

# The Rhetoric of Terrorism

Nearly a decade after 9/11, the prevention of terrorism continues to rank high among the federal government's priorities. Substantial resources are routinely devoted to the slate of military and law enforcement efforts long characterized as a "war against terrorism." In part, this war has featured a running battle over definitions. After all, the interpretation of the word "terrorism" impacts many things - from who can fly on commercial airliners, to the allocation of federal grant money. So what, ultimately, qualifies as terrorism?

The debate over this definition raged once again last week, after a Department of Homeland Security (DHS) intelligence assessment was leaked to the press. This DHS assessment focused on a set of political circumstances that were - according to its authors - fueling the growth of right-wing terrorist groups within the United States.

The DHS report started a firestorm in conservative political circles, due to its characterization of aspects of right-wing political thought as being tantamount to terrorism. Its definition of right-wing extremist groups, for instance, was broadly written to include anti-abortion activists, without indicating specific, violent intent on their part.

The government's over-broad application of the terrorism label has caused similar outrage on the left in the recent past. During the years of the Bush administration, the FBI issued terrorism bulletins that warned law enforcement agencies about anti-war protesters, while neglecting to include criminal allegations related to specific groups.

The perennial problem with an emotionally charged word like terrorism is that it tends to be mis-applied in order to serve a range of rhetorical functions. In the realm of political discourse, the word has been so abused - by both the left and the right - that it frequently fails to mean anything at all. In our often hyperbolic political environment, achieving a social consensus about the definition of terrorism may well be an exercise in futility.

This is not to say that terrorism is impossible to define. In fact, establishing a coherent definition is important for a variety of reasons. In the realm of national security, government initiatives to combat money laundering often hinge upon the identification of foreign organizations as terrorist groups. On the domestic front, crafting a specific and accurate definition of terrorism is important to the prevention of civil liberties abuses. All of these purposes require government officials to think clearly about the terms they employ, for

when the state characterizes something as “terrorism,” there are specific consequences that follow.

The recent DHS memo controversy provides us with an opportunity to examine how the government applies the terrorism label, and to ask where its application may be problematic.

### **Problems with the 2009 DHS memo**

The 2009 DHS report on right-wing extremism contains several examples of how the terrorism label can be mis-applied.

According to its text, the DHS memo is the first in a series of intelligence assessments pertaining to right-wing terror groups. The assessment focuses on the economic and political climate in which terrorist recruitment is said to be growing. On the report’s second page, the authors include a broad definition of right-wing extremism that is applied throughout the document. It includes groups that are clearly fringe elements (such as white-supremacist organizations), but it also sweeps in those who hold sentiments related to the maintenance of limited government.

The report states that anti-government extremists routinely reject “federal authority in favor of state or local authority.” The problem, of course, is that this philosophy is not a product of political extremism. Rather, it is a reflection of conventional thinking among many on the political right, and it can be found any week in the pages of *The American Conservative* and other prominent publications.

The definitional problems on page two of the memo do not exist in isolation. The report contains similar inaccuracies throughout. For example, in discussing extremist militia movements of the 1990s, the memo conflates racial hate ideology with mainstream conservative issues such as “opposition to gun control efforts” and the “highlighting of perceived government infringements on civil liberties.”

### **Parallels with a 2003 FBI memo**

Other intelligence memoranda have featured similarly muddled and problematic definitions in recent years. Within the past decade, the FBI has taken to issuing regular counter-terrorism intelligence bulletins to local police agencies on a range of topics, including protest activities. One bulletin issued in late 2003 outlined potential actions that violent extremists might undertake during anti-war demonstrations. These tactics included vandalism, as well as the utilization of weapons such as “projectiles and homemade bombs.”

However, the report also listed entirely legal activities – such as “raising money in the support of the legal defense of accused protesters” within the same context. This language raised hackles on the left at the time, due to its conflation of Constitutionally sanctioned activities with extremist violence.

### **Consequences of mis-applying the terrorism label**

A central problem that can flow from such mis-characterizations is one of law enforcement over-reaction. Federal and state intelligence products are now disseminated widely throughout American police agencies, and faulty or incomplete information can easily lead to disproportionate tactical responses.

An example of this occurred at a 2003 anti-war rally in Oakland, California. Prior to the demonstration, the California Anti-Terrorism Information Center (CATIC) issued a terrorism bulletin that warned of the possibility of violence at an upcoming anti-war protest at the Port of Oakland. The CATIC bulletin was brief, and lacked specific information about violent actions, other than a generalized warning to be on guard against “potential violence that may be associated with the advertised protest.”

