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WEBINAR

THE U.S. ELECTION AND RIGHT-WING MILITIAS

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P R O C E E D I N G S

GENERAL ALLEN: Well, good afternoon, ladies and gentlemen. It's great to have you with us. My name is John Allen and I'm the president of the Brookings Institution. And it really is a pleasure and an honor for us to welcome you today to this event, which is entitled: The U.S. Election and Right-Wing Militias. And we'll discuss this term "militias" here in a little while.

Before we start, let me just say to all the Marines who are tuned in today, happy birthday. It's 245 years for our Corps. And for those of you who may leave early let me wish you in advance a very happy Veterans Day tomorrow.

Our discussion today could not be timelier. Last week, the United States and indeed the whole world waited in eager anticipation for the results of the 2020 presidential election. And while the race has since been called, much of the story of this election cycle has been dominated by narratives, many of them coming from right-wing extremist groups alleging an illegitimate electoral outcome, voter fraud, and even a grand conspiracy to control everyday Americans.

That many of these groups' positions are rooted in opposing necessary COVID-19 precautions or the entirely legitimate process of mail-in or early voting further challenges this issue. Indeed, convinced that vote counting was rigged from the outset, many gathered in person, firearms in hand, to protest. Death threats targeting frontline poll workers often soon followed, sadly, and it's still happening now.

So, such a phenomenon should come as no surprise. Violent right-wing ideology is in no way new in this country or around the world. Yet it has gained significant traction in these past five years or so. Whether evidenced from the horrible events in Charlottesville or the more recent attempted kidnapping plots against Governors Gretchen Whitmer and Ralph Northam, right-wing extremist groups have become a growing threat to national security.

Now, recognizing the urgency of this issue we at Brookings have decided to do our part. And following our own mission of always working to support the public good are proud to announce today our newest project, the Brookings Initiative on Nonstate Armed Actors. Led by Brookings Senior Fellow

Vanda Felbab-Brown, who will be joining us shortly, the initiative will harness Brookings' wide-ranging regional and functional expertise to study U.S. nonstate armed actors and such right-wing militias, gangs, and organized crime groups, and enhance opportunities for comparative assessments and analysis along the way. Emphasizing fieldwork, the initiative will also analyze trends both across the country and worldwide before recommending approaches for policymakers and decision-makers.

I could not be more pleased with the creation of this important initiative and I really look forward to seeing the excellent work that Vanda and her colleagues will inevitably put together. So, with that, let me introduce today's panel for this very important discussion at this very important moment.

As mentioned, we have Senior Fellow Vanda Felbab-Brown joining us today. And Vanda is also the co-director of the Africa Security Initiative and the Brookings series on opioids entitled, "The Opioid Crisis in America: Domestic and International Dimensions." Having worked in research in countries all across the world, Vanda comes with a unique professional and academic expertise.

So, Vanda, welcome. We're so glad that you're able to be with us this morning.

Next is our Senior Fellow Dan Byman. With a focus on counterterrorism and the Middle East, Dan has over 20 years of experience both in the intelligence community and in academia. He's also a professor at Georgetown University's School of Foreign Service with a concurrent appointment with their Department of Government.

Dan, it's great to have you with us. You've been a great friend to us in these discussions and your expertise is very welcome here.

Alongside Dan and Vanda we're joined by Rashawn Ray. Part of Brookings' David M. Rubenstein Fellowship Program, Rashawn has focused on issues of race and social equity. He's also the most recent co-author of "How Families Matter: Simply Complicated Intersections of Race, Gender, and Work." And I'll tell you that Rashawn has been of enormous value to the public conversation about these many issues associated with race, justice, and equity in the last several months.

So, welcome, Rashawn. Thank you.

And finally, and certainly not least, we have Mary McCord, who's a great friend of the

Brookings Institution and who is the legal director of the Institute for Constitutional Advocacy and Protection and visiting professor of law at Georgetown University. Now, previously, Mary was acting assistant secretary general for the National Security Branch within the DOJ and that was from 2016 to 2017, and was principal deputy assistant attorney *[sic]* general for the National Security Division from 2014 to 2016.

And, Mary, we thank you for your contributions to Brookings and to this larger conversation. It's great to have you with us, joining us again, and we really look forward to this conversation.

Now, before we get started, let me just remind everyone that we're on the record. We'll be recording this session, as well. It's being streamed.

