



Audit of the Department of Justice's Strategy to Address the Domestic Violent Extremism Threat



AUDIT DIVISION

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EXECUTIVE SUMMARY

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Objectives

The objectives of this audit were to: (1) evaluate the Department of Justice's (DOJ or Department) efforts to develop a comprehensive strategy to address domestic violent extremism (DVE) in the United States, and (2) determine if the Department is effectively coordinating among Department stakeholders on the implementation of its strategy. Our audit scope covered the period of fiscal year (FY) 2017 to FY 2022.

Results in Brief

DOJ has identified DVE, which it refers to interchangeably as domestic terrorism, as one of the most significant threats facing the country. DOJ has characterized its efforts to counter DVE as a whole-of-Department commitment that requires sustained attention and resources. Nonetheless, DOJ has not formalized a DVE strategy. DOJ has focused attention on investigating, prosecuting, and preventing acts of DVE, but it also has experienced challenges in ensuring that its various efforts are cohesive and used in a strategic way to better identify lessons learned and spread awareness of available resources. Moreover, although DOJ has issued some internal guidance relating to DVE investigations, additional clearer guidance across all law enforcement and litigating components could assist in promoting greater consistency about what qualifies as a DVE case and better coordination in the handling of cases with a DVE nexus. DOJ should also consider formalizing mechanisms to routinely evaluate the efficacy and impact of its DVE efforts and to maintain the continuous protection of civil liberties. Finally, DOJ should improve its coordination on data-driven efforts to consistently track DVE-related cases across the Department.

Recommendations

Our report contains seven recommendations to assist the Department in its efforts to have a cohesive and sustained approach to addressing the DVE threat. DOJ concurred with all of our recommendations and provided a response to our draft report, which can be found in Appendix 3. Appendix 4 contains our analysis of DOJ's response.

Audit Results

According to DOJ officials, combating DVE threats dates back to the Department's foundation. Today, the Department defines domestic violent extremists as United States-based actors who, without direction or inspiration from a foreign terrorist group or foreign power, seek to further political or social goals through unlawful acts of violence.

The Department's efforts to combat DVE have broad implications for ensuring the safety and security of Americans, as well as protecting civil liberties and promoting public confidence in the Department's approach to this issue that raises political and other sensitivities. Given the nature of the threat, DOJ efforts to investigate, prosecute, and prevent acts of DVE span many components. The Department has undertaken efforts to strengthen its approach to DVE, including revising DVE-related provisions in the Justice Manual; establishing a Domestic Terrorism Unit (DT Unit) within the National Security Division (NSD); and implementing the first-ever National Strategy for Countering Domestic Terrorism (National Strategy), released by the White House in June 2021. Our audit identified further enhancements to DOJ's approach to countering DVE.

DOJ Should Consider Formulating an Internal Strategic Framework to Promote Sustained Coordination

The Attorney General has described DOJ's approach for addressing DVE as a "whole-of-Department commitment" to "using every appropriate tool at our disposal to deter, disrupt, and punish acts of domestic violent extremism." However, DOJ does not have a formalized or widely recognized strategic framework for addressing the DVE threat, and we observed challenges for ensuring that the Department's various DVE-related efforts and initiatives are cohesive. We found that the Department has not evaluated its DVE-related efforts to ensure that it identifies lessons learned and accounts for areas of overlap. As a result, officials within various DOJ components were not aware of or leveraging available resources within the Department, such as DOJ-funded DVE research grants and training for state and local partners.

Although officials pointed to the Department's implementation of the National Strategy as a step towards identifying, assigning, and connecting the various DVE-related efforts across DOJ, we identified limitations in DOJ's use of this document to guide its law enforcement, prosecution, and prevention efforts.

In 2022, NSD stood up the DT Unit to coordinate domestic terrorism prosecutions, develop training and policies, and support the DOJ's implementation of the National Strategy. In addition, the Department revised the Justice Manual to specify NSD's role in DVE-related cases. Yet, DOJ has not clarified if and how the DT Unit will be used to coordinate Department-wide DVE-related efforts and initiatives. The Department should continue to evaluate its various initiatives and consider ways to formalize a strategy or strategic framework to define and internally guide its approach to combating DVE.

DOJ Should Further Refine its Efforts to Ensure Consistent Identification of DVE-related Cases

In March 2021, the Department issued guidance to all federal prosecutors that emphasized the need for internal coordination and consistency in the identification and tracking of cases involving DVE. DOJ instructed federal prosecutors to broadly interpret the term DVE to include all violent criminal acts in furtherance of ideological goals stemming from domestic influences—such as racial bias and anti-government sentiment—and to notify NSD of cases that involve such activity. In November 2022, the Department codified and clarified this guidance in its revisions to the Justice Manual.

Prior to adoption of the November 2022 revisions, we identified inconsistencies in how DOJ guidance was understood and applied across the Department. We found that DOJ officials and federal prosecutors differed in their understanding of the types of cases that should be reported to NSD based on the guidance, which impacts DOJ's ability to ensure a consistent approach to these cases and obtain an accurate picture of the threat. For example, we heard differing accounts from U.S. Attorneys' Offices (USAO) on whether a narcotics case involving a violent white supremacist prison gang would be reported to NSD as having a potential DVE nexus.

Further, although the majority of the DVE-related cases tracked by NSD are Federal Bureau of Investigation (FBI) domestic terrorism investigations, we found that the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; and U.S. Marshals Service may encounter DVE-related activity in their investigations. We could not quantify the extent to which cases worked by these components involved DVE-related activity because DOJ had

not provided guidance to these entities regarding the identification and reporting of DVE-related cases and had not fully incorporated these components in its efforts to identify such cases. While the November 2022 revisions to the Justice Manual rely on federal prosecutors to identify and report the potential DVE nexus to NSD, DOJ could obtain more complete and consistent information with clearer guidance to all law enforcement components about what qualifies as a DVE case.

DOJ Should Routinely Evaluate the Efficacy and Civil Liberties Impacts of its Efforts to Address DVE

The DVE threat poses unique challenges for DOJ, given the breadth of criminal conduct at issue as well as the political sensitivity and civil liberties concerns accompanying DVE cases. As DOJ continues to take steps to identify overlap between DVE-related cases and other types of criminal cases, such as hate crimes, DOJ should ensure that it is transparent and consistent in its guidance of how it defines and addresses DVE threats—underscoring that it treats all DVE threats objectively and consistently, without political or other biases.

DOJ has to balance the need to be comprehensive in its assessment of DVE threats—to ensure it captures all potential threats to the public—with the need to safeguard individuals' civil liberties. Accordingly, DOJ should continue to enhance methods to routinely evaluate the efficacy and impact of its DVE efforts, to include: (a) identifying any unintended consequences on how its DVE-related efforts are perceived by the public and external stakeholders; (b) assessing and mitigating any privacy and civil liberties risks with assistance from the Office of Privacy and Civil Liberties; and (c) ensuring resources are sufficiently aligned throughout the Department to address the threat.

DOJ Should Build Upon Existing Efforts to Consistently Track DVE-related Cases Across the Department

In conjunction with DOJ's efforts to identify DVE-related cases, the Department tasked NSD with the new responsibility of tracking DVE cases across the Department, both to understand the DVE threat and to marshal a coordinated, nationwide response. We found that while NSD coordinates with both the FBI and USAOs on identifying DVE-related cases, NSD does not fully deconflict or evaluate its case data with data maintained by the Executive Office for U.S. Attorneys. To ensure it accurately captures, interprets, and reports information holistically and in a consistent manner, DOJ should evaluate and formalize NSD's new tracking efforts and consider how it can best evaluate or deconflict these related DVE case data sets with NSD's data. Inaccurate or inconsistent data could not only impair DOJ's ability to assess, prioritize, and address DVE threats, but also risks further inconsistency in how DOJ quantifies and reports on the DVE threat.

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Introduction

The Department of Justice (DOJ or Department) has referred to domestic terrorism as one of the most significant threats facing the country. The Department also utilizes the term domestic violent extremism (DVE) to categorize and describe the various forms of ideologically motivated violence it investigates and prosecutes. The Department defines domestic violent extremists as United States-based actors who, without direction or inspiration from a foreign terrorist group or foreign power, seek to further political or social goals through unlawful acts of violence. According to the Department, in recent years the United States has seen unprecedented and troubling levels of DVE. In fact, the Federal Bureau of Investigation (FBI) has stated that more domestic terrorism investigative activity occurred in the United States in 2020 than in the previous 25 years, and that the attack on the U.S. Capitol on January 6, 2021, resulted in a two-fold increase in its domestic terrorism cases.

In June 2021, the White House National Security Council released the first-ever National Strategy for Countering Domestic Terrorism (National Strategy) to provide a comprehensive, government-wide approach to addressing threats of violence from domestic violent extremists.¹ The National Strategy report states that its overarching goal is to prevent, disrupt, and deter acts of domestic terrorism, while also safeguarding American civil rights and civil liberties. Because DOJ's mission is to uphold the rule of law, keep the country safe, and protect civil rights, DOJ is central to the federal government's efforts to address the DVE threat and implement the National Strategy. DOJ components play a role not only in the investigation and prosecution of DVE-related cases, but also in the sharing of domestic terrorism-related information, as well as the prevention, disruption, and deterrence of violent acts committed by domestic violent extremists.

Background

Combating the domestic violent extremist threat has been a part of DOJ's mission since the founding of the Department. DOJ officials point to early Department efforts to combat violent threats posed by white supremacists through the prosecution of cases against members of the Ku Klux Klan. Since the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, which is recognized within the Department as the deadliest single act of domestic terrorism in U.S. history, the Department has engaged in various efforts and initiatives to address the evolving modern threat. According to the Department, "the January 6, 2021, assault on the Capitol is but the most recent and visible example of the [domestic terrorism] threat."² Following the January 6 assault on the U.S. Capitol, DOJ reported that it has undertaken enhanced efforts to investigate and prosecute acts of violence and domestic terrorism, while continuing to recognize the boundary between extremist viewpoints, which may involve constitutionally protected activity under the First Amendment, and true threats of violence, which are not protected activity.

¹ White House National Security Council, [National Strategy for Countering Domestic Terrorism](https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf) (June 2021), www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf.

² [U.S. Department of Justice Fiscal Year 2022 Budget Request, Addressing Domestic Terrorism](https://www.justice.gov/jmd/page/file/1398831/download) (May 2021), www.justice.gov/jmd/page/file/1398831/download.

Throughout our audit, Department officials often used the term DVE interchangeably with domestic terrorism. In recognition of the important legal and policy considerations for what constitutes DVE and how the Department defines "domestic terrorism," in early 2021 the Acting Deputy Attorney General issued guidance (2021 DVE Guidance) to promote coordination and consistency in how it internally identifies and tracks DVE-related investigations and cases. This guidance specified that the term DVE, "should be interpreted broadly and include all violent criminal acts in furtherance of ideological goals stemming from domestic influences, such as racial bias and anti-government sentiment." In November 2022, the Department codified and clarified this guidance in revisions to Section 9-2.137 of the Justice Manual.³ Department officials have noted that, while "domestic terrorism" is defined in the United States Code, there is no federal crime of domestic terrorism. According to DOJ, terrorism-related charges could apply to certain DVE-related cases, but many of these cases do not meet the requirements and predicate offenses enumerated in the terrorism-related statutes.⁴ The Department has used an array of criminal statutes to prosecute individuals who engage in DVE-related activity, including charges associated with firearms, hate crimes, arson, threats, hoaxes, riots, and attacks on federal officers or facilities. In light of the diverse charges applied to DVE-related offenses, the 2021 DVE Guidance also sought to enhance DOJ's ability to collect information about existing and new DVE-related cases.

Domestic Terrorism Defined in 18 U.S.C. § 2331(5)

The statutory term "**domestic terrorism**" means 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; and (C) occur primarily within the territorial jurisdiction of the United States.

Within the Department, the FBI is the lead federal law enforcement agency responsible for investigating DVE threats. Colloquially, FBI officials describe acts of DVE as involving three distinct elements: (1) a potential violation of federal law; (2) violence or the threat of violence; and (3) a motivating ideology that drives the violence or threat of violence. The FBI categorizes DVE actors based on a range of violent extremist ideologies. As of October 2022, the FBI recognized the five categories of domestic violent extremists shown in Figure 1. These categories correlate to specific FBI case classifications for identifying and tracking DVE investigations.

³ The Justice Manual contains publicly available DOJ policies and procedures, see www.justice.gov/jm/justice-manual. The recent updates are included in section JM 9-2.137 – Notification, Consultation, and Approval Requirements in Matters Involving Domestic Violent Extremism, Including Domestic Terrorism.

⁴ Title 18 U.S.C. § 2332b(g)(5) defines a federal crime of terrorism as an offense that "is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct," and violates one of the enumerated statutes prohibiting terrorism-related offenses, such as statutes related to weapons of mass destruction. In addition, the Department has charged domestic terrorism subjects under 18 U.S.C. § 2339A, which outlaws providing material support or resources to another knowing or intending that they be used in preparation for or carrying certain terrorism-related offenses (predicate offenses).

