.

¹⁵ Dennis Romero, "California Police Officer Fired Over Ties to Proud Boys Extremist Group," *NBC News*, April 9, 2021, <https://www.nbcnews.com/news/us-news/california-police-officer-fired-over-ties-proud-boys-extremist-group-n1263706>; Elizabeth Zwirz, "Washington State Deputy Fired After Photos Show Her Wearing Shirt With Proud Boys Logo: Report," *Fox News*, July 23, 2018, <https://www.foxnews.com/us/washington-state-deputy-fired-after-photo-shows-her-wearing-shirt-with-proud-boys-logo-report>; Michael Kunzleman, "Police Officer Retires After Far-Right Group Ties Revealed," *Associated Press*, November 1, 2019, <https://apnews.com/article/kevin-wilcox-police-retire-proud-boys-77dd9b8871ff4aaaab63861ee04e1f11>.

enforcement officers at the Capitol on January 6, 2021.¹⁶ Law enforcement officers affiliated with traditional white supremacist groups like the Ku Klux Klan and League of the South have been uncovered in Kentucky, Florida, Michigan, Alabama, and Louisiana over just the past decade.¹⁷

Of course, not all white supremacists join traditional white supremacist groups, so it is important to consider other indicators of racism among law enforcement officers. A *Reveal News* investigation identified hundreds of current and former police officers trading in racist and anti-Semitic materials online as “members of Confederate, anti-Islam, misogynistic or anti-government militia groups on Facebook.”¹⁸ *The Plain View Project*, founded in 2017, searched public social media posts of police officers in eight major U.S. cities, identifying over 5,000 hateful and racist posts and comments by 3,500 officers, leading to dozens of dismissals and disciplinary actions by police departments across the country.¹⁹ *ProPublica* exposed a Facebook group of 9,500 participants in which current and former members of the U.S. Border Patrol posted xenophobic, racist, and sexist content.²⁰ A whistleblower reported that classified federal intelligence community chat rooms, which included FBI accounts, were a “‘dumpster fire’ of hate speech directed at minorities, women, gays, transsexuals and Muslims.”²¹ A Loyola Law School report on the 50-year history of violent and racist “deputy gangs” within Los Angeles Sheriff’s Department found “that people of color living in the deputy gang ‘turf’ experience an inordinate amount of heavy-handed, aggressive policing, including racial

¹⁶ Kelly Weill, “Ex-Cop Charged in Riot Joined Proud Boys While on the Force,” *The Daily Beast*, July 16, 2021, <https://www.thedailybeast.com/ex-florida-cop-nathan-tuck-charged-in-capitol-riot-joined-proud-boys-while-on-force>.

¹⁷ Ewan Palmer, “Kentucky Sheriff’s Officers Leave Over KKK Membership Revelations,” *Newsweek*, November 11, 2021, <https://www.newsweek.com/kkk-kentucky-jefferson-county-sheriff-officers-1648407>; Michael Winter, “KKK Membership Sinks Two Florida Cops,” *USA Today*, July 14, 2014, <https://www.usatoday.com/story/news/nation/2014/07/14/florid-police-kkk/12645555/>; Justin Carissimo, “Two Alabama Police Officers Forced to Leave the Department For Belonging to White Supremacy Hate Group,” *The Independent*, June 22, 2015, <https://www.independent.co.uk/news/world/americas/two-alabama-police-officers-forced-to-leave-the-department-for-belonging-to-white-supremacy-hate-group-a17551.html>; Mariel Padilla, “Michigan Police Officer is Terminated After KKK Application was Found in His Home,” *New York Times*, September 13, 2019, <https://www.nytimes.com/2019/09/13/us/officer-charles-anderson-ku-klux-klan.html>; Rachelle Blinder, “Louisiana Cop Fired After Pictured Giving Nazi Salute at KKK Rally,” *New York Daily News*, September 3, 2015, <https://www.nydailynews.com/news/national/louisiana-fired-pictured-giving-nazi-salute-kkk-article-1.2347308>.

¹⁸ Will Carless and Michael Corey, “To Protect and Slur,” *Reveal News*, June 14, 2019, <https://revealnews.org/article/inside-hate-groups-on-facebook-police-officers-trade-racist-memes-conspiracy-theories-and-islamophobia/>.

¹⁹ Dakin Andone, “This Group Found Thousands of Offensive Facebook Comments by Police. Here’s What You Should Know,” *CNN*, June 20, 2019, <https://www.cnn.com/2019/06/20/us/plain-view-project-what-is/index.html>.

