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Terrorism: An Evolving Threat

Micah Millsaps

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TERRORISM: AN EVOLVING THREAT

*Micah Millsaps**

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I. INTRODUCTION

On March 15, 2019, Brenton Tarrant, a twenty-eight-year-old white male, posted a livestream video on Facebook just moments before opening fire on members of the Al Noor Mosque in Christchurch, New Zealand.¹ Tarrant took the lives of forty-one individuals before proceeding to the Linwood Islamic Centre to carry out his violent plan to kill Muslims.² Fifty-one lives were lost that day at the hands of a terrorist in the name of white supremacy.³ In addition to broadcasting his attack worldwide, Tarrant posted a sixteen-thousand-word manifesto to a popular hate-filled forum—8chan.⁴ Tarrant exploited various avenues of social media to draw attention to his cause, which played out exactly as he had hoped.⁵ The terrorist attack in New Zealand sparked a series of attacks in the U.S. in the name of white supremacy;⁶ the deadliest was the shooting in El Paso, Texas.⁷ On August 3, 2019, Patrick Crusius, a twenty-one-year-old white male, opened fire at a Walmart shopping center in

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1. *Christchurch Shooting Live Updates: 49 Are Dead After 2 Mosques Are Hit*, N.Y. TIMES (Mar. 14, 2019), <https://www.nytimes.com/2019/03/14/world/asia/new-zealand-shooting-updates-christchurch.html> [<https://perma.cc/FY3J-923N>] [hereinafter *Christchurch Shooting*].
2. See SOUFAN CTR., WHITE SUPREMACY EXTREMISM: THE TRANSNATIONAL RISE OF THE VIOLENT WHITE SUPREMACIST MOVEMENT 6 (2019), <https://thesoufancenter.org/wp-content/uploads/2019/09/Report-by-The-Soufan-Center-White-Supremacy-Extremism-The-Transnational-Rise-of-The-Violent-White-Supremacist-Movement.pdf> [<https://perma.cc/H5AG-7D7M>]; see also *Christchurch Shooting*, *supra* note 1.
3. See SOUFAN CTR., *supra* note 2, at 26.
4. Taylor Lorenz, *The Shooter's Manifesto Was Designed to Troll*, ATLANTIC (Mar. 15, 2019), <https://www.theatlantic.com/technology/archive/2019/03/the-shooters-manifesto-was-designed-to-troll/585058/> [<https://perma.cc/S2CZ-D4H4>].
5. See *infra* Section II.B.
6. See Tim Arango et al., *Minutes Before El Paso Killing, Hate-Filled Manifesto Appears Online*, N.Y. TIMES (Aug. 3, 2019), <https://www.nytimes.com/2019/08/03/us/patrick-crusius-el-paso-shooter-manifesto.html> [<https://perma.cc/BT6K-E2FN>] (“Christchurch has become a rallying cry for extremists the world over.”); see also SOUFAN CTR., *supra* note 2, at 18.
7. *Mass Shooting in El Paso: What We Know*, ANTI-DEFAMATION LEAGUE (Aug. 4, 2019), <https://www.adl.org/blog/mass-shooting-in-el-paso-what-we-know> [<https://perma.cc/TP7X-LQAP>] [hereinafter *Mass Shooting in El Paso*] (“This makes the El Paso shooting the deadliest white supremacist attack in the U.S. in more than 50 years[.]”).

El Paso, Texas.⁸ This attack claimed the lives of twenty-two individuals, left twenty-six wounded, and forced countless others to bear witness to yet another violent act committed because of racial animus.⁹ These were not random acts of violence by disturbed individuals; they were calculated acts of terrorism.¹⁰

Prior to the El Paso attack, Crusius posted a manifesto to the online forum, 8chan, where like-minded individuals go to share and promote extreme right wing ideologies.¹¹ This platform not only hosted Crusius's manifesto, but was also the source of his radicalization, taking the process full circle.¹² Dissemination of violent extremist ideas on unmoderated online forums has fostered a movement of self-radicalization, resulting in a number of mass shootings across the U.S.¹³ Current legislation makes it nearly impossible for the Government to control what is posted and shared online;¹⁴ however, at the request of policymakers and the public, a

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8. Vanessa Romo, *El Paso Walmart Shooting Suspect Pleads Not Guilty*, NPR (Oct. 10, 2019, 4:31 PM), <https://www.npr.org/2019/10/10/769013051/el-paso-walmart-shooting-suspect-pleads-not-guilty> [<https://perma.cc/N7MC-Q9SG>].
 9. *See id.*
 10. Compare Sam Levin, *'It's a Small Group of People': Trump Again Denies White Nationalism Is Rising Threat*, GUARDIAN (Mar. 15, 2019, 8:53 PM), <https://www.theguardian.com/us-news/2019/mar/15/donald-trump-denies-white-nationalism-threat-new-zealand> [<https://perma.cc/BY9Y-7XJR>] (quoting President Trump who, when asked whether he believed white nationalism is on its way to becoming an increasingly large threat, characterized the problem as "a small group of people that have very, very serious problems."), with SOUFAN CTR., *supra* note 2, at 8 ("[W]hite supremacist extremists . . . pose a clear terrorist threat to the United States.").
 11. *See Mass Shooting in El Paso, supra* note 7; *see also* Patrick Lucas Austin, *What Is 8chan, and How Is it Related to this Weekend's Shootings? Here's What to Know*, TIME (Aug. 5, 2019, 2:28 PM), <https://time.com/5644314/8chan-shootings/> [<https://perma.cc/RZ3T-KAVA>].
 12. *See* Drew Harwell, *Three Mass Shootings This Year Began with a Hateful Screed on 8chan. Its Founder Calls It a Terrorist Refuge in Plain Sight.*, WASH. POST (Aug. 4, 2019, 9:51 PM), <https://www.washingtonpost.com/technology/2019/08/04/three-mass-shootings-this-year-began-with-hateful-screed-chan-its-founder-calls-it-terrorist-refuge-plain-sight/> [<https://perma.cc/795P-8GS2>].
 13. *See* SOUFAN CTR., *supra* note 2, at 6; *see also* U.N. DEV. PROGRAMME, PREVENTING VIOLENT EXTREMISM THROUGH PROMOTING INCLUSIVE DEVELOPMENT, TOLERANCE AND RESPECT FOR DIVERSITY 12 (2016), <https://www.undp.org/content/dam/norway/undp-ogc/documents/Discussion%20Paper%20-%20Preventing%20Violent%20Extremism%20by%20Promoting%20Inclusive%20%20Development.pdf> [<https://perma.cc/3L88-LSNK>] ("The killing of 77 young people in Norway in 2011 and the murder of nine worshippers at a church in South Carolina in 2015 both originated from the same hate-filled ideology.").
 14. *See* Steven Beale, Comment, *Online Terrorist Speech, Direct Government Regulation, and the Communications Decency Act*, 16 DUKE L. & TECH. REV. 333, 334–35 (2018).