And I have a number of questions that I'll be asking the panel. We'll go till about 4-0 minutes into this conversation. At which point then we'll answer questions that can come in over Chat.

So, with that, let's begin. I'm going to ask a question to the whole panel initially and then we'll go through the individual panelists. And this is a bit complicated -- not complicated, but it's a bit complex, so it's got two parts to it.

What's the impact in your minds, and we'll go through each of the panelists, what's the impact of the right-wing groups that they have had on the U.S. electoral process and the post-election period so far? What impact have they had on the rule of law and democracy in the United States more broadly? In that context, what are these groups' origins and who makes up their ranks? And what do you think that COVID has done in that respect, with respect to amplifying these groups' efforts?

So, this is an important opening question. We're looking forward to getting everyone's views on this. And then we'll go to individual questions.

So, let me start with our director of this new initiative. Vanda, what are your thoughts on this, please?

MS. FELBAB-BROWN: Well, thank you, John. Thank you for participating in the event and thank you enormously for your extraordinary leadership at Brookings and a strong focus on what's

happening in the United States.

I think it's really quite significant that in the United States we are talking about the impact of armed groups, in this case predominantly right-wing armed groups, on U.S. elections. This is a conversation that at Brookings we often have about our countries and it is shocking and distressing to see that we are having it about the United States, as well.

Of course, the groups are not new. Many of them go back to the Vietnam era. Some of them go back to the 1990s. There are several streams of the groups that I will come to in a minute. Nonetheless, the impact could have been much worse than what we have actually seen.

So, we have seen active efforts to intimidate both voters and election officials. Nonetheless, fortunately, for several reasons, including work of Mary McCord -- and I am delighted is part of the panel -- as well as law enforcement officials and state electoral officials, the threats have mostly been limited. So, we saw so-called "Trump trains" gathering at early voting stations and places where people felt -- with arms sometimes, where people felt intimidated in places like Florida and Texas. Police departments had to deploy deputies so that people felt comfortable to join in the early voting system.

We have also seen other efforts, such as robocalls that have been attributed to some of these groups. Threatening voters who might vote through the mail-in process that voting by mail will result in them being subject to financial investigation, debt collections, and other similar threats.

There have been some instances where also saw threats against the police station. In North Dakota, for example, there was an alleged bomb attack. And in Pennsylvania, during the count there was also an alleged bomb attack. In North Dakota, this resulted in the arrest of the individual that issued the threat.

So, things could have been much more worse than they have been. But nonetheless, it's significant that we are even at this level.

Now, by and large, the groups have coalesced around support for outgoing President Donald Trump. That is significant and it relates to the origins, as well as to the politics of the past four years.

So, when we talk about these right-wing groups and whether the term “militia” applies or not, many of them use the term “militia” themselves. Of course, as Mary will probably explain further, by U.S. laws there is only one legally recognized militia and that’s the National Guard in the United States today. But nonetheless, in a much broader sense, the term “militia” is applied both to groups that self-generate and purports to work on behalf of the state law enforcement or, in fact, even groups that oppose the state and resort to violence. We are seeing both strains here.

So, what are some of the origins of the groups? Well, one streak are white supremacy neo-Nazi groups. Some of these groups have roots that go back to the 1960s, that were quite augmented by the flow of Vietnam veterans. Some of them are separate.

A second stream of groups are groups that go back again to the '60s and '70s that often originated in the West and in federal regulation of land in the West with environmental protection and federal ownership under the Bureau of Land Management. And there was strong opposition to that, which several decades ago had origins in movements such as the Sagebrush Rebellion. So, many of these groups still exist today, still are very robust. And the Bundy group stand-down with law enforcement, including recently in 2014, are symbolic of that.

Related to that stream is another one which are so-called counter-supremacy groups that essentially reject the authority of the Federal Government and even state government, and claim that the highest government authority in the United States should be at the level of county, particularly county sheriff. So, these are sort of semi-anarchist groups, but the term “anarchist” is not quite precise either because they do recognize authority, simply at a much lower level, and challenge the Federal Government. A lot of these groups were robustly activated during the Barack Obama presidency in opposition to President Obama.

Another stream yet are anti-immigration group that have some overlap with neo-Nazi groups, but sometimes disavow neo-Nazi and white supremacy groups. But nonetheless, self-generate to protect particularly the Southern border.

