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ABSTRACT

Terrorism research has gained much traction since the 9/11 attacks, but some sub genres of terrorism, such as right-wing terrorism, have remained under-studied areas. Unsurprisingly data sources to study these phenomena are scarce and frequently face unique data collection obstacles. This paper explores five major, social-scientific terrorism databases in regards to data on right-wing terrorist events. The paper also provides an in-depth examination of the utilization of criminal legal proceedings to research right-wing terrorist acts. Lastly, legal case databases are introduced and discussed to show the lack of available court information and case proceedings in regards to right-wing terrorism.

On Saturday 3 August 2019, 21 year old Patrick Crusius walked into a Walmart in El Paso armed with what authorities identified as a AK-47 style rifle and killed 22 people and injured 26 others.[1] Initial investigations reveal that he had set out to kill as many LatinX as possible, a motive that was further supported by his four-page racist and anti-immigrant manifesto, which went viral after the attack. In the wake of this incident, many contextualized the act as a terrorist attack by a white nationalist, demanding domestic terrorism statutes that can address perpetrators like Crusius adequately. While it appears easy for the public to designate an individual like Crusius as a domestic terrorist, the legal and social scientific reality is a bit more complex. Before new legislation can be enacted, the nature of the underlying problem has to be identified, studied and found to be severe enough to merit such a drastic step. This paper takes an exploratory approach to show that it is difficult to formulate a universal definition of terrorism, but especially for domestic terrorism or right-wing terrorism as a specific category thereof. With that in mind, it shouldn't come as a surprise that research on the topic of right-wing terrorism remains complicated because of a lack of agreed upon features of what constitutes a terrorist act. To highlight these difficulties, the authors analyze five prominent terrorism databases providing different levels of information on right-wing terrorism. The authors also explore the issue as it applies to legal designations. Specifically, the authors show how the lack of one comprehensive legal definition and clear legal language addressing acts of right-wing terrorism can

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hinder investigation of crimes that merit consideration as acts of domestic terrorism. As a result, but also because of past practices post 9/11, information from the federal government regarding legal investigations into terrorism have become difficult to acquire. This has made it challenging for researchers investigating legal outcomes of actual and potential right-wing terrorism, creating an information void in terms of legal proceedings in these cases.

The Challenging Nature of Right-Wing Terrorism

While research on terrorism has had a long history among scholars, interest in this topic increased immensely following the terror attacks on September 11, 2001. An early investigation into research activity in the field of terrorism studies was done by Silke,[2] who estimated that within two to three years of the date of publication of his article, 90% of all terrorism literature will have been written since 9/11. Building upon Silke's findings, Schuurman[3] reviewed 3442 articles published between 2007 and 2016 in nine terrorism journals. One interesting finding relates to the introduction of seven new journals specializing in the study of terrorism to provide a designated space for dissemination of terrorism research. While the yearly publication average was found to be 147 articles in 2007, the average between 2008 and 2016 increased to 367 articles annually. In 2019 Schuurman extended his research to include an analysis of types of terrorism studied by scholars and found research on jihadism to be the most popular, followed by publications on national-liberational groups and left-wing extremist groups. There is, however, an apparent underrepresentation of research on right-wing extremist violence and terrorism, which creates a dangerous gap allowing these groups to continue their actions in relative anonymity. [4]

One possible explanation for the underrepresentation of research on right-wing extremist violence and terrorism might be the lack of accessible and trustworthy information, which is closely connected to the difficulty of defining right-wing terrorism in the first place. Many definitions of terrorism have been published, and while there is variation among them, scholars are able to agree on some common features, which has led Alex Schmid (2011), after reviewing 109 definitions, to the third revised academic definition of terrorism as:

> a doctrine about the presumed effectiveness of a special form or tactic of fear-generating, coercive political violence and, on the other hand, to a conspiratorial practice of calculated, demonstrative, direct violent action without legal or moral restraints, targeting mainly civilians and non-combatants, performed for its propagandistic and psychological effects on various audiences and conflict parties.[5]

Less agreement exists on defining what constitutes "right-wing" or "right-wing terrorism," mainly due to the limited amount of research in this area and the highly politicized nature of the topic. Some even argue that there is no such thing as right-wing terrorism, but instead all those activities should be included under the umbrella of right-wing extremism. Right-wing extremism, however is equally difficult to define as Mudde[6] has pointed out in his influential 1995 paper. In his study, which analyzed three right-wing extremist parties from the Netherlands, Germany and Austria, Mudde found that right-wing extremism must be understood as "an ideology that is made up

of five features: nationalism, racism, xenophobia, anti-democracy, and the strong state."[7] Even Mudde, though, was unable to exactly describe which combination of those five features build the basis for right-wing extremism.

Given the difficulty with which scholars have attempted to describe right-wing extremism, it is not surprising that defining right-wing terrorism, which some scholars believe to be a development out of extremism,[8] is equally difficult.

One of the earliest attempts at defining right-wing terrorism was offered by Ehud Sprinzak in 1995 by introducing the concept of "particularistic" right-wing terrorism, which "is not directed primarily against governments [… but] respond often to perceptions of insecurity and threats [such as] 'inferior' human beings 'who want to get more than they deserve.'"[9] Randy Blazak[10] outlines five trends that impact the creation and growth of hate groups including consolidation, websites, leaderless resistance, mainstream politics, and recruitment. He further stipulates that these five trends create an environment conducive to right-wing terrorism:

> (a) stronger, consolidated hate groups with chapters in many states and even nations; (b) an unknown number of leaderless cells that share much of the hate group's philosophy along with a mandate that supports violence against representatives of the government, abortion and multiculturalism; and (c) a populace in which bigoted, antigovernment agendas are reinforced and supported[11]

