

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

June 7, 2022

Justin E. Herdman

Former U.S. Attorney for the Northern District of Ohio

- 1. Many in Congress have been briefed that the nature of extremism is changing. Young people, often young men, become interested in violence, and often search for an ideology that they feel will justify the violence they wish to commit. These ideologies are often highly personalized and can involve mainstream political ideas or even absurd ideas. How much are we now seeing mixed or very individualized belief systems in domestic terrorism attackers?**

Response

The ideological commitment of those who engage in violent attacks with a political/racial motivation, especially mass casualty attacks, appears to be increasingly based on an individual’s self-radicalization, whether as part of a small online community or entirely driven by that individual’s idiosyncratic consumption of extremist material. As a result, the motives of these individuals to engage in an attack are not necessarily linked to a traditional ideology. While there are certainly exceptions to what appears to be this overall trend, in my experience as a federal prosecutor, I found that individuals who were inclined to engage in politically- or racially-motivated violence became fixated on planning for an attack first and sought ideological justification for that violence secondarily, at best.

While there may be general and broad ideologies that are cited by violent extremists as motivation, these tend to be intellectually unformed, based on short-lived or fleeting consumption of political doctrines, and frequently fueled by internet-inspired (and factually inaccurate) conspiracy theories. Moreover, these motivational justifications do not easily fit any categorization along the traditional political spectrum. For example, anti-government extremists have used violence, and will continue to target, any public official (particularly law enforcement) or institution regardless of current political alignment.

As I stated during my testimony to the Committee, ideology is helpful in identifying individuals who possess the baseline motivation to conduct an attack, particularly against communities of color, ethnicity, or faith, but modern violent extremists often bring a blurred and incoherent belief system to their plots. This means that the political outcomes sought by these domestic terrorists will often seem unserious or fanciful, but that does not make them any less dangerous. An individual with a self-developed series of hatreds or grievances can accelerate from theory to action very quickly, and with very little prompting. For this reason, network-level and organizational cases against identified violent groups are important, but they will not capture the very serious threat posed by individual extremists who are not tethered to others by a common set of beliefs.

- 2. In the hearing, we heard argument that the Trump Administration ended the tracking of “white supremacist” cases. My understanding from FBI briefing is that career FBI agents consolidated white racially motivated violent extremism and black racially motivated violent extremism into a single broader category during Trump’s presidency, mostly because they received so much criticism from the left over the term they used to describe black racism. White and black racist extremism are still separately tracked, as they are in the reports we receive from FBI.**

Under President Trump, racially motivated violent extremism was moved to a top threat with jihadism. Also under Trump, the first white supremacist group was designated as a terrorist group, the Russian Imperial Movement. President Trump was the first president with Jewish members of the First Family.

Did you ever perceive in your time as U.S. Attorney that the Administration devalued white racially motivated violent extremist cases?

Response

Absolutely not. In the less than four years that I served as United States Attorney, in the Northern District of Ohio alone we prosecuted multiple defendants on the federal level who were motivated by white supremacist or white, racially-motivated extremism. One example I cited in my written testimony was the prosecution of James Reardon for making violent threats against the Jewish Community Center of Youngstown, along with a related firearms charge. Our office also prosecuted an avowed neo-Nazi, Matthew Slatzer, with illegal possession of a firearm based on his prohibited status as a domestic violence offender. We also engaged a number of federal partners, including the FBI and U.S. Marshals Service, on multiple occasions in a variety of different faith venues for multi-denominational conversations about ensuring safety and security in places of worship, especially against the threat posed by white racially or ethnically motivated extremists. These efforts were fully supported by Department of Justice leadership and had the backing of the overall Administration.

- 3. Congress has requested and received numerous reports about domestic terrorism, including one pursuant to the 2021 NDAA, one pursuant to the 2021 appropriations, and we have more coming from the 2022 NDAA and the omnibus appropriations. Is there a balance to be reached between time spent on the primary mission and time spent reporting to Congress?**

Response

I believe that there is an appropriate balance to be struck. While Congress has an essential oversight role to play, I would encourage the Committee to identify the most meaningful data that would assist Congress in assessing the overall nature of the domestic terrorism threat, any trends that might indicate an increase or decrease in threats to potential targets (e.g., particular faith or ethnic communities), the effectiveness of law enforcement’s

investigative tools, and the success of counter-terrorism prosecutions. While every federal law enforcement official recognizes the importance of oversight, I would simply ask that data requests take into account the difficulty in obtaining the information, the overall importance of the specific report to objectives such as those outlined above, and perhaps offer a well-founded explanation of the rationale for the request. Doing so will not only ensure timely and accurate reporting of data, but would also likely result in a more productive discussion between the reporting agency and Congress about the effectiveness of counter-terrorism programs.

- 4. I understand that there has been an assessment that white supremacism is the most persistent domestic terrorist lethal threat to the homeland. This statement has many qualifiers, because there are so many other threats. One threat is jihadist cases, which are all classified as international terrorism and often kill Americans abroad. I believe Director Wray has said there are something like 5,000 international and homegrown jihadist investigations that are not considered domestic terrorism, compared to about 3,000 domestic terrorism investigations.**

The FBI has told us that jihadism, racist violence, and antigovernment extremism are now all considered top band threats. After the attempted murder of Justice Kavanaugh, they may make the same assessment of pro-abortion extremism.