select few online service providers are attempting to curb the spread of violent extremism through moderation of social media platforms.¹⁵ While these efforts are well-intentioned, the violent acts seen across the nation in recent years have risen to the level of terrorism and should be treated as such.¹⁶ White supremacist extremism poses a complex transnational problem, and the threat requires a composite solution.¹⁷ Current terrorism legislation needs to be reformed, and tools that have proven effective in fighting foreign terrorist threats must be implemented on the domestic stage.¹⁸

Part II of this Comment describes the largest threat of violence facing the U.S.—domestic terrorism—and explores how the free flow of hate-speech and violent content online has created a global problem.¹⁹ Part III highlights some of the limitations government agencies are facing under current U.S. terrorism law in their attempt to thwart acts of domestic terrorism and reprimand individuals whose heinous crimes rise to the level of terrorism.²⁰ Part IV explores crucial avenues to equip government entities with the appropriate resources to prevent acts of terrorism before they occur and to adequately punish those who manage to go undetected and carry such plans to completion.²¹ Part V concludes by summarizing the next steps that must be taken by policymakers if the Government hopes to attain the same level of success it has achieved in containing foreign threats.²²

II. THE EVOLVING THREAT OF TERRORISM

A. *The Rising Threat of Domestic Terrorism*

The word “terrorism” has been closely associated with foreign threats.²³ This is due to the lasting impact and high-level of media coverage of the September 11, 2001 attacks and the threat of ISIS in

15. See Daphne Keller, *Facebook Restricts Speech by Popular Demand*, ATLANTIC (Sept. 22, 2019), <https://www.theatlantic.com/ideas/archive/2019/09/facebook-restricts-free-speech-popular-demand/598462/> [<https://perma.cc/LD74-BHUK>].

16. See SOUFAN CTR., *supra* note 2, at 8 (“From Pittsburgh to Poway and Charleston to El Paso, white supremacist extremists (WSEs) pose a clear terrorist threat to the United States.”).

17. See *id.* at 6–7.

18. See *infra* Part IV.

19. See *infra* Part II.

20. See *infra* Part III.

21. See *infra* Part IV.

22. See *infra* Part V.

23. SOUFAN CTR., *supra* note 2, at 41.

more recent years.²⁴ While jihadist groups and other foreign terrorist entities remain a threat, domestic terrorism committed by extreme right groups has proven much more lethal in recent years.²⁵ According to the Anti-Defamation League (ADL), a prominent anti-hate organization, the term “extreme right” refers to “the white supremacist movement, including its various sub[-]movements, such as neo-Nazis, racist skinheads, and the alt right, among others.”²⁶ Extreme right, “far-right extremism,” and “white supremacy extremism” are terms often used interchangeably to describe various extremist ideologies and racial theories with foundations that stem from the idea of white supremacy.²⁷ A 2017 study conducted by the ADL shows that between September 12, 2001 and December 31, 2016, far-right extremists were responsible for seventy-three percent of all violent extremist attacks in the U.S., compared to the twenty-seven percent credited to radical Islamist violence.²⁸ In 2018, the ADL conducted another study which showed that domestic Islamic extremists were responsible for only two percent of the total number of extremist related deaths that year, while the remaining ninety-eight percent involved far-right extremists.²⁹

In 2019, Congress recognized that “[w]hite supremacists and other far-right-wing extremists are the most significant domestic terrorism threat facing the United States.”³⁰ Violence in the name of white supremacy is, however, not simply a domestic problem affecting only the U.S.; rather, far-right extremism is a transnational problem.³¹ Attacks have occurred all over the world, from Norway to New Zealand, and Canada to the United Kingdom.³² The act of terrorism in Christchurch, New Zealand, discussed in Part I *supra*, and the

24. *See id.* at 28; Alexander Conley, Note, *Obscene Terrorism: Can the First Amendment’s Obscenity Framework Be Applied to Terrorist Speech?*, 51 NEW ENG. L. REV. 345, 357 (2017).

25. SOUFAN CTR., *supra* note 2, at 8–10.

26. *Extreme Right / Radical Right / Far Right*, ANTI-DEFAMATION LEAGUE, <https://www.adl.org/resources/glossary-terms/extreme-right-radical-right-far-right> [https://perma.cc/8ZKS-YZZ5] (last visited Dec. 16, 2020).

27. *See id.*

28. SOUFAN CTR., *supra* note 2, at 9–10.

29. *See* ANTI-DEFAMATION LEAGUE, A REPORT FROM THE CENTER ON EXTREMISM: MURDER AND EXTREMISM IN THE UNITED STATES IN 2018 13 (2019), <https://www.adl.org/media/12480/download> [https://perma.cc/23GP-QEC9]. Seventy-eight percent of all extremist related murders in 2018 were committed by individuals associated with white supremacist groups. *Id.*

30. Domestic Terrorism Prevention Act, S. 894, 116th Cong. § 2 (2019).

31. *See* SOUFAN CTR., *supra* note 2, at 6, 11.

32. *See id.* at 31.

2011 attacks carried out by Anders Breivik in Oslo and Utoya Norway—with a total death count of sixty-nine—are believed to be among the most “high-profile” and influential far-right extremist attacks to date.³³ These attacks, although taking place entirely outside of the U.S., have had a tremendous impact on the U.S., causing an influx of extremist violence in recent years.³⁴ In the aftermath of the aforementioned acts of terrorism, lone actors across the country have taken their advocacy of white supremacy to another level, initiating a violent movement.³⁵ Some examples include the mass shooting of parishioners at a church in Charleston, South Carolina, discussed *infra* Section III.B., the attack on members congregating at the Tree of Life Synagogue in Pittsburgh, Pennsylvania, discussed *infra* Section III.B., and the shooting at a Walmart in El Paso, Texas, discussed *supra* Part I.³⁶ These are only a small fraction of the domestic terrorist attacks that have plagued the U.S. following the 2011 terrorist attack in Norway.³⁷

B. Online Radicalization

In his sixteen-thousand-word manifesto, Brenton Tarrant wrote: “From where did you receive/research/develop your beliefs? . . . The internet, of course. You will not find the truth anywhere else.”³⁸ This statement breathes life into former FBI agent Ali Soufan’s statement that “social media has exacerbated the issue [of domestic terrorism] by helping connect transnational nodes of like-minded individuals and groups.”³⁹ Social media has become a prominent avenue for violent far-right extremists to share their ideas, spread their causes, and radicalize others.⁴⁰ White supremacists all over the world have taken notice of the unique internet laws in the U.S. and exploited its lenient policies to promote their extremist ideologies.⁴¹ An

33. *Id.* at 11, 26–27.

