

Testimony of Todd Bensman  
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To the Subcommittee on Civil Rights and Civil Liberties  
United States House of Representatives  
Committee on Oversight and Reform

For A Hearing Regarding  
“FBI efforts to combat an increasing threat of white supremacy and white extremism”

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Chairman Jamie Raskin and Members of the Subcommittee, thank you for inviting me here today to discuss the important issue of countering violent hate-based domestic extremism in all of its forms, which presents a steady threat to public safety.

I come to you from the State of Texas, which faces a full spectrum of threats because of the state’s vast size and diverse population. Texas’s international border, international air and sea ports, interstate highways and central positioning in the country means our problems with domestic extremists are truly the rest of the nation’s problems too.

I am here to share insights from my decade-long work countering domestic extremism in state and local law enforcement during my employment through August 2018 with the Texas Department of Public Safety’s Intelligence and Counterterrorism Division.

I joined the Texas DPS in 2009 following a 23-year career as a journalist, the last decade of it covering national security affairs and FBI counterterrorism programs. As a recovering journalist, I re-trained in the norms and craft of law enforcement intelligence, eventually receiving a DHS-sponsored master’s degree in Security Studies from the Naval Postgraduate School’s Center for Homeland Defense and Security.

My government service was almost entirely concerned with connecting this very large state police agency's intelligence capabilities to the FBI and other federal agencies to disrupt foreign and domestic terrorism threats to Texas and the nation.

Our work always included focus on racially motivated individuals and groups involved in criminal activity.

Neither we nor the FBI ever dismissed domestic extremists, as some suggest, but faced them at every turn.

During my service, resources and priorities seemed appropriate to the steady but relatively slow flow of leads and suspicious activity reports coming in about racial supremacists and other kinds of potentially violent extremists.

It's also clear with a little bit of hindsight that the threat level has recently begun to increase.

Like any crime, domestic terror risk ebbs and flows over time in reaction to complex interplays of factors, morphing but never disappearing entirely. I believe the threat was in a comparative ebb tide for most of the last decade, in Texas. The United States, for instance, experienced high levels of domestic terror attacks in the 1960s, which eventually slowed under law enforcement pressure in the 1970s.

Likewise, from the 1980s and through to the period after the 1995 Oklahoma City bombing, dangerous militia and Christian Identity groups conducting mortal attacks proliferated, ranging from the Republic of Texas separatists and Christian Patriots to the extremist militias and Richard Butler's Aryan Nations. Attacks and criminal activity slowed after the Oklahoma City bombing under increased law enforcement pressure (the FBI hired 570 new counterterrorism agents the next year), which put the last of the 1990s leaders in prison.<sup>1</sup> The 9/11 attacks only suppressed recruitment to the militia movement, it being unfashionable to overthrow a federal government busy fighting Islamist terrorism at home and abroad.

Neither the threat nor law enforcement commitment disappeared; cops and robbers just downshifted in tandem, naturally, as attrition took its toll.

I do not believe, as some are saying, that the responsible federal agencies simply dismissed the threat from domestic racist extremists in favor of attacking Islamic ones out of some sort of animus, because I was there on the inside of one of the bigger microcosms. I never saw that happen.

But I do see a resurgence in attacks and plots now from not just white supremacists but domestic extremists of various kinds on the right and left. All the hallmarks of resurgence are in evidence, in arrests, foiled plots and funerals. Law enforcement is already pivoting to brace the resurgent problem because law enforcement leaders are the types that need no prompting when they see danger rising.

It's fair to criticize the law enforcement for not immediately seeing the trend shift and responding with resources *before* mass attacks began to pattern, such as the one on the Tree of Life Synagogue in Pittsburg. But it's unfair to politicize such a natural process.

I am happy to attest that, in Texas, from 2009-2018, the law enforcement community did not forsake this threat problem even while it was in comparative ebb, as I will describe. Its component parts worked closely together at the intensity required by the threat.

I'll also note that, because of the Islamist terror threat, the FBI and federal homeland security enterprise are far better positioned to pivot this time around because they now have state and local police connected to them – a broad network of fusion centers they didn't have in earlier threat cycles. The enhanced ready-made resources of local police, as well as the mechanisms for sharing and collaboration, are already in place to throw into any enhanced fight.

