



Experts push for domestic terrorism law after attacks

By STEFANIE DAZIO and ERIC TUCKER August 8, 2019

LOS ANGELES (AP) — Seven days, three mass shootings, 34 dead.

The FBI has labeled two of those [attacks](#), at a Texas Walmart and California food festival, as domestic terrorism — acts meant to intimidate or coerce a civilian population and affect government policy. But the bureau hasn't gone that far with a shooting at an Ohio entertainment district.

Even if there's a domestic terrorism investigation, no specific domestic terrorism law exists in the federal criminal code. That means the Justice Department must rely on other laws such as hate crimes and weapons offenses in cases of politically motivated shootings.

The legal gap has prompted many survivors, victims' families, law enforcement officials and legal experts to call on lawmakers to create a [domestic terrorism law](#) that could aid investigators and punish perpetrators.

“Calling something for what it is an important first step in combating this problem,” said Brian Levin, director of the Center for the Study of Hate and Extremism at California State University, San Bernardino.

However, supporters of a domestic terrorism law say some lawmakers may be reluctant to push legislation that could target white supremacists.

“When you dismiss it as a mass shooting or a hate crime or some crazed gunman, you're minimizing what impact it has,” said Daryl Johnson, a former senior domestic terrorism analyst at the U.S. Department of Homeland Security. “It's a double standard. We should be calling all ideologically motivated violence terrorism, whether it comes from the white variety or the Muslim variety.”

The gunmen in Ohio and Texas appear to be white, while the Gilroy shooter identified himself as Iranian and Italian on social media.

In El Paso, authorities suspect a 21-year-old gunman posted anti-Hispanic writings online before killing 22 people Saturday at a Walmart store.

In Gilroy, authorities say, the 19-year-old attacker who killed three people, including two children, had compiled a “target list” that included religious groups, federal buildings and both major political parties. Search warrant records released Thursday show authorities found a passport, clown mask, wilderness survival guide and bottle rockets — as well as a pamphlet for the garlic festival he targeted — in his car.

In Dayton, Ohio, however, the FBI has not yet said if it considers an attack that killed nine people to be domestic terrorism.

The bureau says the 24-year-old gunman expressed a desire to commit a mass shooting and showed an interest in violent ideology. In addition, posts from what appears to be his Twitter account endorsed communism, bemoaned President Donald Trump’s election and supported Democratic Sen. Elizabeth Warren, who is running for president.

Todd Lindgren, an FBI spokesman in the Cincinnati office, said the bureau is investigating the shooter’s motive and ideologies— including combing through his social media — but he declined to address a potential domestic terrorism aspect of the case.

Domestic terrorism has historically been applied to violent anti-government extremists such as Timothy McVeigh, who was executed for the 1995 Oklahoma City bombing. Crimes targeting African Americans, Jewish people and other minorities have more regularly been treated as hate crimes, rather than terrorist attacks, and investigated by FBI criminal agents instead of counterterrorism agents.

The FBI Agents Association, which represents thousands of active-duty and retired agents, has called for Congress to make domestic terrorism a federal crime to ensure investigators and prosecutors have the “best tools” to fight it.

Mary McCord, former head of the Justice Department’s national security division, has also advocated for such a law.

“It is something we may see come out of this, we may not,” she said.

The punishment for mass killings can be life imprisonment or even death, regardless of the label applied to the crime. Even if a shooter dies, as occurred in California and Ohio, experts said a federal law would help authorities gather evidence and serve as a deterrent.

The legal framework is different in international terrorism cases, where a wide-reaching statute makes it a crime to support a designated foreign terror group such as Islamic State or al-Qaida and often produces arrests long before violence occurs.

As a result, it’s a crime for an American to fly to Syria to join Islamic State, but it’s not illegal for an American to travel in the U.S. to meet with Ku Klux Klan leaders or other white supremacists.

“When politics get involved, we end up playing games,” Levin said. “Had the El Paso killer been named Ahmed, the response of some in government and some in the media would have been markedly different.”

In national security cases with an overseas connection, the FBI can obtain secret surveillance warrants from the Foreign Intelligence Surveillance Court to monitor communications of people they suspect of being agents of a foreign power.

Investigators in domestic criminal cases don’t have that tool. They can apply for court-authorized wiretaps but must show there’s probable cause that such surveillance will turn up criminal activity.

Civil liberties groups wary of additional federal surveillance powers say the FBI and Justice Department already have the tools they need.

The FBI says it doesn’t investigate anyone based on ideology alone. Investigators need some sign that they are planning a crime. Many act alone, without any affiliation to a group.

“If they’re just kind of out there sitting in a basement, not going on anything that we can tie them to, they are very hard to find,” said Robert Anderson, a former executive assistant director in charge of the FBI’s criminal branch.

One similarity between contemporary international and domestic acts of terror is the ease of pulling them off.

The Islamic State has encouraged followers to kill where they are, with whatever weapon they have, instead of plotting grandiose bomb plots. Recent suspects in white nationalist killings have taken a page from that book.

“Honestly, it’s a pretty easy thing to do if you think about it,” Anderson said of mass shootings. “This isn’t like you’re going out and building a bomb, this isn’t like you’re thinking about taking over an airplane.”

Tucker reported from Washington.

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