²⁰ A.C. Thompson, “Inside the Secret Border Patrol Facebook Group Where Agents Joke About Migrant Deaths and Post Sexist Memes,” *ProPublica*, July 1, 2019, <https://www.propublica.org/article/secret-border-patrol-facebook-group-agents-joke-about-migrant-deaths-post-sexist-memes>.

²¹ Jeff Stein and Howard Altman, “Spy Agency Chat Room Hate Speech Draws Hill Scrutiny,” *Spytalk*, March 26, 2022, <https://www.spytalk.co/p/spy-agency-chat-room-hate-speech>.

profiling and excessive force.”²² Fifteen Torrance, California police officers were suspended and prosecutors had to dismiss criminal charges in 90 cases after the Los Angeles Times uncovered racist, anti-Black, anti-Semitic, and sexist text messages shared among the officers, as well as excessive uses of force and other misconduct.²³

State government agencies that examined racism in local police departments also uncovered substantial evidence of racist misconduct. An audit of five internal investigations at five California law enforcement agencies by the State Auditor in 2022 discovered biased conduct targeting “communities of color, immigrants, women and LGBTQ people.”²⁴ Though the audit did not uncover evidence indicating police officers were members of hate groups, it did identify six officers who had expressed support for violent far-right militant groups in public social media posts, including the Proud Boys and the Three Percent militia.²⁵ The audit determined these police departments did not conduct proper investigations into allegations of biased conduct and did not have adequate policies to guard against bias within the forces. The Minnesota Human Rights Commission investigated the Minneapolis Police Department and found the department engaged in a pattern and practice of race discrimination in violation of the Minnesota Human Rights Act. The investigation found significant racial disparities particularly targeting Black people in uses of force, traffic stops, searches, citations, and arrests, and a culture in which police officers and supervisors used racist and sexist epithets with impunity. It also discovered police officers were using covert social media accounts to monitor and troll Black individuals, leaders, and organizations without any law enforcement or public safety purpose. Police officers did not use covert accounts to track white supremacist groups.²⁶

All of these data points paint an overwhelming and highly disturbing picture. A comprehensive understanding of the extent to which law enforcement agents have been infiltrated by white supremacists, however, will require the FBI and DOJ to appropriately exercise the authorities they possess to investigate, collect data, and report on law enforcement involvement in civil rights violations and domestic terrorist activities.

²² Loyola Law School Center for Juvenile Law and Policy, “Deputy Gangs in the Los Angeles Sheriff’s Department,” 42, January 2021, https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/6260892f-16cb-406b-a727-95cd1dc636b8/CJLP_Report_LASD_Deputy_Gangs_012021.pdf.

²³ Alexandra Meeks, et al., “Authorities in California Dismiss 90 Cases So Far Due to the Involvement of Torrance Officers Under Investigation for Racist Texts,” *CNN*, December 9, 2021, <https://www.cnn.com/2021/12/09/us/torrance-police-california-investigation-racist-texts/index.html>.

²⁴ Kevin Rector, “Bias, Far-Right Sympathies Among California Law Enforcement Going Unchecked,” *Los Angeles Times*, April 28, 2022, <https://www.latimes.com/california/story/2022-04-28/audit-of-california-law-enforcement-finds-extreme-bias-among-officers-goes-unchecked>.

²⁵ Auditor of the State of California, *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct*, April 26, 2022, <http://auditor.ca.gov/reports/2021-105/index.html#section1>.

²⁶ Minnesota Department of Human Rights, *Investigation into the City of Minneapolis and the Minneapolis Police Department*, April 27, 2022, https://mn.gov/mdhr/assets/Investigation%20into%20the%20City%20of%20Minneapolis%20and%20the%20Minneapolis%20Police%20Department_tcm1061-526417.pdf.

Accordingly, Congress should require the Justice Department and FBI to: 1) investigate all allegations of police officer affiliations with subjects of its domestic terrorism investigations involving white supremacist and far-right militant groups; 2) bar police officers found to have engaged in civil rights abuses or affiliated with violent racist and far-right militant groups from federal task forces and place them on Brady lists to require disclosure to any defendants they might testify against, and, 3) issue public reports documenting the scope of the problem of racism, white supremacy, and far-right militancy in law enforcement and the mitigation efforts the Justice Department will undertake to protect the civil rights of those policed by these racist officers. Finally, Congress should strengthen whistleblower protection laws to ensure that FBI employees and other law enforcement officers who see waste, fraud, abuse, and illegality on the job can safely report this misconduct without fear of retaliation.

