

STATEMENT OF CASE TO DESIGNATE THE BASE AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating that The Base (TB) meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper details various aspects of TB, including its background and history; ideology and objectives; links to other groups; organisation and structure; and weapons, tactics and capabilities, before detailing case studies of attacks which meet the definition of a terrorist act under the TSA.
3. The discussion preceding the case studies provides background about the situation in North America and about TB which helps inform the analysis of two case studies below. The events detailed in the case studies represent attacks attributed to TB and have been analysed as meeting the definition of “terrorist acts” under s 5 of the TSA. They provide the basis for the paper’s conclusion that TB meets the legal criteria for designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR THIS DESIGNATION UNDER THE TSA

4. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities. Section 22 provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts. Carrying out a terrorist act includes the planning, preparation or credible threat to carry out the act, whether it is actually carried out or not (s 25(1)(a) and (b)) and also includes an attempt to carry out the act (s 25(1)(c)).
5. A terrorist act is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a terrorist act if that act:
 - 5.1 Is intended to cause the death of, or serious bodily injury to, one or more persons; and
 - 5.2 Is carried out for the purpose of advancing an ideological, political, or religious cause; and
 - 5.3 Is intended to either:
 - 5.3.1 induce terror in a civilian population; or
 - 5.3.2 unduly compel or force a government or an international organisation to do or abstain from doing any act; and
 - 5.4 Is not an act that occurs in a situation of armed conflict and which is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

Credibility of sources

6. This paper has been prepared using open or unclassified sources that have a reputation for careful and unbiased reporting. These include The Guardian, BBC News, the Australian Broadcasting Company, The New York Times, Rolling Stone Magazine, Politico, The Nation, and CBC News (Canada).
7. A range of think tanks were referred to including The Southern Poverty Law Centre, United Nations Office on Drugs and Crime, The Counter Extremism Project, The International Centre for Counter-Terrorism, and the Combatting Terrorism Centre.
8. A range of regional news sources were also referred to including The Informant, Vox, Winnipeg Free Press, The Age, ABC12 News, MLive, Mining Gazette, Journal Times, The Wisconsin Jewish Chronicle, The Philadelphia Inquirer, and the Northwest Georgia News.
9. Other sources utilised include VICE News, The Teller Report, the Floyd County Police Dept, RTL Today, and The US Department of Justice.

Background

10. TB is a neo-Nazi, accelerationist, paramilitary, survivalist group both planning for and intending to bring about the collapse of the US government. The initial membership formed in mid- to late 2018 during a recruitment drive by Russia-based US Citizen Rinaldo Nazzaro, and has adopted three Eihwas runes as their symbol.
11. TB shares a number of ideological objectives with similar transnational, Siege-culture (see *Ideology and Objectives* below), neo-Nazi accelerationist groups and entities. These include bringing about a 'race war' in the US, the mass execution of people of colour in a coordinated event labelled 'the Day of the Rope', halting the 'great replacement',¹ and the creation of 'white ethno-states' where people of colour are either absent or without democratic power.
12. Under the leadership of Nazzaro TB has expanded into the US and Canada, and has made limited inroads into Australia. The group made two interrupted efforts to conduct terrorist activity in the Eastern US in early 2020, and while both attempts were foiled and key members of the group were arrested, a number of group members remain at large in the US and Nazzaro continues to lead the group from St. Petersburg.

Establishment of The Base

13. Nazzaro first joined online white-identity extremist circles using the pseudonyms 'Norman Spear' and 'Roman Wolf' around November 2016.² During this time Nazzaro was likely living in St. Petersburg, Russia.³ His activity during this period primarily focussed on profile-raising, for example making claims he had served in the US military and had worked for intelligence agencies,⁴ and by the publication of videos for 'Guerrilla Warfare Theory' that outlined hit and run tactics for insurgent groups.⁵

14. By July 2018 Nazzaro's social media profile had raised to the stage where he began recruitment for TB.⁶ Among the stated intentions of TB was to unite the many disparate 'white nationalist' groups active in the US in 2018 (see Ideology and Objectives, below).⁷ Recruitment was primarily run via social media platforms known for their tolerance of extremist users and material (i.e. Gab, and bulletin board Fascist Forge).⁸
15. Targeting teenagers while still impressionable is a common tactic for all types of extremist groups,⁹ including the identity-motivated violent extremists such as white ethno-nationalists.¹⁰ In 2018 TB was successful in recruiting teens in the USA, Canada, Europe, and Australia.¹¹ This process utilised the identification of local recruiters, and telephone vetting of a limited number of candidates. Suitable candidates were referred on to encrypted communications channels.
16. This recruitment period led to cells appearing in multiple locations within North America, and Base-aligned individuals appearing in United Kingdom, Australia, South Africa, and the Baltics.¹²

Attempted expansion into Australia

17. The attempted expansion of TB into Australia appears to have met limited success. Recordings and other information released to Australian journalists by Australian anti-fascist activists clearly demonstrate that the leadership of TB appointed a Perth-based recruiter who uses the pseudonym 'Volkskrieger' in October 2019.¹³
18. Volkskrieger brought at least five individuals into contact with Nazzaro, two of whom were former members of right-wing groups the individuals themselves considered insufficiently radical or extremist: *The Lads Society*, a white ethno-nationalist group that had previously attempted to recruit designated terrorist entity Brenton Tarrant, and *Pauline Hanson's One Nation Party*, a mainstream Australian political party well-known for its right wing political views (a Senator from this party was widely condemned after stating that Muslim immigration was to blame for the 15 March 2019 attacks on the Christchurch masjidain).¹⁴
19. Membership of TB in Australia is currently unknown. To date Volkskrieger remains unidentified, and while at least two of the five individuals entered into recruitment processes are known to have withdrawn from participation, little is known of the others.