And so here I come to some of the complexities where, on the one hand, many of these

groups reject the authority of the Federal Government and authority of police and law enforcement institutions. And we have seen systematic attacks over the past several months, certainly during the entire COVID era, on police and law enforcement officers. But, at the same time, they also tried to recruit from them.

And so the last strain of groups that I want to mention, but not the last strain of these groups, simply the one I want to highlight for the purpose of this conversation, are, in fact, self-styled groups that purport to work on behalf of law enforcement, whether it's to protect property against looting, against alleged imaginary or real antifa threats, or against law enforcement or against COVID lockdown. So, these would-be groups like Three Percenters or Oath Keepers, who often seek to actively recruit from law enforcement and from the military.

And so, in conclusion of my opening pitch here is, you know, the elections were very significant and the activity around elections was significant. But the issue has not stopped with the election, and will be enormously alive, polarizing, and difficult in the Biden-Harris administration. And I am particularly focused on two dimensions.

One is the relationship of law enforcement to these groups, and both the need to counter them, but also their efforts to infiltrate and recruit from law enforcement. And we already know that there is significant sympathizing among some law enforcement officials for those groups.

And the second is what relationship do the groups have to our external foreign policy? Many of them, as I mentioned, were the outcome of the numbers of vets after Vietnam. But we are also seeing very active linkages between vets from the current wars in Iraq and Afghanistan and recruitment to these groups, including groups like Boogaloo Boys, cowboys that are most vehemently engaged in street brawls and who even speak about instigating perhaps a civil war or preparing for a civil war that would come.

And the third element that I'm closely watching that just goes much beyond the election as well as precede the elections is the rise of other armed groups that the rivaling ones have given -- risen to. Whether it's groups like the NFAC, No Fucking Around Coalition, that's composed from African

Americans and people of color, or whether it's groups like -- much smaller groups like the Puget Sound John Brown Gun Club, who are groups often on the left side of the spectrum, but who no longer trust law enforcement and who now feel under such threat from the right-wing groups that they are organizing similar very heavily armed groups and injecting themselves into the public space in a way that we haven't seen for a long time.

GENERAL ALLEN: Okay. Well, that was an extraordinarily expansive and very well put introduction to this whole panel, but more broadly to the initiative that Vanda will be leading and what Brookings is going to be looking at with great interest over the period to come.

Let me just ask the other panelists. Rashawn, do you have anything you'd like to add to this, please?

MR. RAY: Yeah. So, I think it's a few things. I think first when it comes to the impact that the right-wing groups have had on the election process I think has been great. I think first we know that there have been viable threats. You mentioned some of them; we also heard some others. And I think that we need to applaud the FBI, the military, and local authorities in spoiling some well-planned, as well as in other cases not so well-planned plots to kill and kidnap politicians.

Second, and I think this is a big one, is beyond what we see happening on the ground around the viable threats, whether it being guns and other sorts of things, the impact that right-wing groups have had on communication, modes of communication, and the impact as it relates to social media in reconstructing echo chambers is something that should really concern us. Not only is it about shifting conservatives farther right, but also, it's about shifting progressives away from moderate Democrats. And I think we've seen that in the election, particularly locally, that social media's been used to mobilize people, oftentimes with miscommunication and oftentimes targeting specific groups, whether that be targeting Latinos in Florida, whether that be targeting Blacks more nationally.

And I think part of highlighting this is we cannot detach what happened in places like Kenosha, Wisconsin, where a person who seemed to be motivated by these narratives went in and killed someone at a Black Lives Matter protest. And with that being said, oftentimes I hear people try to

compare these right-wing type of incidents, domestic terrorist incidents, with Black Lives Matter protests.

And there was a large report that came out earlier this year showing that over 90% of Black Lives Matter protests were nonviolent. Now, that doesn't mean we shouldn't look at the 7% or 8% that were violent. Obviously, we should. But it's important that people recognize that disparity based on what they know and compare that to what we know about domestic terrorism, which you know, General Allen, from the report that you did with the Department of Homeland Security that about 75% of all domestic terrorist acts are committed by right-wing extremists and 75% of those are committed by white nationalists and white supremacists. So even in talking about right-wing extremism, we have to be sure that we create a separation there in terms of what's going on.