Figure 1

FBI Domestic Violent Extremist Threat Categories



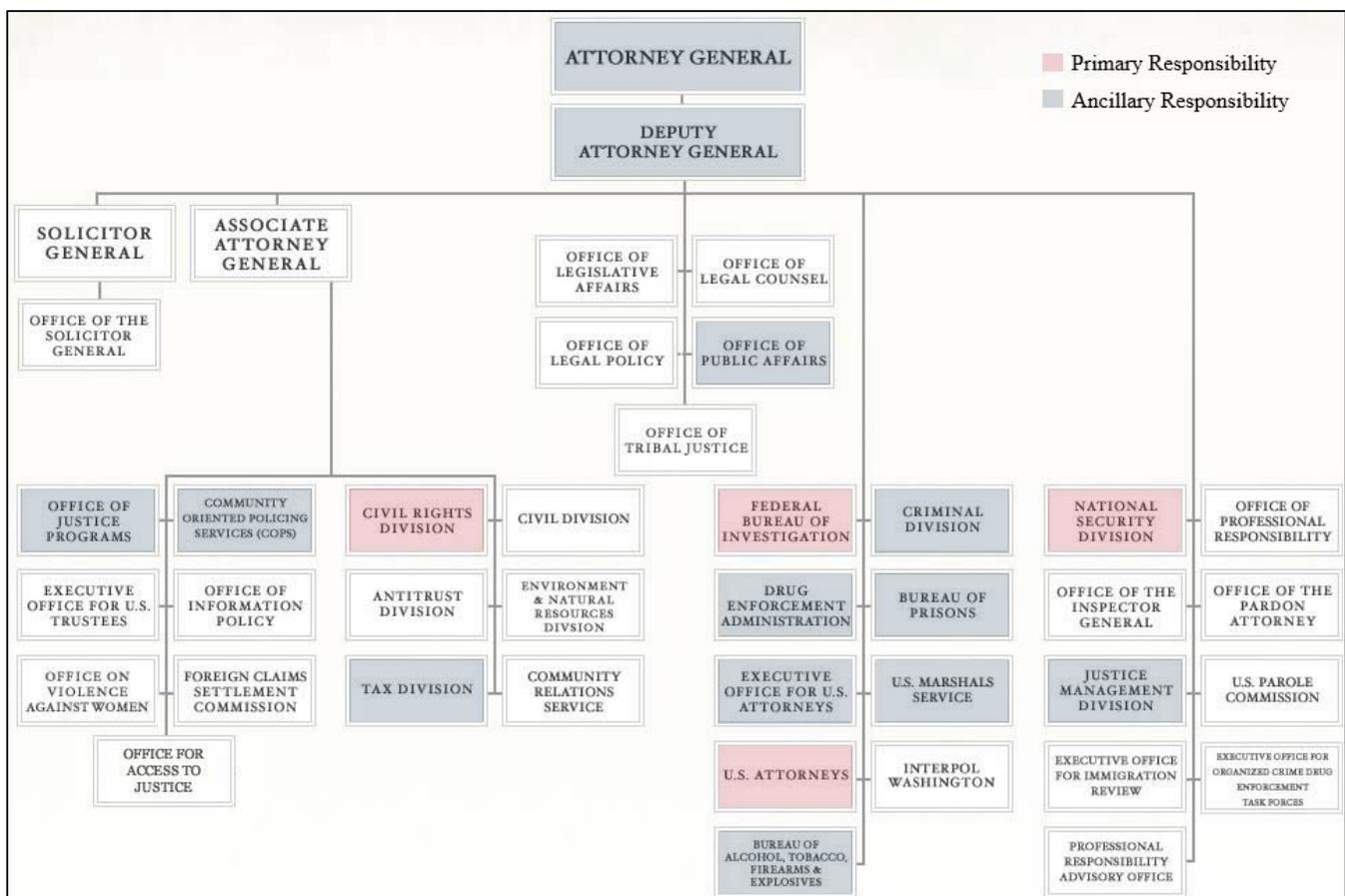
Note: The five categories of domestic violent extremist threats are depicted in the left column, while the right column lists the three sub-classifications under the Anti-Government/Anti-Authority Violent Extremists (AGAAVE) category. During the scope of the audit, the FBI created a new sub-classification under its AGAAVE category, which the FBI stated it will begin using in FY 2023. This classification, titled AGAAVE-Other, is defined as domestic violent extremists who cite anti-government or anti-authority motivations for violence or criminal activity not otherwise defined, such as individuals motivated by a desire to commit violence against those with a real or perceived association with a specific political party or faction of a specific political party.

Source: OIG review of the [Strategic Intelligence Assessment and Data on Domestic Terrorism](https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view), FBI and Department of Homeland Security (DHS), May 2021, <https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>.

While the FBI—specifically the Domestic Terrorism Operations Section within the FBI’s Counterterrorism Division—investigates domestic terrorism, the 94 U.S. Attorneys’ Offices (USAO) and the National Security Division (NSD) are the principal DOJ entities responsible for prosecuting acts of domestic terrorism. In addition, the Civil Rights Division (CRT) plays a principal role in prosecuting DVE offenses that qualify as hate crimes and violations of the Freedom of Access to Clinic Entrances (FACE) Act. The Department has acknowledged that given the breadth of the threat, many other DOJ components also fulfill a critical role in countering DVE. For example, because the Department relies on an array of criminal statutes—such as firearms offenses, tax violations, or threat, hoax, or riot charges—to disrupt and prosecute domestic violent extremists, coordination with various other DOJ law enforcement and litigating components is essential. In addition, once a subject is convicted and sentenced, the Federal Bureau of Prisons (BOP) is responsible for ensuring the security and appropriate monitoring of federal inmates with a domestic terrorism nexus. Moreover, DOJ has various grant-making components that provide funding opportunities for DVE-related research, training, and resources. Figure 2 shows the DOJ components with a role in DOJ’s approach to addressing DVE threats.

Figure 2

DOJ Components and Offices with a Role in Addressing DVE Threats



Source: OIG depiction of DOJ components and offices involved in addressing DVE threats, based on DOJ’s publicly available organizational chart, www.justice.gov/agencies/chart.

Prior Reports

The DOJ Office of the Inspector General (OIG) has issued prior reports related to Department efforts to address terrorism threats, which provided useful background information and context for the current audit. A September 2010 DOJ OIG Review of the FBI's Investigations of Certain Domestic Advocacy Groups resulted in findings related to the FBI's investigation of matters involving domestic advocacy groups and their members' First Amendment-related activities.⁵ The OIG made several recommendations in that report, including that the Department consider and provide further guidance on when cases involving First Amendment issues, such as acts of nonviolent civil disobedience that could constitute federal crimes (like trespassing on military facilities), should be classified as "acts of terrorism matters" and when they should not. The OIG also recommended that the FBI specify the potential violation of a specific federal crime when opening an investigation involving advocacy groups and First Amendment-related activity, and also recommended that the Department determine whether to reinstate a former Attorney General's Guidelines prohibition on retaining information collected from attending public events that is not related to potential criminal or terrorist activity. At the end of FY 2022, the OIG considered these recommendations resolved and continues to assess the FBI's implementation of them.

A March 2017 Review of Domestic Sharing of Counterterrorism Information—a joint review conducted by the DOJ OIG, the Department of Homeland Security (DHS) OIG, and the Intelligence Community (IC) OIG—made recommendations to the Department regarding, among other things, the DOJ's Anti-Terrorism Advisory Councils (ATAC), which are referenced later in this report as having a role in DOJ's efforts to address the DVE threat.⁶ As a result of the OIG's recommendations from this audit, the Department augmented its oversight of the ATACs by establishing an annual verification process to ensure that USAOs updated ATAC plans.

In March 2020, the DOJ OIG released an audit of the FBI's Efforts to Identify Homegrown Violent Extremists (HVEs) through Counterterrorism Assessments, which found, among other risks, that the FBI had not taken sufficient action to address weaknesses in its assessment process for HVEs. While the report recommendations remained open as of FY 2022, in response to the OIG's findings, the FBI has taken steps to evaluate and enhance its assessment process.⁷ We considered these previously identified risks as we conducted this audit.

OIG Audit Approach

The objectives of our audit were to: (1) evaluate the Department's efforts to develop a comprehensive strategy to address DVE in the United States; and (2) determine if the Department is effectively coordinating among Department stakeholders on the implementation of its strategy. The scope of our audit covered the period of FYs 2017 through 2022. To accomplish our objectives, we reviewed documentation associated

⁵ DOJ OIG, [A Review of the FBI's Investigations of Certain Domestic Advocacy Groups](https://www.oig.justice.gov/reports/review-fbis-investigations-certain-domestic-advocacy-groups-redacted-version) O&R Report (September 2010), www.oig.justice.gov/reports/review-fbis-investigations-certain-domestic-advocacy-groups-redacted-version.

⁶ DOJ OIG, DHS OIG, IC IG, [Review of Domestic Sharing of Counterterrorism Information](https://www.oig.justice.gov/reports/review-domestic-sharing-counterterrorism-information), Audit Report OIG-17-49 (March 2017), www.oig.justice.gov/reports/review-domestic-sharing-counterterrorism-information.

⁷ DOJ OIG, [Audit of the FBI's Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments](https://www.oig.justice.gov/reports/audit-federal-bureau-investigations-efforts-identify-homegrown-violent-extremists-through) Audit Report 20-030 (March 2020), www.oig.justice.gov/reports/audit-federal-bureau-investigations-efforts-identify-homegrown-violent-extremists-through.

with DOJ's approach to DVE, as well as DOJ's implementation of the National Strategy. We also assessed various initiatives, committees, and task forces related to addressing the threat of DVE and guidance associated with how the Department identifies and tracks DVE cases.

We interviewed officials at the Office of the Deputy Attorney General (ODAG), FBI, and NSD responsible for the Department's overall approach to defining and addressing threats posed by domestic violent extremists. We also conducted interviews across numerous other DOJ components with mission areas that touch upon or overlap with the DVE threat, including the: Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); BOP; Office of Community Oriented Policing Services (COPS); Criminal Division (CRM); CRT; Drug Enforcement Administration (DEA); Executive Office for U.S. Attorneys (EOUSA); Office of Justice Programs (OJP); Office of Public Affairs; Office of Privacy and Civil Liberties (OPCL); Tax Division (Tax); and U.S. Marshals Service (USMS). Finally, we spoke with officials from four USAOs regarding their understanding and implementation of DOJ's guidance regarding the notification and tracking of DOJ investigations and cases with a DVE nexus. Appendix 1 contains further details on our audit objectives, scope, and methodology.

Audit Results

According to the Department, threats posed by domestic violent extremists have not only increased over the past few years but are also becoming more complicated due to the emergence of new violent ideologies, the impact of social media, and the response to recent political and social events. The Department has undertaken efforts to implement the first-ever National Strategy for Countering Domestic Terrorism, released by the White House in June 2021, but does not have a formal Department-wide strategy or framework to guide its efforts. We found that DOJ has experienced challenges in ensuring that its various DVE-related enforcement, grantmaking, and outreach efforts are cohesive and used in a strategic way to better identify lessons learned and spread awareness of available resources. In March 2021, the Department issued to federal prosecutors guidance regarding the identification and coordination of investigations and prosecutions with a DVE nexus, and this guidance was codified and clarified in revisions to Section 9-2.137 of the Justice Manual in November 2022. During the course of the audit period, however, we found that DOJ's litigation and law enforcement components may not all have had the same understanding of what constitutes a DVE nexus and may not all have been aware of the need to identify and report DVE-related cases consistently. Given the significant risks associated with combating DVE-related threats while also protecting civil liberties and maintaining public confidence in the Department's objectivity in addressing this threat, DOJ should continue to enhance its mechanisms to routinely evaluate the efficacy and impact of its DVE efforts. Further, DOJ should evaluate and deconflict its efforts to track DVE-related cases to ensure it has an accurate understanding and prioritization of the threat, which will help to promote transparency with stakeholders.

DOJ Should Consider Formulating an Internal Strategic Framework to Promote Sustained Coordination

Over the past few years, Department officials have noted that the DVE threat is elevated and continuously evolving due to the emergence of new violent ideologies, the impact of social media, and the response to recent political and social events. Therefore, the Department must ensure it is well-positioned to understand the evolving and heightened threat landscape, and agile in how it can best prevent, investigate, and prosecute acts of DVE. According to DOJ officials, the Department has focused its attention on the issuance of new guidance to improve internal coordination and tracking of DVE cases; establishment of a new Domestic Terrorism Unit in NSD to coordinate prosecutions, develop training and policies, and coordinate other DVE-related matters; revisions to the Justice Manual to enable greater oversight and centralized control of DVE-related prosecutions; and implementation of the first-ever National Strategy. Attorney General Merrick Garland has described DOJ's approach for addressing DVE as a "whole-of-Department commitment" to "using every appropriate tool at our disposal to deter, disrupt, and punish acts of domestic violent extremism and domestic terrorism." However, we found that DOJ does not have a formalized, internal strategy to guide its varied DVE-related efforts—from grant-funded research, training, and technical assistance to investigations and prosecutions—and to ensure that DOJ efforts are comprehensive, cohesive, and used to inform a long-term approach and promote sustained coordination to mitigating this threat. This lack of a formal, internal DVE strategy stands in contrast to other priority threat

areas covered by DOJ's mission, including violent crime, human trafficking, and environmental justice, for which the Department has recently issued DOJ-specific strategies.⁸

The National Strategy seeks to promote coordination and collaboration among the federal government and its state, local, tribal, territorial, and private sector partners on combating domestic terrorism and includes many elements in which DOJ and the FBI play leading roles. In particular, Attorney General Garland described DOJ's implementation of the National Strategy as a way to coordinate and provide a principled path forward for the federal government's efforts to counter the heightened domestic terrorism threat. While the National Strategy helps to coordinate policy and outreach across the federal government, Department officials with whom we spoke emphasized that the National Strategy, which was issued by the White House, does not guide DOJ enforcement efforts and does not affect how DOJ investigates and prosecutes DVE threats. Officials specified that the Department must maintain independence, both real and perceived, from the White House, and be able to make its own decisions on investigations and prosecutions that are free from political influence.