34. *See id.* at 41.

35. *See id.*

36. *See id.* at 8; *see infra* notes 69–74 and accompanying text; *see infra* notes 77–80 and accompanying text; *see supra* notes 6–12 and accompanying text.

37. *See, e.g.,* ANTI-DEFAMATION LEAGUE, *supra* note 29, at 13.

38. Lizzie Dearden, *New Zealand Attack: How Nonsensical White Genocide Conspiracy Theory Cited by Alleged Gunman Is Spreading Poison Around the World*, INDEPENDENT (Mar. 16, 2019, 12:30 PM), <https://www.independent.co.uk/news/world/australasia/new-zealand-christchurch-mosque-attack-white-genocide-conspiracy-theory-a8824671.html> [<https://perma.cc/L32P-6ARM>].

39. SOUFAN CTR., *supra* note 2, at 41.

40. *Id.* at 17.

41. *See, e.g.,* Austin, *supra* note 11 (discussing 8chan as an example of a site that has taken advantage of the lax internet laws in the U.S.).

unmoderated online forum, 8chan, has been ground zero for white supremacist violence in recent years.⁴² Three terrorist attacks in 2019 alone—the shooting in Christchurch, New Zealand, the Poway Synagogue shooting in California, and the El Paso shooting—have been linked to 8chan.⁴³ The individuals responsible for each of these attacks posted lengthy manifestos to 8chan before committing these acts of violence.⁴⁴ Anonymous users on the website not only celebrated the acts of violence but also spread the content across the Internet and promoted the attackers' messages.⁴⁵ The radicalization process comes full circle with the help of unmoderated websites such as 8chan.⁴⁶ In his manifesto, posted to 8chan just nineteen minutes before the attack ensued, the El Paso shooter gave credit to the Christchurch shooter for inspiring him to take action.⁴⁷ Within the confines of his manifesto, Crusius explored his white supremacist ideals and motivations, while also expressing the importance of publicity for the issue, stating: “[D]o your part and spread this brothers!”⁴⁸ While the Poway shooter relied heavily on a similar website, Gab, to promote his cause and spread awareness of his hateful acts, he also posted on 8chan stating: “[W]hat I’ve learned here is priceless. It’s been an honor.”⁴⁹ The increased use of social media to radicalize individuals in all corners of the world has created a decentralized threat which may be more difficult for the Government to detect and control.⁵⁰

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42. See Sean Keane & Oscar Gonzalez, *8chan's Rebranded 8kun Site Goes Offline Days After Launch*, CNET (Nov. 25, 2019, 12:47 PM), <https://www.cnet.com/news/8chan-rebranded-8kun-site-taken-offline-days-after-launch/> [https://perma.cc/48F7-9HSD]. Following its temporary shutdown as a result of the El Paso shooting and its role in that violent attack, 8chan re-entered the online sphere on under a new name: 8kun. *Id.* The website was subsequently shut down again two days later. *Id.*
43. Harwell, *supra* note 12.
44. *Id.*; SOUFAN CTR., *supra* note 2, at 18.
45. Harwell, *supra* note 12.
46. See *supra* notes 6–12 and accompanying text.
47. See Harwell, *supra* note 12; see Arango et al., *supra* note 6.
48. Harwell, *supra* note 12; see Austin, *supra* note 11.
49. See Keegan Hankes et al., *Shooting at Poway Synagogue Underscores Link Between Internet Radicalization and Violence*, S. POVERTY L. CTR. (Apr. 28, 2019), <https://www.splcenter.org/hatewatch/2019/04/28/shooting-poway-synagogue-underscores-link-between-internet-radicalization-and-violence> [https://perma.cc/6LW8-43CH]; see also Harwell, *supra* note 12; see generally Kevin Roose, *On Gab, an Extremist-Friendly Site, Pittsburgh Shooting Suspect Aired His Hatred in Full*, N.Y. TIMES (Oct. 28, 2018), <https://www.nytimes.com/2018/10/28/us/gab-robert-bowers-pittsburgh-synagogue-shootings.html> [https://perma.cc/4A6F-QF9E].
50. See SOUFAN CTR., *supra* note 2, at 35–36.

III. LIMITATIONS ON GOVERNMENT ACTION

A. *Communications Decency Act*

The Communications Decency Act (CDA) is one factor creating a substantial impediment to government action where online radicalization is concerned.⁵¹ The CDA was enacted as part of the Telecommunications Act in 1996 to limit publisher liability in light of the perceived differences between the Internet and other mediums.⁵² Section 230 of the CDA, perhaps the most important piece of internet legislation, states in relevant part: “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”⁵³ This section shields computer service providers from liability when lawsuits arise out of content generated by users on the host’s website.⁵⁴ The types of publishing activity intended to fall under this protection include “monitoring, reviewing, and editing content.”⁵⁵ In *Fields v. Twitter*, the court refused a broad interpretation of Section 230, stating that, “[s]hielding interactive computer service providers from publisher liability for *all content* encourages these companies to create ‘platform[s] . . . allow[ing] for the freedom of expression [of] hundreds of millions of people around the world,’ . . . just as the CDA intended.”⁵⁶

This legislation has been instrumental in expanding social media platforms and in making the Internet what it is today.⁵⁷ While this section of the CDA has been credited for its role in the progression of the online world, it also has tremendous pitfalls.⁵⁸ Under the CDA,

51. See Beale, *supra* note 14, at 338.

52. See Adi Robertson, *Why the Internet’s Most Important Law Exists and How People Are Still Getting It Wrong*, VERGE (June 21, 2019, 1:02 PM), <https://www.theverge.com/2019/6/21/18700605/section-230-internet-law-twenty-six-words-that-created-the-internet-jeff-kosseff-interview> [<https://perma.cc/VMC5-7UNS>].