Similarly, Cunninham[12] provides research on female participants in terrorist organizations and refers to female membership in domestic terrorist organizations by specifically identifying three subsets of right-wing organizations including World Church of the Creator (WCTOC) and the Aryan Nation, as well as militia movements and "patriot" organizations. While Cunningham utilizes the terminology of right-wing terrorism, she fails to provide a clear definition of that terminology. Kathleen Blee,[13] on the other hand, introduces a more detailed definition of "racial terrorism" as "terrorism undertaken by members of an organized White supremacist or pro-Aryan group against racial minorities to advance racial agendas."[14] By connecting violence by organized racist groups with terrorism, Blee is also able to connect two bodies of research that have developed largely as two separate concepts. Heitmeyer delivers a more complex definition on right-wing terrorism as

> a product of political interaction and the radicalization of other forms of threat-based right-wing attitudes and behaviour, such opportunity-dependent violence by (youth) gangs, subcultural violence (such as that of skinhead groups), organized party-political Right extremist violence, and religiously oriented right-wing extremist group violence.[15]

Pete Simi again simplifies the definition describing "White Supremacist Terrorism (WST)" as "the violent expression of a complex set of doctrines produced and communicated by white supremacist groups."[16] In a similar fashion, Ravndal refers to right-wing extremism as "the support of using illegal violence to promote right-wing politics," while defining right-wing terrorists as "non-state actors who strategically use or threaten violence to affect an audience beyond the immediate target to promote

social inequality."[17] More recently, Daniel Koehler published an empirical analysis of the largest database on right-wing terrorism in post-World War II Germany by utilizing the following working definition of right-wing terrorism to identify cases for his study:

[Right-wing terrorism is] "the use of threat of specific forms of middle to high distance violence (e.g. arson, explosives, shootings) executed on the ideological premise of inequality between human beings and in order to challenge the political status quo, -that is, the monopoly of force – through the act of violence as a form of psychological and physical warfare. Typical additional motives can be to demonstrate the authorities' weakness, to cause chaos favoring 'law and order' based politics, frame left-wing groups and cause government crack-down, annihilate key individuals of the 'enemy', destroy infrastructure perceived to be vital to the enemy, prove the movement's stamina to members, and gain political and social power through the reign of fear."[18]

Even though there appear to be significant strides in defining right-wing terrorism as a special form of political violence, many scholars still find it difficult describe the nature of right wing-terrorism because of its relation to hate crimes, as both share many commonalities. The question of whether right-wing terrorism and hate crimes are disparate terms or closely connected is an old one and has been raised in numerous articles. Given America's early history with racially motivated violence from the Ku Klux Klan, this discourse makes sense. As Shimamoto[19] explains, the Enforcement Act of 1870 and the Ku Klux Klan Act of 1871 were introduced to address violence from the KKK in order to protect the rights of targeted victims. Hamm[20] distinguishes the two by outlining that the only hate-crimes that should be considered severe enough to be considered terrorist acts, must be extreme and driven by socio-political goals. Deloughery et al.[21] provide an interesting distinction by looking at terrorism as an "upward crime," in which the perpetrator is of lower status, targeting a group of higher status, while hate crimes are considered "downward crimes," in which the aggressor belongs to the majority, while the victims are usually part of a minority group. Further research finds distinguishing characteristics by analyzing the perpetrators of hate crimes and terrorism. Philips[22] bases his research on McDevitt and his colleagues' extended hate crime typology[23] and finds support that hate crimes are often committed by juvenile thrill seekers who lack a well-developed ideological basis for their actions and are not members of a hate group. LaFree and Dugan[24] find that perpetrators of hate crimes do not publicize the event as opposed to typical terrorists who utilize the media to spread their ideological message, because the choice of their victims and their chosen actions clearly point to their message. While this argument finds some validation, it may not be a helpful category to distinguish right-wing terrorism from hate crimes. Daniel Koehler[25] argues that right-wing terrorists in Germany do not publicize their attacks as this potentially creates more tension to demonstrate powerlessness of the government. The lack of sought publicity could also ensure they do not have to take ownership of the act while still affecting the act's outcome. The bombing an asylum seeker home, for example, does not require clarification.

Some research claims to have identified a similarity between hate crimes and terrorism by classifying both as message crimes. Krueger and Maleckova,[26] for example, argue that hate crimes as well as terrorism do want to send a message to a larger audience beyond the immediate victims. While hate crimes may only affect a single

person or very small group of individuals, perpetrators of such acts do intend to make their ideology known to a larger group. This is obviously also the case for terrorists whose motivations are to share their ideological concerns and demands. Mills et. al[27] list other common traits such as both involving acts of violence against persons and property, common socio-political objectives as a basis for target selection (which also put both crimes into a category of "mission oriented" crimes), and that both crimes can be defensive and retaliatory.

These arguments complicate the definition of right-wing terrorism and therefore also complicate efforts to research right-wing terrorism. Without a standard definition, comparisons and evaluation of data becomes difficult. This difficulty is reflected in the databases collected so far in efforts to research right-wing terrorism.

Data on Right-Wing Terrorism in the United States

Comparatively speaking, the United States has been noted to having the most comprehensive data collections on incidents that broadly can be summarized as right-wing terrorist incidents.[28] Christopher Hewitt, for example, provides valuable data on terrorism in America including accounts for what he defines as white racist/rightist terror, which attribute "31.2% of the incidents and 51.6% of the fatalities between 1954 and 2000,"[29] to these groups. Arie Perliger created a dataset on violent incidents from the far right, including information on 4420 violent incidents that "occurred between 1990 and 2012 within U.S. borders, and which caused 670 fatalities and injured 3053 people."[30] While some of these trends have been contested by other studies,[31] scholars in the United States have provided immensely useful and comprehensive databases on terrorism and extremism across the political spectrum. According to Daniel Koehler[32] some of the best analytical tools for terrorism research can be found in the United States, most notably the global Terrorism database (GDT), the United States Extremist Crime Database (ECDB), the American Terrorism Study (ATS), the Profiles of Perpetrators of Terrorism in the United States (PPT-U.S.) and the Terrorism and Extremist Violence in the United States (TEVUS) project, a relational database that connects information from the aforementioned databases. More importantly, these databases are publicly accessible and therefore are not only available as a resource to researchers, but also to various professional groups who are looking for data on terrorism.