Since the release of the National Strategy in June 2021, ODAG, with support from NSD, has worked to coordinate efforts across many of the Department's components to implement the National Strategy's goals. Figure 3 provides an overview of the DOJ components that ODAG initially assigned to contribute to the Department's National Strategy implementation efforts. As of June 2022, DOJ reported that components' contributions to the National Strategy included activities such as engaging with bilateral and multilateral partners, coordinating development of the 2021 edition of the U.S. Violent Extremist Mobilization Indicators booklet, and evaluating the need for new legislative authorities to counter domestic terrorism.⁹

⁸ [Comprehensive Strategy for Reducing Violent Crime](https://www.justice.gov/dag/page/file/1397921/download) (May 26, 2021), www.justice.gov/dag/page/file/1397921/download, [National Strategy to Combat Human Trafficking](https://www.justice.gov/opa/press-release/file/1467431/download) (January 2022), www.justice.gov/opa/press-release/file/1467431/download, and [Comprehensive Environmental Justice Enforcement Strategy](https://www.justice.gov/asg/page/file/1499286/download) (May 5, 2022), www.justice.gov/asg/page/file/1499286/download.

⁹ National Counterterrorism Center, FBI, and the Department of Homeland Security, [U.S. Violent Extremists Mobilization Indicators 2021 Edition](https://www.dni.gov/files/NCTC/documents/news_documents/Mobilization_Indicators_Booklet_2021.pdf) www.dni.gov/files/NCTC/documents/news_documents/Mobilization_Indicators_Booklet_2021.pdf.

Figure 3

DOJ Components Identified by ODAG to Contribute to the Implementation of the National Strategy

National Strategy Pillars		BOP	COPS	CRM	CRT	EOUSA	FBI	JMD	NSD	ODAG	PAO	OJP	TAX
 1	Understand and Share Domestic Terrorism-Related Information			X			X		X	X		X	
 2	Prevent Domestic Terrorism Recruitment and Mobilization	X	X	X			X		X	X	X	X	
 3	Disrupt and Deter Domestic Terrorism			X	X	X	X	X	X	X		X	X
 4	Confront Long-Term Contributors to Domestic Terrorism	NOT ASSIGNED											

Source: OIG analysis of ODAG documentation

Although the National Strategy to promote government-wide collaboration on the domestic terrorism threat is an important endeavor, DOJ’s use of the National Strategy to drive coordination does not necessarily provide the Department with a sustained framework for its response to addressing the evolving nature of the DVE threat. Specifically, because the National Strategy is an all-of-government approach introduced by a presidential administration, it may not represent specific priorities of the Department as it investigates and prosecutes emerging DVE threats, which may be more appropriately communicated in a DOJ-specific strategy. In addition, while ODAG’s assignment of DOJ’s National Strategy implementation responsibilities reflects a broad range of components, we found that it is not comprehensive of all DOJ components involved in combatting DVE threats. For example, aside from the FBI, DOJ’s implementation of the National Strategy has not included the Department’s other law enforcement components, even though the ATF, DEA, and USMS also contribute to DOJ’s DVE enforcement efforts. A Department official told us that the National Strategy is focused on policy and intelligence sharing related to domestic terrorism, which is not the focus of those components’ missions. Further, although the Justice Management Division (JMD) was identified as relevant to DOJ’s efforts to implement the National Strategy strategic goals, JMD informed the OIG that they were not aware of any coordination efforts within the Department. In general, we found that DOJ’s actions related to implementing the National Strategy do not necessarily reflect all internal efforts and do not focus on establishing formalized connections among DOJ programs and evaluating the efficacy of internal coordination.

Over the past few years and prior to the June 2021 establishment of the National Strategy, DOJ officials publicly highlighted the importance of established DOJ programs and entities to mitigate DVE threats. For instance, DOJ has emphasized that the FBI-led Joint Terrorism Task Forces (JTTF) and the Antiterrorism Advisory Councils (ATAC) are essential to coordinating the investigation and prosecution of DVE-related cases. In addition, DOJ and FBI officials have pointed to the involvement of the FBI’s Domestic Terrorism-Hate Crimes Fusion Cell, which was established in 2019, to facilitate coordination between FBI domestic terrorism and hate crimes investigators on cases that impact both investigative areas. DOJ officials have

also underscored the importance of various non-enforcement programs and initiatives associated with DVE-related efforts, to include the DOJ-led Domestic Terrorism Executive Committee (DTEC) and specific grant programs administered by OJP's National Institute of Justice (NIJ) and Bureau of Justice Assistance (BJA), as well as the Office of Community Oriented Policing Services (COPS).¹⁰

In addition to those efforts that have been publicly identified by the Department as part of its approach to combatting DVE, DOJ components have programs and initiatives that involve crossover with DVE-related efforts. For example, the Tax Division's Tax Defier Initiative promotes the investigation and prosecution of individuals who take concrete action to defy U.S. tax laws, many of whom adhere to sovereign citizen beliefs.¹¹ Through USAO press releases, we also noted that the Project Safe Neighborhoods (PSN) program, DOJ's nationwide violent crime reduction program first launched in 2001, has led to prosecutions of cases involving DVE-related criminal activity. For example, a December 2021 press release for a PSN program case referenced the subject's "desire to overthrow the government" and stated that the subject's "illegally possessed firearm had the capability and means to affect violence in furtherance of his beliefs."¹² DOJ also has grant programs such as the Antiterrorism and Emergency Assistance Program (AEAP), administered through OJP's Office for Victims of Crime (OVC), which supports victims and jurisdictions that have experienced incidents of terrorism or mass violence. Though we attempted to identify DOJ programs and initiatives that contribute to the Department's approach to combating DVE, we found that it was a challenge to identify all endeavors because the Department does not have a complete understanding of all relevant efforts across DOJ. We found that the Department noted a similar gap in the violent crime space when it announced its comprehensive strategy for reducing violent crime in May 2021 and established a steering committee with representatives from across the Department. This steering committee was directed to meet regularly to ensure coordination among components, provide leadership and guidance on implementation of DOJ's violent crime reduction strategy, consult with interagency partners, and make recommendations on all aspects of the Department's efforts to reduce violent crime.

Although DOJ officials acknowledged that DVE threats implicate the work of multiple component efforts, the Department has not conducted a comprehensive evaluation of these efforts to identify cross-cutting issues, shared goals, and operational efficiencies. We identified the following challenges and areas of improvement for the Department related to the breadth of its DVE-related initiatives and programs.

Evaluate Effectiveness and Identify Lessons Learned

We found that the Department could better evaluate the effectiveness of its DVE-related efforts and identify lessons learned to inform its approach. The Department established the DTEC following the 1995 Oklahoma City bombing. The DTEC was disbanded following the September 11th terrorist

¹⁰ See Appendix 2 for a description of these programs and initiatives.

¹¹ The FBI defines sovereign citizen violent extremists as domestic violent extremists who believe they are immune from government authority and laws. Though Tax Division officials told us that most tax defier cases involve sovereign citizens who are non-violent, they confirmed that there are a small number of sovereign citizen-related cases that also involve violent extremist activity. The Tax Division coordinates these cases with relevant components, including NSD, for prosecution.

¹² DOJ U.S. Attorney's Office for the Western District of Texas, Press Release, "[Self-Proclaimed Boogaloo Bois Member Sentenced for Illegally Possessing a Firearm](https://www.justice.gov/usao-wdtx/pr/self-proclaimed-boogaloo-bois-member-sentenced-for-illegally-possessing-a-firearm)," December 9, 2021, www.justice.gov/usao-wdtx/pr/self-proclaimed-boogaloo-bois-member-sentenced-for-illegally-possessing-a-firearm.

attacks as Department priorities shifted to international terrorism but was formally reestablished in 2014 to coordinate the federal response to domestic terrorism, identify trends and gaps, and propose strategies for preventing and responding to attacks. In 2021, DOJ announced that it would “reinvigorate” the DTEC—though an official responsible for leading the DTEC confirmed that the group had been active since 2014 and that, as of May 2022, it was not clear what this reinvigoration would entail. Further, while officials in DOJ components who participated in the DTEC discussed the benefits of having a forum to share information on the domestic terrorism threat; there were also DOJ officials involved with DVE-related efforts who were unaware of the DTEC’s exact purpose and goals. In addition, we found that the DTEC did not consistently complete required annual reports or document outcomes, such as what steps had been taken to address the DVE trends or gaps that the DTEC had identified. Given that the Department points to the DTEC as a key component of its approach to DVE, we recommend that DOJ identify ways in which the DTEC could be used more effectively for its components and federal law enforcement partners. Among other things, the Department could better define the DTEC’s purpose, raise its profile with internal stakeholders, and ensure it is evaluating lessons learned from its efforts.

The DOJ Task Force on Violent Anti-Government Extremists was established in June 2020 by then Attorney General William Barr to develop and share information about violent anti-government extremist actors and movements with federal, state, and local law enforcement; provide training and identify resources to help law enforcement at all levels; and identify, investigate, and prosecute violent acts by domestic extremists. This task force was led by members of the USAO community and included members from the FBI. A USAO official involved with the task force provided the OIG with documentation associated with the task force’s efforts to identify relevant cases across USAOs, host a law enforcement information sharing summit, and coordinate with local law enforcement agencies about domestic violent extremist activities. According to this official, following the change in administration in January 2021, the task force activities “petered out,” but there was no formal process to disband the task force and evaluate how or if it achieved the Department’s intended goals and objectives. When we followed up with ODAG and NSD about the task force, we were told that NSD had never been included in the task force but had identified takeaways from the task force’s processes associated with case tracking and public messaging. Ultimately, NSD said it had deemed the task force activities to be redundant to NSD efforts. Nevertheless, the Department did not maintain any documentation on disbanding the task force or formally evaluating its goals and outcomes. When a task force or initiative ends, the Department should have a mechanism in place to ensure it does not lose the knowledge base and any lessons learned that could inform future endeavors.

Spread Awareness of and Leverage Available Resources

We identified areas in which the Department could better ensure that its components are aware of and leveraging resources related to combating DVE threats. For example, OJP’s BJA offers domestic terrorism-related training to state and local law enforcement through its State and Local Anti-Terrorism Training (SLATT) program. Although USAOs can request training for law enforcement agencies in their districts, Assistant United States Attorneys (AUSAs) from the four USAOs with whom we spoke were unaware of or were not using this resource. In addition, while BJA made certain changes to the program during the COVID-19 pandemic to convert trainings to a virtual environment, in June 2022 NSD made public remarks referring to the SLATT program as a “newly created antiterrorism training program,” despite it being a well-established DOJ resource since 1996.

Similarly, we found that the AUSAs we spoke with were either unaware of or their districts had not formally implemented the Department's Disruption and Early Engagement Program (DEEP). The goal of this initiative was to leverage relationships with law enforcement, community groups, and healthcare professionals to disrupt targeted acts of violence, including acts of domestic terrorism. USAO officials told us that while they had received Department guidance when the program was first initiated in 2019, they had not received further guidance on the program, with one official unsure whether the program was still active. Further, NSD's understanding was that DEEP was no longer an active program and that the FBI had, in turn, promoted its Threat Assessment and Threat Management (TATM) initiative. The TATM initiative endeavors to assist FBI field offices—in concert with law enforcement and non-traditional community stakeholders—in building local capacity to triage, act on, and manage proactive investigations involving terrorism and mass casualty targeted violence. The FBI informed us that, while DOJ's DEEP was implemented in collaboration with the FBI, the TATM initiative is a distinct FBI initiative adopted in 2018 as a mechanism for achieving similar goals and priorities. According to the FBI, the current posture of DEEP supports and references the TATM initiative as a mechanism to achieve DEEP priorities. In general, we found that the Department as a whole did not have a clear understanding of the status and role of the DEEP and TATM initiatives, which could hinder their intent and effectiveness.

In addition, since FY 2012, the National Institute of Justice (NIJ) has funded research related to radicalization and domestic terrorism prevention. In FY 2021, NIJ funded over \$7 million of DVE-related research; and in FY 2022, an additional \$4 million in appropriated funding was requested for research on the root causes of radicalization. While NIJ officials stated that its research is primarily intended to assist state and local practitioners, policymakers, and other researchers, DOJ officials acknowledged that the Department may be missing an opportunity to use its grant-funded resources and research, which we assessed could help inform its approach to DVE from the federal level. In addition, we heard from component officials who suggested ways in which grant-funded research could be better coordinated to serve the Department, for example by focusing research topics on specific challenges or risk areas that the FBI identifies, such as those posed by emerging or growing DVE ideologies. As another example, the BOP and NIJ could coordinate on facilitating research related to the impact of programming on inmates affiliated with extremism, which could benefit the BOP, as well as state and local practitioners in developing effective programming. In fact, according to the BOP, its Intelligence and Counter Terrorism Branch and Chaplaincy Services Branch would benefit from NIJ research on domestic radicalization and terrorism for intervention and prevention.