Is it accurate to say there are numerous threats to the homeland, numerous threats from terrorist movements, and numerous lethal threats?

Response

As I stated in my written testimony to the Committee, I am concerned about the varied threats posed by all extremists and the growing volume of those threats. While I acknowledged the profound and pervasive threat posed by white supremacists, I remain very troubled by the broad anti-government movements that are increasingly engaged in violent attacks, especially focused on law enforcement. These extremists pose a continuing and, I believe, increasingly serious threat to our communities, institutions, and political process. Importantly, these politically motivated, anti-government extremists do not fit neatly into “right wing” or “left wing” categorizations – what unites them is a desire to use violence to achieve political objectives, sow chaos, and undermine law enforcement.

On top of this domestic terrorism threat is the ever-present existence of international terrorism groups that are still intent on committing mass-casualty attacks within the United States. Unfortunately, with the expansion of terrorist safe havens in places like Afghanistan, I believe it is only a matter of time before we see a concerted and well-planned attempt to attack the homeland from groups such as Al Qaeda and ISIS. Given the number of threats presented to our law enforcement community, I remain very concerned about our nation’s ability to quickly identify and disrupt terrorist plots before they occur, particularly those perpetrated overseas and brought to our shores by groups with a well-established history of plotting harm to our nation.

- 5. When you work in law enforcement, are you ever able to ignore or deprioritize a threat of violence so you can focus resources somewhere else? What determines which threats you will work?**

Response

Law enforcement is not able to ignore any threat of violence. An effective law enforcement response, however, will be able to quickly assess the severity of the threat, to analyze the likelihood of the threat manifesting into violence, and to coordinate with a number of stakeholders to mitigate that threat. While I served as United States Attorney, I saw the volume of incoming threat reports to the FBI increase exponentially – notably after the fatal shootings at Marjory Stoneman Douglas High School in Parkland, Florida. Handling the wide variety of these complaints was a taxing responsibility for the agency and, though there have been notable missed opportunities to address specific threats, the FBI’s protocols for analyzing these threats are a starting place for developing a meaningful threat assessment tool for law enforcement agencies. I believe that any additional support offered by the Committee, or Congress as a whole, to efficiently manage high-volume threat reporting would be an incredibly useful exercise that would ultimately preserve the safety and security of American communities.

Questions for the Record from Senator Thom Tillis
Hearing on “Examining the ‘Metastasizing’ Domestic Terrorism Threat
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Justin E. Herdman
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- 1. During your time as US Attorney and on the Attorney General’s Advisory Committee, what actions did the Department of Justice take to expand its investigations to cover violence by extremist ideologies of all kinds?**

Response

While I served as United States Attorney from 2017 to 2021, I observed the Department of Justice aggressively pursue investigations against all violent extremists, regardless of their perceived ideology. From my perspective as U.S. Attorney, our district engaged in a comprehensive threat assessment focused on all of the FBI’s national security programs, including international and domestic terrorism, and ensured that our prosecutorial resources were aligned with FBI staffing on national security squads. We also conducted extensive outreach to local law enforcement to establish an effective channel of communication for reporting and/or assessing threat actors motivated by political, racial, religious, or ethnic ideologies. In particular, I found that DOJ’s ability to leverage federal statutes designed to combat hate crimes offered advantages to local law enforcement and resulted in a natural collaboration in disrupting ideologically-driven violence. As an overall matter, I am proud of the DOJ’s record of investigating and prosecuting violent extremism during my tenure as U.S. Attorney. I believe that we assessed the facts of each case, applied the law, and made fair and appropriate decisions about cases that were pursued without regard to the political nature of any individual’s ideology. As far as I am concerned, the simple set of questions should be posed by federal prosecutors are: did this person violate a federal law and, if so, is this an appropriate set of facts on which that person should be held accountable in federal court? If the answer to both of those questions is “yes” then a federal investigation and/or prosecution should be sought.

- 2. Do you believe the Department is doing enough now to ensure that ideologically motivated violence is being prevented or prosecuted?**

Response

I have not served as a Department of Justice official since January 8, 2021. As a result, I do not feel qualified to answer a question about the current effectiveness of federal law enforcement’s initiatives to prevent and prosecute ideologically-motivated violence.

- 3. Based on your experience, is there additional statutory authority that DOJ needs in order to prevent ideologically motivated violence?**

Response

As I stated in my written testimony to the Committee, I think that we were successful in the prosecutions brought during my tenure as U.S. Attorney because they were a priority area for our office. We prosecuted a wide variety of terrorism threats – involving both international and domestic actors – using a broad array of statutes. These included use of hate crimes statutes to prosecute an ISIS supporter and the use of a material support statute to prosecute a purely domestic terrorism actor. In short summary, I believe that the current suite of federal laws is adequate to deter and disrupt domestic terrorist attacks.