53. Communications Decency Act of 1996, 47 U.S.C. § 230(c)(1).

54. See Robertson, *supra* note 52.

55. *Fields v. Twitter, Inc.*, 217 F. Supp. 3d 1116, 1123 (N.D. Cal. 2016), *aff’d*, 881 F.3d 739 (9th Cir. 2018).

56. *Id.* at 1129 (emphasis added).

57. See *Section 230 of the Communications Decency Act*, ELECTRONIC FRONTIER FOUND., <https://www.eff.org/issues/cda230> [<https://perma.cc/J8D3-DH6B>] (last visited Dec. 16, 2020) [hereinafter *Section 230*] (“This legal and policy framework has allowed for YouTube and Vimeo users to upload their own videos, Amazon and Yelp to offer countless user reviews, craigslist to host classified ads, and Facebook and Twitter to offer social networking to hundreds of millions of Internet users.”).

58. See *id.*; see Robertson, *supra* note 52.

Internet Service Providers (ISPs) are seldom held liable for inadequate or a complete lack of monitoring and editing mechanisms.⁵⁹ ISPs are therefore not incentivized to create systems to monitor and prevent the spread of hateful or violent speech.⁶⁰ Although some of the largest social media platforms—e.g., Facebook and Twitter—took steps to prevent the spread of hateful and violent content, their measures have only driven extremists to underground, unmoderated platforms.⁶¹ As a result, online platforms such as 8chan, 4chan, Gab, the Daily Stormer, and many others have become cesspools for violence and hatred, leaving it entirely in the hands of ISPs to put an end to underground communities of hate speech.⁶²

B. *Domestic Terrorism Under Current Law*

Current federal law is also grossly inadequate to address the growing concerns surrounding violence by the extreme right.⁶³ Title 18 of the U.S. Code defines acts of domestic terrorism as:

[A]ctivities 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; to 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.⁶⁴

While domestic terrorism is explicitly defined under federal law, it is *not* a federal crime.⁶⁵ Therefore, acts of violence that fall within the

59. See, e.g., *Fields*, 217 F. Supp. 3d at 1129; *Klayman v. Zuckerberg*, 753 F.3d 1354, 1356 (D.C. Cir. 2014); *Doe v. MySpace, Inc.*, 528 F.3d 413, 418–19 (5th Cir. 2008); *Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157, 1162–63 (9th Cir. 2008).

60. See Beale, *supra* note 14, at 344.

61. See Roose, *supra* note 49.

62. See Keller, *supra* note 15; see SOUFAN CTR., *supra* note 2, at 6.

63. See Barbara McQuade, *Proposed Bills Would Help Combat Domestic Terrorism*, LAWFARE (Aug. 20, 2019, 8:49 AM), <https://www.lawfareblog.com/proposed-bills-would-help-combat-domestic-terrorism> [<https://perma.cc/B322-SJFW>].

64. 18 U.S.C. § 2331(5).

65. Kevin Johnson & Kristine Phillips, *After Massacres and Thwarted Plots, Federal Authorities Confront Limits in Fighting Domestic Terrorism*, USA TODAY (Sept. 10, 2019, 3:25 PM), <https://www.usatoday.com/story/news/politics/2019/09/10/feds-confront-limits-domestic-terror-laws-new-plots-appear/1953415001/> [<https://perma.cc/HH8L-FR2A>].

statutory definition of domestic terrorism cannot be treated as federal crimes.⁶⁶ Prosecutors across the country are instead tasked with employing various state and federal charges to prosecute those who commit acts of domestic terrorism.⁶⁷ This has proven to be a challenge, often delivering unsatisfying results.⁶⁸

In 2015, Dylann Roof committed one of the most notable acts of domestic terrorism in recent history.⁶⁹ The twenty-one-year-old white supremacist killed nine African-American parishioners at a church in Charleston, South Carolina.⁷⁰ Like many other white supremacist extremists, Roof posted a manifesto sharing his ideology and the reasoning behind his attack.⁷¹ In his proclamation, Roof “blamed blacks for ‘raping our women’ and taking over ‘our country.’”⁷² Roof’s manifesto and his decision to leave only one witness behind to testify to the events of that day are sufficient considerations to establish that his actions were dangerous to human life and “appear[ed] to be intended to intimidate or coerce a civilian population.”⁷³ Although his actions fell within the statutory definition of domestic terrorism, prosecutors were only able to charge Roof with federal hate crimes.⁷⁴ This attack drew attention to the inadequate terrorism laws in place in the U.S. and emphasized the need for reconstruction.⁷⁵

Despite the apparent need for reform, federal terrorism laws remain unchanged.⁷⁶ On October 27, 2018, Robert Bowers entered the Tree of Life Synagogue in Pittsburgh, Pennsylvania where he killed eleven

66. Trevor Aaronson, *Terrorism’s Double Standard: Violent Far-Right Extremists Are Rarely Prosecuted as Terrorists*, INTERCEPT (Mar. 23, 2019, 8:34 AM), <https://theintercept.com/2019/03/23/domestic-terrorism-fbi-prosecutions/> [https://perma.cc/572L-MHPQ].

67. *Id.*; see Shirin Sinnar, *Separate and Unequal: The Law of “Domestic” and “International” Terrorism*, 117 MICH. L. REV. 1333, 1336 (2019).

68. Aaronson, *supra* note 66.

69. See ANTI-DEFAMATION LEAGUE, *supra* note 29, at 25 (listing Dylann Roof’s attack as one of the ten deadliest acts of violence by domestic extremists over the past six decades).

70. Jesse J. Norris, *Why Dylann Roof Is a Terrorist Under Federal Law, and Why It Matters*, 54 HARV. J. ON LEGIS. 259, 260 (2017).

71. *See id.* at 274.

72. *Id.*

73. *Id.* (“Any murder motivated by a racist ideology is inherently intimidating to the hated population, and any attacker committing such murder clearly intends for that intimidation to occur.”); see 18 U.S.C. § 2331(5).

74. *See* Norris, *supra* note 70, at 273.

75. *See id.* at 259.