The following analysis seeks to shed light on the content and usability of publicly available social scientific data sources on incidents identified as right-wing terrorist acts or cases, which are accessible to academics and non-academics. The simple guiding research question for this project is "how many incidents of right-wing terrorism have occurred in the United States," which will be answered by utilizing the previously mentioned five major scholarly databases, providing information on right-wing terrorist and extremist incidents:

1. Global Terrorism Database (GTD)
2. US Extremist Crime Database (ECDB)
3. American Terrorism Study (ATS)

4. Profiles of Perpetrators of Terrorism in the US (PPT-US)
5. Terrorism and Extremist Violence in the US (TEVUS)

While those five databases are frequently cited in various scholarly and non-scholarly publications, underlying data collection procedures and issues as they relate to right-wing terrorist incidents are rarely taken into consideration, particularly when it comes to non-scholarly publications. As academic research data becomes publicly available, we should look critically at how the information then is being used, particularly in the context of the media, which drives public discourse on many issues. This next section of the paper will review and compare those five databases to provide a critical analysis of the data available and mechanisms used to compile them. Specifically, the following questions will be addressed for each database:

1. Who collects the data?
2. What type of information is being collected (terrorist incidents, groups, court cases, etc.)
3. What time period is covered?
4. What data collection method is being utilized (particularly which open sources are used)
5. Is the data openly available to the public?

Global Terrorism Database (GTD)

The Global Terrorism Database (GTD),[33] is probably the most comprehensive and widely used open-source database on terrorism incidents world-wide. The GTD, which is now housed at the University of Maryland's National Consortium for the Study of Terrorism and Responses to Terrorism (START), includes world-wide terrorist events from 1970 to 2017 compiling information on over 180,000 cases. The original data platform is based on the Pinkerton Global Intelligence Services (PGIS) database, which was moved to a secure location at the University of Maryland in 2001, also marking the beginning of the digitization of the data. Between 1970 and 1997, PGIS researchers identified and recorded terrorist events based on open source data including wire services, U.S. government reports, newspapers, and information obtained at the local PGIS offices around the globe. The underlying definition of terrorism used to accept an incident into the database was based on an act of "threatened or actual use of illegal force and violence to attain a political, economic, religious or social goal, through fear, coercion or intimidation."[34] In the process of moving, the hard copies of the PGIS database entries for the entire year of 1993 have been lost. The rest of the data was digitized by 70 undergraduate coders and completed in 2005. During this process PGIS data was compared with other terrorism data from the Research and Development Corporation (RAND) and The International Terrorism: Attributes of Terrorist Events (ITERATE) database, which then gave birth to the Global Terrorism Database (GTD1).

In 2006, START received funding from the Department of Homeland Security to extend the GTD1 beyond 1997, which created a break in the data collection method-ology, as some sources used by the PGIS researchers were no longer available. More

importantly, though, this next phase of data collection (GTD2: 1998–2007) added three criteria in addition to the terrorism definition used in the original PGIS database, a case had to include in order to be added into the database:

1. The violent act was aimed at attaining a political, economic, religious, or social goal;
2. The violent act included evidence of an intention to coerce, intimidate, or convey some other message to a larger audience (or audiences) other than the immediate victims; and
3. The violent act was outside the precepts of International Humanitarian Law[35]

Data collection, which was undertaken by the Center for Terrorism and Intelligence Studies (CETIS) was complete in by August 2008, however the data remained separate due to the definitional differences between the GTD1 and GTD2. To combine the two datasets it was necessary to review all GTD1 cases utilizing the three added criteria described above and to exclude cases that lacked at least one of them. Between 2008 and 2012, researchers from the Institute for the Study of Violent Groups (ISVG) at the University of New Haven collected additional data on terrorist incidents from April 2008 to October 2011, which was included in the GTD after review by START researchers. Terrorist attacks occurring after October 2011 are reviewed entirely by START staff at the University of Maryland.

It should be noted that users of the GTD should be mindful of its data consistency since the database was constructed in phases with varying data collection methodologies. While the original PGIS data was collected in real time by a company to provide risk assessments for their clients, START research on the GTD 2 was done retrospectively, but all subsequent projects in real time again. This plays an important role for the utilization of open source materials, which may lack availability after a certain point in time.

Since spring 2012, all data collection, which previously has been done by outside vendors, was moved to the University of Maryland to allow for improvements and updates on an ongoing basis. Currently, the GTD codes over 120 variables and based on an "average of 1.3 million news articles per day from a pool of over 55,000 unique sources [of which] 7000 typically include some information about terrorist attacks or related topics."[36] The GTD has become the most comprehensive open source terrorism database, however does not include a variable for ideology, by which it is impossible to run a query for right-wing terrorist incidents in the United States. To identify potential right-wing terrorist cases in the U.S. one must first run a query on incidents in the United States, which produces a list of 2836 individual cases, which include domestic as well as international terrorist acts. Therefore, any database user must pull out their own data, based on their individual understanding what could be classified as right-wing terrorism, which again leads to inconsistency in the data. Even though the main database does not allow searches based on ideology, there is an auxiliary dataset classifying attacks in the United States between 1970 and 2016 by ideology utilizing 14 variables that describe different ideologies of 2794 cases.[37] The database codebook defines the ideology "right-wing extremism" (including two subcategories identified as 'Sovereign Citizen' and 'Anti-Government') as:

> "Violence in support of the belief that personal and/or national way of life is under attack and is either already lost or that the threat is imminent. Characterized by anti-globalism, racial or ethnic supremacy or nationalism, suspicion of centralized federal authority, reverence for individual liberty, and/or belief in conspiracy theories that involve grave threat to national sovereignty and/or personal liberty."[38]

In total the database defines 358 cases as "right-wing extremist," 6 as "right-wing sovereign citizen" and 32 as "right-wing anti-government" totaling at 396 cases.

While this dataset is helpful in classifying incidents as "right-wing," it is quite difficult to locate, especially for non-scholars who are looking for easily accessible data.

The GDT, while exceptional in its provision of a wealth of information on global terrorism, must be used with caution when the main interface is used trying to identify right-wing terrorist incidents.