I am here today to share what I can of our experiences working primarily with the FBI and DHS on domestic extremism threat matters that would also include crime by white supremacist-inspired individuals and many others who would use force in furtherance of political or social goals.

### **State of Texas Counterterrorism Intelligence Infrastructure**

To enhance intelligence sharing after the 9/11-related failures, Texas joined the national impetus to establish fusion centers across the country, following various federal mandates after 2002 that required a collaborative role for state and local law enforcement in national counterterrorism efforts. Most fusion center models typically place state and local analysts and officers in immediate working proximity to federal agency representatives. In 2003, the Texas State Legislature authorized establishment of a statewide fusion center known today as the Joint Crime Information Center (JCIC).<sup>2</sup>

Today, the JCIC is one of the most muscular fusion centers in the nation, employing some 200 trained civilian analysts, with commissioned officer oversight, and a 24-7-365 "Watch Center" that answers requests for intelligence information from any and all vetted officers and partners in Texas or the nation. The JCIC was to be housed and operated by DPS in its Austin-based intelligence division. It is here where I worked with my teams, which included a "Counterterrorism Unit."

After I joined DPS, leadership eventually authorized me to organize a dedicated team of counterterrorism intelligence analysts (ranging from 5-12) and to initiate programs that would support national counterterrorism missions of the FBI and DHS, to include countering all activity construed as "domestic terrorism." Both agencies maintained authorities to collect intelligence on domestic extremists and, at least for the FBI, to investigate for federal prosecution under the hate crimes statute or other statutes.

In my latter years with DPS, my group also was given responsibility for providing intelligence support to the Texas State Capitol Complex in Austin, a 50-block area of sensitive government

buildings for whose security DPS was exclusively responsible. After the election of President Donald Trump, this area became the scene of regular violent attacks on state troopers and peaceful protestors, which resulted in the arrests of mostly anarchist extremists, as will be discussed.

### *Key Federal Partnerships in place*

The JCIC was given an “all-hazards” mission, meaning that intelligence analysts work to combat all major crime categories, not only those involving domestic extremists and terrorism.

Representatives of federal agencies placed at the JCIC facility in Austin working on common-interest problems like terrorism included the FBI, the Department of Homeland Security Intelligence and Analysis (I&A), the U.S. Treasury Department, Customs and Border Protection Office of Intelligence, U.S. Immigration and Customs Enforcement, Border Patrol, the Drug Enforcement Administration, and a variety of state agencies.

My group, all of whose members held Secret-level security clearances, provided the JCIC’s counterterrorism intelligence component in close league with the FBI’s network of five Joint Counterterrorism Task Forces (JTTFs) in the state. All five of the JTTFs in Texas maintained “domestic terrorism” squads dedicated to those issues.

Collaboration and information exchanges could occur directly between me and the FBI’s appointed representative stationed with us inside the JCIC, or directly with FBI field agents and supervisors on the task forces in other cities. Still other pipelines into and out of the JTTF squads connected our team through Texas DPS Criminal Investigations Division agents assigned to FBI JTTFs in Houston, Dallas, San Antonio, El Paso, and Austin. Embedded with Top Secret clearances for terms that ranged between 3-5 years, the DPS agents assisted with terrorism investigations and were often attached to the domestic terrorism squads within each of the JTTFs, where they would likely work on cases related to white supremacy-motivated individuals and other stripes of criminal domestic extremists.

The other key collaborative relationship was with DHS Intelligence and Analysis (I&A) intelligence officer and analysts. An I&A intelligence officer and reports officer were assigned to the JCIC for all of my years there. DHS I&A sponsored security clearances for JCIC analysts, provided training in privacy and civil liberties and counterintelligence, and managed our access to Intelligence Community reporting through the classified database known as the Homeland Security Information Network (HISN). These I&A officers provided a two-way communications pipeline to the Intelligence Community, often feeding our unique raw reporting into the IC but also extracting IC reporting that we needed. The officers also facilitated access to I&A analyst teams based in Washington with whom we often collaborated.