- 2. Your written testimony stated that Congress has already provided “all the statutory tools needed to address white supremacist and far-right militant violence” but the problem is that “[DOJ] and FBI choose not to prioritize the investigation and prosecution of white supremacist and far-right violence.” In Congress we most frequently hear the exact opposite concern. While the FBI has numerous undercovers, confidential human sources, and subject matter experts on white supremacy and militia extremism, it has comparatively few targeting black racially motivated violent extremists, anarchists, incels, and numerous other ideologies. In fact, we have been briefed that white supremacy and militia extremism are the FBI domestic terrorism program’s greatest areas of strength. A demonstration of this is the FBI’s complete unpreparedness for the anarchist violence of the 2020 riots. Do you have any studies, figures, or factual information to support your claim?**

The FBI does not publish the number of investigations, undercover operations, or confidential sources used in its domestic terrorism program. However, an analysis of a massive number of leaked intelligence reports from the FBI, DHS, and state and local law enforcement fusion centers in June 2020 challenges the notion that law enforcement intelligence operations were disproportionately focused on white supremacists and far-right militants rather than what it calls Black racially motivated violent extremists and anti-fascists before and during the 2020 protests.²⁷ In 2018 and 2019, the FBI had a nation-wide program called “Iron Fist” that focused on intelligence collection against so-called Black Identity Extremists, described broadly to include Black activists protesting racism and police violence.²⁸ The FBI deployed numerous agents dressed in black

²⁷ Ryan Devereaux, “Leaked Documents Show Police Knew Far-Right Extremists Were the Real Threat at Protests, Not ‘Antifa,’” *The Intercept*, July 15, 2020, <https://theintercept.com/2020/07/15/george-floyd-protests-police-far-right-antifa/>.

²⁸ Ken Klippenstein, “Leaked FBI Documents Reveal Bureau’s Priorities Under Trump,” *The Young Turks*, August 8, 2019, <https://tyt.com/stories/4vZLCHuQrYE4uKagy0oyMA/mnzAKMpdtiZ7AcYLd5cRR>.

clothing and masks to infiltrate Portland protests in 2020 to gather video-recorded evidence of vandalism and arson.²⁹ Justice Department prosecutors federally charged approximately 75 Portland protesters in 2020, but none of the Proud Boys that regularly crossed state lines to commit violence at protests in Oregon and elsewhere across the country.³⁰ Unnamed federal prosecutors, analysts, and FBI counterterrorism agents told the *New York Times* that the Trump administration's demands to focus domestic terrorism investigations on anti-fascist protesters diverted resources from investigations into white supremacist and far-right militant violence committed by individuals and groups that later joined forces to attack the U.S. Capitol on January 6, 2020.³¹

More to the point, domestic terrorism investigations should not be evenly distributed between the different ideological categories that the FBI somewhat arbitrarily establishes, rather, they should be initiated in proportion to (and in response to) actual incidents of deadly violence meeting the statutory definition of domestic terrorism perpetrated by organized groups.³² Academic and advocacy groups that collect data about domestic terrorism from media reports and court records almost universally find that among the groups that the FBI categorizes as domestic terrorists, white supremacists and far-right militants persistently commit the vast majority of violent acts that seriously wound and kill people.³³ These private entities typically use different methods, however, which results in significant variances in the data they report, and they are often dependent on law enforcement and media reporting that paint an incomplete picture. Having an objective count based on comprehensive data obtained through law enforcement investigations would provide a better accounting of these crimes and their impact on our society.

Unfortunately, the FBI and DOJ do not collect domestic terrorism incident data. As I discussed in my testimony, this failure is deliberate, and one of the many methods used to minimize the threat of white supremacist violence. That, in turn, allows the FBI to choose

²⁹ Mike Baker, et al., "The FBI Deployed Surveillance Teams Inside Portland Protests," *New York Times*, December 22, 2022, <https://www.nytimes.com/2021/12/22/us/portland-protests-fbi-surveillance.html>.

³⁰ Aram Rostum, "EXCLUSIVE: Senate Pushes FBI on Intelligence 'Fail' on the Proud Boys," *Reuters*, May 3, 2021, <https://www.reuters.com/world/us/exclusive-senate-pushes-fbi-intelligence-fail-proud-boys-2021-05-03/>; Andy Campbell, "Leaked Proud Boy Chats Show Members Plotting Violence at Rallies," *Huffington Post*, May 22, 2019, https://www.huffpost.com/entry/proud-boys-chat-logs-premeditate-rally-violence-in-leaked-chats_n_5ce1e231e4b00e035b928683.

³¹ Adam Goldman, et al., "How Trump's Focus on Antifa Distracted Attention From the Far-Right Threat," *New York Times*, January 30, 2021, <https://www.nytimes.com/2021/01/30/us/politics/trump-right-wing-domestic-terrorism.html>.