U.S. Extremist Crime Database (ECDB)

The Extremist Crime Database (ECDB), according to START (START ECBD, n.d.), was created by Joshua Freilich and Steven Chermak in cooperation with several other START researchers, to better understand extremist violent and financial crimes in the United States from 1990 to 2018 and is housed at the University of Maryland. The database is currently maintained by four co-PIs, including Steven Chermak, Joshua Freilich, Jeff Gruenewald, and William Parkin, and data collection on extremist violent incidents is ongoing. In the beginning the database included information on the perpetrators, victims, event, and group characteristics of crimes committed by members of the domestic far-right, but has since been expanded to include information on crimes by the far-left, religious extremists and single-issue extremists.[39] Cases included in the ECDB must fulfill two requirements to be accepted: a violent crime or financial scheme must be committed in the U.S. and at least one of the suspected perpetrators involved must subscribe to an extremist ideology. The database utilizes the following openly available sources to identify possible cases: existing databases, official sources from congressional hearings and other governmental publications, scholarly research, watch-group reports, and systematic media searches. Once cases were identified, coders would perform "targeted follow-up searches" to add additional information. During the initial project period from June 2008 to October 2011 the database identified 650 financial crime investigations occurring between 1990 and 2010. 993 suspects were linked to these schemes, 80% of which were identified as far-right supporters and 20% associates of these far-right individuals. The database also provides a unique focus on ideologically motivated extreme-right fatal attacks in the United States since 1990. It reveals that far-right homicides have occurred every year since 1990 and also shows that homicides on by the far-right greatly outnumber incident involving jihadists. In the time period between 9/11 and 2016, jihadists killed 119 people in 31 homicides, while "extreme-right terrorists killed 158 people in 89 homicides."[40] Freilich and his coauthors provide an operationalization of right-wing terrorism by describing the American extreme-rightist as

> … fiercely nationalistic (as opposed to universal and international in orientation), anti-global, suspicious of centralized federal authority, reverent of individual liberty

(especially their right to own guns, be free of taxes), believe in conspiracy theories that involve a grave threat to national sovereignty and/or personal liberty and a belief that one's personal and/or national "way of life" is under attack and is either already lost or that the threat is imminent (sometimes such beliefs are amorphous and vague, but for some the threat is from a specific ethnic, racial, or religious group), and a belief in the need to be prepared for an attack either by participating in, or supporting the need for, paramilitary preparations and training or survivalism. Importantly, the mainstream conservative movement and the mainstream Christian right are not included.[41]

As far as data reliability goes, Chermak et al.[42] completed a compelling analysis on the reliability of open data sources to identify homicide events in the ECDB. In their study they looked at 10 sources used by the ECDB including three scholarly databases, two law enforcement/official sources, two watch group organizations and systematic media searches. Potential bias in relying on these types of sources might be explained by publicity effects (high profile events will get greater coverage) and source effects (are sources reporting in distinct ways different from other sources). Ultimately, the study found some empirical support that "scholars using open-source data are using data that is representative of the larger universe they are interested in."[43] They, however, also note that principal investigators of large datasets such at the GTD or ECDB need to understand systematic biases with the data and be transparent about those issues with end users of those databases.

ECDB data in its entirety is not publicly available, however far-right and jihadi ideologically motivated homicides between 1990 and 2018, as well as eco/animal rights bombings and arsons between 1995 and 2018 from the ECDB are publicly available via the TEVUS Analyst Portal.[44] As indicated in a private email exchange with Joshua Freilich on 11 June 2019, additional data requests are reviewed by the research team on a case by case basis.[45]

American Terrorism Study (ATS)

The American Terrorism Study (ATS), the longest running terrorism research project in the United States housed at the University of Arkansas, began in 1989 when the FBI's Terrorist Research and Analytical Center released information on individuals that were indicted because of an official terrorism investigation under the FBI's Counterterrorism Program. The researchers utilized those lists of indicted individuals to follow their cases through the system. The dataset covering the time period from 1980 to 2004 is based on the release of five lists by the FBI including 7306 counts for 574 indictees. The analysis further revealed that 172 criminal terrorism cases were based on these FBI's investigations, involving 85 groups with varying ideological backgrounds.[46] As far as "right-wing" incidents are concerned, it is not clear how this category was created as the codebook does not include a description of how various ideologies are defined.[47]

As of September 2015, the American Terrorism Study database was tracking 2435 persons indicted in federal criminal cases from 1980 to the present. The database has information on 522 court cases, more than 11,000 criminal counts, and more than 4000 pre-incident activities.

If the focus was given to what has been classified right-wing extremist events, the following findings emerge[48]:

- Counts data: 7306 counts – 952 (13.0%) "right-wing
- Indictees data: 574 indictees – 220 (38.3%) "right-wing"
- Persons data: 510 persons – 181 (36.3%) "right-wing"
- Cases data: 172 cases – 78 (44.8%) "right-wing"
- Groups data: 85 groups – 34 (40.0%) "right-wing"

Specific information provided in the five datasets include demographic information of the defendant, terrorist group information, prosecution and defense data, and count/case outcome including sentencing data.

As of 2004, the FBI was no longer able to share their information with the research team. As such, their data collection has been based on openly available case information from federal indictments, docket information and trial transcripts, when available.[49] Continued research into domestic terrorism cases has grown the ATS database significantly to where as of September 2015, 2435 persons, 522 court cases, more than 11,000 criminal counts, and more than 4000 pre-incident activities were included.[50]

Data covering the time from January 1980 to August 2002, can be downloaded, however, some restrictions are in place protecting individuals from indirect identification. Restricted data access can be granted after complete completing a Restricted Data Use Agreement.[51]

In 2018, the Terrorism Research Center at the University of Arkansas received a grant from the National Institute of Justice (NIJ) to create a portal to access a federal terrorism court record repository, which will greatly enhance public accessibility of the data.[52]

Profiles of Perpetrators of Terrorism in the U.S. (PPT-U.S.)