Ensure Outreach Efforts are Coordinated and Cohesive

We found that the Department could improve coordination of its external outreach efforts related to the DVE threat. The BJA SLATT program is one of many avenues through which DOJ provides state and local partners with training and resources on the DVE threat. The JTTFs and ATACs, as well as additional DOJ grant programs through OJP and COPS, also provide DVE threat-related resources and trainings to state and local law enforcement entities. However, DOJ's various outreach and training efforts to state and local law enforcement do not appear to be regularly deconflicted or evaluated to ensure cohesive messaging or to account for redundancies in efforts across

components.¹³ In addition, multiple components within the Department have a role in conducting outreach and information-sharing with foreign, multilateral, and non-governmental partners on the DVE threat. For example, we were told that NSD, the FBI, and the Criminal Division's Office of International Affairs (OIA) are all involved in foreign partner engagement efforts, such as sharing information on transnational approaches, best practices, and lessons learned on preventing and countering DVE threats. According to NSD, the Criminal Division's OIA and NSD regularly collaborate and share talking points and other materials when engaging with foreign partners. Continuing to ensure adequate coordination among these components, as well as streamlining outreach efforts across NSD, the FBI, and the Criminal Division's OIA, is important to ensure the Department's strategy is represented externally in a clear and consistent manner.

The Department has recognized that the DVE threat is not easily defined, is constantly evolving, and spans the work of many components, and that DOJ task forces and initiatives will come and go based on current priorities and available resources. As a result, efforts have been somewhat stove-piped and, aside from ODAG, there has not been a central place for all components to turn for information on domestic terrorism efforts within the Department. While we note that the DTEC may be intended to fill such a role in identifying threat trends and coordinating a federal response, we did not find that it had contributed to a formalized strategy for the Department. In fact, we heard from multiple USAO officials that it would be helpful if information regarding the Department's DVE-related initiatives (and their current status) was more accessible. DOJ component officials stated that a DOJ-specific DVE strategy could not only assist the Department with internally focusing its efforts, but also could assist in the external messaging of its approach and help ensure the public has a better understanding of how DOJ defines and addresses DVE threats. DOJ components with missions that overlap in this threat area should be able to identify the connections between their work and the work done throughout the rest of the Department on this issue to reduce the risk of duplicative or inconsistent efforts and to enhance DOJ's ability to understand, prevent, investigate, and prosecute criminal acts by domestic violent extremists.

In addition, the Department could benefit from a more formal structure to ensure consistency in how its components approach and coordinate on DVE-related issues. Not only can this provide DOJ opportunities to connect the dots across components in this threat area, but it could assist the Department in conducting a more comprehensive threat assessment of DVE in the United States. For example, the Department could better integrate the FBI's threat assessments, which according to officials are generally based on information from FBI investigations, with the BOP's assessment of DVE radicalization threats arising within its institutions, as well as information gained from grantmaking components' outreach to state and local law

¹³ DOJ OIG previously identified similar concerns related to DOJ components' coordination of their grants and outreach efforts to state and local partners in other enforcement areas. For example, a May 2022 [Audit of the COPS Anti-Heroin Task Force Program](#) (Audit Report 22-072) found that COPS could better coordinate and leverage DOJ's other anti-drug initiatives and resources, which would provide valuable input for COPS to identify jurisdictions most in need of resources and synchronize a coordinated agency-wide opioid crisis response, see oig.justice.gov/reports/audit-office-community-oriented-policing-services-anti-heroin-task-force-program. Further, the September 2020 [Audit of DEA's Community-Based Efforts to Combat the Opioid Crisis](#) (Audit Report 20-102) found that DEA could improve coordination with DOJ's grantmaking agencies to identify potential areas for program collaboration that would enhance DEA's community outreach efforts, see oig.justice.gov/reports/audit-drug-enforcement-administrations-community-based-efforts-combat-opioid-crisis.

enforcement on the DVE threat.¹⁴ Ensuring DOJ has a comprehensive threat picture is especially important to promote public confidence that DOJ is consistent, even-handed, and not acting based on bias or political influence.

While we understand that DOJ does not have an internal strategy for every mission critical area under its purview, some DOJ component officials told us that the Department could benefit from an internal framework to guide its DVE efforts, particularly given the evolving and complex nature of this particular threat. Moreover, we found that DOJ's internal strategies for violent crime, human trafficking, and environmental justice either drew on a national strategy document or reflected threat areas that spanned across the Department and focused on the intra-Departmental actions that DOJ components should undertake to align their efforts. Therefore, we recommend that the Department: (a) evaluate its various initiatives and efforts that relate to addressing the DVE threat to ensure that they are effective, cohesive, and used strategically to inform DOJ's approach; and (b) determine if there is value in establishing an internal DOJ-wide strategy or other strategic framework to define, guide, and coordinate its varied DVE-related efforts.

The Department has emphasized that it is committed to building a structure to facilitate collaboration among DOJ components in combatting the DVE threat. In May 2022, NSD announced the establishment of a Domestic Terrorism Unit (DT Unit) within its Counterterrorism Section (CTS) to prosecute and coordinate domestic terrorism cases, develop training and policies on domestic terrorism matters, and support the DOJ's implementation of the National Strategy. Since standing up the DT Unit, NSD has initiated various training, engagement, and collaboration activities, such as establishing formal liaisons with other DOJ components. NSD officials with whom we spoke stated that the DT Unit could fill a centralized role for the Department in aligning DVE-related efforts.

Additionally, in November 2022, the Deputy Attorney General (DAG) announced changes to the Justice Manual regarding the handling of DVE-related cases, as set forth in Section 9-2.137.¹⁵ Among other things, those changes codified and clarified the Department's March 2021 guidance regarding USAOs' obligations to notify NSD of DVE-related cases; empower NSD to exercise decision-making authority in DVE-related cases of national significance, including with respect to charging decisions; require NSD approval to seek terrorism-related sentencing enhancements in DVE-related cases; and deconflict roles and responsibilities between NSD and CRT in DVE-related cases that involve violations of statutes enforced by CRT. The DAG explained that these revisions are intended to "promote consistency and appropriate coordination and oversight of DVE-related matters" and that the DT Unit is "responsible for coordinating DVE-related cases with [USAOs] in accordance with these new provisions."

We acknowledge that the Department's plans for the DT Unit and its November 2022 revisions to the Justice Manual may address some of our concerns listed above related to ensuring coordinated and cohesive outreach efforts. However, we note that the responsibilities and obligations of the DT Unit, as outlined in the November 2022 Justice Manual revisions, relate specifically to its role vis-a-vis the Department's DVE-

¹⁴ At the conclusion of this audit, the BOP provided additional information offering areas where the Department could consult with subject matter experts in BOP's Intelligence and Counter Terrorism Branch and Women and Special Populations Branch on matters related to extremist ideologies and agendas.

¹⁵ Memorandum from the Deputy Attorney General to All Federal Prosecutors, Re: Updates to the Justice Manual Regarding Investigations and Cases Related to Domestic Violent Extremism (Nov. 21, 2022).

related investigations and prosecutions. The Department has not provided direction or mandated the DT Unit to lead or coordinate internal DVE-related initiatives and efforts on behalf of the Department. Therefore, we recommend that the Department build on the DT Unit's structure and continue to determine how or if the DT Unit should be empowered to coordinate and provide leadership across DOJ components on DOJ-wide strategic efforts to address DVE.

DOJ Should Further Refine Its Efforts to Ensure Consistent Identification of DVE-related Cases

A formalized strategic framework is important to ensure that DOJ's efforts to address DVE threats are consistent and well-coordinated across the various components involved. As mentioned above, a critical piece of the Department's approach is ensuring a clear and consistent understanding across Department components of the actions that constitute the DVE threat. Because DVE involves ideologically motivated crimes, consistency in how DOJ identifies what constitutes a DVE case—and Department guidance on how such cases are investigated and prosecuted—is especially important to ensure that DOJ's approach to DVE is perceived by the public as based on objective criteria, unbiased, and free from political influence. DOJ and FBI officials told us that the distinctions the Department has operated under to define DVE threats are becoming less clear due to the spread of ideologies over the Internet and the prevalence of "salad bar" ideologies that incorporate multiple violent ideologies, making it difficult to categorize them. Moreover, over the past few years, DOJ officials have recognized a need for increased visibility by leadership into DOJ investigations and prosecutions related to the DVE threat. While the Department has historically relied on the FBI to define and track DVE-related threats, the Department has recently sought to obtain a more comprehensive understanding of the full universe of DVE-related cases across DOJ components, both to address the threat and to be responsive to congressional oversight in this area.

As noted in the Introduction, on March 8, 2021, the Department issued guidance (2021 DVE Guidance) to all federal prosecutors regarding the identification and coordination of DVE-related cases, to include ongoing law enforcement investigations, as well as pending and opened prosecutions. The 2021 DVE Guidance recognized, "What constitutes "domestic violent extremism" and how the Department defines "domestic terrorism" raise important legal and policy considerations." In addition, the guidance sought to ensure that DOJ's approach to defining DVE and domestic terrorism is "consistent, considered, well-coordinated, and informed by the relevant facts and circumstances." To achieve this consistency, the guidance instructed federal prosecutors to notify NSD's CTS of any criminal investigation or case that: (a) involves suspected DVE, or (b) bears a material nexus to DVE. As noted, in November 2022, this guidance was updated and codified by the Department's revisions to the Justice Manual. While the November 2022 Justice Manual revisions generally mirror the 2021 DVE Guidance, there were some updates made to the language of the requirements. For the purposes of our audit, we acknowledge the codification of the requirements in the Justice Manual as a step forward but believe that the audit findings associated with the 2021 DVE guidance regarding ensuring a consistent understanding across DOJ's law enforcement and litigation components of what constitutes a DVE-related case continue to pose a risk for the Department as it implements the Justice Manual requirements. Figure 4, below, provides an overview of the 2021 DVE Guidance, as well as Justice Manual updates codified in November 2022 that provide clarification and revisions to the notification, consultation, and approval requirements for DVE-related matters.

Figure 4

Notification, Consultation, and Approval Requirements for DVE-Related Cases

Notification to CTS	Coordination with CTS	Other CTS Responsibilities
<p>2021 DVE Guidance:</p> <p>USAO designates an investigation or case as “DVE-related” if there is suspected DVE or a nexus to DVE. USAO to notify CTS as soon as practicable of designated DVE-related investigation/case, and promptly notify CTS of significant new developments in the case.</p> <p>What is DVE-related?</p> <ul style="list-style-type: none"> • Conduct that meets the definition of domestic terrorism (18 U.S.C. §2331(5)). • Subject or target is believed to have engaged in or attempted to have engaged in DVE in the past, if that conduct is reasonably expected to be referenced in connection with the current investigation or case. • Designated a domestic terrorism investigation by the FBI (to include “266” case classifications). <p>November 2022 Justice Manual Key Updates:</p> <p>Revises the final bullet above, to include any investigation designated as domestic terrorism or DVE by the FBI, including, but not limited to, “266,” “100,” and “336” case classifications.</p>	<p>2021 DVE Guidance:</p> <p>USAO, CTS, PAO, and other relevant components coordinate with CTS on public statements about any DVE-related cases that reference DVE.</p> <p>Prosecuting offices must submit for review and approval by CTS, prior to filing, any charging document or other court filing that contains descriptions of the nexus of a subject/defendant, or of the conduct under investigation, to DVE and/or groups engaged in DVE.</p> <p>November 2022 Justice Manual Key Updates:</p> <p>Clarifies the designation of DVE-related matters as Category 1 or Category 2</p> <ul style="list-style-type: none"> • <u>Category 1:</u> DVE-related matter that (1) violates certain statutes related to international terrorism, but is not an international terrorism matter, (2) involves conduct that resulted in a death or serious bodily injury to multiple individuals, or (3) otherwise implicates significant national security interests. • <u>Category 2:</u> Any other DVE-related matter. <p>Outlines CTS’s role and consultation/approval authorities for court filings/charging documents based on whether the Assistant Attorney General for NSD or a designee designates the DVE-related matter as Category 1 or Category 2.</p> <p>Adds new approval requirements for USAOs related to application of the terrorism sentencing enhancement in Category 1 and Category 2 matters.</p>	<p>2021 DVE Guidance:</p> <p>CTS is responsible for tracking DVE-related investigations and cases across the Department.</p> <p>When CTS becomes aware of an investigation or case that should be designated as DVE-related but where the assigned prosecutor has not yet notified CTS, CTS shall notify the relevant office(s) and the investigation or case shall be designated as DVE-related going forward.</p> <p>November 2022 Justice Manual Key Updates:</p> <p>Defines the roles of CTS, CRT, and CRM in DVE-related cases that involve violations of statutes enforced by CRT and CRM, respectively.</p>

Source: OIG depiction of 2021 DVE Guidance and Justice Manual Section 9-2.137

Because the Department uses an array of criminal statutes to disrupt individuals who engage in DVE-related activity, Department officials emphasized the importance of tracking and standardizing across the 94 USAOs how DVE-related cases are prosecuted and public statements about such cases. Given that the 2021 DVE Guidance and Section 9-2.137 of the Justice Manual reference DVE-related matters as including all matters related to violent criminal acts in furtherance of ideological goals stemming from domestic influences, such as racial bias and anti-government sentiment, we found that this has the potential to implicate investigations across DOJ law enforcement and litigating components. Therefore, we identified a need for enhanced coordination and clarification on identifying DVE-related cases across the Department.