Ideology and Objectives

20. TB started as an internet phenomenon, with dissemination of Nazzaro's ideology on social media playing a key role in the group's early recruitment. Like other primarily online extremist right-wing groups, targets for recruitment tend to be virulent misogynists,¹⁵ socially isolated individuals lacking a sense of community, and those quick to embrace simplistic explanations for the complexity of modern life.¹⁶ TB therefore tends to attract prospective fascists who express extremist forms of misogyny, homophobia, racism, 'the white genocide'/great replacement, white ethno-nationalism, white supremacy, and anti-Semitism. Linking and uniting this disparate body of predominantly 'online' extremist activists into a network of like-minded, potentially violent, extremists is a specifically stated aim of Nazzaro.¹⁷

21. White supremacy and white ethno-nationalism are very closely related but distinct concepts used to describe slightly different ideologies. White supremacy is usually understood as a belief that white people should be the dominant group in a given society (even where a white population is a numerical minority). White ethno-nationalism is the belief that white people should be the dominant group in a society, and that a nation-states' citizens itself should be ethnically 'white'. The latter concept also implies a more significant degree of power and control bestowed on a white nation by virtue of its control of a state.

A White Homeland

22. Before formally declaring the establishment of TB Nazzaro was public advocate for the long-held ambition of neo-Nazi Harold Covington called the 'Northwest Front' or the 'Pacific Northwest Movement'.¹⁸ This idea held that the US states of Washington, Oregon, Idaho, and western Montana could be amalgamated into a single, minority-free 'homeland' for white supremacists.¹⁹ Nazzaro purchased 30 acres of land in Washington State for training camps and in support of this purpose in 2018.²⁰

'Siege Culture'

23. The primary text underlying TB's ideology is a compendium of newsletters collectively called *Siege* published between 1980 and 1986 by neo-Nazi James Mason.²¹ Originally published by Mason while a member of the National Socialist Liberation Front (NSLF),²² *Siege* is thematically similar to a better-known publication also admired by TB, *The Turner Diaries* (Mason had a close association with its author, William Luther Pierce).²³
24. While *Siege* is typically associated with a neo-Nazi extremist group called Atomwaffen, it has inspired a number of different neo-Nazi groups and created a "violent online subculture called Siege Culture devoted to Mason's calls for... a race war".²⁴
25. In common with *The Turner Diaries* and specifically drawing on the ideology of Charles Manson, *Siege* favours leaderless resistance and independent cells, specifically and deliberately advocates avoiding political engagement, and directs adherents to go underground and conduct guerrilla warfare "follow[ing] serial killer guru Charles Manson... while encouraging random attacks and murders to destabilise society".²⁵ To express TB's millenarian and anti-State worldview an Australian potential recruit reportedly wrote, "Through [Pauline Hanson's One Nation Party] I've come to realise that there really is no political solution... [and I] want to do everything that I can to save the race...".²⁶

Accelerationism

26. Among extremists, the pattern of guerrilla warfare advocated by James Mason and Charles Manson is commonly called 'accelerationism', the idea that modern societies are corrupt and on the verge of collapse, and that specific activities could 'accelerate' their demise.²⁷ The specific activities referred to are typically terrorist violence, preferably random and directed at minorities. The destabilisation caused by this violence

is anticipated to lead to the collapse of Western liberal democracies and the eventual establishment of fascist and/or white ethno-nationalist governments.

27. Accelerationists also explicitly reject conventional political processes such as electoral politics, and regard efforts to engage in popular politics as pointless because ‘the system’ (i.e. conventional modern bureaucracy and democratic processes) is weighted against the radical change they desire.

The ‘boogaloo’, and the Day of the Rope.

28. TB also subscribes to a fictional, revolutionary event variously called “the Boogaloo” or “The Day of the Rope” (the latter an event in *The Turner Diaries*) where white supremacists, white ethno-nationalists, or other extremist groups will be able to rise up and massacre political and ideological opponents.²⁸ The targets of this massacre vary by the group adhering to the idea, but are typically racial minorities, Jewish people, ‘race mixers’, or ‘agents of the system’ (such as law enforcement or bureaucrats). Accelerationism is usually targeted at events that could eventually trigger this revolution.