And finally, COVID-19 actually has amplified these efforts. So, Rebecca Shankman and I throughout the pandemic, we were examining COVID-19 anti-lockdown protests. And we found that these protests were overwhelmingly occurring in Democratic-ran states, as well as battleground states, and the impact they had, if not necessarily on elections, but also in terms of policy in states like Michigan, Virginia, Ohio, North Carolina, and Wisconsin. And altogether these anti-lockdown protests were targeting states with Democratic governors.

And residents in states with more liberal ideologies were actually more likely to submit for guns and purchasing when it comes to ammunition. That's another partner that we're seeing, the huge increase in the number of guns being purchased, the amount of ammo being purchased, as well.

Now, with anxieties being high, it's oftentimes plausible to assume that people are purchasing guns to protect their families. And while that could be occurring, what we found is that the protests and the protesters themselves seem to actually paint a different picture. And these anti-lockdown protests were overwhelmingly conservative and overwhelmingly white and male. And so these protests from Michigan and North Carolina laced with right-wing extremism had racist slogans and imagery from things like dolls hanging from nooses to Nazi propaganda, Confederate flags.

And so oftentimes with these lockdown protests, they seemed to be covered for expressing their First and Second Amendment rights when really what it was about was doubling down

on racism and the pursuit of America that once was. And I think we have to be real that many people who voted for Trump aim to actually uphold that ideology based on the way that social media was shifting people in addition to these larger incidents that we know about.

GENERAL ALLEN: Thanks, Rashawn. Very helpful.

Mary, let's come to you, please. Your thoughts, please.

MS. McCORD: Sure. I would really echo everything that's been said and hone in on a couple of points.

You know, we've seen a huge impact of the right-wing extremist groups, including unlawful militias, in the spread of disinformation, most recently about the election, but before the election, about so many other things. Right? And you can really take it back the last several years, as General Allen indicated in his opening remarks. There's an incredible call-and-response relationship between the current incumbent President, outgoing President, and some of these groups that we've seen repeatedly, whether it was a few years ago when the President was raising the alarm about an invasion across our Southern border, of the migrant caravan.

And we actually saw unlawful militia groups decamp to the border and unlawfully detain migrants and hold them for Customs and Border Patrol completely without any authority to do so at all. In fact, one of them is now convicted of falsely assuming the functions of federal law enforcement.

We saw it dramatically this year in a couple of ways. As the pandemic arose, and as Rashawn indicated, Democrat governors took public safety measures, whether they were shut down or stay-at-home orders, masking orders, what have you, we saw again this call and response with the President Tweeting things like, "Liberate Michigan," "Liberate Minnesota," "Liberate Virginia and save your Second Amendment rights." And we saw armed groups of unlawful militias literally storm the statehouse in Lansing, Michigan, fully armed in order to coerce and intimidate legislators into changing the policy there. I mean, this is in dramatic opposition to the government.

Fast forward a little bit into the spring and the death, the murder of George Floyd, which triggered racial justice demonstrations across the country, again almost entirely peaceful, as Rashawn

said, Black Lives Matter and other racial justice protests. But again, we saw the dog whistling. We saw the President and his surrogates, including the Attorney General, essentially putting all the blame for the small number -- small incidents of acts of violence, putting all that blame on the far left, calling antifa domestic terrorists, calling the left violent anarchists. And again, this is a dog whistle for these far-right organizations to sort of self-activate and deploy supposedly to protect against these violent anarchists.

And we saw that in tiny little towns in Virginia and Idaho and Kentucky and New Mexico, in bigger cities, Albuquerque, Kenosha, Portland. Right? And the results are tragic because when you have non-governmentally accountable private actors coming together with incredible firepower, semiautomatic assault rifles, multiple magazines of deadly ammunition, flak jackets, combat boots, etc., making their own decisions about when and where to deploy lethal force against this purported threat, then we have tragedies like the killing of two people in Kenosha and serious injury of another, the shooting of a person in Albuquerque, etc.

And so the fear coming into the election was the same thing. We had the President in the months preceding it already seeding the ground for these groups to deploy, already suggesting mail-in ballots were going to be subject to fraud, already suggesting that the election was likely going to be rigged against him.

So, we at Georgetown, we have litigated against unlawful militias. We're worried that these organizations would deploy to polling places and say we're here to protect against voter intimidation.