Other collaborative relationships were developed off-campus with the FBI’s Terrorist Screening Center, the National Counterterrorism Center in Washington and its regional representative in

Texas, military intelligence, and the CIA. It should be noted, however, that some of these agencies did not maintain a domestic terrorism mission.

#### *Primary Duties of the DPS Counterterrorism Unit*

My group provided an intelligence and information-support function, not a criminal investigative one. We were not investigators working with prosecutors and exercised no decision-making influence over those processes. The group was involved in four overarching activities:

1. Vet and develop terrorism-related suspicious activity reports that arrived from a variety of sources, to include the general public, state troopers or other law enforcement partners in the field, the media, and private sector partners. Suspicious activity reports that met a predicate threshold could be developed through research and then be packaged for referral to the FBI JTTF via its “e-Guardian” database, or to another appropriate investigative or intelligence agency.
2. Identify and collect proprietary DPS-held information (such as material residing in DPS intelligence databases, from roadside encounters with individuals on terrorist watch lists, or information from human sources), create meaningful intelligence from the information, and ensure that it is shared as requested or needed to the FBI, the intelligence community, or other federal partners. The goal was to prompt or advance counterterrorism investigations and threat-specific situational awareness.
3. Respond to requests for analytical or research assistance for active case investigations or urgent public safety matters.
4. Provide situational awareness of terrorism threats, targets and tactics for State of Texas leadership, law enforcement officers in the field, the intelligence community in the form of written, peer-reviewed analytical publications.

NOTE: At all times during my service, my group and I received regular training and closely hewed to 28 CFR Part 23 guidelines, which prohibit law enforcement collection or monitoring of individuals or groups without an articulable “reasonable suspicion” that they were involved in a “definable criminal activity or enterprise.”<sup>3</sup> Additionally, all of our activities were conducted in compliance with the JCIC’s own “Privacy, Civil Rights, and Civil Liberties Policy,” which likewise prohibited the collection of information about individuals and groups solely on the basis of their constitutionally protected religious, political, or social views or activities, without reasonable suspicion that a crime occurred.<sup>4</sup>

In short, we recognized that we could not use law enforcement databases and specialized resources to monitor people or groups if they were involved in lawful protest activity and

engaged in protected speech that reflected hateful, extremist views and agendas, without reasonable suspicion of a nexus to potential criminal activity.

### **Quality of Collaboration with DHS I&A and FBI on Domestic Extremism**

#### *DHS I&A*

From the establishment of my group of analysts in early 2010, I and my DPS leadership determined that we would focus energy on violent domestic extremism, especially those motivated by anti-government and racial supremacist ideologies. Our reasoning was that such individuals and groups resided in Texas, had a record of past episodes of violent and criminal behavior that might become resurgent, and that the FBI JTTFs we sought to support maintained investigative squads dedicated to that problem set, often using our DPS agents.

I dedicated two of my analysts to concentrate exclusively on domestic extremism, with others in reserve as needed. These analysts worked closely with another analyst from a different unit who studied violent prison gangs, to include the white supremacist Aryan Brotherhood of Texas and its criminal activities outside of prison.

Soon after we began operations in 2010, we began outreach to DHS and the FBI to learn of current threats and concerns. In this way, I learned that then-DHS Secretary Janet Napolitano (2009-2013) had just recently curtailed analytical efforts with regard to racial supremacist and anti-government extremism. The given reason was that a 2009 I&A analysis titled "Right-wing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment" had prompted significant public controversy in warning that returning veterans from overseas conflicts posed a higher threat to law enforcement. One of the co-authors of the report had been forced to leave, I was told, while the other was reassigned to other topics.

Not much changed over the following years. Our group found little resource with I&A on these subjects and sought information elsewhere, though I&A was typically indispensable when it came to supporting our needs in other topic areas.