Profiles of Perpetrators of Terrorism in the U.S. (PPT-U.S.)[53] is a supplement to the GTD utilizing GTD data to describe terrorist group activities on U.S. soil since 1970 and is housed at the University of Maryland. Data includes information on the attacks themselves, the groups' ideology, other crimes besides terrorism the groups are involved with, the groups' structure and network connection, as well as their financial resources. According to the PPT-U.S. codebook, the database only includes groups

> that are attributed responsibility for at least one attack for which there is no reservation on the part of GTD analysts that the attack in question is truly terrorist violence (rather than non-terrorist violence or conventional crime), and for which there is high confidence (rather than suspicion) that member(s) of the group are responsible for the attack.[54]

Once groups were identified, additional information was compiled utilizing academic books and journals, websites and search engines following four search guidelines. Coders searched the internet using a list of eight search engines by varying search terms if very little was known about a certain group. If a group had significant available information, coders only included one story per day in the databank. Additionally coders focused especially on the date of each source to get the most updated information. Initial coding was completed between February and June 2010, with a first validation round of the data in June 2010 during which the data was compared to the Big, Allied and Dangerous Database (BAAD), and independent group-level data

collection by START researchers. The comparison of the two databases revealed significant overlap on variables used by both data collection pieces. The PPT-U.S. researchers also began to look vigorously into inter-coder reliability issues beginning July 2010 and adjusted their codebook to address higher discrepancies among different coders on certain variables. As of October 2020, PPT-U.S. lists 145 groups of which 17 (11.7%) are identified to follow an extreme right-wing ideology. The database separates right-wing extremism from left-wing extremism, ethno-nationalist/separatist and single-issue groups, by identifying the group's most important goal (some right-wing groups might have a strong religious conviction, but their primary motivation is based on a racist ideology and therefore are grouped together as right-wing extremists).[55] The PPT-U.S. database provides a wealth of information that is easily accessible via direct download, to allow researchers and other interested individuals quick access to the desired information.

Terrorism and Extremist Violence in the U.S. (TEVUS)

As is seen thus far, data on right-wing terrorism and extremism is available, yet every database has its own unique limitations, which create obstacles for the researchers and non-scholars who use them. One attempt to remedy that, was the creation of the Terrorism and Extremist Violence in the U.S. (TEVUS) portal.[56] The TEVUS portal was created by the National Consortium for the Study of Terrorism and Responses to Terrorism (START) with funding from the Resilient Systems Division of the Science and Technology Directorate of the U.S. Department of Homeland Security and is housed at the University of Maryland.

TEVUS combines information available from the four related open-source databases discussed above: GTD, ECDB, ATS and PPT-U.S. Bringing those four databases together under one umbrella allows end users to see events and individuals interrelated geographically, over time (data in TEVUS goes back to 1970) and behaviorally.[57] According to a recent START publication, TEVUS currently provides information on "2936 terrorist incidents, 2445 pre-incident activities, and 262 extremist crimes in the United States and identifies relationships between these events and individuals (3393), groups (392) and court cases (414) in a dynamic, unique interface."[58]

As Fishering further points out, for cases to be included in TEVUS certain criteria must be established and cross-referenced.[59] The following table summarizes these criteria for each of the four databases: Q1

While TEVUS provides easy access to a wealth of information on terrorism and extremist violence in the U.S., one must not overlook its limitations. TEVUS is only a portal to a solidified pool of information from the previously discussed databases. As far as ideology is concerned, TEVUS allows for queries based on ideological motives, but if those are not clear for a perpetrator, incident or group, this variable may be described as "unknown" in TEVUS. Therefore, searches based on ideology may only yield a subset of cases of a certain ideology, while there may actually be more in TEVUS. TEVUS also doesn't operate in real time and depends on funding to update the portal annually, therefore information on recent cases may not be available through the portal. Another interesting specificity about TEVUS is that individual names can

only be visible through TEVUS if that individual is "a known perpetrator of an act of terrorism or an extremist crime who has been tried and convicted or killed in the act."[60]

To get a sense of the extent of right-wing terrorism and extremism in the U.S., TEVUS can be utilized to search for events by ideology by selecting "right-wing" as ideological criterion, understanding the limitations this query yields, which produces the following results (July 2020):

- 714 events
- 304 persons
- 105 groups
- 43 court cases

A detailed look at these data pieces reveals that while there are 714 events listed, only 385 (53.9%) events are actual incident acts or extremist crimes. 224 (31.4%) of all events are actually preparatory and 105 (14.7%) ancillary events. If one was interested in the specific ideology of a person listed under the "right-wing" label, small inconsistencies with the data become apparent. Ideology of persons involved in right-wing events is based on 527 individuals, a discrepancy that cannot be immediately explained, but may be a result of double counting. Of those 527, 523 (82.8%) are coded as "Right Wing," 70 (11.1%) as "Religious," 32 (5.1%) "Uncategorized," and 5 (0.8%) "Single Issue," and 2 (0.3%) "Nationalist/ Separatist." Many such data inconsistencies exist, which are hard to evaluate by users of the portal. A communication interface with the TEVUS team is available, however repeated inquiries submitted for this research have not received reply.

While it is not possible to directly compare the five databases with each other, based on their focus on distinct data, and utilization of different data collection methodologies, they do provide some good insights on what the right-wing terrorism landscape in the United States, at least from a social-scientific perspective, might look like. For a more complete picture, however, it is necessary to include a legal analysis as well, which is faced with many similar definitional and data collection obstacles.

Legal Data on Terrorism – The Legal Definitions of Terrorism

One way to resolve the constant dilemma of who should be included in lists of terrorists would be to take a legal definition as a guideline, as does so much criminological research. This, however, is problematic in the case of terrorism, both because there are multiple legal definitions of terrorism and because terrorism charges are used relatively rarely in terrorism cases. Legal technicalities prevent prosecutors from bringing terrorism charges in domestic terrorism cases. The fact that their indictments rarely carry terrorism statutes makes collecting data on Right Wing terrorists that much more difficult.