The 2021 DVE Guidance and subsequent revisions to the Justice Manual rely heavily on criminal prosecutors, in particular those within USAOs, to identify and notify CTS of DVE-related activity in criminal cases across DOJ. Since 2021, DOJ has increased training opportunities for AUSAs that emphasize their role in evaluating whether a particular case fits within the statutory definition of domestic terrorism or within the Department's broader definition of DVE. These trainings were not mandatory and were generally geared towards national security prosecutors who see the most DVE-related cases. While this makes sense from a resource standpoint, we noted that the 2021 DVE Guidance and November 2022 Justice Manual revisions effectively acknowledge that a DVE nexus may also be identified in criminal cases traditionally prosecuted by local AUSAs and trial attorneys from the Criminal Division, Civil Rights Division, or Tax Division. Based on our discussions with USAO officials, we noted that AUSAs who are not assigned to national security sections may not necessarily have the requisite experience and training to identify a DVE nexus in cases that are not specifically categorized as FBI domestic terrorism investigations.

Even among national security AUSAs who are familiar with DVE-related cases, we identified differences during the audit period in how officials interpreted the threshold of cases that should be reported to CTS based on the 2021 DVE Guidance. For instance, one USAO official stated that they would identify as DVE-related and report to CTS all cases involving criminal activities, such as drug or firearms trafficking, conducted by members of white supremacist prison gangs given the nexus to a DVE ideology. Yet, the National Security Section Chief in another USAO said that AUSAs in their district would not identify these cases as DVE-related if the criminal activity being investigated was related to the trafficking of drugs or firearms and not motivated by a DVE-related ideology. The AUSAs with whom we spoke recognized the challenge of identifying and determining the motivation for the specific criminal activity and what, if any, ideological factors contributed to that motivation. When we asked CTS officials about their expectation of receiving notifications for these types of cases, they acknowledged that white supremacist prison gang cases may not be categorized consistently across the Department, and that these cases would have to be evaluated based on the facts and circumstances of the investigation. CTS has also noted that the November 2022 codification of the reporting requirements for DVE-related cases in the Justice Manual renders these requirements more accessible to AUSAs. Nevertheless, if CTS does not receive any information, they are unable to assist in the deliberation and determination of how to identify such cases and ensure that DOJ takes a consistent approach for these decisions and may miss opportunities to make connections across multiple cases and identify emerging threats.

We also identified a risk that all of DOJ's law enforcement components may not have the same understanding as the FBI and NSD of what constitutes a DVE nexus and the need to track or report DVE-related cases consistently. The ATF, DEA, and USMS conduct investigations that may involve individuals affiliated with DVE-related ideologies and, therefore, have the potential to have implications relative to the 2021 DVE Guidance and Justice Manual. Yet, these components have not received any guidance from the

Department on identifying and coordinating DVE-related cases and they have not received information pertaining to the 2021 DVE Guidance or November 2022 Justice Manual revisions provided to DOJ prosecutors. We could not quantify the extent to which cases worked by these components involved DVE-related activity, because DOJ had not fully incorporated these components in its efforts to identify such cases. This increases the likelihood that similar cases across DOJ may not be identified as DVE-related and handled consistently. In fact, during our discussions with officials within these law enforcement components, we were told that agents understand the FBI's jurisdiction over terrorism matters and would reach out to the FBI if they identified a DVE ideology in their investigations. However, they also stated that agents are not necessarily considering if there is a DVE nexus because they are focused on investigating the criminal activity within their jurisdictions. Therefore, without guidance from the Department, these law enforcement entities may not be positioned to assist the Department with achieving a coordinated and consistent approach to identifying DVE.

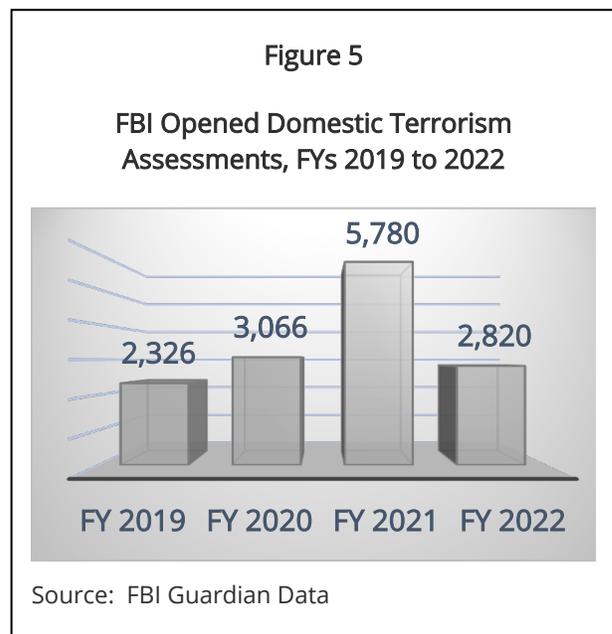
CTS officials have stated that formalization of the 2021 DVE Guidance in the Justice Manual will help ensure that all federal prosecutors across the Department are aware of the requirements regarding DVE-related cases. While we agree that formalization in the Justice Manual should promote compliance with the new requirements, we note that, since 2006, the Justice Manual has contained a requirement for USAOs to notify CTS of the initiation and significant developments in domestic terrorism investigations. NSD leadership officials told us that USAOs' compliance with the preexisting Justice Manual notification requirement was historically inconsistent. Therefore, the Department should emphasize the importance of the new requirements, which rely on federal prosecutors and CTS, to ensure consistency in the identification, oversight, and operational decisions associated with DVE-related cases. This not only assists DOJ in obtaining a complete picture of the threat, but also ensures that cases that involve DVE ideology are investigated and prosecuted consistently and equitably, which could promote public confidence in the Department's approach to these cases, which raise political and other sensitivities. To achieve the intended consistency, DOJ should ensure that the guidance is clear and communicated effectively to the relevant stakeholders throughout the Department, to include its law enforcement components. Therefore, we recommend that the Department evaluate the implementation of its policy to ensure that federal prosecutors comply with the NSD CTS notification and coordination requirements and have a consistent understanding of what constitutes a DVE-related case. In addition, we recommend that the Department provide guidance to all DOJ law enforcement components to ensure there is a consistent understanding of identifying cases with a DVE nexus. In determining the most effective means of communicating the guidance, the Department should consider the appropriate level of leadership from whom the guidance is conveyed.

DOJ Should Routinely Evaluate the Efficacy and Civil Liberties Impacts of Its Efforts to Address DVE

The DVE threat poses unique challenges for DOJ, given both the breadth of criminal conduct at issue as well as the potential political sensitivity and civil liberties concerns surrounding these cases. DOJ's Office of Privacy and Civil Liberties (OPCL) is responsible for supporting the Department's Chief Privacy and Civil Liberties Officer in evaluating potential privacy and civil liberties impacts for all Department-wide programs and initiatives. According to OPCL officials, their office focuses its limited resources on meeting statutorily mandated requirements to review privacy concerns related to the Department's information collection systems and relies on ODAG and DOJ components to bring to its attention any areas that present civil liberties concerns that would benefit from OPCL's input. For instance, ODAG has tasked OPCL to review DOJ

efforts associated with topics that raise civil liberties concerns, such as the Department’s use of facial recognition technology and data brokers. When we asked these officials if OPCL reviewed any of the Department’s DVE-related guidance, initiatives, or programs, we were told that OPCL has not been involved with reviewing DOJ’s DVE endeavors.¹⁶ OPCL officials stated that OPCL has the legal authority to assist in these efforts and the Department could use OPCL in this area to help evaluate and mitigate any civil liberties concerns associated with DVE-related efforts, some of which we highlight below.

As the OIG noted in its 2021 Top Management and Performance Challenges report, one of the most difficult aspects of combating acts of violence in furtherance of political and social goals is the fact that support for such acts can be closely connected to protected First Amendment speech or activity.¹⁷ As such, the nature of the DVE threat necessitates striking a balance and enhancing oversight to both ensure that real terrorism threats are identified and privacy and civil liberties implications are continuously considered and addressed. This balance is particularly important in terms of FBI counterterrorism assessments, which are the initial investigative actions—such as subject interviews and database checks for derogatory information—that the FBI takes to evaluate a potential terrorism subject. As identified in the OIG’s *Audit of the FBI’s Efforts to Identify Homegrown Violent Extremists through Counterterrorism Assessments*, if the FBI misses identifying a terrorism threat through this process, it can have significant consequences for public safety.¹⁸ In turn, Department policy covering domestic terrorism assessments provides the FBI latitude in conducting initial investigative steps. In particular, the Attorney General Guidelines for Domestic FBI Operations allows the FBI to undertake assessments “proactively with such objectives as detecting criminal activities; obtaining information on individuals, groups, or organizations of possible investigative interest, either because they may be involved in criminal or national security-threatening activities or because they may be targeted for attack or victimization by such activities...”¹⁹ As reflected in Figure 5, the FBI has opened more than 2,300 domestic terrorism assessments each year over the past 4 years with



¹⁶ While OPCL was not involved in reviewing or evaluating DOJ-wide DVE-related programs or initiatives, OPCL officials told us that, as of September 2022, OPCL was coordinating with NSD regarding the need for OPCL to conduct a privacy impact assessment of NSD’s forthcoming case management system. This assessment would be focused on the privacy impacts of collecting, maintaining, and disseminating information, and not exclusively on the civil liberties impacts of NSD’s DVE case tracking.

¹⁷ DOJ OIG, *Top Management and Performance Challenges Facing the Department of Justice – 2021* (October 2021), www.oig.justice.gov/news/doj-oig-releases-2021-report-top-management-and-performance-challenges-facing-department.

¹⁸ DOJ OIG, *FBI Efforts to Identify Homegrown Violent Extremists*, 13.

¹⁹ DOJ Office of the Attorney General, *Attorney General’s Guidelines for Domestic FBI Operations* (September 2008), www.justice.gov/archive/opa/docs/guidelines.pdf.

FY 2021 representing the most substantial increase due to, according to FBI officials, the events on January 6, 2021.²⁰

The FBI ultimately converted approximately 18 percent of the total assessments depicted in Figure 5 to preliminary or full investigations. When an FBI assessment evolves into a domestic terrorism investigation, the FBI may utilize investigative tools and authorities that lead to civil liberties and privacy-related considerations and impacts for the investigative subject. This includes the potential for the investigative subject to be added to the Terrorist Watchlist.²¹ According to information provided by the FBI's Terrorist Screening Center, the number of domestic terrorism subjects on the watchlist increased substantially between FY 2017 and FY 2022. In addition, according to the FBI, certain expanded investigative tools can be applied to domestic terrorism cases. For example, judges can issue nationwide search warrants or grant orders giving investigators greater access to certain educational and taxpayer records.²² Investigators, when disclosing information revealing a threat of domestic terrorism, have additional authority to share intercepted communications and derivative evidence with appropriate officials—as do government attorneys in sharing grand jury matter when disclosing information to prevent or respond to a domestic terrorism threat.²³ Further, the Department can seek to use the “terrorism enhancement” in sentencing, which in recent years has been sought by the Department in high profile cases, including January 6th defendants.²⁴ To improve consistency when this enhancement is sought in DVE-related cases, the Department's November 2022 update to the Justice Manual includes a new requirement for USAOs to obtain approval from NSD before seeking the sentencing enhancement and, in certain cases, to consult CTS when choosing not to seek the enhancement. We noted the risks to an equitable administration of justice and the public perceptions of DOJ's approach if this Justice Manual provision is not followed and the terrorism enhancement is applied inconsistently.

If convicted and sentenced, DVE-related subjects may experience enhanced restrictions while in the custody of the BOP. BOP policy requires that all inmates with an identified terrorism nexus be placed on comprehensive required monitoring, which means that their emails, telephone calls, and written communications should be reviewed by staff. According to the BOP, it assigns a domestic terrorism designation to any inmate whose presentencing report establishes a nexus to domestic terrorism or is otherwise found through public source research or reporting, such as Internet searches or press reports, to have a nexus to domestic terrorism. The BOP's designation of an inmate as a domestic terrorist may differ

²⁰ The FBI's Guardian system is used to record all reports of activities, incidents, or observations that may have a nexus to terrorism and may be used to detect, obtain information about, or prevent and protect against federal crimes or threats to national security. Incidents contained in the FBI's Guardian system may be generated by ongoing FBI investigations, leads from FBI analytical entities, citizen complaints, law enforcement referrals, and other sources.

²¹ The Terrorist Watchlist contains unclassified biographic and biometric identifying information (e.g., name, date of birth, photographs, iris scans, and/or fingerprints) of known and suspected terrorists. The Terrorist Watchlist does not contain classified national security information. According to the FBI, in calendar year 2021, there were significantly more known or suspected international terrorists on the Terrorist Watchlist, compared to known or suspected domestic terrorists.

²² Fed. R. Crim. P. 41(b)(3); 20 U.S.C. §§ 1232g(j)(1)(A), 9573(e); 26 U.S.C. § 6103(i)(7)(C).