It might be useful to note also that I&A analysts during these years, when occasionally consulted by us about any available reporting they might have on domestic extremism threat or another, often cited a general dearth of criminal behavior that would justify their legal collection under the provisions of 28 CFR Part 23, which required reasonable suspicion of criminal activity. Heightened awareness of 28 CFR Part 23 applied to all topics at I&A, not just right-wing extremism and during those years, incidents of white supremacist, racially motivated attacks were not actually common enough to find patterns that would overcome 28 CFR.

Eventually, perhaps starting in about 2015 through my 2018 departure from DPS, I&A was releasing more reports, particularly about threats within the anti-government, sometimes racist sovereign citizen movement whose adherents were impulsively killing police officers and engaging in various fraud schemes in a patterned way. I&A also released papers about anarchist

extremists known as “Antifa” that had been initiating violence protests in many U.S. cities after the November 2016 election, also in a patterned manner.

At times, my group and I&A analysts in Washington would work together on joint-seal reports that were to be distributed widely to state and national law enforcement communities, informing of current threat trends and patterns regarding terrorism matters. Other times, we would invite I&A analysts to evaluate the analytical conclusions and reporting of our own products, through a peer-review process. I&A did usefully assist us with collection efforts for our own reports about sovereign citizen threats and Antifa violence in Texas.

### *The FBI*

For many years on a quarterly basis, I would personally visit all of the FBI domestic terrorism groups in field offices throughout the state, from Houston to El Paso, to discuss major cases, trends, or threats that my group could support. I’d also share what we were working on.

Case officers would candidly discuss various tips, leads, and referrals. But like DHS I&A, they too often privately complained that they had few significant investigations because the state’s neo-Nazis, the KKK and other white supremacists, while present and active on social media, seemed uninterested as organizations in activity that might draw law enforcement attention. These kinds of groups in Texas, they would say, seemed criminally dormant and also knowledgeable about what messaging might trigger FBI investigation and surveillance and how to avoid it in their communications. DPS agents on these domestic terrorism squads also routinely confirmed to me that few major domestic terrorism cases came their way during these years, although they kept busy trying to develop various leads.

One area that did keep some of the squads busy were sovereign citizen extremists who had proven to be both violent and engaged in illegal kinds of white collar fraud. Some had connections to anti-federalist groups involved in the Bundy Ranch and Malheur National Wildlife Refuge standoffs.

Overall, aside from occasional misunderstandings, the relationship between most FBI field offices and DPS was a highly collaborative one and very often productive.

### *The Texas DPS Experience*

I and my team of analysts worked in earnest to identify criminal-intent indicators regarding white supremacists and race-hate groups and to provide that intelligence to start, advance or support investigations, or to keep law enforcement audiences briefed on threats to them or how they themselves can identify criminal activity. But experience over time showed that the threats from domestic extremists, at least in Texas, were far more varied than white supremacy and sometimes involved impulsive acts that are extremely difficult for law enforcement to detect in advance.

For many of my years of service with DPS, suspicious activity reports rarely arrived involving criminal white supremacy, and 28 CFR Part 23 and the JCIC Privacy Policy largely prevented the unprompted monitoring of individuals and groups engaged in lawful speech or protest activity, without articulable criminal predicate.

The reality in Texas is that domestic extremist threats emanated from a more diverse spectrum than white supremacists.

Our Texas DPS team worked collaboratively with federal partners on the following group types and situations during my time in service:

#### *Sovereign citizen extremists*

The sovereign citizen movement is not an organized group but an ideology that sometimes has drawn loosely affiliated individuals into small groups throughout Texas and the United States. Sovereign ideology has some roots in white supremacy, but mostly their beliefs are rooted in the idea that governments have no legal authority over them, especially in matters of taxation and the levying of government fees. There are black sovereign citizen groups with unique ideologies, for instance. As a consequence of their rejection of most government authority, some have shot and killed police officers who have stopped them for traffic violations. Others have engaged police in violent armed standoffs. In 2010, sovereign citizen Victor White fired on DPS officers, helicopters and armored vehicles in a 22-hour standoff during which thousands of rounds of ammunition were exchanged.<sup>5</sup> In 2013, a self-described member of the “Moorish Nation,” a mostly African-American sovereign movement, exchanged fire with a Colleyville Police Officer and was wounded.