I'm happy to say that through combined efforts of lots of folks, we put out factsheets for all 50 states. We distributed them as widely as we could. Attorneys general paid attention, district attorneys paid attention, police chiefs and mayors, they came out with strong public statements against voter intimidation and against armed groups attempting to intimidate. And I manned the Voter Intimidation Helpline throughout the day, got the entire feed of voter intimidation complaints throughout the day on Election Day. And we saw -- really know what I would call unlawful militia deployments. There were some reports of one or two individuals, the most we saw was four individuals armed. But they

weren't dressed like military. They weren't standing right by the voters. They were -- they shouldn't have been there. They were engaging in intimidation, but nothing like what we thought it could be.

Now we are in a tenuous space post-election. These groups are feeding into the disinformation that has been coming out ever since the election. They're feeding into the disinformation that the election has been stolen, that ballots have miraculously appeared in favor of Biden, and that that's -- you know, that these have appeared out of nowhere. And they are agitating amongst themselves in dramatic fashion.

Having said that, so far I think we have seen -- I think a lot of it is tough talk online. It's very, very easy to talk about these kind of -- you know, to be hyperbolic online and in social media. And it's a very different thing to come out into the public when the eyes of the country are on them, particularly after the arrests in Michigan based on the plot to kidnap Gretchen Whitmer, and the eyes of so many law enforcement that had not been on them before because I think they wrongly thought that this activity was constitutionally protected. And we can get to that later in this conversation.

But I think that the eyes are on them and we've seen less. It's not zero, but we've seen less of these types of group deployments for lack of a better word of unlawful militias.

GENERAL ALLEN: Mary, thank you. Great conversation, a great explanation. I want to thank you for the factsheets. I ended up on your mailing list somehow. Happy me. Every one of them was terrific and I want to thank you for that. I think that was a great public service to our voters, so thanks again.

MS. McCORD: Thank you.

GENERAL ALLEN: And, Dan, over to you, please.

MR. BYMAN: Let me make three quick comments. So, we've spent a lot of this time appropriately talking about groups and the different dangers they pose, their attitudes, and so on. A lot of what we should think about, though, are individuals who are part of this broader ecosystem.

So, if you look at some of the worst terrorist attacks, white supremacists and anti-government terrorist attacks in the last five years, it's often been people who have been reading the

propaganda, who visit the websites, who go back and forth and chat, but who are not members of formal groups. And whether it's the Tree of Life Synagogue or the El Paso Walmart, these are people who imbibe, but at the same time are not under the command and control, are not part of the broader structure.

And it makes them at times harder to detect and it's also something we need to watch, which is if the groups themselves are, by their standards, restrained. And let's say that there are a hundred members of a group. You might have one or two who say I don't want to be restrained and who go in the opposite direction. And because this movement is so exceptionally decentralized, there is a real danger that focusing on groups means we might miss some individuals who are quite dangerous.

A second point I'd like to make is about the Internet very broadly. Because of COVID, many Americans are just spending a lot more time on the Internet, right? There are many people here in this Zoom webinar who might otherwise be out and about, who are in their homes. And so a lot of the discourse is on the Internet. And I really want to emphasize Mary's point, which is it's really easy to talk big on the Internet.

But also, one thing that the groups themselves at times don't fully appreciate is just how vulnerable they are on the Internet if law enforcement has sufficient reason to investigate. That this is an incredible record of their activities, their thoughts. They often incriminate themselves. And very importantly, they often reveal other members of the network.

So, if you look at the trial records and the evidence records again and again from these trials that show that these groups, they exploit the Internet and that's very dangerous, but, at the same time, the Internet is really a double-edged sword and used against them in a very dangerous way.

And the third point I'd like to make is just to look ahead with President-elect Biden, which is there are two things that make the danger greater. One is that President Trump and many people in his orbit have spent months, as my colleagues have said, already de-legitimizing the Biden presidency. And so it's not just that their candidate lost, but that Biden cheated, that, you know, millions of Americans voted illegally or it was massive fraud. And so again, in extreme circles that will be believed. And again,

a small number, but a significant number may want to act on it.

And a second and related point is that Biden is likely to have the government be more interventionist. He's already talked about asking the states for a mask mandate, for example, and so there are going to be efforts, I think appropriate ones, to contain COVID. And so we're going to see anti-government voices become stronger and perhaps egged on by some of the people currently in the administration.

So, this is very much a watch list base not only for the next month or two during the transition to a Biden presidency, but after President-elect Biden assumes office this broader movement and the individuals within it should be of great concern for us.