³² 18 U.S.C. § 2331(5).

³³ See, e.g., Arie Perliger, "Challengers From the Sidelines," Combating Terrorism Center at West Point, January 15, 2013, <https://ctc.westpoint.edu/challengers-from-the-sidelines-understanding-americas-violent-far-right/>; Seth Jones, et al., "The War Comes Home, The Evolution of Domestic Terrorism in the United States," Center for Strategic and International Studies, October 22, 2020, <https://www.csis.org/analysis/war-comes-home-evolution-domestic-terrorism-united-states>.

which groups to target with domestic terrorism investigations based on its own institutional biases and preferences, rather than objective evidence defining the threat.

In response to this problem, the Domestic Terrorism Prevention Act (DTPA) required the FBI to produce data from both sides of the ledger: the number of violent incidents and fatalities for each of the FBI's domestic terrorism categories and the number of investigations, indictments, and convictions for each category, so that congressional overseers could evaluate whether the FBI and DOJ were properly allocating their domestic terrorism resources to address the most violent actors. As explained in my written statement, the FBI quickly modified its domestic terrorism categories to obscure this data. While the DTPA did not pass, a similar reporting requirement was passed in the National Defense Authorization Act of 2020.³⁴ The FBI's reporting in response to this requirement has been late and deficient. In a May 2021 report, published almost a year after it was due, the FBI acknowledged that it did not collect domestic terrorism incident data. It also failed to report total numbers of investigations for each category, and the number of agents assigned to these cases (data which it could easily compile). It instead simply reported generalized information about arbitrarily selected cases.³⁵

Comparing the data from this report to domestic terrorism incident and fatality numbers published by just one advocacy organization, the Anti-Defamation League, demonstrates that the FBI significantly undercounts white supremacist violence. For instance, in the May 2021 NDAA report, the FBI claimed there were 5 domestic terrorism incidents in 2017 resulting in 8 deaths, including 2 fatalities committed by white supremacists and 5 by Black "racially motivated violent extremists." The ADL, however, identifies 34 murders committed by domestic extremists in 2017, including 18 by white supremacists, 2 by right-wing militants, and 5 by Black extremists.³⁶ In 2018, the FBI reported 6 lethal domestic terrorism incidents resulting in 17 deaths, with 16 of the killings committed by white supremacists and one more by a far-right militant (sovereign citizen). The ADL documented 50 fatalities, 49 of which were committed by what it characterized as "right-wing extremists," including 39 by white supremacists.³⁷ In 2019, the FBI said there were 5 attacks causing 32 deaths, including 24 fatalities committed by white supremacists. The ADL reports 17 incidents involving 42 murders, 38 by right wing extremists including 34 by white supremacists and 2 by sovereign citizens.³⁸ This data makes clear the FBI systematically undercounts fatal incidents committed by right-wing extremists, particularly white supremacists. Given that the ADL and other advocacy or academic

³⁴ Pub. Law 116-92, December 20, 2019, <https://congress.gov/116/plaws/publ92/PLAW-116publ92.pdf>.

³⁵ Federal Bureau of Investigation & Dept. of Homeland Security, *Strategic Intelligence Assessment and Data on Domestic Terrorism*, May 2021, 21, <https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>.

³⁶ Anti-Defamation League, "Murder and Extremism in the United States in 2017," January 12, 2018, <https://www.adl.org/resources/report/murder-and-extremism-united-states-2017>.

³⁷ Anti-Defamation League, "Murder and Extremism in the United States in 2018, January 18, 2019, <https://www.adl.org/resources/report/murder-and-extremism-united-states-2018#the-perpetrators>.

³⁸ Anti-Defamation League, "Murder and Extremism in the United States in 2019, February 26, 2020, <https://www.adl.org/resources/report/murder-and-extremism-united-states-2019>.

organizations that collect their data from public records routinely publish the incident details so they can be fact-checked, it is striking that the FBI continues to release much lower white supremacist homicide counts without any attempt to reconcile the disparities. At a minimum, this conspicuous failure indicates the FBI's lack of interest in accurately tracking violent acts.

