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Federal Prosecutors Are Treating El Paso Shooting As Incident Of 'Domestic Terrorism'

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Heard on All Things Considered



RYAN LUCAS

Federal Prosecutors say they are treating the shootings in El Paso as an incident of "domestic terrorism" but U.S. terrorism laws are limited to foreign actors and organizations.

ARI SHAPIRO, HOST:

Federal prosecutors say they are treating the shooting in El Paso, Texas, as an incident of domestic terrorism. The attack and the investigation into the gunman's motives have added to a debate around what is and is not domestic terrorism. NPR justice reporter Ryan Lucas has been reporting on the issue and is here in the studio.

Hey, Ryan.

RYAN LUCAS, BYLINE: Hi, there.

SHAPIRO: If prosecutors are treating this as a domestic terrorism case, does that mean one of the charges likely to be brought against the suspected shooter is a charge of domestic terrorism?

LUCAS: That would be a logical conclusion to draw, but the answer is no. And the reason for that is domestic terrorism is defined in federal law, but there is no criminal charge of domestic terrorism. It does not exist. Instead, defendants in domestic terrorism cases are often charged with other crimes - murder, conspiracy, hate crimes, sometimes gun charges. For example, earlier this year, prosecutors accused a Coast Guard lieutenant of plotting a domestic terrorist attack. But the charges against him essentially boiled down to firearms charges.

SHAPIRO: Explain what the difference is. What would happen if the law did allow for somebody to be charged explicitly with domestic terrorism?

LUCAS: Well, there has been a long-running debate in legal law enforcement circles on whether such a charge should be added to the statute. Supporters of the idea argue that it would allow more resources to be dedicated to countering the problem. It would help educate the public - much of the American public associates the term terrorism with al-Qaida and Islamist extremist groups.

Terrorism, though, of course is a much bigger issue than that, and people in favor of adding a domestic terrorism charge say doing so would help make that clear to the public. And that ties into the symbolic importance of a potential charge. Advocates say that it would show that the government - the country as a whole, even - finds the actions odious and wrong and puts it on the same level as the violence perpetrated in the name of, say, Islamist extremism.

SHAPIRO: And I'm guessing that opponents of this - of adding a specific domestic terrorism statute would point to First Amendment concerns.

LUCAS: That's exactly right. It could get into questions of freedom of speech, freedom of assembly. It would be problematic to define groups here in the U.S. as terrorist

organizations, which some ideas have - some proposals have speculated. There are political beliefs that could be trampled upon. Those are protected. And on top of that, there's a lot of suspicion in some communities of how the federal government uses its powers - its investigative powers to target unpopular beliefs.

SHAPIRO: You know, law enforcement has been criticized for failing to identify and prevent these kinds of attacks before they happen. Do you think that's in any way connected to the fact that a specific domestic terrorism charge doesn't exist? Do you think it's a fair criticism?

LUCAS: I think that the criticism of the FBI and of federal law enforcement more broadly, to a large extent, ties into the post-9/11 world - the fact that the FBI became hyper focused on counterterrorism. And that meant going after and preventing attacks by groups like al-Qaida, later the Islamic State. There are certainly people who would argue that the FBI became too focused on fighting terrorism to the detriment of other things.

There is a concern from Democrats that the FBI under the Trump administration - under President Trump has not taken this threat seriously enough. FBI Director Christopher Wray was pressed on this when he testified before Congress last month. He said the FBI does take this matter seriously. The numbers indicate that this is a growing problem. And he also tried to make clear what it is that the FBI does and, importantly, does not investigate.

(SOUNDBITE OF ARCHIVED RECORDING)

CHRISTOPHER WRAY: Our focus is on the violence. We don't - we, the FBI, don't investigate ideology, no matter how repugnant. We investigate violence. And any extremist ideology, when it turns to violence, we're all over it.

LUCAS: So this issue is very much on their radar now. The FBI says El Paso makes clear the ongoing threat from domestic violent extremists. And it also raised this

warning today. It says that it's concerned about how - high-profile shootings like the one in El Paso serving as a model for copycat attacks.

SHAPIRO: That's NPR justice reporter Ryan Lucas.

Thank you.

LUCAS: Thank you.

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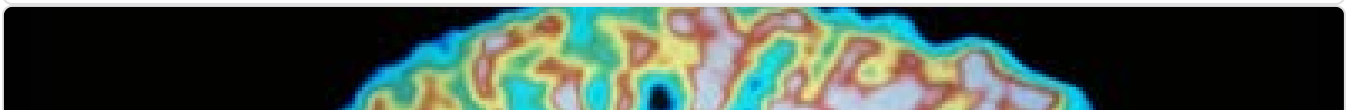
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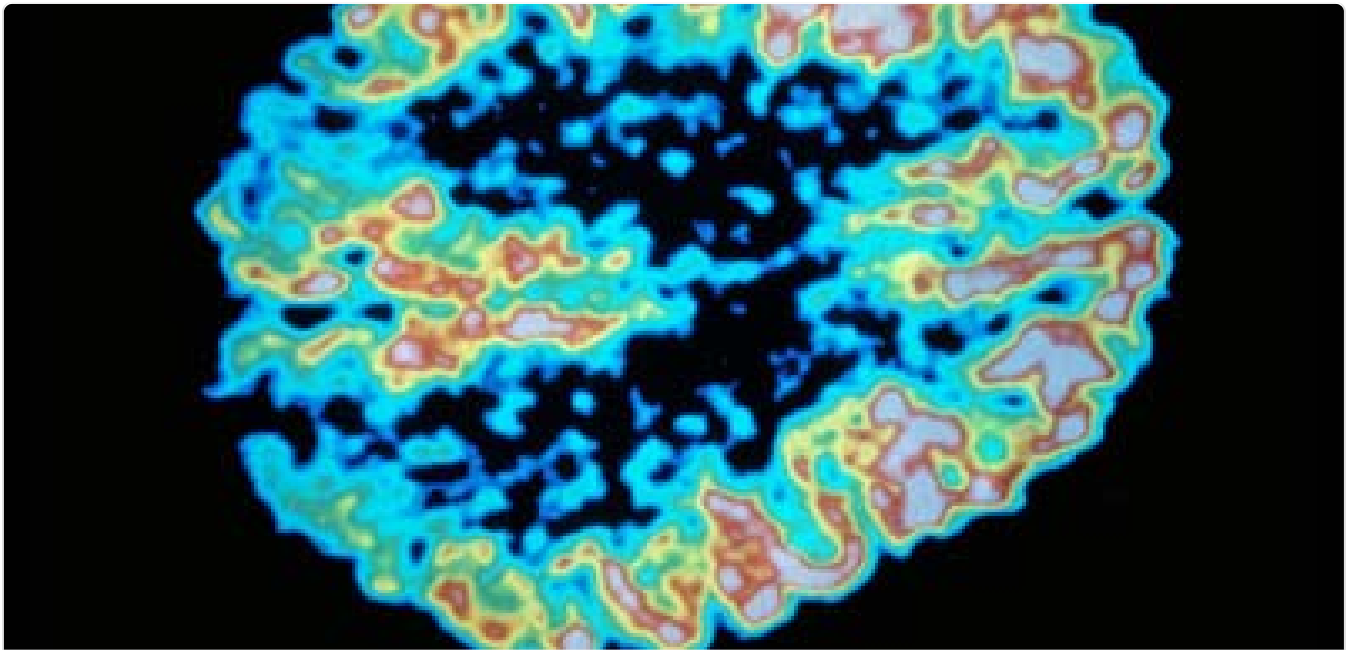
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