Links to Other Groups

29. TB is relatively tolerant of co-membership and is known to have deliberately recruited among other groups, but, has limited direct interaction with other white supremacists or ethno-nationalists. For example:
 - 29.1 Two members of TB were participants in The Northwest Front, Brian Lemley (see Case Study Two below) and Nazzaro. Brian Lemley initiated contact with long-time neo-Nazi and advocate of a ‘white homeland’ Harold Covington in April 2018, and after contacting TB recruiters in February 2019 claimed membership in the organisation.²⁹ Nazzaro claims to have attempted to contact Covington and was a vocal advocate of the white homeland movement from 2016 up until Covington’s death in July 2018.³⁰
 - 29.2 A member of United States-based neo-Nazi group Atomwaffen provided vocal support for TB during its establishment phase,³¹ and was possibly a dual member of both groups. However, there is no information to indicate that either group provided the other with material support.
30. While no direct links are known, TB is an outgrowth of a wider community of extremist groups associated with a website called ‘Iron March’.³² This site was an online, extremist bulletin board established by a Russian national called Alisher Mukhitdinov (aka ‘Alexander Slavros’),³³ that ran from 2011 to 2017. In addition to providing a site for the free exchange of white identity extremism, white supremacist ideas, and extremist publications, it was directly linked to the establishment of four organisations,³⁴ and was affiliated to a further five.³⁵ These 9 organisations have collectively been responsible for or implicated in numerous killings, attacks, and terrorist plots.³⁶
31. One notorious and highly influential group formed on Iron March was called Atomwaffen, a neo-Nazi, Satanist, accelerationist group which enthusiastically embraced the Mukhitdinov-recommended *Siege* (see above) and the volume became required reading for members.³⁷

32. In 2018 a number of online groups began copying Atomwaffen propaganda, its naming convention, and its advocacy of *Siege*. These groups were initially assumed to have been splinters of Atomwaffen, and were in communication on extremist social media, but were eventually revealed to be distinct. These include:
 - 32.1 The Base (designated as a terrorist entity in Canada)
 - 32.2 Estonian-originated but transnational group Feuerkrieg (designated in the UK and Canada)
 - 32.3 UK-based Sonnenkreig (designated in the UK and Australia)
 - 32.4 a range of smaller predominantly online groups including the Bowl Patrol.

Organisation and Structure

33. Rinaldo Nazzaro is the leader and key figurehead of TB. Although resident in St. Petersburg, Russia, Nazzaro directs and guides the operation of the various cells of the organisation. Organisation and coordination among cells, and between cells and Nazzaro, is usually conducted using either open or encrypted social media.³⁸ This coordination appears to occur despite Nazzaro advocating 'leaderless resistance' within TB (leaderless resistance is a guerrilla strategy wherein cells are mutually independent and compartmentalised from one another in order to limit damage caused by the arrest or actions of one or more cells).
34. TB was reported to have had an estimated 40 active US-based members in early 2020.³⁹ Cells are usually comprised of 3 or 4 members who are expected to regularly meet and train. Reporting indicates that this training can vary in intensity from meeting to eat and discuss tactics, up to holding 'hate camps' (a term coined by Atomwaffen Division to describe a survivalist, paramilitary-style training camp).⁴⁰
35. Indications are that TB cells do not strictly compartmentalise, and at least within some geographic areas cells are known to one another.⁴¹ However, where 'operations' or activity by TB cells were identified they were restricted to members of the cell (see Case Studies).

Weapons, Tactics and Capability

36. A key goal of TB is to train a cadre of extremists capable of accelerationist violence. Nazzaro has repetitively counselled members online about violence, the acquisition of weapons, and actions to accelerate the collapse of the US government and survive the consequent period of chaos and violence.
37. In support of this objective Nazzaro ensures the group maintained a large database of PDFs that explored a full range of terrorist tactics, how to construct weapons (including weapons of mass destruction), survivalist techniques, and ideological texts.⁴²
38. While discussion of and possession of weapons is commonplace within TB's social media activity, the overall real-world capability of members with firearms is unknown. Members are known to have attended paramilitary training camps (which is not illegal

in many parts of the US), and some members are known to have military experience, but the translation of this training and experience into actions has never been applied.

39. TB has demonstrated lackadaisical adherence to 'leaderless resistance', a tactic adopted by many extremist groups. Groups using this tactic limit contact between members to a small number of individuals able to meet face-to-face. This limitation of contact is used to ensure that if a cell is compromised by arrest or losses it cannot damage other cells, and to ensure that leaders are given plausible deniability regarding terrorist actions. While TB forms 3 to 4 man cells, multiple cells are known to have attended training camps together, and Nazzaro is known to have visited cells across the US.
40. At least some TB members are skilled in small arms. In Case Study Two for example two members were able to construct an illegal machine gun from separately purchased parts. As stated, the distribution of such skilled members across the group is not known.

History of The Base's Operations

41. In the mid- to late-2010s neo-Nazi and other hate groups were expanding rapidly within the US.⁴³ In 2018 Nazzaro began actively recruiting for TB in this heated environment both domestically and internationally.