²³ 18 U.S.C. § 2517(8) and Fed. R. Crim. P. 6(e)(3)(D).

²⁴ The terrorism enhancement was codified in 1995 following the Oklahoma City bombing to empower judges to enact tougher penalties to deter acts of intimidation or coercion against the government or civilian population. See [Federal Sentencing Guidelines § 3A1.4](https://guidelines.uscc.gov/gf/%C2%A73A1.4), <https://guidelines.uscc.gov/gf/%C2%A73A1.4>.

from how the Department and FBI have classified the individual during the subject's investigation and prosecution. For example, we spoke with a BOP official who stated that the BOP is not always notified when it will be receiving an inmate with a nexus to domestic terrorism. While it is extremely important for the BOP to be aware of and adequately monitor potential domestic terrorist threats to ensure the safety and security of its institutions and the greater community, we note that the effect of BOP's domestic terrorism designation is enhanced monitoring and other restrictions for the inmate. This underscores the need for the Department to be consistent in its approach to classifying subjects as domestic terrorists and cognizant of the civil liberties impacts of such actions.

Public trust in the Department's approach to DVE is affected by whether the public perceives that DOJ has a consistent approach to designating, investigating, prosecuting, and incarcerating individuals engaged in DVE-related activity. DOJ officials stated that there is sometimes public confusion regarding under what circumstances DOJ refers to a subject as a domestic violent extremist or domestic terrorist, and under what circumstances it pursues hate crimes charges for a DVE-related crime. In 2019, the FBI established the Domestic Terrorism-Hate Crimes Fusion Cell (Fusion Cell) to facilitate multi-program coordination and information sharing on potential hate crimes cases that overlap with the domestic terrorism threat. FBI officials responsible for overseeing the Fusion Cell described the initial efforts of the Fusion Cell as very useful to enhance the investigative resources and use of charges available in such cases but stated that the FBI determined that there were relatively few overlap cases. Therefore, the FBI directed resources away from the Fusion Cell towards managing its significant domestic terrorism caseloads. We confirmed that the FBI's data showed 27 total cases opened as parallel hate crimes-domestic terrorism investigations between calendar years 2019 and 2021, though we note that this number is not indicative of all cases that the Fusion Cell coordinated and evaluated for potential overlap. To mitigate concerns related to how it defines and addresses DVE-related threats, the Department must be clear in its approach and underscore that DOJ treats all DVE threats objectively, according to established criteria, and without political influence or other biases. Transparency is especially important for this threat area given the political sensitivities and public scrutiny involved and the risks for the Department if it is unclear about its approach. Further, the Department should continuously evaluate the efficacy of its efforts to address DVE-related threats to ensure effective and efficient use of its resources.

DOJ faces the challenge of balancing the need to be diligent and comprehensive in its assessment of DVE threats—to ensure it captures all potential threats to the public—with the need to safeguard individuals' civil liberties. Given the importance and considerable attention the Department has focused on addressing the DVE threat, as well as the significant risks associated with combating DVE-related threats while protecting civil liberties, we recommend that DOJ continue to enhance its mechanisms to routinely evaluate the efficacy and impact of its DVE efforts, to include: (a) identifying any unintended consequences on how its DVE-related efforts are perceived by the public and external stakeholders; (b) assessing and mitigating any privacy and civil liberties risks with assistance from OPCL; and (c) ensuring resources are sufficiently aligned throughout the Department to address the threat.

DOJ Should Build Upon Existing Efforts to Consistently Track DVE-related Cases Across the Department

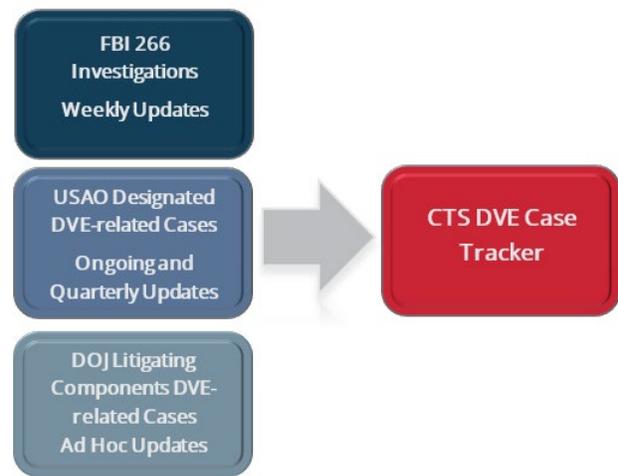
In conjunction with DOJ's efforts to identify DVE-related cases, the Department initiated a data-driven approach to understand the DVE threat and to marshal a coordinated, nationwide response. Officials recognized that collecting data on DVE-related investigations and prosecutions is not a straightforward process because of the various federal statutes used to prosecute DVE-related threats, acts of violence, and

mass attacks, which makes the process of identifying these cases more subjective. While the Department has initiated efforts to identify, track, analyze, and report on the DVE threat, we found areas where the Department can improve its data-driven efforts to ensure they are well-coordinated and provide a complete and consistent understanding of operational activity related to domestic violent extremists and—more broadly—insight into DVE threats.

Following the issuance of the 2021 DVE Guidance, CTS began a manual process to track the Department’s DVE-related cases in an electronic spreadsheet managed by a data team. As required by the 2021 DVE Guidance—and now by Section 9-2.137 of the Justice Manual—CTS receives case notifications from USAOs and from the FBI, as well as *ad hoc* notifications from other Department sources when they encounter cases that implicate a DVE nexus.²⁵ To prompt the USAOs for their case notifications, CTS implemented quarterly data calls to the USAOs regarding their open FBI domestic terrorism cases, which are the cases coded as “266” within the FBI’s case management system, Sentinel. While CTS obtains “266” case information from the FBI to facilitate this process, CTS officials explained that CTS is ultimately interested in tracking the cases that federal prosecutors, and not only the FBI, have designated as DVE-related. Therefore, CTS’s tracking focuses on those cases that the USAOs have designated as DVE-related—which could include cases beyond the FBI’s “266” investigations. Figure 6 depicts the sources that CTS uses to track DVE-related cases across the Department.

Figure 6

NSD’s Data Sources for Tracking of DVE-related Cases



Source: OIG Review of CTS Tracking Methodology

Using the DVE-related case information obtained from the above sources, CTS gathered data relevant to ongoing cases and investigations. Such data is available to Department leadership for operational planning and awareness of the DVE threat landscape. As of November 4, 2022, CTS was tracking more than 2,500 DVE-designated subjects. Through this process, CTS received an influx of hundreds of cases that it did not know about prior to March 8, 2021, a portion of which were attributable to January 6 breach cases that were designated as DVE by the FBI.

At the time of our audit, CTS was using a manual process to track DVE-related cases from multiple sources, which carries added risk of human error. NSD officials acknowledged that the process was still in development; at the end of our audit period, CTS was in the process of finalizing a new case management system and was expanding its data management team to enhance CTS’s tracking capabilities. NSD officials also stated that the establishment of the DT Unit complements CTS’s efforts to build the infrastructure to

²⁵ CTS has received DVE-related case notifications from the Department’s Election Threats Task Force and Civil Rights Division, in addition to regular case notifications from the FBI and USAOs.

implement its tracking requirements. Yet, CTS's DVE-related case data and analysis were used for internal purposes and had not been shared outside of the Department at the time of our audit. DOJ officials recognized that while it is important to cast a broad net to identify potential DVE cases in order to ensure the Department has both a comprehensive understanding of the DVE threat landscape and a consistent approach in handling these cases, the Department must be careful in its external reporting of cases with a potential DVE nexus, especially because most DVE subjects will not be charged with a terrorism offense and it may not be appropriate in all prosecutions for the Department to reference a subject's affiliation with domestic violent extremism. Moreover, Department officials acknowledged that accurately portraying counterterrorism data, including both international and domestic terrorism data, has been a challenge for the Department. NSD officials also stated that CTS's data set still must be vetted before the Department uses it to publicly disclose or articulate information related to the DVE threat.

As noted above, CTS's tracking methodology incorporates FBI domestic terrorism investigations designated under its "266" case classification, which constitute the majority of the DVE cases tracked by CTS. Within the "266" case classification, the FBI has subclassifications that differentiate the DVE threat categories discussed previously in the Introduction.²⁶ We obtained the data from the FBI depicted in Table 1 on the number of "266" investigations opened over the past 6 years. As shown, the FBI opened 561 DVE cases in FY 2022, which officials stated continues to represent a significant amount of DVE investigative activity. Within the DVE threat categories, the FBI has assessed Racially Motivated Violent Extremism (RMVE) and Anti-Government/Anti-Authority Violent Extremism (AGAAVE) as National Threat Priorities.²⁷ The FBI has also acknowledged the growth in the "Other DT Threats" category, which encompasses investigations of threats involving the potentially unlawful use or threat of force or violence in furtherance of political and/or social agendas that are not otherwise exclusively defined under a single DVE threat.

²⁶ Because our audit scope and objectives were focused on Department-wide DVE activities, we did not evaluate the FBI's internal use of its DVE-related case classifications or assess specific case data obtained from the FBI. We include this data and information related to the FBI's case tracking to inform our discussion of the Department's recent efforts to combat DVE threats and the FBI's contribution to these efforts.

²⁷ On a biennial basis, the FBI conducts its Threat Review and Prioritization (TRP) process to review and prioritize threats within operational programs to inform threat strategies, mitigation plans, and resource allocation. Through this process, the FBI establishes National Threat Priorities, which represent those threats that carry the highest potential for both significant damage to national security interests or public safety and the highest need for additional investigative and intelligence efforts. As depicted in Figure 1, RMVE encompasses threats involving the potentially unlawful use or threat of force or violence, in violation of federal law, in furtherance of political or social agendas derived from bias, often related to race or ethnicity, held by the actor against others, including a given population group. AGAAVE encompasses the potentially unlawful use or threat of force or violence, in violation of federal law, in furtherance of political and/or social agendas derived from anti-government or anti-authority sentiment, including opposition to perceived economic, social, or racial hierarchies, or perceived government overreach, negligence, or illegitimacy.

Table 1

FBI “266” Domestic Terrorism Investigations Opened FY 2017 to FY 2022



	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Anti-Government/ Anti-Authority	151	128	125	294	812	240
Racially or Ethnically Motivated	122	191	276	304	215	169
All Other DT Threats	16	24	38	37	371	115
Animal Rights/ Environmental	20	9	5	8	7	9
Abortion-Related	5	4	14	5	3	28

Source: OIG Review of FBI Data

While the FBI considers its “266” cases to be domestic terrorism investigations, we identified 17 additional case classifications that are managed under the FBI’s Domestic Terrorism Program. In FYs 2020 and 2021, the FBI opened a substantial number of cases under two of these classifications: Antiriot Laws (1,066) and Civil Unrest (131). The FBI attributed the increases to cases stemming from the civil unrest in 2020 and the events of January 6, 2021, but in which an ideology may not have been apparent. According to the FBI, if a case classified under a non-“266” case classification is found to be motivated by ideology, the case should be reclassified as a “266” case. When we asked the FBI about these non-“266” classifications, we were told that although these case classifications are not aligned to the domestic terrorism threat categories, the FBI manages these case classifications under its Domestic Terrorism Program.²⁸ Yet, when we reviewed the FBI

²⁸ The FBI stated that non-“266” cases managed under its Domestic Terrorism Program are included for various reasons. For example, some of the classifications are used to investigate crimes closely related to terrorism (e.g., sedition, treason, sabotage, and civil unrest), while others are used to investigate criminal activity by actors motivated by a set of beliefs also appearing in domestic terrorism (e.g., fraudulent financial filings and retaliation related to sovereign citizen extremism). Further, some case classifications are used to manage other administrative or organizational matters (e.g., domestic terrorism threat response and domestic or foreign police cooperation).

and DHS’s October 2022 Strategic Intelligence Assessment and Data on Domestic Terrorism, the FBI included data for investigations opened under the Antiriot Laws and Civil Unrest classifications and referred to these as domestic terrorism investigations.²⁹ FBI officials acknowledged that the FBI could have been clearer in presenting its domestic terrorism-related data and delineating between “266” domestic terrorism investigations and other types of investigations that, while not considered domestic terrorism, may contribute to the overall threat picture. We agreed with FBI officials that, to ensure accuracy in how the FBI defines the domestic terrorism threat picture, it is important for the data presented to be clear and consistent. Further, improved accuracy and reliability of domestic terrorism data may also impact the Department’s tracking of DVE-related cases under the Justice Manual, which includes any investigation designated as domestic terrorism or DVE by the FBI, not limited to “266” cases. When we brought this issue up with FBI officials, they told us that while the FBI may discuss with NSD investigations related to these other classifications on a case-by-case basis, the 2021 DVE Guidance in effect at the time was addressed to DOJ prosecutors and did not impose any reporting requirements on the FBI. We note that while there will be differences in the FBI and NSD’s data sets, the Department should have a consistent understanding of what each data set is tracking in terms of DVE-related cases, which impacts accurate and comprehensive data collection and analysis. The following table reflects the number of FBI investigations opened under non-“266” Domestic Terrorism Program case classifications.