Variations and Consistency in U.S. legal Terrorism Definitions

For years scholars have complained about competing definitions of terrorism under U.S. law.[61] Still, most definitions share a common core. The definition used by the

Department of Defense, the Federal Bureau of Investigation, and the Department of Homeland Security, for instance, echo the requirement that terrorism involve violence or force used as a tool to convince (by intimidation or coercion) some third party (other than the victim of the violence) to change some political stance.[62] Thus 18 U.S.C. §2331 defines terrorism as

> activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (B) appear to be intended – (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping."[63]

It is worth noting that this aspect of the definitions, known as victim-target differentiation, was also common in Schmid & Jongman's original survey of terrorism definitions, as well as the most recent updates of that research.[64] This requirement may well be the dividing line between right wing extremist hate crimes and right wing terrorism, from a legal perspective. For while a majority of hate crimes statutes expect hate crimes to be committed against victims who were specifically selected due to their status within a particular hated group, and may or may not be aimed toward a broader audience,[65] the federal terrorism statute ignores status. Instead, it requires the violence be committed in an effort to reach (intimidate or coerce) a broader target (the government or civilian population). For instance, many states have passed cross burning statutes. In these statutes, the victim and target may or may not be the same – perhaps the cross is meant to intimidate only a specific person who views it, or perhaps a hate group is hoping the entire town, state, or country will hear of the cross burning. But in terrorism, the victim of the violence is analogous to the cross being burned – the targets of the violence are the broader publics receiving this message.

A survey of state terrorism statutes show that terrorism statutes overwhelmingly criminalize acts of violence or crimes that are meant to intimidate or coerce either a civilian population or a government, generally using §2331s wording, almost verbatim. While state laws vary somewhat, and eleven states do not have laws criminalizing terrorism as such (rather than supporting a terrorist organization or plain arson or murder statutes), 29 states have adopted terrorism statutes making terrorism or acts of terrorism a crime that is punishable on its own merits, and defined as activity that is either criminal or violent and committed with the intention to intimidate or coerce a civilian population, influence the policy of government by intimidation or coercion, or affect the conduct of government through specific criminal activities (several have added a possible charge if the actions are intended to retaliate against government).[66] Six states have statutes criminalizing terroristic threats, but not terrorism,[67] and one has created a terrorism sentencing enhancement, defining terrorism much the same way as the PATRIOT Act does[68] – leaving only four states that have criminalized terrorism or acts of terrorism and defined terrorism in a substantially different way. Two of these states, Vermont and Nevada, have passed statutes that label activities terrorism based purely on the level of harm intended. California, in contrast, has passed a terrorism statute that criminalizes using explosives to terrorize specific victims, such as health facilities, churches, courthouses, and homes of judicial officers. From the perspective of criminal law, then, a clear majority definition begins to appear.

While there also exist federal statutes that do not include this definition,[69] statutes that attempt to define terrorism have maintained surprising consistency with this definition.

Based on this definition, and even without the realization that the majority of states have agreed with it, many have argued that the U.S. already has a domestic terrorism statute, and that Right Wing terrorists should be prosecuted in accordance with this statute. But while the federal government has a definition of terrorism, what it does not have is a statute that criminalizes domestic terrorist acts, or in fact even international acts of terrorism. In fact, under current U.S. federal criminal statutes, it is difficult to find a statute that criminalizes terrorism that is not associated with a named terrorist organization.

Narrow Federal Terrorism Statutes and Their Effects on Prosecution

18 U.S.C. §2331(5) defines terrorism, but no criminal penalties automatically attach. In order to try someone for a terrorism crime that might bring punishment, prosecutors must to turn to 18 U.S.C. §§ 2332-9. These statutes, however, most often criminalize specific acts with no requirement that the acts be committed with terroristic intent. This means that crimes of terrorism may easily avoid recognition in federal charges. Moreover, the line between a terrorism charge and a firearms charge is often a simple question of whether international organizations or actions are involved.

For instance, the federal code does contain a statute criminalizing "acts of terrorism transcending national boundaries."[70] That statute, however, never mentions terrorism beyond the title of the statute. Instead it names particular crimes (killing, kidnapping, causing serious bodily injury, etc.) that, when committed during conduct that transcends national boundaries, becomes terrorism regardless of motive, impetus, or intent. Perhaps more importantly, in the history of criminal prosecutions of terrorists, this statute is almost never used. The Center on National Security at Fordham Law School, for instance, suggests that it was used twice in over 100 Daesh related terrorism cases between 2014 and 2016.[71] Numbers are similar in the 10 years of terrorism prosecutions immediately following the attacks of 2001.[72]

The material support provisions that are most commonly used to prosecute terrorism criminalize aiding terrorist organizations, or in certain cases, aiding known terrorists.[73] 18 U.S.C. §2339B, the most commonly used terrorism statute, criminalizes offering support to a foreign terrorist organization [hereinafter FTO], while §2339D criminalizes receiving military training from an FTO. §2339B is the most commonly used statute, and does not involve actual terrorist activity at all. Instead, it criminalizes offering support– which may be legal advice, medical care, translating documents, or offering any normal goods and services to listed organizations. Violent or coercive intent is irrelevant– what matters is that the defendant knew the organization had been designated as an FTO by the State Department. Two other statutes, 18 U.S.C. §§2339 and 2339C criminalize harboring terrorists (who must be someone other than yourself) or financing terrorists (again, who apparently must be someone other than yourself). This leaves little opportunity to prosecute someone for actually engaging in terrorism.

The actual terrorist acts prohibited under the Terrorism Chapter of the United States Federal Criminal Code do not specifically require any connection to terrorism at all. 18 U.S.C. §2332a, for instance, prohibits the use of weapons of mass destruction, and is contained in the Terrorism Chapter – but the statute itself does not state "terrorist" or "terrorism" anywhere. Thus individuals like Randeep Mann might be prosecuted under the statute for using improvised explosive devices as a way to get revenge (in Mann's case, for a series of negative results after hearings before the state medical board).[74] Additionally, the Department of Justice's penchant for labeling defendants "terrorist" (Islamist or other) while charging them only under conventional criminal statutes is well known and wide reaching.[75] In fact there are 57 relevant acts that have been called "crimes of terrorism," that may be prosecuted with no reference to terrorism or terrorist intent.[76] Prosecution under most of these statutes would not be viewed as prosecutions under "terrorism" charges, but rather high level gun, kidnapping, and explosives charges.

