

DOMESTIC VIOLENT EXTREMISM AND THE THREAT TO U.S. NATIONAL SECURITY**CONFERENCE ABSTRACT****A SECURE AND AUTHORIZED FRAMEWORK TO EXPLAIN
VIOLENT EXTREMISM'S SPECIFIC TYPOLOGIES AND TRENDS (SAFE VEST)****John M. Geiringer¹**

The banking industry is one of the most regulated in our nation. Among the many legal requirements imposed on banks is the mandate to report criminal and other suspicious activities to the Financial Crimes Enforcement Network (“FinCEN”), an agency within the Treasury Department. FinCEN then disseminates that information to a variety of other regulatory, law enforcement, and national security agencies throughout the U.S. government (“USG”). Such reporting is a legally mandated form of “if you see something, say something.”

The 9/11 attacks prompted Congress and FinCEN to establish a framework requiring banks to enhance their reporting about terrorism. Although FinCEN and other agencies have issued guidance regarding broad terrorism typologies to increase awareness surrounding the issue, that guidance mainly consisted of relatively high level “red flags” and other generalized trend information. The banking industry has criticized the USG for not providing real-time, actionable intelligence to allow the industry to better engage in risk management and mandatory reporting requirements.

This dearth of useful information is exacerbated by the increasingly growing issue of domestic violent extremism (“DVE”). Unlike international terrorist groups and terrorists, DVE groups and their members are not specially designated and sanctioned by the USG, and the USG does not mandate that banks automatically exclude them as customers. Also, unlike its efforts after 9/11, the USG has been relatively slow to respond to the rise of DVEs, and to advise the banking industry regarding how to address them. Finally, there are constitutional impediments to the ability of the USG to restrict DVE groups and their members.

In this heightened threat environment, the USG must begin providing more specific and curated intelligence to help the banking industry, and others in the private sector, understand the particular threats that they face from all violent extremists, including DVEs. This paper proposes the establishment of the Secure and Authorized Framework to Explain Violent Extremism’s Specific Typologies and Trends (“SAFE VEST”). This initiative would be a public-private partnership involving a new information sharing portal through which the USG can securely share: (i) detailed strategic intelligence about violent extremist groups and individuals; and (ii) real-time actionable tactical intelligence about such groups and individuals to allow banks to address more time-sensitive threats.

Although this paper contemplates its use for banks, because of their unique reporting obligations, the SAFE VEST initiative can be utilized throughout the private sector. SAFE VEST represents the evolution of public-private partnerships, and can serve as the precursor to the establishment of an open source intelligence agency, for which many have advocated.

¹ Partner, Barack Ferrazzano Kirschbaum & Nagelberg LLP; Co-Director, Chicago-Kent College of Law’s Center for National Security and Human Rights Law.