76. *See generally* Aaronson, *supra* note 66.

members congregating for religious services.⁷⁷ Bowers's actions can be traced to an anti-Semitic ideology, as his social media postings reflect a hatred for practicing Jews.⁷⁸ The attack on the Tree of Life Synagogue was presumably attributed to Bowers's hatred of Jewish people, making his attack an act of domestic terrorism.⁷⁹ Even though his actions rose to the level of terrorism, Bowers was only indicted on charges of murder, discharging a firearm, and federal hate crimes.⁸⁰

Individuals detained before committing an act of terrorism prove even more difficult to prosecute.⁸¹ For example, prosecutors grappled with the insufficient resources at their disposal when indicting Christopher Hasson on weapons and drug-related charges in early 2019.⁸² Hasson purchased "15 guns, silencers, [and] 1,000 rounds of ammunition" in preparation for the attack the Government believes he planned to commit against prominent politicians and media journalists in the name of white supremacy.⁸³ Despite recognizing Hasson as a domestic terrorist, the Government was unable to prosecute him as such due to the continued absence of legislation making domestic terrorism a federal crime.⁸⁴ Government entities are better equipped to deal with foreign threats in this context because attempt, conspiracy, and material support statutes allow them to act before heinous crimes involving foreign terrorist organizations (FTOs) are actually committed.⁸⁵ Similar provisions do not exist where domestic threats are concerned, making it difficult for

77. Press Release, U.S. Dep't of Just., Additional Charges Filed in Tree of Life Synagogue Shooting (Jan. 29, 2019), <https://www.justice.gov/opa/pr/additional-charges-filed-tree-life-synagogue-shooting> [<https://perma.cc/MSP8-X4FC>] [hereinafter Tree of Life Synagogue Shooting].

78. *Id.* ("[A] statement on his profile expressed the belief that '[J]ews are the children of [S]atan.'").

79. *See id.*; *see also* 18 U.S.C. § 2331(5).

80. *See* Tree of Life Synagogue Shooting, *supra* note 77.

81. *See, e.g.*, Motion for Detention Pending Trial at 1, *United States v. Hasson*, No. GLS-19-63 (D. Md. Feb. 19, 2019).

82. *Id.* In its Motion for Detention Pending Trial, the Government, claiming that Hasson is in fact a domestic terrorist, impliedly stated that it was grasping at straws to convict a terrorist for his attempted crimes. *Id.*

83. Tom Jackman, *Coast Guard Lieutenant Accused of Plotting Mass Attack Pleads Guilty to Gun, Drug Charges*, WASH. POST (Oct. 3, 2019, 4:01 PM), https://www.washingtonpost.com/local/public-safety/coast-guard-lieutenant-accused-of-plotting-mass-attack-pleads-guilty-to-gun-drug-charges/2019/10/03/58c0fbf8-e553-11e9-b403-f738899982d2_story.html [<https://perma.cc/RN4Z-2Y5Y>].

84. *See* Motion for Detention Pending Trial, *supra* note 81, at 1.

85. *See* McQuade, *supra* note 63; *see* 18 U.S.C. § 2332b; *see also* § 2339B(a)–(e).

authorities to intervene and prosecute individuals who have not yet carried out their intended crimes.⁸⁶

Due to the Government's limited resources, the FBI has primarily relied on tips from the public in thwarting plots of domestic terrorism.⁸⁷ In the months following the El Paso shooting, police detained a number of individuals reported by members of the public for expressing intentions to commit acts of mass violence.⁸⁸ The public remaining vigilant and on high alert in the wake of a series of mass shootings prevented these individuals from carrying out what could have been horrific acts of domestic terrorism.⁸⁹ In November of 2019, the Deputy Assistant Director for the Counterterrorism Division of the FBI spoke in Washington, D.C. about the FBI's current counterterrorism strategies.⁹⁰ During this lecture, he stated that "tips from the public will be one [of] the most powerful tools we have in detecting and preventing attacks."⁹¹ This statement emphasizes the lack of resources at the Government's disposal in combatting domestic terrorism.⁹²

While the public was instrumental in thwarting a few individuals who may have potentially carried out acts of mass violence, this is not a sufficient long-term solution.⁹³ For example, the public informed the FBI of a potential attack on the Poway Synagogue in California five minutes before the shooting occurred.⁹⁴ This brief timespan did not offer officials enough time to identify the alleged shooter and take the proper course of action to detain him before the

86. See Domestic Terrorism Prevention Act of 2019, S. 894, 116th Cong. (2019) (introducing agency infrastructure, reporting standards, and funding to address growing concern of domestic terrorism).

87. Johnson & Phillips, *supra* note 65.

88. *Id.* ("A Florida man allegedly vows to 'break a world record' for mass shooting casualties; a disgruntled hotel cook in California threatens to transform a Marriott lobby into a killing field; a Jewish community center in Ohio is the target in a suspected shooting plot.")

89. *See id.*

90. Matthew Alcoke, Deputy Assistant Dir., Counterterrorism Div., Fed. Bureau of Investigation, Remarks at Washington Inst. for Near East Pol'y Counterterrorism Lecture Series: The Evolving and Persistent Terrorism Threat to the Homeland (Nov. 19, 2019), <https://www.fbi.gov/news/speeches/the-evolving-and-persistent-terrorism-threat-to-the-homeland-111919> [<https://perma.cc/WVC4-X9ZH>].

91. *Id.*

92. *See id.*

93. *See* Johnson & Phillips, *supra* note 65.

94. *See* Julia Reinstein, *Someone Found the Poway Synagogue Shooter's Manifesto and Called the FBI Minutes Before the Attack Began*, BUZZFEED NEWS (Apr. 29, 2019, 12:05 PM), <https://www.buzzfeednews.com/article/juliareinstein/8chan-poway-synagogue-shooter-manifesto-fbi> [<https://perma.cc/9Q6G-AH5K>].

attack came to fruition.⁹⁵ If the past is any indication of what is to be expected in the future, the public will not have enough time to alert FBI officials to such attacks before they are carried out.⁹⁶ Another concern involves the sheer number of tips received by officials.⁹⁷ FBI reports show that “[d]uring the first week of August, the period covering the El Paso and Dayton shootings . . . 38,000 tips had streamed into its National Threat Operations Center[.]”⁹⁸

IV. EXPANDING UNITED STATES TERRORISM LAWS

A. *Domestic Terrorism as a Federal Crime*

Following a number of domestic terrorist attacks that plagued the U.S. in 2018, a series of bills were introduced in both the House and Senate to address the rising concern of domestic terrorism.⁹⁹ In March 2019, Senator Richard Durbin introduced the Domestic Terrorism Prevention Act of 2019, the goal of which was to provide government entities with the necessary resources to fight domestic terrorism.¹⁰⁰ This bill did not advocate immediate amendments to U.S. terrorism laws, but instead suggested that government entities, including the FBI and Department of Justice, receive authorization to investigate organizations perceived as domestic threats.¹⁰¹ In August 2019, Democratic Representative Adam Schiff introduced another

95. *See id.*

96. *See id.*; *see also* Harwell, *supra* note 12 (discussing El Paso shooter’s manifesto posted to 8chan minutes before the attack began); *see also* *Christchurch Shooting*, *supra* note 1 (discussing Christchurch shooter’s livestream video posted moments before opening fire).