Mid-2018 to early 2019: The recruitment phase

42. When TB formed in 2018 Nazzaro predominantly insisted that the group was a 'survivalist' or 'prepper' network (a type of activity that is not illegal in the US).⁴⁴ While this is partially true, in that 'accelerationist' groups are preparing for the collapse of modern society, TB's true intent was to prepare for and ultimately to help instigate a race war in the US. Nazzaro's activity during this initial period focussed on recruitment of individuals sympathetic to or already adherents of neo-Nazi accelerationism.
43. Interaction within the group during this period centred on social media, with vetted individuals granted access to secure chat rooms.⁴⁵ Nazzaro directed participants to organise into cells based on location, and TB was thought to be active in locations across the US, with individuals and possible cells also appearing in the United Kingdom, Canada, Australia, South Africa, and the Baltics. Cell leaders were responsible for planning real-world meetings and training.
44. In November 2018 the group was first brought to the attention of observers of extremism via an article in the online magazine VICE.⁴⁶ This article resulted in the constriction of TB's ability to interact on social media (their chat room was cancelled), but also drew in new members and prompted increased operational security.

Early 2019 to early 2020: Hate Camps and extremist social media

45. Having galvanised around the threat posed by their public exposure, in the US winter of 2018 and spring of 2019 TB began meeting and training in firearms, survivalism, and guerrilla tactics.⁴⁷

46. During this period Nazzaro visited the US an unknown number of times in addition to vetting up to two or three prospective members per week. Detailed journalistic investigation of recruitment in Australia reveals that emphasis was placed on a catalogue of questions intended to expose the interviewee's adherence to neo-Nazism or other types of extremism, with potential candidates being required to distribute flyers or posters, and working to expand the group via word of mouth.⁴⁸
47. TB significantly radicalised in this period, with reporting from journalists with access to the group's chat logs identifying that the group began pressuring members to attend meet-ups, train, acquire weapons, and prepare for a forthcoming race war (see *Ideology and Objectives*).⁴⁹ This radicalisation was at least partially due to the wider exposure of the group.
48. On 19 August 2019 a journalistic exposé on a Canadian member called Patrik Mathews brought TB to wider public attention.⁵⁰ Mathews, at that time a combat engineer and reserve for the Canadian Armed Forces,⁵¹ was described as "a fanatic" who had travelled to the US to participate in 'hate camps',⁵² and was likely responsible for recruitment posters appearing in Winnipeg, Canada.
49. Mathews' home was raided by Canadian authorities on 20 August 2019, multiple firearms seized, but Mathews was released after his arrest.⁵³ Shortly thereafter Mathews fled on foot over the Minnesota border with Canada into the US. Within a week Mathews was collected by members of TB and taken to Maryland, US where he was hidden from authorities.⁵⁴
50. With the exposing of Mathews and his harbouring by TB members the group considered itself to have crossed from online rhetoric into tangible criminal behaviour.⁵⁵ Mathews eventually travelled to Georgia to stay with a cell led by key TB member Luke Austin Lane. While staying with Lane the two led discussions within the cell about conducting violent direct actions, and the Georgian cell hosted a hate camp at Lane's residence between 31 October and 3 November 2019 with approximately 12 TB members attending.⁵⁶
51. During this period members of TB are linked to a series of ideologically-motivated direct actions: participating in the harassment of a married couple in Michigan, US; the arson of a Swedish mink farm; the vandalization of a synagogue in Wisconsin, US; and attempted growth of TB in the Ukrainian conflict zone.
 - 51.1 *The wrong house*. In 2019 Daniel Harper, the creator of a podcast called 'I don't speak German' had attracted the ire of a neo-Nazi, siege-culture group called the 'Bowl Patrol'. The Bowl Patrol consequently encouraged extremists to send "fan mail" to a Dexter, Michigan, US address where they believed Harper lived.⁵⁷ Neo-Nazis from groups including Feuerkrieg and Bowl Patrol visited the address and posted video or photos online of the visit alongside threatening messages.

The address was in fact owned by a couple called the Sheas, who had bought it from a different Daniel Harper to the man who created the Antifa podcast.

On 11 December 2019 the Sheas were frightened at night by two black-dressed men outside their home. These men were Justen Watkins and Alfred Gorman. One of the men, wearing an 'Atomwaffen mask' (a black 'bandanna'-style mask with a white skeletal jaw) had stepped onto their porch and the other took a photo of him. The next morning a photo appeared on social network Telegram of the man in the skull mask, with the caption "The Base sends greetings to Daniel Harper of the Antifa podcast 'I don't speak German'".⁵⁸ Watkins and Gorman were later arrested and charged with gang membership, unlawfully posting a message and using a computer to commit a crime, with the prosecution alleging both are local TB members and Watkins the "self-proclaimed leader".^{59,60} Watkins himself had previously claimed to have been a leader of TB, and to have run a 'hate camp' with training in tactics and the use of firearms.

- 51.2 *Eco-fascist arson:* On 30 October 2019 Swedish Police and firefighters were called to a burning mink farm near Sölvesborg. Journalists linked the fire to a teenage co-member of both TB and an eco-fascist group called The Green Brigade, who posted a video of the fire to social media. The social media account posting the video claimed the arson to be a 'direct action', and posted a further video with a recipe for an explosive often shared by the Islamic State in the Levant.⁶¹

In 2020 an 18 year old and a 20 year old were arrested by Swedish police in connection with the arson.⁶² Both men were convicted in 2021.⁶³

- 51.3 *Synagogue vandalism:* Between 15 and 23 September 2019 TB member Richard Tobin (then seventeen years old) participated in online communication where he directed other members to "destroy and vandalise" properties affiliated with African- and/or Jewish-Americans.⁶⁴ Tobin dubbed the coordinated attacks "Kristallnacht" or "Night of Broken Glass" in an attempt to mimic events of 9 November 1938 in Nazi Germany and to deliberately terrorise Jewish people.