Another method the FBI and DOJ use to minimize white supremacist violence in the domestic terrorism program is by labeling this violence as something other than domestic terrorism, typically as civil rights violations/hate crimes, or simply as gang crimes or violent crimes. The civil rights and violent crimes are much lower priority programs, but the effect of this labeling has even more serious consequences, as DOJ defers the vast majority of hate crime and violent crime investigations to state and local law enforcement authorities. DOJ Bureau of Justice Statistics reports, based on national crime victim surveys, indicate there are more than 200,000 violent hate crimes per year.³⁹ Working with five federal hate crime statutes, federal prosecutors charge an average of less than 25 defendants with hate crimes each year.⁴⁰ Since less than 15 percent of state and local agencies acknowledge hate crimes occur in their jurisdictions (some states don't have hate crime laws and others don't enforce them for a variety of reasons), many of the crimes DOJ defers to local law enforcement are simply not investigated or not recorded.⁴¹ It is unknown how many of these tens of thousands of hate crimes that are not investigated, or the thousands that a small percentage of police agencies do report each year, may have been committed by people affiliated with white supremacist or far-right militant groups. By failing to collect this data, the FBI and DOJ forfeit intelligence about organized white supremacist violence committed across the country.

Another way DOJ minimizes the domestic terrorism threat from white supremacists is re-categorizing them as gang members after they are sent to prison, even as they continue committing racist violence in prison and once they return to society. Though experts estimate there are thousands of members of white supremacist prison gangs, the significant levels of deadly violence they commit inside and outside prison is not regularly counted in domestic terrorism statistics. Perhaps surprisingly, DOJ quietly investigates and prosecutes a significant number of white supremacists (perhaps even the majority) through its Violent Crimes Task Forces, often led by the Bureau of Alcohol, Tobacco, and Firearms, or Organized Crime Drug Enforcement Task Forces led by the Drug Enforcement Administration, rather than Joint Terrorism Task Forces led by the

³⁹ Grace Kena and Alexandra Thompson, "Hate Crime Victimization, 2005-2019," *U.S. Dept. of Just., Bureau of Justice Statistics*, September 2021,

https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/hcv0519_1.pdf.

⁴⁰ Mark Motivans, "Federal Hate Crime Statistics, 2005-2019," *U.S. Dept. of Just., Bureau of Justice Statistics*, July 2021, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/fhcv0519.pdf>.

⁴¹ See, e.g., Michael German and Emmanuel Mauleon, "Fighting Far-Right Violence and Hate Crimes," *Brennan Center*, July 1, 2019, <https://www.brennancenter.org/our-work/research-reports/fighting-far-right-violence-and-hate-crimes>.

FBI. These are often significant cases that result in dozens of arrests, solving murders, and recovering dangerous weapons by utilizing organized crime and gang statutes that impose lengthy sentences. But this data is not typically captured in evaluations of the domestic terrorism threat from white supremacist groups. These cases are typically initiated at the request of state law enforcement rather than through any systematic national strategy for tackling white supremacist gangs produced by DOJ.⁴² I referenced several examples in my written testimony, but another important case was an investigation by the Bureau of Alcohol, Tobacco, and Firearms, along with local authorities, regarding a white supremacist group called “the Unforgiven.” The original indictments in 2018 charged 39 individuals with drug and firearms violations.⁴³ Another set of indictments issued in 2021 charged 16 members of the group with racketeering, alleging acts including murder, kidnapping, the corruption of law enforcement officers to gather information about the investigation and smuggle contraband to prison inmates, and an assault with a deadly weapon against Black Lives Matter protesters at a rally.⁴⁴ This case clearly demonstrates that these white supremacist “gangs” commit racist crimes that fit the definition of domestic terrorism despite the government’s rebranding. If Congress wants a clear picture of the threat violent white supremacist groups inflict on our society, it should require DOJ to collect and publish data that includes all white supremacists’ violent crimes from every investigative category, no matter which agency conducts these investigations.

⁴² See, e.g., John Winterdyk, et al., “Prison Gangs: A Review and Survey of Strategies,” U.S. Dept. of Just., Bureau of Justice Programs, August 2009, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/prison-gangs-review-and-survey-strategies>.

⁴³ Press Release from the U.S. Attorney for the Middle District of Florida, “Thirty-nine ‘Unforgiven’ and ‘United Aryan Brotherhood’ Gang Members and Associates Indicted for Arms and Drug Trafficking in Pasco County,” November 15, 2018, <https://www.justice.gov/usao-mdfl/pr/thirty-nine-unforgiven-and-united-aryan-brotherhood-gang-members-and-associates>.

⁴⁴ Press Release from the U.S. Attorney for the Middle District of Florida, “Sixteen Members of White Supremacist Gang Indicted for Violent Crimes in Aid of Racketeering,” July 15, 2021, <https://www.justice.gov/usao-mdfl/pr/sixteen-members-white-supremacist-gang-indicted-violent-crimes-aid-racketeering>.