Table 2

Non-“266” Investigations Opened Under the FBI’s Domestic Terrorism Program, FY 2017 – 2022

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Non-266 Investigations Opened	128	97	86	332	947	401

Source: OIG Review of FBI Data

While the FBI’s data is indicative of DOJ’s open investigations into DVE-related conduct, the USAOs separately track investigative matters and cases that law enforcement agencies bring to them for potential prosecution. USAOs enter this information in CaseView, which is a case management system managed by the Executive Office for U.S. Attorneys (EOUSA). Following the 2021 DVE Guidance, EOUSA issued its own policy in May 2021 with updated instructions for categorizing DVE-related matters and cases in CaseView. The guidance updated the definition for the USAOs’ domestic terrorism category code to align with the Department’s definition of DVE-related matters, to include “violent criminal acts in furtherance of ideological goals stemming from domestic influences, such as racial bias or anti-government sentiment,” or “threats or conspiracies to engage in such acts, which are violent or otherwise dangerous to human life, which appear motivated by an intent to coerce, intimidate, or retaliate against a government or a civilian population (“terrorist motive”), and which occur primarily within the United States and do not involve a foreign terrorist organization.”

USAOs record the matters they receive from law enforcement agencies as “matters received.” For example, a USAO may receive a referral from the FBI for a “266” domestic terrorism case and record it as a domestic

²⁹ [Strategic Intelligence Assessment and Data on Domestic Terrorism](https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report-2022.pdf/view), October 2022, www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report-2022.pdf/view.

terrorism “matter received” in CaseView—though USAOs are instructed to make their own determination as to whether the case is DVE-related and not rely on the FBI’s coding of the case. Once a USAO files an indictment or information in court for the matter, it is tracked as a “case filed” in CaseView. As presented in the table below, we found that the number of domestic terrorism matters received in FY 2021 was substantially more than in any other FY. In addition, between FY 2017 and FY 2022, USAOs filed, in total, over 1,100 domestic terrorism cases in U.S. courts. EOUSA officials attributed the recent changes in matters received and cases filed to DOJ’s investigation of the events on January 6, 2021, and 2020 civil unrest, as well as the updated guidance on DVE-related matters and cases.

Table 3

USAO Domestic Terrorism Matters Received and Cases Filed FY 2017 to FY 2022

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Matters Received	835	1,213	1,221	1,116	1,833	999
Cases Filed	75	68	103	153	470	285

Source: CaseView data provided by EOUSA

We found that CTS had not obtained or cross-checked any case information that it receives through its manual notification process with the USAO domestic terrorism CaseView data. Moreover, when we compared CTS’s data and CaseView data, we found various discrepancies that could indicate gaps in the Department’s data sets. For instance, we found that CTS did not have data for some USAOs that had identified domestic terrorism cases through CaseView. CTS indicated that the data contained in CaseView may be unreliable, which other Department officials also noted was an issue because AUSAs rarely revise case categories once a case is initially categorized. Further, the national security prosecutors who often work DVE-related cases are not always the ones inputting the case data into CaseView. Additionally, we heard that prior to May 2021, there was uncertainty among USAOs as to whether it was allowable to tag cases with multiple codes in CaseView—for example, if a case is both DVE-related and a hate crime. EOUSA’s May 2021 guidance clarified that USAOs can use multiple program codes for a case and should do so to ensure that they are capturing all criminal cases that involve DVE conduct. Nevertheless, DOJ personnel stated that theoretically the domestic terrorism cases tracked in CaseView should reconcile with the data that CTS is tracking through its manual case notification process. Given that the purpose of the new CTS notification and tracking requirement is to establish a full universe of cases that federal prosecutors—and not only the FBI—have designated as DVE-related, the Department should consider whether it can utilize existing information in CaseView and/or establish controls to ensure that the information in CaseView reflects information that is provided to CTS, and vice versa.

Although NSD has established the DT Unit and is in the process of implementing a new case management system to track DVE cases for the Department, we are concerned that without a more comprehensive evaluation of component DVE-related data sets, DOJ will find itself in a position with redundant tracking processes that cannot be reconciled, thereby resulting in further discrepancies in DOJ’s identification and quantification of its DVE-related efforts. Further, while we did not perform an in-depth review of the Department’s DVE-related data sets to determine whether it had over-included or under-included cases, we

noted this as a risk given the challenges discussed above of consistently identifying DVE-related activity across the Department's criminal investigations. In addition, inaccurate, incomplete, and/or inconsistent data could not only impair the Department's ability to quantify the prevalence and impact of DVE in the country but could also hinder its ability to assess, prioritize, and address DVE threats. DOJ officials acknowledged these risks and the importance of ensuring that NSD's new data set is vetted and used appropriately. To mitigate these risks, DOJ must continuously evaluate how it balances the need to internally identify and quantify DVE threats with the need to be transparent and accurate in how it identifies DVE cases and subjects publicly. We recommend that the Department evaluate its various tracking efforts for DVE-related case data to ensure that it has a holistic view of the threat and a consistent process for capturing, interpreting, and reporting DVE-related case data. In addition, NSD should assess its process for implementing the DVE-related case data tracking requirement in the Justice Manual to identify mechanisms for deconflicting and evaluating its data with the FBI and EOUSA data sets. Ensuring the efficacy of this process impacts not only the Department's efforts to address the threat, but also how the Department reports its DVE-related investigation and prosecution efforts to Congress, stakeholders, and the public.

Conclusion and Recommendations

According to the Department, threats posed by domestic violent extremists are not only increasing, but also becoming more complicated in terms of how to define them. DOJ and FBI officials told us that the distinctions the Department has operated under to define DVE threats are becoming less clear due to the spread of ideologies over the Internet and the prevalence of “salad bar” ideologies that incorporate multiple violent ideologies, making it difficult to categorize them. While the Department uses various tools and criminal charges to investigate and prosecute acts of DVE, DOJ officials we spoke with agreed that the breadth of criminal conduct encompassed within domestic terrorism makes it challenging to identify and track DVE threats. As a result, there is a risk that the labeling of a subject as DVE—and the resulting implications of how that subject is investigated, prosecuted, and sentenced—may not be applied consistently across DOJ.

In light of the challenges associated with this threat area, we found that the Department has undertaken recent efforts to improve its coordination and consistency in addressing evolving DVE threats. DOJ should take additional steps to ensure that its various Department-wide efforts to combat DVE are cohesive and effective. Further, DOJ should ensure that all relevant components have a consistent approach to identifying and coordinating DVE-related cases, and that NSD’s new data tracking efforts are set up to accurately and reliably capture and report on the DVE threat landscape. Finally, DOJ should formalize its mechanisms to help ensure the protection of civil liberties and transparent and consistent messaging of its approach. We make the following seven recommendations to DOJ to improve its overall consistency and coordination in addressing the DVE threat.

We recommend that the Department:

1. Identify ways in which the Domestic Terrorism Executive Committee (DTEC) could be used more effectively for its components and federal law enforcement partners, to include better defining the DTEC’s purpose, raising its profile with internal stakeholders, and ensuring it is evaluating lessons learned from its efforts.
2. Evaluate its various initiatives and efforts that relate to addressing the DVE threat to ensure that they are effective, cohesive, and used strategically to inform DOJ’s approach and determine if there is value in establishing an internal DOJ-wide strategy or other strategic framework to define, guide, and coordinate its varied DVE-related efforts.
3. Build on the NSD DT Unit’s structure and continue to determine how or if the DT Unit should be empowered to coordinate and provide leadership across DOJ components on DOJ-wide strategic efforts to address DVE.
4. Evaluate DOJ components’ implementation of the November 2022 Justice Manual revisions to ensure that federal prosecutors comply with the NSD CTS notification and coordination requirements and have a consistent understanding of what constitutes a DVE-related case.
5. Provide guidance to all DOJ law enforcement components to ensure there is a consistent understanding of identifying cases with a DVE nexus.

6. Continue to enhance its mechanisms to routinely evaluate the efficacy and impact of its DVE efforts, to include: (a) identifying any unintended consequences on how its DVE-related efforts are perceived by the public and external stakeholders; (b) assessing and mitigating any privacy and civil liberties risks with assistance from OPCL; and (c) ensuring resources are sufficiently aligned throughout the Department to address the threat.
7. Evaluate its various tracking efforts for DVE-related case data to ensure that it has a holistic view of the threat and a consistent process for capturing, interpreting, and reporting DVE-related case data.

APPENDIX 1: Objectives, Scope, and Methodology

Objectives

The objectives of our audit were to: (1) evaluate the Department of Justice's (DOJ or Department) efforts to develop a comprehensive strategy to address domestic violent extremism (DVE) in the United States, and (2) determine if the Department is effectively coordinating among Department stakeholders on the implementation of its strategy.

Scope and Methodology

The scope of our audit covered fiscal year (FY) 2017 through FY 2022. To accomplish our objectives, we reviewed documentation associated with DOJ's all-tools approach to DVE, including public statements, press releases, and congressional testimony by DOJ leadership. We reviewed documentation relevant to DOJ's implementation of the National Strategy for Countering Domestic Terrorism, including the Strategic Implementation Plan. We also reviewed and assessed documentation related to various DOJ initiatives, programs, and task forces that had been stood up by the Department since the 1995 Oklahoma City terrorist attack to address the threat of DVE. In addition, we assessed Department guidance, including the March 8, 2021, Acting Deputy Attorney General memorandum, regarding the identification, coordination, and tracking of DVE-related cases. Finally, we gathered and analyzed DVE-related case data from the Federal Bureau of Investigation (FBI), Executive Office for U.S. Attorneys (EOUSA), and the National Security Division (NSD).

We interviewed officials at the Office of the Deputy Attorney General (ODAG), the FBI, and NSD responsible for the Department's overall approach to defining and addressing threats posed by domestic violent extremists. We also conducted interviews across numerous other DOJ components with mission areas that touch upon or overlap with the DVE threat, to include: the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Federal Bureau of Prisons (BOP); Office of Community Oriented Policing Services (COPS); Criminal Division (CRM); Civil Rights Division (CRT); Drug Enforcement Administration (DEA); EOUSA; Office of Justice Programs (OJP); Office of Public Affairs (PAO); Office of Privacy and Civil Liberties (OPCL); Tax Division (Tax), and; U.S. Marshals Service (USMS). Finally, we spoke with officials from four judgmentally selected U.S. Attorney's Offices (USAO) regarding their understanding and implementation of DOJ's guidance regarding the notification and tracking of DOJ investigations and cases with a DVE nexus. As a result of the COVID-19 pandemic response, we performed our audit work remotely, except for one site visit to DOJ offices in Washington, D.C.

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in compliance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of the Department to provide assurance on its internal control structure as a whole. DOJ management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on DOJ's internal control structure as a whole, we offer this statement solely for the information and use of DOJ.³⁰

In planning and performing our audit, we identified several underlying internal control principles within each of the five internal control components that were significant to the audit objectives, including the principle that management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives. As part of our risk assessment, we assessed the design and operating effectiveness of these internal controls and identified deficiencies that we believe could affect DOJ's ability to develop a comprehensive strategy to address the domestic violent extremist threat and coordinate among Department stakeholders on the implementation of its strategy. The internal control deficiencies we identified are discussed in the Audit Results section of this report. However, because our review was limited to those internal control components and underlying principles that we found significant to the objectives of this audit, our review may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Compliance with Laws and Regulations

In this audit we reviewed DOJ policies and guidance relevant to the identification and coordination of DVE-related investigations and cases. Our review included the March 8, 2021, Acting Deputy Attorney General memorandum and applicable Justice Manual provisions. We also reviewed 18 U.S.C. § 2331(5) for the statutory definition of domestic terrorism. We did not test DOJ's compliance with laws or Department guidance, but rather used them as a basis to evaluate DOJ's approach to addressing DVE threats.

Computer-Processed Data

During our audit, we obtained and analyzed DVE-related case information from DOJ case management systems, including the FBI's Sentinel, EOUSA's CaseView, and NSD's manual DVE-related case tracker. Given that the data is used for background and informational purposes, we did not test the reliability of those systems as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources.

³⁰ This restriction is not intended to limit the distribution of this report, which is a matter of public record.

APPENDIX 2: DOJ-Identified DVE-Related Efforts

DOJ Efforts	Established	Description
Operational Efforts		
Joint Terrorism Task Forces	1980	FBI-led task forces that combine FBI and other federal resources with state and local law enforcement agencies' expertise to investigate international and domestic terrorism and respond to threats. There are now almost 200 across the country.
Anti-Terrorism Advisory Councils	2001	USAO-led initiative to enhance information sharing with state and local authorities in each district and communication between DOJ and U.S. attorneys on terrorism matters.
National Joint Terrorism Task Force	2002	Tasked with coordinating the flow of information between 40 participating federal, state, and local agencies and the JTTFs located across the country on terrorism matters.
Domestic Terrorism-Hate Crimes Fusion Cell	2019	An FBI unit established to facilitate coordination between the FBI's domestic terrorism and hate crimes squads, to enhance available charges, intelligence gathering, and identification of crossover cases.
Grant Programs		
State and Local Anti-Terrorism Training	1996	Bureau of Justice Assistance (BJA) program that provides no-cost training, resources, and technical assistance to enable state, local, tribal, and territorial law enforcement to recognize and prevent terrorism, targeted violence, and hate crimes.
Research on Domestic Radicalization and Terrorism	2012	National Institute of Justice (NIJ)-funded research program on developing a better understanding of domestic radicalization and terrorism and advancing evidence-based strategies for intervention and prevention.
Community Policing Development Microgrants Program	2013	Office of Community Oriented Policing Services (COPS)-funded grants used to develop the capacity of law enforcement to implement community policing strategies. The 2021 solicitation includes combatting hate crimes and domestic terrorism as an area of special consideration.
Initiatives		
Domestic Terrorism Executive Committee	1995, reestablished in 2014	Co-chaired by NSD, the FBI, and a member of the USAO community, provides a national-level forum for members of DOJ, the FBI, and other federal agencies to assess and share information about domestic terrorism threats and trends.
Threat Assessment and Threat Management Initiative	2018	FBI initiative to assist field offices in building local capability to triage, act on, and manage proactive investigations involving terrorism and mass casualty targeted violence.
Disruption and Early Engagement Program	2019	Program to disrupt domestic terrorism and other mass-shooting events by leveraging relationships with law enforcement, community groups, and health professionals, implemented through FBI and USAO partnerships.
Task Force to Combat Violent Anti-Government Extremism	2020	USAO-led task force tasked with developing and sharing information about violent anti-government extremist actors and movements with federal, state, and local law enforcement. Inactive as of 2021.