Two synagogues were vandalised: the Temple Jacob synagogue in Hancock, Michigan was defaced with swastikas and SS symbols on 21 September 2019,⁶⁵ and the Beth Israel Sinai congregation synagogue in Racine, Wisconsin was defaced with "an antisemitic slogan and the runic insignia associated with... The Base".⁶⁶

On 24 July 2020 TB member Yousef Barasneh pled guilty to conspiring to violate citizen's rights to use property free from threats and intimidation.⁶⁷ Barasneh spray painted the synagogue with swastikas and anti-Semitic messages on or around 21 September 2019.⁶⁸ He later found news articles about the vandalism and shared them with TB members to confirm his actions.

On 26 February 2021 Tobin also pled guilty to conspiracy charges. The Court heard that, when FBI agents located him, Tobin also confessed to obsessively plotting more violent action, including one incident where he sat in a mall parking lot with a machete willing himself to "let loose" on Black shoppers, but did not go through with it.⁶⁹

- 51.4 *Travel to Ukraine:* In late 2019 TB member Ryan Burchfield travelled to Ukraine to participate in the Donbass conflict.⁷⁰ Burchfield later admitted travelling to

gain military training and experience, to fight Russian separatists, and prepare for a career as a mercenary.⁷¹

Burchfield and another male were deported from Ukraine in October 2020 after being accused by the Security Service of Ukraine of promoting terrorism.⁷² In encrypted social media chats with the Georgia cell of TB Burchfield had claimed that he was planning to expand the European membership of TB, and that “we’re going to make Atomwaffen look like boy scouts”.⁷³

Early 2020, two disrupted attacks

52. In the Spring of 2020 a number of TB members were arrested in relation to two disrupted attacks in the US. The first intended attack was the planned assassination of an anti-fascist activist couple in Georgia, US. The second was an intended attack on a gun rights rally in Richmond, Virginia, US. Nazzaro described the arrests as a ‘witch hunt’ and alleged harassment by the “Liberal Globalist System”.⁷⁴ The circumstances of both attacks are discussed below.

Case Study One: Assassination of Anti-Fascist Activist Couple prevented

Facts

53. On 5 and 6 October 2019 Luke Austin Lane, Jacob Kaderli, and Patrik Mathews were observed by a US undercover law enforcement officer meeting to discuss and plan the murder of two individuals.⁷⁵ At this meeting the three individuals discussed “The Base’s violent opposition to members of Antifa, their desire to fight, and ultimately unveiled a plan to murder an unspecified victim or victims”.⁷⁶ During this discussion Mathews described Antifa as “race traitors and agents of the system”, and characterised the Canadian journalist who revealed his identity (see paragraph [48] above) as “essentially Antifa”, stated that Antifascists were enemies of TB, and that “engagement in anti-fascist activity will carry the death penalty”.⁷⁷ The discussion also centred on the appropriate timing for the murders and the right type of equipment needed.
54. Following the 31 October to 3 November 2019 hate camp at Lane’s residence (see paragraph [50] above) the undercover law enforcement officer engaged Lane in further discussion of the cell’s plans. This discussion revealed that the intended targets were Antifa members who lived ‘nearby’, and that Lane had decided to exclude Mathews from the plan.
55. On 6 December 2019 Lane revealed to the undercover law enforcement officer that his intention was to kill a married couple thought to be members of the Atlanta Antifascists residing in Bartow County, Georgia, US.⁷⁸ Lane stated that he had obtained his information about the anti-Fascists from Kaderli, and that killing the couple would send a message to Antifascists that their actions in “doxxing white supremacists would not continue unpunished”.⁷⁹
56. On 13 December 2019 Lane, Kaderli, and the undercover again discussed the plan at Lane’s property.⁸⁰ During the discussion Lane advised the others that he also wanted to kill both Mathews and another TB member in Maryland,⁸¹ primarily because Lane was

concerned that Mathews had shared the plan to kill with the Antifa couple with the Maryland TB member, and that either could reveal this information.

57. On 14 December 2019 Lane, Kaderli, and the undercover drove to Bartow County, Georgia in order to conduct surveillance of the intended victim's residence.⁸² The three discussed materials required for the murders, methods of breaking and entering the residence, and details of methods to prevent evidence being left at the scene (for example special bags attached to weapons to capture shell casings, how to dress to prevent DNA being left behind, and their intent to burn down the victims' residence).
58. On 19 December 2019 Lane, the third member of the Georgian TB Cell Michael Helterbrand, and the undercover met again to discuss Lane's plan.⁸³ During this discussion Helterbrand was interested in knowing if the Anti-fascist targets were Jewish, and indicated that, assuming the couple had children, he would be comfortable with killing "a commie kid". The group again discussed equipment, methods for killing, and tactics. Lane also reiterated his desire to kill Mathews and the other TB member. After Helterbrand offered to bring Adderall and methamphetamine to support the members in their actions Lane laughed and replied, "That's race war ready".⁸⁴
59. The group met and discussed their plans regularly between 19 December 2019 and 12 January 2020. On 12 January they met again at Lane's residence before driving to the intended victim's house for further reconnaissance.⁸⁵ After returning to Lane's residence Lane stated that he had identified further targets in the region, all of whom were stated to be members of the television media. In addition, Helterbrand produced the aforementioned special bags for catching spent ammunition, and demonstrated to the co-conspirators how to attach them to their weapons.
60. On 15 January 2020 Lane, Helterbrand, and Kaderli were arrested and charged with a criminal conspiracy to commit murder.⁸⁶