GENERAL ALLEN: Dan, thank you. Dan, one quick question for you before we go on to the individual questions. And anyone else can come in as we go through the questions.

A scenario question. You've been asked to come to the Pentagon and to brief the new Secretary of Defense in the next administration on this issue. What would you, or any of our panelists, advise the new Secretary of Defense on the challenge associated with white supremacists or violent extremist organizations in the ranks of the U.S. military?

MR. BYMAN: So, there are two challenges that I would say notionally.

One is simply that the U.S. military is to some degree a reflection of broader society. And just as you have racists and anti-Semites in broader society, you're going to see them in the hundreds of thousands of Americans who serve in the U.S. military. Again, it'll be a small fraction, but nevertheless, that will be present.

But also, these groups deliberately seek out members of the military. They're looking for people who are professionals in the use of violence. And we've seen this again and again. Vanda mentioned the influence of Vietnam veterans on the movement of the past, and that's been a continuation throughout the history. We see the Spanish-American War veterans showing up in leadership positions in the Klan in the 1920s. Right? So, this is a regular problem.

Part of it has to be solved by background investigations. Right? You need a pretty

aggressive effort. You need tattoo databases. And the military has gotten much better on that in recent years. And this is something that, frankly, police forces around the country really should try to emulate.

A second thing, though, is you need the investigations to be ongoing and continuing when people are in the military and to some degree when they're leaving. And obviously, there are going to be civil rights issues that are legitimate in this, but people have to recognize that serving in the military comes with responsibilities. And part of the reason we all have so much respect for you and other people who have done this is because of the sacrifices people make. And one of those sacrifices has to be some sense that there are certain political beliefs that are simply off limits because they cause such damage. They cause damage within the military team of cohesion, but also they pose a great risk to society.

So, because this danger has grown and because this community is particularly vulnerable, I think a lot more has to be done both on the monitoring and disrupting.

GENERAL ALLEN: Thank you. Anyone else want to offer a view?

MS. FELBAB-BROWN: John, if I could come in.

GENERAL ALLEN: Please, Vanda.

MS. FELBAB-BROWN: Endorsing everything that Dan said and perhaps emphasizing that there is also a real need to think about how veterans feed and end up in the groups from the perspective of support for veterans. That needs to become much more of a systematic and recognized issue. Where on the one hand, as Dan said, the groups actively seek out former military and also current military and former and current law enforcement officials, but if one reads the individual profiles of people who end up, for example, in the anti-immigration border -- self-styled Border Patrol supplement forces, many of them say they are looking for purpose. That what the battlefield has brought was both the trauma, but also a sense of collegiality and real inability to integrate into society, which the self-styled groups, the self-defense groups then present as opportunities.

And so there is real need to focus, if I might use the term, "de-radicalization" or, better yet, much better support for veterans so they don't end up there. But we also need to think about the

individuals who are already part of the self-defense group. And again, I use the term “de-radicalization.” How do we preserve their rights to associate and whatever Second Amendment gun-carry protections there are without that translating into what, in my view, is one of the most severe threats to rule of law in this country?

GENERAL ALLEN: Thank you, Vanda. Thank you, Dan. That was terrific.

Mary, let me come to you with a specific question. And if you want to come in on this one, please don't hesitate. Is there a legal standing that right-wing militias have to exist or to operate in the United States? And what are legal thresholds and hurdles that we face in naming them white supremacists and even domestic terror? I mean, those names are really electric and they really attract a lot of attention and they can really alienate people that may not, in fact, be that extreme. They may just be radicalized and there's difference between the two. What are your thoughts on that, please?

MS. McCORD: Very much so. And I think this is such an important question because I think a lot of the confusion and a lot of the reason that these groups have been able to proliferate and be out in public is because of confusion about whether they have legal authority. And the short answer is they don't. So, there's really three key points, I think, to be made about this, and it's so important because we've even seen law enforcement be confused about this and it's really confusion over the mythology of the Second Amendment.

So, many of these self-styled militia groups, sometimes they call themselves civil guards, sometimes they just call themselves patriots, they will point to the language of the Constitution, “well-regulated militia,” and they'll say that's us. We have our own internal regulations. We have a commander. We follow a chain of command. But “well-regulated” has always meant, and this even goes before the founding, to the time of the Colonies, has always meant regulated by the government, by the state.