Source: OIG analysis of DOJ documentation

APPENDIX 3: The Department of Justice's Response to the Draft Audit Report



U.S. Department of Justice
Office of the Deputy Attorney General

Office of the Deputy Attorney General

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MEMORANDUM

TO: Jason R. Malmstrom
Assistant Inspector General
Audit Division
Office of the Inspector General

FROM: Bradley Weinsheimer *Bradley Weinsheimer*
Associate Deputy Attorney General
Office of the Deputy Attorney General

DATE: May 17, 2023

SUBJECT: Department of Justice's Response to draft report, "Audit of the Department of Justice's Strategy to Address the Domestic Violent Extremism Threat"

Thank you for the opportunity to respond to the Office of the Inspector General (OIG) Report titled, "*Audit of the Department of Justice's Strategy to Address the Domestic Violent Extremism Threat*" (Report), covering FY 2017-FY 2022. The OIG Report: (1) evaluates the Department's efforts to develop a comprehensive strategy to address the threat of domestic violent extremism (DVE) in the United States; and (2) assesses how the Department is coordinating among Department stakeholders on the implementation of the strategy. The Department welcomes this review and, as the Report acknowledges, has worked to ensure that your office had full access to the information necessary to conduct this important evaluation. The Report provides valuable insights to the Department.

As the Report recognizes, the Department has identified DVE as one of the most significant threats facing the country. As indicated in the Report, there is a whole-of-Department commitment to address this threat, a commitment that will require sustained attention and resources as the nature of the DVE evolves. The Department played a central role in developing the Administration's National Strategy for Countering Domestic Terrorism, the first of its kind, issued in June 2021. That strategy establishes the overarching policy framework that guides our efforts, and work to implement that strategy is ongoing. Importantly, as the Attorney General emphasized when the strategy was announced, it makes clear that the Department's work in this area must be focused on violence, not on ideology, and that "safeguarding our country's civil rights and liberties is itself a vital national security imperative."

As the Report notes, beginning in 2021 the Department made significant changes to enhance efforts to investigate and prosecute DVE-related cases in an even-handed and consistent manner, informed by an overall strategic approach and relevant nationwide data. Two such changes bear particular emphasis as they anchor the data-collection practices that are a primary focus of the report.

First, as the Report discusses, in March 2021 the Department issued guidance to U.S. Attorneys' Offices nationwide requiring timely reporting of DVE-related matters to the Counterterrorism Section (CTS) of the National Security Division (NSD). That guidance set forth new approval requirements for steps taken in certain DVE-related cases, vesting additional authority and responsibility in NSD. The guidance laid the foundation for a more expansive effort to track DVE-related matters systematically to inform Department-wide enforcement efforts and to adopt a consistent, coherent, and coordinated approach by all relevant components of the Department. The Department later codified and expanded upon that guidance, as the Report recognizes, in revisions to the Justice Manual (JM) made in November 2022.

Second, as the Report also notes, the Department created for the first time a dedicated Domestic Terrorism (DT) Unit within CTS in 2022. In the past months, NSD has taken significant steps to staff the unit, establish its structure, and develop its mission. The DT Unit will work to ensure a more coordinated approach to cases with a DVE nexus across the Department. In keeping with the evolving nature of the threat, we will continue to assess the DT Unit's mission and coordination responsibilities to make the Unit as effective as possible as its work continues.

The recommendations in the Report principally focus on ensuring that the Department's strategic approach, as informed by the National Strategy, is well understood throughout the Department, and that the reporting requirements in the Justice Manual are consistently and comprehensively applied. We concur with the seven recommendations contained in the report, many of which are a natural outgrowth of the structures we have established and the steps we have taken to date.

Building on the steps already taken, we will address those recommendations in large part through the new DVE coordinating function throughout the Department of NSD and the new DT Unit. An important part of the Unit's mission will be to foster a more strategic and even-handed approach to the handling of DVE matters across the Department, including through regular outreach to U.S. Attorney's offices, the Executive Office of U.S. Attorneys, and Department law enforcement components. The FBI is likewise continuing to enhance efforts to ensure a clear and consistent nationwide approach to the application of criteria used to determine when investigations are opened with a "266" code that reflects a DVE-related matter.]

Additionally, the Department envisions that the DT Unit will over time play an increasing role in coordinating other aspects of our DVE-related policies, including for example with respect to grant-making components such as the Office of Justice Programs. These and other efforts by the DT Unit will be overseen by the career leadership of CTS and ultimately by the Assistant Attorney General for National Security. As we continue to expand on this work, we

will keep in mind the Report's observations about the potential value of creating an additional Department-specific strategic guidance to ensure that components follow a consistent and integrated approach.

With respect to the Report's recommendations on protecting civil liberties, we agree that it is critical to ensure that our DVE-related efforts fully respect Americans' privacy and civil liberties and remain consistent with our values. While all Department attorneys are responsible for fulfilling this commitment, as the Report recognizes, the Office of Privacy and Civil Liberties can also play an important role in some contexts in ensuring that our actions respect privacy and comply with the law. We will ensure that our approach to these issues is carefully considered.

Thank you again for this insightful Report. We appreciate the extensive time and thought that has gone into OIG's recommendations on this important topic, which has been and remains among the top priorities of the Department.

APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report

The Office of the Inspector General (OIG) provided a draft of this audit report to the Office of the Deputy Attorney General (ODAG), as well as to the Federal Bureau of Investigation (FBI), National Security Division (NSD), Executive Office for U.S. Attorneys (EOUSA), and Office of Privacy and Civil Liberties (OPCL). The ODAG provided a response to our audit report on behalf of the Department of Justice (DOJ or Department); that response is incorporated in Appendix 3 of this final report. The Department concurred with our recommendations. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendations for the Department:

- 1. Identify ways in which the Domestic Terrorism Executive Committee (DTEC) could be used more effectively for its components and federal law enforcement partners, to include better defining the DTEC's purpose, raising its profile with internal stakeholders, and ensuring it is evaluating lessons learned from its efforts.**

Resolved. The Department concurred with our recommendation. While the Department's response did not specify actions directly related to the DTEC, the Department stated that it would address the OIG's recommendations in large part through the NSD Domestic Terrorism Unit's (DT Unit) new domestic violent extremism (DVE) coordinating function throughout the Department. In particular, the Department acknowledged that an important part of the DT Unit's mission will be to foster a more strategic and even-handed approach to the handling of DVE matters across the Department, including through regular outreach to U.S. Attorney's Offices, EOUSA, and DOJ law enforcement components, which correlates to the DTEC's mission. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has evaluated the DTEC to identify ways in which it could be used more effectively for components and federal law enforcement partners, to include better defining the DTEC's purpose, raising its profile with internal stakeholders, and ensuring it is evaluating lessons learned from its efforts.

- 2. Evaluate its various initiatives and efforts that relate to addressing the DVE threat to ensure that they are effective, cohesive, and used strategically to inform DOJ's approach and determine if there is value in establishing an internal DOJ-wide strategy or other strategic framework to define, guide, and coordinate its varied DVE-related efforts.**

Resolved. The Department concurred with our recommendation. DOJ stated in its response that it envisions the DT Unit playing an increasing role in coordinating other aspects of the Department's DVE-related policies, including with respect to grant-making components such as the Office of Justice Programs. Further, the Department stated that as it continues to expand on this work, it will keep in mind observations about the potential value of creating an additional Department-specific strategic guidance to ensure that components follow a consistent and integrated approach. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has evaluated its DVE-related initiatives and efforts to ensure they are effective, cohesive, and used strategically to inform DOJ's approach, as well as determined whether there is value in creating additional DOJ-specific strategic guidance to address the DVE threat.

3. Build on the NSD DT Unit's structure and continue to determine how or if the DT Unit should be empowered to coordinate and provide leadership across DOJ components on DOJ-wide strategic efforts to address DVE.

Resolved. The Department concurred with our recommendation. The Department stated that in the past months, NSD has taken significant steps to staff the DT Unit, establish its structure, and develop its mission. According to DOJ, it envisions the DT Unit playing an increasing role in coordinating other aspects of the Department's DVE-related policies, including with respect to grant-making components such as the Office of Justice Programs. The Department further stated that NSD Counterterrorism Section leadership (and ultimately the Assistant Attorney General for National Security) will oversee the DT Unit's efforts. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has determined how or if the DT Unit should be empowered to coordinate and provide leadership across DOJ components on DOJ-wide strategic efforts to address DVE.

4. Evaluate DOJ components' implementation of the November 2022 Justice Manual revisions to ensure that federal prosecutors comply with the NSD CTS notification and coordination requirements and have a consistent understanding of what constitutes a DVE-related case.

Resolved. The Department concurred with our recommendation. Similar to Recommendation Number 1, the Department's response did not specify actions related to evaluating DOJ components' implementation of the November 2022 Justice Manual revisions. DOJ stated, however, that it would address the OIG's recommendations in large part through the NSD DT Unit's new DVE coordinating function throughout the Department. The Department emphasized that an important part of the DT Unit's mission will be to foster a more strategic and even-handed approach to the handling of DVE matters across the Department, including through regular outreach to U.S. Attorney's Offices, EOUSA, and DOJ law enforcement components. Further, the Department stated that the FBI is continuing to enhance efforts to ensure a clear and consistent nationwide approach to the application of criteria used to determine when investigations are opened with a "266" code that reflects a DVE-related matter. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has evaluated DOJ components' implementation of the November 2022 Justice Manual revisions to ensure that federal prosecutors comply with the NSD CTS notification and coordination requirements and have a consistent understanding of what constitutes a DVE-related case.

- 5. Provide guidance to all DOJ law enforcement components to ensure there is a consistent understanding of identifying cases with a DVE nexus.**

Resolved. The Department concurred with our recommendation. Like other recommendations, the Department's response did not specify actions related to providing guidance to all DOJ law enforcement components to identify cases with a DVE nexus. Instead, the Department stated that it would address the OIG's recommendations in large part through the NSD DT Unit's new DVE coordinating function throughout the Department. The Department stated that an important part of the DT Unit's mission will be to foster a more strategic and even-handed approach to the handling of DVE matters across the Department, including through regular outreach to DOJ law enforcement components. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has provided guidance to all DOJ law enforcement components to ensure a consistent understanding of identifying cases with a DVE nexus.

- 6. Continue to enhance its mechanisms to routinely evaluate the efficacy and impact of its DVE efforts, to include: (a) identifying any unintended consequences on how its DVE-related efforts are perceived by the public and external stakeholders; (b) assessing and mitigating any privacy and civil liberties risks with assistance from OPCL; and (c) ensuring resources are sufficiently aligned throughout the Department to address the threat.**

Resolved. The Department concurred with our recommendation. In its response, the Department stated that it is critical to ensure that its DVE-related efforts fully respect Americans' privacy and civil liberties and remain consistent with DOJ's values. The Department acknowledged that all Department attorneys are responsible for fulfilling this commitment, and that OPCL can play an important role in some contexts in ensuring that DOJ's actions respect privacy and comply with the law. The Department further stated that it will ensure its approach to these issues is carefully considered. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has enhanced its mechanisms to routinely evaluate the efficacy and impact of its DVE efforts, to include: (a) identifying any unintended consequences on how its DVE-related efforts are perceived by the public and external stakeholders; (b) assessing and mitigating any privacy and civil liberties risks with assistance from OPCL; and (c) ensuring resources are sufficiently aligned throughout the Department to address the threat.

- 7. Evaluate its various tracking efforts for DVE-related case data to ensure that it has a holistic view of the threat and a consistent process for capturing, interpreting, and reporting DVE-related case data.**

Resolved. The Department stated that it concurred with our recommendation. Like other recommendations, the Department's response did not specify actions related to evaluating DOJ's various tracking efforts for DVE-related case data. Instead, the Department stated that it would address the OIG's recommendations in large part through the NSD DT Unit's new DVE coordinating function throughout the Department. Moreover, DOJ stated that the FBI is continuing to enhance efforts to ensure a clear and consistent nationwide approach to the application of criteria used to

determine when investigations are opened with a "266" code that reflects a DVE-related matter. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has evaluated its tracking efforts for DVE-related case data to ensure a holistic view of the threat and consistent process for capturing, interpreting, and reporting DVE-related case data.