The act meets the TSA criteria for designation

61. The plan to murder individuals perceived to be 'Antifa members' is consistent with the definition of a terrorist act under s 5 of the TSA. It plainly shows an intention to cause the death or serious bodily injury to the intended victims (s 5(3)(a) TSA). A terrorist act is carried out for the purposes of the TSA if there is planning or other preparations to carry out the act, whether it is actually carried out or not (s 25 TSA). Here there was extensive and detailed planning and preparation to carry out the murders, including selecting the victims, the method of attack and weapons, surveillance of the intended location for the murder and precautions to evade identification and capture.
62. TB's stated intention is to bring about a 'race war', which will lead to the collapse of democratic government and the establishment of fascist and/or white supremacist rule and this attack was intended to 'send a message' to Antifa supporters. This act was therefore carried out with the purpose of advancing TB's own ideological/political cause and with the ultimate intention of unduly compelling or forcing a government or international organisation (s 5(2)(b) TSA). The planned murder of individuals because of their ethnicity and/or their political and ideological beliefs also demonstrates TB's

willingness to use extreme violence to induce terror in the civilian population (s 5(2)(a) TSA).

Case Study Two: Accelerationist attack on gun rights rally, Virginia, US.

Facts

63. On 20 January 2020 tens of thousands of gun rights activists attended a protest in Richmond, Virginia, US.⁸⁷ The legislature had recently passed gun-control bills that had angered pro-gun groups and individuals, and by January 2020 Virginian authorities were expressing concern that the rally could turn violent,⁸⁸ which led to the governor temporarily banning guns from the Capitol as a precautionary action.⁸⁹ This concern was at least partially based on online chatter where a number of extremist right-wing groups were expressing excitement and making claims that it would kick off ‘the race war’.⁹⁰
64. After the 31 October to 3 November 2019 hate camp at Lane’s residence Brian Lemley, Mathews, and William Bilbrough travelled to Maryland, US where Lemley and Mathews shared an apartment until their arrest.⁹¹ Lemley, Mathews, and Bilbrough formed the ‘Maryland Cell’ of TB. During this period the three were active members of TB, for example discussing TB members and activities, and Bilbrough’s intention to travel to Ukraine (for military experience) as a member of TB.⁹²
65. In this apartment on different occasions between 20 December 2019 and 15 January 2020 Lemley, Bilbrough, and Mathews repetitively discussed their plan to conduct an accelerationist attack on the pending 20 January guns rights rally.⁹³ These discussions centred on the possibility that the gun rights rally would escalate to violence, methods for accelerating (i.e. aggravating and amplifying) any violence, specific tactics to deploy during the violence including murdering individuals (specifically law enforcement officers) to steal the victim’s equipment and increase the effectiveness of their attacks. They also discussed not wearing their TB patches during the attack so as to remain “clandestine”.
66. In support of their intended attack, the three participated in a range of activities including ordering components for an illegal (fully automatic) assault rifle, handling and practicing with firearms including a 6.5mm sniper’s rifle, practicing simple tactical drills, and ordering specific equipment including ammunition, ammunition magazines, magazine pouches, and night vision goggles. Specific details include:
 - 66.1 Between 28 and 30 November 2019 Lemley ordered parts to build a functioning fully automatic AR-15. During December 2019 the Lemley and Mathews built an illegal automatic assault rifle.⁹⁴ This rifle was specifically intended for use against the gun rights rally.
 - 66.2 On 1 January 2020 Lemley and Mathews purchased 150 rounds of 5.56mm ammunition and paper shooting targets. On 2 January Lemley took the AR-15 to a gun range and practice-fired it. On returning to the shared apartment Lemley told Mathews, “Oh oops, it looks like I accidentally made a machine

gun”.⁹⁵ Following this conversation Lemley removed the illegal lower receiver from the AR-15 and deliberately hid it.