So while the federal government has a statute defining domestic terrorism, that statute is not used in terrorism cases, as it lacks corresponding punishment.[77] Instead, the government utilizes material support statutes and pure act statutes, and relies on defendants' stated support for specific (foreign) terrorist organizations to convince juries of the defendant's terroristic intent. There exists no comparable list of domestic terrorist organizations, most likely due to the massive First Amendment dilemmas that would arise if such a list were created.[78] Indeed, Congress's first ventures into prohibiting support for terrorists failed because the political and speech-associated nature of the conduct prohibited caused serious First Amendment concerns.[79] Interestingly, the states that have adopted terrorism statutes have not followed this particular statutory structure and many could arguably prosecute domestic terrorists under these statutes, if they were confident in their abilities to prove the terrorist intent of the suspect.

In summary, it appears an accepted definition of terrorism exists in U.S. law, but because the definition is not used in prosecutions it is of limited help to researchers trying to discover instances of terrorism, whether domestic or international, right wing, jihadist, or otherwise. Federal law enforcement agencies have provided some alternative means of accumulating data on terrorism but, as is described below, that information is similarly problematic in the case of domestic (and therefore right-wing) terrorism.

Legal Data on Domestic Terrorism – Statutory and Other Problems with Available Datasets

Direct information from the federal government regarding legal investigations into terrorism have become far more difficult to acquire in the past fifteen years. Prior to 2005 the Federal Bureau of Investigation published reports on terrorism investigations – however they have long since stopped. In 2006 the National Counterterrorism Center (NCTC) began publishing reports on terrorist attacks (from 2006 to 2008), but this information is both overbroad (being a global report on terrorist attacks) and too narrow (ignoring foiled plots or preventive prosecutions).[80] Additionally, the National Security Division maintains a list of "international terrorism and terrorism related

convictions," but this list is limited to international terrorism related convictions, as described in its introduction (e.g. "Criminal cases arising from international terrorism investigations are divided into two categories….").[81]

Because most terrorism cases are not pursued under terrorism statutes, and the nature of statutes criminalizing terrorism lend themselves to disproportionately international and Islamist cases, it can be difficult to determine who is believed to be a terrorist according to legal sources. In contrast to other cases, one cannot simply search for the usage of specific statutes in order to find whether terrorists have been prosecuted, whether they have been pursued by counterterror agencies, and what the facts of the cases were. Whereas investigations into "weapons prosecutions" or "environmental crime prosecutions" may be pursued via a Freedom of Information Act (FOIA) request asking for lists of prosecutions where certain specific statutes were charged, in the case of terrorism data it is accepted that most terrorism prosecutions are pursued under non-terrorism statutes, and many typical terrorism statutes are used for non-terrorism related prosecutions. Moreover, the determination as to whether a case is considered "terrorism related" is made at multiple times by multiple different agencies. A case may be investigated in relation to terrorism and be determined never to have had that connection. It may fall under a "terrorism" designation because it involves a charge that falls under the Terrorism Chapter of the U.S. criminal code, but actually be entirely independent of accusations of terrorism (as was discussed in the section on legal definitions of terrorism).

These problems are evident in the data provided by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, for instance. TRAC regularly requests data on terrorism prosecutions and convictions from the Justice Department's Executive Office for United States Attorneys (EOUSA). EOUSA maintains data that United States Attorneys (federal prosecutors) are required to report in order to enable evaluation of their productivity. TRAC has used FOIA to acquire these records in various courts-related areas, such as immigration proceedings, firearms prosecutions, financial crimes, and more. In the terrorism context this information has been questionable, however, for exactly the reasons described above. In fact, in 2009, after having compared information from the Administrative Office of the United States Courts (AOUSC), the National Security Division (NSD) and EOUSA, TRAC reported that

> During the last five-and-a-half years, one out of three (34%) of the defendants who were charged in federal court for one or more specific terrorism offenses were not categorized as having any connection to terrorism by the federal prosecutors.

> On the other hand, during the same period, one out of four (26%) of the defendants on a list of terrorism matters prepared by the National Security Division (NSD) – an office in the Justice Department – were not classified as having anything to do with terrorism by the prosecutors who actually brought the cases.

> Furthermore, a comparison of all of the terrorism cases listed by three separate and independent agencies – the courts, the prosecutors and the NSD – found that there were only 4% of the defendants in common. Even when the very extensive federal prosecutors' list is constrained to just those connected with international terrorism or terrorist related finance, there is still only an 8% overlap – just 66 defendants – among the lists.[82]

It also appears that government information may have been limited in response to the inconsistencies and inaccuracies that were noticed and highlighted by media sources in the first ten years following the 2001 attacks. In the early 2000s the Department of Justice, in various forms, made public several lists of terrorism related prosecutions or convictions in order to highlight its achievements in the War on Terror.[83] However, researchers quickly realized that the vast majority of these cases resulted in convictions under conventional criminal statutes, rather than anything considered a "federal crime of terrorism," and worse yet, prison sentences were relatively short.[84] Moreover, the categories included in "terrorism related" are frighteningly broad, including hoax cases, which likely would not be considered "terrorism related" by anyone outside of EOUSA.