Many are involved in “paper terrorism” schemes that involve harassing public officials and perceived enemies through the filing of false property liens. In 2017, nine members of a sovereign group with Texas members, called “Continental uNited States of America,” were convicted in Colorado on racketeering conspiracy crimes in an attempt to influence public servants in a legal matter related to one of its members. Members of the same group attempted prison break in New Mexico by posing as U.S. Marshals.

#### *Atomwaffen Division (Neo-Nazis)*

This racist and anti-Semitic organization, which is made up of small-cell groups, endorses violence as a strategy to ignite a race war to establish national socialism in the United States. National leaders are based in Montgomery County, Texas. Some members in other states have been implicated in killing one another, plotting to murder rival supremacists.

In 2017, ProPublica published reputed outtakes from private online chats among Atomwaffen leaders in Texas that mentioned an aspirational desire that a revolution “would” work well if infrastructure were bombed and murders committed. In Florida, police found the components of a radioactive dirty bomb. Members have conducted military-style arms training in Texas.



### *Anti-fascist (Antifa movement)*

From November 2016 through the spring of 2017, a series of melees initiated by antifascist group members at the State Capitol resulted in 18 arrests for aggravated assault with a deadly weapon, assault, evading arrest, interfering with police, disorderly conduct. Protest violence and arrests were continuing in Austin until I left in August 2018. Members of an armed Antifa cell in Austin known as The Red Guard have trained in military assault tactics at an East Texas ranch property. A number of Antifa adherents are on terrorism watch lists.

Antifa activists attacked state troopers and supporters of Donald Trump. No alt-right protestors were arrested and charged during this time period. Anti-gentrification activists associated with the Antifa movement have targeted a local Austin business, vandalizing it and spray painting threatening messages.

Numerous Antifa followers have traveled overseas to fight with communist Kurdish separatists in Iraq and Syria. Some of the Kurdish groups are closely tied to U.S.-designated terrorist groups.

### *Black Nationalism/Separatism*

In 2015 and 2016, individuals associated with extremist black nationalist groups, and triggered over perceived unlawful police shootings of black men, killed or wounded 25 police officers, in Dallas (5 dead), Houston (1 dead), and Baton Rouge (3 dead) beginning in 2016 and continuing. These attacks raised concern for the first time in years that black nationalist ideology may be in resurgence. At least five other attacks against police officers are documented. In 2017, A Dallas man linked to black separatist groups killed his roommate, injured a neighbor, and shot at police before committing suicide. In 2015, two black nationalist extremists were convicted in a plot to murder the police chief of Ferguson, Missouri and to bomb the Gateway Arch.

### *Anti-government/anti-federalist militias*

Texas individuals have been linked with anti-federalists individuals who carried out the 2014 Bundy Ranch standoff in Nevada and, in 2016, the Malheur National Wildlife Refuge standoff in Oregon. Separately, a Texas militia group protesting the Islamic Society of North America conference in Houston clashed with protestors, including members of the New Black Panther Party, injuring one. In January 2017, a Texas-based individual involved in an online militia group burned a Victoria Texas mosque to send a message to the Muslim community. Mark Vincent Perez was found guilty in July 2018 of a hate crime. His social media pages contained hate messages about Muslims.

### **Recommendations**

1. Mobilize the nation's 78 fusion centers to prioritize work that will counter domestic extremism in all of its forms in league with FBI JTTFs and DHS. Not all fusion centers are similarly organized and resourced, but many are well-positioned structurally to identify reporting in their areas of operation and to share it with appropriate federal partners. Fusion center personnel are force multipliers who can more emphatically unearth and develop tips and leads from street-level

officers and identify geographically unique patterns of suspicious behaviors and indicators reflecting regional threats. Additionally, fusion centers field communication networks as conduits of information to hundreds of thousands of front-line police officers and investigators. Requests for information, intelligence analyses of threat trends and indicators, can be quickly disseminated to officers who act as front-line sensors. Fusion centers also are established collectors of suspicious activity reports from the public, often promoting localized public campaigns seeking information. The National Network of Fusion Centers, an organization that networks most fusion center leaders, can be called upon to devise recommendations for common operating opportunities most likely to assist the FBI's efforts in the most helpful ways.