Five days later - during an uneventful protest at Oakland’s port – municipal police fired on demonstrators with wooden projectiles and bean-bag rounds, causing severe, blunt-force injuries to several protesters. Police officials later stated that demonstrators did not respond to an order to disperse, and officers were compelled to clear the area by force. For their part, many demonstrators claimed to have heard no warning before police opened fired with impact munitions.

Subsequent press investigations revealed that Oakland police were on heightened alert prior to the incident at the port. A month earlier, “black block” protesters had smashed squad car windows and struggled with officers during a San Francisco anti-war protest. This information had been circulated widely within the Oakland police department. At the same time, no specific intelligence about violence at the upcoming port protest had been uncovered. The only warning came from the vaguely worded CATIC terrorism bulletin.

Given the violence across the Bay, some level of apprehension by the Oakland police was warranted. At the same time, there is a significant gulf between preparing for potential violence, and using proactive force to clear a non-violent crowd. Given the context of events, it seems likely that the CATIC terrorism bulletin heightened tensions, and may have led police to use tactics they might not have otherwise employed.

For its part, CATIC defended issuing its protest warning within the context of

a counter-terrorism bulletin. As Mike Van Winkle, a CATIC spokesman, told the Oakland Tribune, "You can make an easy kind of a link that, if you have a protest group protesting a war where the cause that's being fought against is international terrorism, you might have terrorism at that (protest). You can almost argue that a protest against that is a terrorist act."

### **The intersection of crime and ideology**

The conflation of terrorism with dissent is a chief concern of civil libertarians. The improper labeling of legal activity as terrorism can bring police resources to bear on free speech and association, chilling such activities.

At the same time, terrorism's inter-mingling of political and criminal intent can make these issues difficult to untangle. The terrorism question is complicated by the fact that terrorists have ideological motivations, and often exist within a larger environment of ideological activity - much of which has nothing to do with terrorism. Given these potential entanglements, how can the government effectively deter terrorism, without infringing upon Constitutionally protected rights?

### **Establishing a workable definition**

Part of the solution to this problem lies in establishing a workable, standardized definition of terrorism. Surprisingly, a uniform definition is not shared by all federal agencies, nor by all state-level intelligence fusion centers. This may help to explain some of the inaccurate suppositions found in certain intelligence products, such as the DHS and FBI memos cited above.

At the same time, there are some government agencies that have sought to apply consistent metrics in their quest to define and categorize terrorism. For instance, the U.S. State Department has used the following statutory language to characterize international terrorist organizations for many years:

"Terrorism means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience."

While not entirely applicable to the domestic arena, this definition's focus on violence against noncombatants provides a useful and focused frame of reference. The State Department has also generally been careful about how it chooses to categorize the members of terror groups, and its reports have been crafted to clarify who is - and who is not - a terrorist. Its 2001 report on patterns of global terrorism features just this sort of language:

(An) "adverse mention in this report of individual members of any political,

social, ethnic, religious, or national group is not meant to imply that all members of that group are terrorists. Indeed, terrorists represent a small minority of dedicated, often fanatical, individuals in most such groups.”

In the context of a law enforcement bulletin, such qualifiers might go a long way toward minimizing the potential for over-reaction.

### **Focusing on the criminal act**

Out in the field, law enforcement is faced with the challenge of differentiating terrorists from the larger political or religious environments in which they travel. Failing to do this can lead to unproductive and legally problematic dossier building, or worse. One way to avoid such snares is to carefully focus on the criminal activity underlying the terrorist act itself.

This advice comes from former FBI undercover agent Mike German. For sixteen years, German investigated violent white supremacist and Islamic extremist groups. He now serves as a policy counsel for the American Civil Liberties Union. I spoke with him in 2007.

“In the cases I handled,” said German, “no one was prosecuted for terrorism. Everyone was prosecuted for what it was they were actually doing. Selling illegal machine guns, making bombs, bombing places, conspiring to hurt people. If we look at what they’re doing simply as criminal acts, it not only helps in the enforcement against them, but it prevents them from using that brand of “terrorist” as a justification for their actions.”

German noted that his legal training allowed him to be conscious and specific about how to separate out individuals within an ideological group, in order to focus solely on those with criminal intentions. Making these clear distinctions, he said, was as critical to effective counter-terrorism as any infiltration or surveillance technique.

“What I found in my cases was that it’s a very small number of people who are willing to be that extreme in what they’re doing,” he said. “(There’s) very few people in the room who will actually commit criminal acts. And if you paint the entire group as bad, you’ve just made a whole lot more enemies than you had the day before. And that’s really what the terrorist is counting on.”

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