Worse, government watchdogs have similarly criticized the government. In 2003 the Government Accountability Office (GAO) issued a report highlighting that 46% of "terrorism cases" had been misclassified by the EOUSA, and that FBI and EOUSA were classifying cases largely based on differing criteria.[85] The Department of Justice's Office of the Inspector General (DOJOIG) performed its own audit of terrorism reporting in 2007. First DOJOIG determined it had to omit 133 of 192 statistics because their sources could not be determined or were otherwise unreliable. It then chose 26 statistics out of the 59 remaining to examine for accuracy – and found that 24 out of 26 had been inaccurately reported.[86] These inaccuracies appeared to be shared equally among the FBI, the EOUSA, and U.S. Attorneys' Offices. In 2012 DOJOIG performed a follow-up audit to determine whether recommended revisions in statistical research and reporting had been performed and whether they had been successful. DOJIG found that

> While the NSD revised its procedure for gathering, classifying, and reporting terrorism-related statistics based on the recommendations from our 2007 audit, the NSD's implementation of the revised procedures were not effective at ensuring that terrorism-related statistics were reported accurately… the NSD did not accurately report four of the five statistics we reviewed.[87]

A follow-up audit on the EOUSA's terrorism-related statistics used almost identical language in 2013, although in that case DOJOIG found that all 11 audited statistics had been reported inaccurately by significant margins.[88] No further overt follow-up was performed.

Adding to the uncertainty, for over a decade the Department of Justice has refused to include the names and docket numbers of the relevant cases, completely undermining the ability of TRAC, the press, scholars, or the interested public to compare circumstances and charges,[89] let alone break out right wing or domestic terrorism from other forms of terrorism. The weakness of this data, particularly in regards to finding who among right wing extremists might be considered "terrorists" is readily apparent. For instance, in April of 2019, it appears from the information given (district of prosecution, date of indictment, lead prosecutor) that one defendant (out of eight) categorized as "domestic terrorism" was Mark Steven Domingo. Domingo "expressed support for violent jihad, a desire to seek retribution for attacks against Muslims… allegedly expressed support for ISIS."[90] He has been charged with providing material support to terrorists (almost certainly ISIS) and is most likely going to be considered an international terrorism defendant in the eyes of the NSD and the public.

An alternate way to try to accumulate a list of "terrorists" from federal legal actions would be to research all government efforts to use the terrorism sentencing enhancement under the United States Sentencing Guidelines (U.S.S.G.). U.S.S.G. section 3A1.4 recommends that judges imposes much higher criminal sentences upon persons convicted of crimes "If the offense is a felony that involved, or was intended to promote, a federal crime of terrorism," and "federal crime of terrorism" has been interpreted to align with the definition offered in 18 U.S.C. 2332b(g)(5).[91] Presumably this enhancement should reach a much more accurate group of "terrorists," particularly as courts have interpreted the enhancement to be applicable to defendants who committed crimes other than those specifically listed as "federal crimes of terrorism" (for instance, obstructing justice in order to promote a listed statute).[92] However, a named "federal crime of terrorism" must still exist somewhere in the broader terrorist plot. If a domestic extremist plans to "merely" commit a mass shooting, rather than commit a hijacking, an attack on infrastructure, or an attack involving a weapon of mass destruction, it may well be that no listed statute is implicated. These contributors escape the sentencing enhancement just as they avoid the criminal statutes.

In all, the consistent use of pretextual prosecution and the limited nature of terrorism statutes, plus the diversified responsibilities of pursuing terrorists from a legal perspective, have made it almost impossible to exhaustively cover who has been considered a "terrorist" by the government. Creating a list of terrorists is hard enough, narrowing that list to domestic terrorists or even further to Right Wing terrorists, is even more difficult.

Conclusion

In all, the vague lines between terrorism, extremism, hate crimes, and political violence have made it nearly impossible to obtain credible numbers on the relative threats posed by right wing, terrorists, their means and methods of attack, or their paths to violence. The persistence of the debate over the definition of terrorism suggests that we may never be able to get to a reliable or wholly uniform definition. Nevertheless, while there may always be arguments at the borders of the definition, there does seem to be an essential agreement on the core factors[93] and we should be able to compile information to broadly assess the threat and its causal factors. In order to do so, however, we need to find some relatively reliable source of information, even without a completely agreed upon definition. To this end, we have several recommendations.

Compared to many other countries, academics and practitioners in the U.S. have easy access to several excellent terrorism databases that provide a wealth of information on domestic terrorism broadly and right-wing terrorism specifically. It must be understood, however, that the five prime terrorism databases discussed in this article all focus on distinct data, utilizing different data collection methodologies, which may lead to inconsistencies when trying to identify right-wing terrorist incidents.

The GTD is far from perfect, but it has become the primary open source database for research. Moreover, the qualifying factors for inclusion in the database generally match the most common factors in terrorism definitions. For this reason, it can be an invaluable resource, however ideology should be woven into the primary interface

so that right wing terrorism can be broken out without having to dive into the auxiliary dataset which does allow searches by ideology.

As an interface for research, TEVUS could be a great help, but it is not working currently, possibly because of funding difficulties at University of Maryland's START research facility. In 2018 START was informed that the federal government would no longer fund the organization, which might explain some of the data issues described in the sections above.[94] Short-term funds were made available through the Department of Defense (DoD) Combating Terrorism Technical Support Office (CTTSO)[95] and German Federal Foreign Office (FFO).[96] In order to fully investigate the threat and origins of right wing terrorist activity, however, START should be re-funded to support long-term projects such as the GTD or TEVUS. Both the GTD and TEVUS are currently housed at START, and it is only with more individuals working on this issue that the acceptable boundaries of what qualifies as "right wing terrorism" can be discovered. The loss of these resources will be a detriment to terrorism research as a whole.

From the legal perspective, a terrorism statute would better enable researchers to identify what the government considers to be terrorism, which right wing extremists are considered to be terrorists, and any differences between their treatment and the treatment of terrorists with other ideologies. However, such a move does bring with it a great expansion of governmental law enforcement authority that may be problematic.[97] It may also be unnecessary, if the U.S. government will return to the practice of making names and/or indictment numbers to research institutions like TRAC.

Currently, there is a great deal of confusion and a lack of direction or uniformity in terrorism research. There is a plethora of data but a lack of structure, and therefore a lack of rigor and means for scientific comparison. The United States was incrementally moving forward on credible research into terrorism, including right wing terrorism, but has recently retreated from that path, defunding research and retreating from prior policies that made information available (and research possible). It is our hope that the United States government reprioritize expanding access to this data, so that this threat can be fully researched and understood.

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Disclosure statement