97. *See* Johnson & Phillips, *supra* note 65.

98. *Id.*

99. *See generally* ANTI-DEFAMATION LEAGUE, *supra* note 29, at 10, 13–15, 23–24 (“[I]n 2018, there were five shooting sprees collectively responsible for 38 deaths and 33 non-fatal casualties.”); *see also* Press Release, Rep. Adam Schiff, Chairman, House Permanent Select Comm. on Intel., Schiff Introduces Legislation to Create a Federal Domestic Terrorism Crime (Aug. 16, 2019), <https://schiff.house.gov/news/press-releases/schiff-introduces-legislation-to-create-a-federal-domestic-terrorism-crime> [<https://perma.cc/EY8A-U4XR>].

100. *See* Domestic Terrorism Prevention Act of 2019, S. 894, 116th Cong. (2019) (the Act is designed “[t]o authorize dedicated domestic terrorism offices within the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation to analyze and monitor domestic terrorist activity and require the Federal Government to take steps to prevent domestic terrorism.”).

101. *Id.* at §§ 4(a)(2)–(3), 6(a), 7–8.

bill titled *Confronting the Threat of Domestic Terrorism Act*.¹⁰² This bill proposed a much-needed amendment to Title 18 of the U.S. Code, which, if implemented, would make domestic terrorism a federal crime.¹⁰³ As discussed, domestic terrorism is already defined under Title 18 of the U.S. Code and largely mirrors the statutory definition of international terrorism.¹⁰⁴ However, one significant difference is that international terrorism is a federal crime under Section 2332b, while no analogous provision currently exists recognizing domestic terrorism as a federal crime.¹⁰⁵

The bill introduced by Representative Schiff also proposed an amendment to 18 U.S.C. § 2339A, which would make it a federal crime to provide material support or resources in furtherance of an act of domestic terrorism.¹⁰⁶ “Material support” in this context includes:

[A]ny property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.¹⁰⁷

Under current federal law, this provision can only be used to prosecute individuals suspected of providing material support to

102. *Confronting the Threat of Domestic Terrorism Act*, H.R. 4192, 116th Cong. § 1 (2019); see McQuade, *supra* note 63. A strikingly similar bill was introduced by Republican Senator Martha McSally. McQuade, *supra* note 63.

103. Compare H.R. 4192 (proposing the inclusion of “Acts of Terrorism Occurring in the Territorial Jurisdiction of the United States” under § 2332 of the U.S.C.), with 18 U.S.C. § 2332b (limiting criminal penalties for terrorist acts to crimes affecting commerce, crimes committed against the U.S. Government, and crimes committed in U.S. waters).

104. See *supra* notes 65–68 and accompanying text; see also 18 U.S.C. § 2331(1). The only notable difference between the statutory definitions is that acts of domestic terrorism must “occur primarily *within* the territorial jurisdiction of the United States” while international terrorism must “occur primarily *outside* the territorial jurisdiction of the United States[.]” Compare 18 U.S.C. § 2331(1) (defining international terrorism) (emphasis added), with § 2331(5) (defining domestic terrorism) (emphasis added).

105. See Johnson & Phillips, *supra* note 65.

106. See H.R. 4192 § 2.

107. 18 U.S.C. § 2339A(b)(1).

international terrorists.¹⁰⁸ However, the Government predominantly relies on Section 2339B in cases involving international terrorism.¹⁰⁹ Both provisions proscribe anyone from providing material support or resources: Section 2339A prohibits providing such support to aid *acts* of terrorism,¹¹⁰ while Section 2339B prohibits the same conduct in support of FTOs.¹¹¹ Creating an analogous provision under Section 2339B to prohibit individuals from providing material support to domestic terrorist organizations (DTOs) is not feasible under current law, as the Government has yet to compile and make publicly available a list of organizations classified as domestic threats.¹¹² In relying on Section 2339A to prevent material support in cases involving domestic terrorism, Representative Schiff attempts to remedy the gap in legislation without the need for a designated DTO list.¹¹³

B. Addressing the Concerns

The amendment to Section 2339A¹¹⁴ is a primary aspect of Representative Schiff's proposed bill and suggested changes to terrorism legislation in general, which has received significant criticism.¹¹⁵ One explanation for this reaction is the perceived overuse and abuse of Section 2339B, which has been used to secure convictions of U.S. citizens allegedly involved in furthering the objectives of FTOs.¹¹⁶ The material support provisions have been

108. Compare H.R. 4192 § 2 (proposing the inclusion of “[a]cts of terrorism occurring in the territorial jurisdiction of the United States” under § 2339A(a)), with 18 U.S.C. § 2339A(a).

109. See 18 U.S.C. § 2339B.

110. § 2339A.

111. § 2339B.

112. See JEROME P. BJELOPERA, CONG. RSCH. SERV., R44921, DOMESTIC TERRORISM: AN OVERVIEW 57–58 (2017).

113. See H.R. 4192 § 2.

114. See *supra* notes 106–08 and accompanying text.

115. Matt Ford, *The Danger of a Domestic Terrorism Law*, NEW REPUBLIC (Aug. 15, 2019), <https://newrepublic.com/article/154785/danger-domestic-terrorism-law> [<https://perma.cc/Q69F-BZUZ>].

116. See *id.*; see also Sinnar, *supra* note 67, at 1355–56. Tarek Mahanna's case provides an example. Ford, *supra* note 115.