- 66.3 On 3 January 2020 Mathews and Lemley agreed to load Lemley’s vehicle “for war” and continued to make plans for surviving the chaos they assumed would emanate from Richmond. On 5 January they began packing Lemley’s vehicle with 3-5 months’ worth of rations and survival materials, and on 7 January Lemley ordered 1500 rounds of 5.56mm and 6.5mm ammunition.⁹⁶
- 66.4 On 11 January 2020 Mathews and Lemley practice-fired their weapons, and while returning to their residence stopped to collect plate carriers used to support body armour and further ammunition.⁹⁷
- 66.5 On 15 January 2020 Lemley raised the issue of trust among murderers with Mathews, to which Mathews replied that they would be labelled terrorists (for their intended actions at the gun rights rally). Lemley further replied by confirming “[he] may be going to jail upon discovery of the propaganda on my cell phone”.⁹⁸ This phone was later destroyed by Lemley before he submitted to arrest.
- 67. On 16 January 2020 Lemley, Bilbrough, and Mathews were arrested in Delaware and Maryland, US and charged in relation to Mathews’ illegal entry into the US, and possession of firearms supplied by Lemley and Bilbrough to Mathews,⁹⁹ and for the transportation of a firearm and ammunition with intent to commit a felony.¹⁰⁰

The act meets the TSA criteria for designation

- 68. The plan to shoot and kill civilians and police officers at the Virginia gun rights rally is consistent with the definition of a terrorist act under s 5 of the TSA. It plainly shows an intention to cause the death or serious bodily injury to the intended victims (s 5(3)(a) TSA). A terrorist act is carried out for the purposes of the TSA if there is planning or other preparations to carry out the act, whether it is actually carried out or not (s 25 TSA). Here the TB members spent weeks engaged in specific planning and preparation to carry out the attack, including obtaining, building and modifying firearms, obtaining large quantities of ammunition, practise-firing the weapons and stock-piling food rations and communications equipment.
- 69. TB’s stated intention is to bring about a ‘race war’, which will lead to the collapse of democratic government and the establishment of fascist and/or white supremacist rule and this attack was intended to spark “civil war”. This act was therefore carried out with the purpose of advancing TB’s own ideological/political cause and with the ultimate intention of unduly compelling or forcing a government or international organisation (s 5(2)(b) TSA). The planned murder of civilians and police officers at a public gathering also demonstrates TB’s willingness to use extreme violence to induce terror in the civilian population (s 5(2)(a) TSA).

LAW OF ARMED CONFLICT

The law of armed conflict exception

70. Section 5(4) of the TSA provides that an act does not constitute a terrorist act for the purposes of the TSA if two conditions are met. The first condition is that there must be a situation of armed conflict in the area and at the time of the act. Secondly, the act must accord with the law of armed conflict. If one of these conditions is not met, the exemption does not apply.
71. The acts depicted in the case studies can properly be categorised as terrorist acts. The activities or operations of TB have not been undertaken in an area or at a time of recognised armed conflict. Consequently, the acts do not meet the exemption in section 5(4) of the TSA. If there were to be any contention as to whether the acts have occurred within an armed conflict, the exemption would still not apply, as it is clear the acts have not occurred in accordance with the applicable rules of international law; specifically the targeting of civilians and civilian objects.
72. It should be noted that the “Donbas conflict” in Ukraine, as referred to at para 51.4 above, may well be categorised as an armed conflict for the purposes of section 5(4) of the TSA. The reference to Donbas is, nevertheless, background context to the case studies, which, as stated above, otherwise have no nexus to an armed conflict.

¹ This conspiracy was also promulgated by designated terrorist entity Brenton Tarrant about the gradual replacement of white people in white-majority countries with people of colour.

² (21/11/2018) Ben Makuch and Mack Lamoureux, “Neo-Nazis Are Organizing Secretive Paramilitary Training Across America”, *VICE News*, accessed via <https://www.vice.com/en/article/a3mexp/neo-nazis-are-organizing-secretive-paramilitary-training-across-america> on 19/04/2021.

³ (6/11/2020) Ben Makuch and Mack Lamoureux, “Neo-Nazi Terror Leader on Russian TV: ‘I’m a Family Man’”, *VICE News*, accessed via <https://www.vice.com/en/article/xgzxqz/rinaldo-nazzaro-neo-nazi-terror-leader-on-russian-tv-im-a-family-man> on 19/04/2021

⁴ (12/08/2020) Jason Wilson, “The Base: Exporting Accelerationist Terror”, *Southern Poverty Law Center*, accessed via <https://www.splcenter.org/hatewatch/2020/08/12/base-exporting-accelerationist-terror> on 12/04/2021.

⁵ *ibid.*

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⁸ “GAB” is a social media site strongly associated with the extremist right wing (it is for example the site attributed to the radicalisation of Robert Bowers, and is where he stated his intentions to act, see for example (28/10/2018) Kevin Roose, “On Gab, an Extremist-Friendly Site, Pittsburgh Shooting Suspect Aired His Hatred in Full”, *The New York Times*, <https://www.nytimes.com/2018/10/28/us/gab-robert-bowers-pittsburgh-synagogue-shootings.html> accessed on 16/08/2021.

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¹¹ (22/06/2020) Daniel De Simone and Ali Winston, “Neo-Nazi militant group grooms teenagers” *BBC News*, accessed via <https://www.bbc.com/news/uk-53128169> on 23/06/2020.

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- ii. (26/03/2021) Alex Mann and Kevin Nguyen, “The Base tapes”, *ABC News*, accessed via <https://www.abc.net.au/news/2021-03-26/the-base-tapes-secret-recordings-australian-recruitment/13255994> on 12/04/2021
- iii. (12/05/2021) Sounds like Hate, “Baseless: Part IV”, *Southern Poverty Law Centre*, accessed via <https://soundslikehate.org/> on 14/05/2021. This report indicates that in the recruitment process that began in 2018, 50% of interviewees were under 21.