2. Conduct a joint FBI-DHS unclassified comprehensive national risk assessment of bias-motivated criminality, instituted on a semi-annual basis. Current private-sector efforts to assess factors and data are carried out by advocacy organizations subject to questions about credibility and reliability. A federal government assessment would identify current ideologically motivated group types and movements, then for each address common demographics, geographic positioning, socioeconomic factors, common observable threat and tactic indicators, radicalization paths, and recruitment methods.
3. Mandate standard law enforcement reporting to the FBI's Unified Crime Report system regarding bias-crime reporting, or require establishment of a separate reporting system that would allow the FBI to index bias-crime reporting in a systematic, more accurate and timely manner. Currently, reporting to FBI UCR is voluntary and too episodic and unregulated among police departments to provide data reliable enough to guide resource allocation and strategy. Also, expand the reporting criteria in the category to add political, economic and social ideologies to the current race, ethnicity, religion, sexual orientation, disability, gender and gender identity criteria to better account for circumstances. The National Incident-Based Reporting System (NIBRS) already is required for the logging of various kinds of organized criminal activity, which could be used to identify patterns of domestic terrorism. However, reporting is not timely, therefore not useful.
4. Require the Criminal Investigations Divisions of the U.S. military services to emphasize systematic data collection and sharing of disciplinary cases or suspicious behavior indicators involving domestic extremists in the ranks. Some reporting suggests that many extremists implicated in bias crime served in the military and that military authorities might have possessed information indicating radicalization.

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<sup>1</sup> See Korosec, Thomas; "Oklahoma bombing was beginning of end for militias," The Houston Chronicle, April 20, 2005; <https://www.chron.com/news/nation-world/article/Oklahoma-bombing-was-beginning-of-end-for-militias-1502125.php>; "The Rise of Far-Right Extremism in the United States," Center for Strategic & International Studies, November 7, 2018, <https://www.csis.org/analysis/rise-far-right-extremism-united-states>

<sup>2</sup> Texas Joint Crime Information Center, Texas Department of Public Safety, <https://www.dps.texas.gov/IntelligenceCounterterrorism/txJCIC.htm>

<sup>3</sup> Guide to 28 CFR Part 23, A Guide to Criminal Intelligence Policies, U.S. Bureau of Justice Assistance, <https://www.iir.com/Documents/28CFR/28cfrpart23overviewbrochure2015.pdf>

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<sup>4</sup> Texas Fusion Center Privacy, Civil, Rights, and Civil Liberties Policy, Revised November 30, 2010, <https://www.dps.texas.gov/docs/TxFCPrivacyPolicy113010.pdf>

<sup>5</sup> See Vanderlaan, Jon, "White Sentenced to Life," The Odessa American News, December 14, 2012, [https://www.oaoa.com/news/crime\\_justice/courts/article\\_868f75ac-4634-11e2-8d54-001a4bcf6878.html](https://www.oaoa.com/news/crime_justice/courts/article_868f75ac-4634-11e2-8d54-001a4bcf6878.html)

## Biography

In 2009, Todd Bensman ended a 23-year journalism career to enter public service with the Texas Department of Public Safety. As a senior counterterrorism programs specialist, analyst, and manager of an analytical unit, he designed and directed collection operations that fed into the Intelligence Community, prompted or advanced federal counterterrorism investigations, and produced confidential human sources. He routinely briefed senior DPS leadership, state elected leaders and members of Congress about threats related to both domestic and international extremism in Texas. Holding a DHS-sponsored security clearance, Bensman worked frequently with FBI Joint Terrorism Task Forces, ICE and its Homeland Security Investigations, the FBI's Terrorist Screening Center, the National Targeting Center, DHS Intelligence & Analysis Division, and the National Counterterrorism Center.

Bensman left public service in August 2018 to become the Texas-based Senior National Security Fellow for the Center for Immigration Studies, a Washington, D.C. policy institute for which he writes and speaks about the nexus between immigration and national security. He teaches terrorism as an adjunct lecturer for Texas State University in San Marcos, Texas.