Federal prosecutors brought material-support charges against the Pennsylvania-born man in 2009 for providing assistance to Al Qaeda. That assistance, according to prosecutors, came in the form of translating publicly available Al Qaeda documents into English. . . . He received a 17-and-a-half year prison sentence in 2012.

subject to scrutiny because such laws encroach on constitutionally protected rights—particularly the right to free speech and association.¹¹⁷ First Amendment concerns drive the immense reservation in amending terrorism statutes to criminalize acts of domestic terrorism.¹¹⁸ For example, the overreaching effects of material support statutes in cases involving international terrorism raise concerns that, if applied to domestic terrorism, constitutionally protected conduct (e.g., sharing online memes posted by white supremacist groups, forwarding manifestos, or linking and sharing copies of books inspiring such organizations) will subject U.S. citizens to severe criminal penalties.¹¹⁹ *Holder v. Humanitarian Law Project* is a frequently cited case exemplifying the overreaching effects of the material support provisions.¹²⁰ In that case, domestic organizations and U.S. citizens challenged Section 2339B, claiming that the material support provision—which prohibited the organizations from providing lawful assistance to designated FTOs—violated their constitutional right to free speech and association.¹²¹ The objective of these individuals and organizations was to provide lawful support to the humanitarian and political sectors of two FTOs, not to support the organizations' terrorist activities.¹²² The Supreme Court held that Section 2339B is to be interpreted as prohibiting U.S. citizens from providing material support or resources to organizations when the person or group providing such support knows the organization is a designated FTO or has connections to terrorism; it did not, however, choose to extend the mens rea requirement to the intent behind providing material support to FTOs.¹²³ Therefore, the individuals and organization challenging the constitutionality of Section 2339B were prohibited from providing any kind of material support or resources to the FTOs, despite the fact that their intentions

While Mahanna expressed verbal support for Osama bin Laden's cause at times, the ACLU noted in 2012 that prosecutors offered no evidence that he was in communication with Al Qaeda or acted at the organization's behest. His conviction rested on the theory that he had advanced their cause simply by translating their texts.

Id.

117. See Sinnar, *supra* note 67, at 1367–68; see also Ford, *supra* note 115.

118. See Sinnar, *supra* note 67, at 1367.

119. See Ford, *supra* note 115.

120. See generally 561 U.S. 1 (2010); see Sinnar, *supra* note 67, at 1368.

121. *Holder*, 561 U.S. at 7–8.

122. *Id.* at 10.

123. See *id.* at 16–17.

were not to further the unlawful objectives of the organizations.¹²⁴ The Court recognized that the conduct in question involved speech, but clarified that speech is not protected in all instances, specifically in the context of terrorism.¹²⁵

In upholding the constitutionality of Section 2339B, even when free speech is limited by government action, the Supreme Court held that material support “frees up other resources within the organization that may be put to violent ends[,] . . . [and] lend[s] legitimacy to foreign terrorist groups—legitimacy that makes it easier for those groups to persist, to recruit members, and to raise funds—all of which facilitate more terrorist attacks.”¹²⁶ Although this rationale was applied in the context of international terrorism, the same concerns *can* and *should* be echoed when support is given to domestic organizations.¹²⁷ The Court also referenced diplomacy reasons for allowing Section 2339B to prohibit otherwise protected speech.¹²⁸ By allowing U.S. citizens to provide support to FTOs that other countries are vigorously fighting to dismantle, the U.S. would impair its relationships with those countries.¹²⁹ This concern is overlooked in terms of domestic terrorism because domestic organizations are perceived as being a threat only to the U.S.;¹³⁰ however, white supremacist groups—the primary domestic threat—operate in various cells in countries all over the world and therefore present an equally applicable reason for extending material support provisions in cases of domestic terrorism.¹³¹ A few countries, such as Canada and the United Kingdom, have already taken steps to combat terrorism linked to white supremacist ideologies.¹³² If the U.S. continues to allow material support to be given freely to these organizations, it could eventually be perceived as hindering the efforts taken by other countries.¹³³ This is especially true considering Section 230 of the CDA provides terrorists worldwide access to platforms which enable these organizations to spread their message,

124. *See id.* at 14–17.

125. *See id.* at 27–29.

126. *Id.* at 30.

127. *Cf. Sinnar*, *supra* note 67, at 1333, 1336–37, 1371 (discussing how domestic terrorist threats are handled differently by the Government and law enforcement as compared to international terrorist threats, even though domestic terrorism poses a more direct threat to Americans).

128. *Holder*, 561 U.S. at 32.

129. *Id.* at 32–33.

130. *See Sinnar*, *supra* note 67, at 1371.

131. *See supra* Section II.A.

132. *See SOUFAN CTR.*, *supra* note 2, at 12.

133. *See id.*

radicalize, and mobilize.¹³⁴ Having upheld legislation that allows the threat of terrorism to evolve and grow, the U.S. must begin taking steps to combat the spread of white supremacist violence.¹³⁵

Amending Title 18 to include a material support charge applicable to those acting in furtherance of domestic terrorism will not only address the diplomacy concerns, but will also be instrumental in detecting and preventing the largest domestic threat confronting the U.S. government: the lone wolf actor.¹³⁶ Each of the domestic terrorist attacks described thus far was carried out by individuals characterized as lone wolf actors.¹³⁷ “[T]errorist lone actors (lone wolves) . . . generally operate autonomously and in secret, all the while drawing ideological sustenance—not direction—from propagandists operating in the free market of ideas.”¹³⁸ Lone actors have proven to be a great challenge for law enforcement as they lack official membership in or in connection with specific organizations.¹³⁹ Another reason for this challenge is that under the current federal structure, “[u]p until the moment the trigger is pulled, the quintessential, and typical, lone wolf will not have violated any laws.”¹⁴⁰ This gap in legislation is precisely why prominent white supremacist leaders have promoted leaderless resistance over the years.¹⁴¹ Not only are lone actors often able to go undetected, but

134. See Section 230, *supra* note 57 (“The legal protections provided by CDA 230 are unique to U.S. law[] . . . [which] makes the U.S. a safe haven for websites that want to provide a platform for controversial or political speech and a legal environment favorable to free expression.”).

135. See *infra* text accompanying notes 161–66.

136. See generally *Terrorism*, FBI, <https://www.fbi.gov/investigate/terrorism> [<https://perma.cc/2UL7-XZ7M>] (last visited Dec. 16, 2020).

137. See *supra* Sections II.A., III.B.

138. BJELOPERA, *supra* note 112, at 2.

139. See *Terrorism*, *supra* note 136.

140. Beau D. Barnes, Note, *Confronting the One-Man Wolf Pack: Adapting Law Enforcement and Prosecution Responses to the Threat of Lone Wolf Terrorism*, 92 B.U.L. REV. 1613, 1654 (2012).