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¹⁴ (16/03/2019) “Fury as Australian senator blames Christchurch attack on Muslim immigration”, *The Guardian*, accessed via <https://www.theguardian.com/world/2019/mar/15/australian-senator-fraser-anning-criticised-blaming-new-zealand-attack-on-muslim-immigration> on 27/04/2021

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¹⁶ (13/09/2019) Tara Isabella Burton, “The Religious Hunger of the Radical Right”, *The New York Times*, accessed via <https://www.nytimes.com/2019/08/13/opinion/sunday/religion-extremism-white-supremacy.html> on 20/09/2019. An example of simplification is the idea that a lack of available sexual partners for some young men is due to “feminism”.

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- ⁷⁴ (22/01/2020) Ben Makuch and Mack Lamoureux, "Neo-Nazi Terror Group Leader Calls FBI Arrests 'Witch Hunt'", *VICE News*, accessed via https://www.vice.com/en_ca/article/xgqyxw/neo-nazi-terror-group-the-base-leader-roman-wolf-calls-fbi-arrests-witch-hunt on 23/01/2020. Reference to 'globalism' and 'globalist systems' typical links to a conspiracy theory regarding control of international systems and Western governments by Jewish people.
- ⁷⁵ Affidavit, "Three men charged with murder conspiracy, anti-government activity", *Floyd County Police Dept*, accessed via <https://floydcountypolicedept.files.wordpress.com/2020/01/media-release-affidavit.pdf> on 19/04/2021, pp.6-18. The affidavit uses the moniker 'TM Members' for Patrik Mathews.
- ⁷⁶ *ibid.* p.6.
- ⁷⁷ *ibid.* p.7.
- ⁷⁸ *ibid.* p.9.
- ⁷⁹ *ibid.* p.9.
- ⁸⁰ *ibid.* pp.10-11.
- ⁸¹ This is likely to be Brian Mark Lemley.
- ⁸² Affidavit, "Three men charged with murder conspiracy, anti-government activity", *Floyd County Police Dept*, accessed via <https://floydcountypolicedept.files.wordpress.com/2020/01/media-release-affidavit.pdf> on 19/04/2021, pp.12-13.
- ⁸³ *ibid.* pp.13-16.
- ⁸⁴ Adderall is a commonly-prescribed amphetamine in the US.
- ⁸⁵ Affidavit, "Three men charged with murder conspiracy, anti-government activity", *Floyd County Police Dept*, accessed via <https://floydcountypolicedept.files.wordpress.com/2020/01/media-release-affidavit.pdf> on 19/04/2021, pp.17.
- ⁸⁶ *ibid.*
- ⁸⁷ (20/01/2020) Lois Beckett, "Virginia: thousands of armed protesters rally against gun control bills", *The Guardian*, accessed via <https://www.theguardian.com/us-news/2020/jan/20/virginia-gun-rally-activists-richmond> on 10/05/2021.
- ⁸⁸ (20/01/2020) Joel Gunter, "Virginia gun rally: Authorities gear up for unrest in Richmond", *BBC News*, accessed via <https://www.bbc.com/news/world-us-canada-51170252> on 7/05/2021.
- ⁸⁹ (15/01/2020) Lois Beckett, "Virginia governor bans guns from State Capitol ahead of pro-gun rally", *The Guardian*, accessed via <https://www.theguardian.com/us-news/2020/jan/15/virginia-governor-bans-guns-from-state-capitol-ahead-of-pro-gun-rally> on 10/05/2021.
- ⁹⁰ (20/01/2020) Joel Gunter, "Virginia gun rally: Authorities gear up for unrest in Richmond", *BBC News*, accessed via <https://www.bbc.com/news/world-us-canada-51170252> on 7/05/2021.
- ⁹¹ (21/01/2020) "United States of America v. Brian Mark Lemley Jr, Patrik Jordan Mathews, and William Garfield Bilbrough", Motion for Detention Pending Trial, United States District Court in the District of Maryland, p.17.
- ⁹² *ibid.* pp.17-20.
- ⁹³ *ibid.* pp.20-28.
- ⁹⁴ *ibid.* p.17.
- ⁹⁵ *ibid.* p.25.
- ⁹⁶ *ibid.* p.27.
- ⁹⁷ *ibid.* p.28.

⁹⁸ *ibid.*, p.28.

⁹⁹ (17/01/2020) *Joint Intelligence Bulletin*, “Arrests of Members of Domestic Violent Extremist Group “The Base” for Murder Plot Highlight Small Cell Violent Intent, Retaliatory Targeting”, jointly published by the Department of Homeland Security, Federal Bureau of Investigations, and National Counterterrorism Centre.

¹⁰⁰ (17/01/2021) John Bailey, “UPDATE: Affidavit links former Canadian army extremist to local white nationalist group, target of murder plot was Bartow County couple”, *Northwest Georgia News*, accessed via http://www.northwestgeorgianews.com/rome/news/local/update-affidavit-links-former-canadian-armyextremist-to-local-white/article_e137be94-38ab-11ea-b5e2-c37b7110f12e.html on 21/01/2020