141. Jared Keller, *There Are No Lone Wolves*, PAC. STANDARD (May 22, 2018), <https://psmag.com/news/there-are-no-lone-wolves> [<https://perma.cc/2EQU-U9UL>]. “After several high-profile crimes committed by organized white supremacist groups during the ‘70s and ‘80s, the Federal Bureau of Investigation had started getting tough on ‘coordinated forms of militancy,’ . . . Decentralized ‘lone wolves’ allowed white supremacists to to [sic] thwart conspiracy statutes. And it worked.” *Id.* “When hundreds of ‘lone wolves’ are reading the same websites, talking to each other, consuming the same stories, picking up easily accessible weapons, and killing the same targets, they have become a pack.” *Id.* (quoting David M. Perry, *How White American Terrorists Are Radicalized*, PAC. STANDARD (Mar. 26, 2018), <https://psmag.com/social-justice/how-white-american-terrorists-are-radicalized>).

once reprimanded, the organization as a whole is not negatively impacted.¹⁴²

Although the threat of white supremacy is one that should be approached with as much vigor and force as that which is used in the war against international terrorism, it must be handled in the least restrictive way possible.¹⁴³ This requires a balancing of civil liberties and national security to determine what lengths must be taken in order to effectively combat domestic terrorism.¹⁴⁴ If implemented correctly, an amendment to Section 2339A would allow government entities to thwart acts of violence before they occur, and would give prosecutors the ability to charge those involved in terrorist conduct to the fullest extent while still limiting the suppression of free speech.¹⁴⁵

Justice Breyer addressed this issue in his dissenting opinion in *Holder*.¹⁴⁶ Justice Breyer stated that it is entirely possible to prevent the criminalization of constitutionally protected speech under Section 2339B.¹⁴⁷ This simply calls for an interpretation which would attach the mens rea requirement to all subsequent elements of the statute, a customary practice for interpreting criminal statutes.¹⁴⁸ The statute prohibits U.S. citizens from “knowingly provid[ing] material support or resources to a foreign terrorist organization.”¹⁴⁹ By requiring those providing material support to not only have knowledge that the organization is an FTO, as the majority suggested, but also to have knowledge that the material support would further the *unlawful* objectives of the organization or have a strong likelihood of doing so, Justice Breyer believed First Amendment concerns would be limited.¹⁵⁰ This interpretation of the material support statute provides that criminal liability for constitutionally protected speech will attach only when the individual intends such speech to further the unlawful objectives of a designated terrorist organization, or when the individual knows there is a strong possibility that it will have that effect.¹⁵¹ This, in Justice Breyer’s opinion, would prevent

142. *See id.*

143. *See* Kenneth Lasson, *Incitement in the Mosques: Testing the Limits of Free Speech and Religious Liberty*, 27 WHITTIER L. REV. 3, 72–73 (2005) (“Individual liberty should be protected to the greatest extent possible, but not at the sacrifice of national security.”).

144. *See id.*

145. *See* McQuade, *supra* note 63; *see also infra* notes 146–53 and accompanying text.

146. *See* *Holder v. Humanitarian L. Project*, 561 U.S. 1, 41 (2010) (Breyer, J., dissenting).

147. *Id.* at 56.

148. *See id.* at 57.

149. *Id.*; *see generally* 18 U.S.C. § 2339B.

150. *Holder*, 561 U.S. at 53.

151. *Id.* at 56–57.

constitutionally protected speech from being criminalized.¹⁵² By adopting this interpretation, or rather, by amending Sections 2339A and 2339B to reflect this interpretation, the Government may be able to address the public's concerns and prevent an overreaching encroachment on lawful, protected speech.¹⁵³

V. CONCLUSION

Domestic terrorism has become one of the largest threats facing the U.S., even surpassing that of foreign terrorism.¹⁵⁴ The U.S. is not equipped to deal with the evolving threat of terrorism, which is evidenced by the series of domestic attacks in previous years by individuals whose acts were driven by white supremacist ideologies.¹⁵⁵ Under current U.S. law, domestic terrorism is not a federally recognized crime, and no system exists for designating white supremacist and other extremist groups as DTOs.¹⁵⁶ This significantly limits the Government's ability to locate and investigate individuals who may be planning to commit acts of terrorism against other U.S. citizens.¹⁵⁷ The increase in domestic terrorist attacks in recent years has yet to inspire a significant change in federal law.¹⁵⁸ As such, the FBI continues to rely on tips from the public in identifying possible terrorist threats.¹⁵⁹ Weeding out lone actors one at a time in the hopes of preventing further acts of terrorism displays a gross underestimation of the severity of the problem.¹⁶⁰

White supremacy extremism is a transnational problem,¹⁶¹ which is exacerbated by U.S. internet legislation allowing extremist groups to stay connected and recruit individuals from all corners of the world to join in and sympathize with their cause.¹⁶² Lax policies concerning domestic terrorism not only underestimates the risk to U.S. citizens but also hinder other countries that have taken steps to

152. *See id.* (“Where the activity fits into these categories of purposefully or knowingly supporting terrorist ends, the act of providing material support to a known terrorist organization bears a close enough relation to terrorist acts that, in my view, it likely can be prohibited notwithstanding any First Amendment interest.”).

153. *See id.*

154. *See supra* Section II.A.

155. *See supra* Section III.B.

156. *See* BJELOPERA, *supra* note 112, at 5–6.

157. *See supra* Section III.B.

158. *See supra* text accompanying notes 69–80.

159. *See supra* notes 87–91 and accompanying text.

160. *See supra* notes 87–98 and accompanying text.

161. *See supra* Section II.B.

162. *See* Section 230, *supra* note 57.

mitigate the problem of white supremacy extremism.¹⁶³ Moving forward, U.S. terrorism laws need to be reformed to reflect the growing problem of domestic terrorism facing the U.S.¹⁶⁴ These reforms include, first and foremost, amending 18 U.S.C. § 2332b to include acts of terrorism occurring *within* the U.S.¹⁶⁵ Additionally, legislators need to address the First Amendment concerns surrounding the existing material support statutes and amend Section 2339A to prohibit U.S. citizens from providing material support or resources in furtherance of acts of domestic terrorism.¹⁶⁶ While legislators must take precautions to limit the encroachment on First Amendment rights, a degree of restriction on the right to free speech may be necessary to address the Government's equally important interest in providing national security.¹⁶⁷ U.S. terrorism law needs to be restructured to address the evolving threat of terrorism if there is any hope of suppressing the growing threat of domestic terrorism plaguing the country.¹⁶⁸

163. *See supra* notes 129–33 and accompanying text.

164. *See supra* Section III.B.

165. *See supra* notes 102–05 and accompanying text.

166. *See supra* notes 136–53 and accompanying text.

167. *See supra* notes 147–53 and accompanying text.

168. *See* SOUFAN CTR., *supra* note 2, at 6–7.