So, even at the time of the Colonies, there was an antipathy toward the idea of a standing army, which they thought would be tyrannical and a threat to civil liberties, so instead the Colonies sought to have the defense of the Colony to reside in the people, in the body of people available to be called

forth as a militia on behalf of and in defense of the Colony and then under the control of the Colony. And that is always the way it's been. It was baked into our Constitution then at the time of independence and it's baked into the Constitutions of all of the states.

So, as Vanda said earlier, the only lawful militia is the state militia, the state-sanctioned militia, that reports to the governor. That's the National Guard in every state. And then some states also have a supplementary state defense force that is activated by the governor. Some still have the vestiges in their own schemes of this idea of all able-bodied people being available to be called forth, but only the governor can call them forth. And when so called forth, they report up through the governor.

So, there's no authority under federal or state law for private groups of individuals to organize together while armed and convey, you know, a sense of authority over others, purport to direct others around, or have any responsibility for protecting or defending.

Second is that they will point to the Second Amendment as interpreted by the Supreme Court in 2008, to protect an individual right to bear arms for self-defense. They'll say take that individual right to bear arms, put it in combination with an open carry state, that's our authority to exist.

But the one thing the Supreme Court has been very, very clear about for over 120 years is that the Second Amendment does not protect private militia or private paramilitary organizations. So, as far back as 1886, the Supreme Court upheld, against a constitutional challenge, a state statute that continues to this day to exist on the books of 29 states that bars bodies of men from associating together as military units or parading or drilling in public with firearms. And thinking about this, these statutes date to just post-Civil War Reconstruction when it's only logical the last thing that any state wanted to deal with was a rogue militia threatening its authority.

The Supreme Court held in 1886 that it had to be okay for states, they thought it was without question, in fact, for states to be able to prohibit paramilitary organizations in order to protect public safety, peace, and good order. And in 2008, when Justice Scalia wrote for the majority in the case that did hold that the Second Amendment protects an individual right to bear arms for self-defense, he pointedly contrasted that with paramilitary organizations, reiterated the holding from 1886, and said no

one was even arguing that paramilitary organizations should be protected and, in fact, they're not.

And then we know every state, the third point, we know every state does, in fact, prohibit them either through their comprehensive schemes by which they regulate the militia and the militia's only -- has to be answerable to the governor and through criminal statutes, such as the one upheld in 1886, and other criminal statutes that bar paramilitary activity. So, you know, they don't have legal standing.

To the extent they want to -- groups want to practice firearms training on private property on the weekends and not interface with the public, they don't really present a public safety threat. But when they come out in public and they engage in this interfacing with the public, that's where they are engaging in unlawful and unauthorized activity and they present a threat.

Now, to your point about white supremacists or far-right leanings, there's no question, and think this came up in Vanda's opening remarks, that there are unlawful militias across a political spectrum. There are many; few are on the left, but they exist. There are straight-up anarchist organizations that would say they don't really associate ideologically with the right or left. There are accelerationist organizations that are agitating for a civil war that are really the ones, I would say, are the most terrorist organizations.

The bulk are these right-wing organizations that oftentimes, again, use that label "patriot," saying that they exist to protect and defend constitutional rights. But, of course, it's constitutional rights under their interpretation of the Constitution, which may or may not have any basis in text history or Supreme Court precedent.

These are the groups that I think -- I don't think it's correct to call them all terrorists. I don't think they all are scheming anything as evil as what we saw the schemes of to kidnap Governor Whitmer. But their ideology and their means of executing on that through this usurpation of legitimate law enforcement and legitimate militia authority is extremely dangerous to public safety and national security. And that's why this is something we do have to take seriously and more and more states attorneys general and certainly the FBI and state law enforcement are, I think -- you know, we're course correcting here on what is constitutionally protected and what is not. And I think we're going to see a lot more

scrutiny of these organizations and enforcement actions being taken.

GENERAL ALLEN: Great. Great, Mary, thanks. And that gives us very important legal context. And the whole idea of the official, duly regulated militia is a great tradition in the United States, but it is official and it's regulated. I had an ancestor in the 1700s in the Shenandoah Valley who spent several days in jail and had to pay a fine of a cow because he failed to make the musters for the regulated militia. So, you know, I'm a descendent of that tradition.

Let's go to Dan for a moment. Dan, we have this issue that we're dealing with in the United States about extremist elements and right-wing militias. Can you talk a little bit about the foreign nature of this? What do we see this look like overseas? And in particular, what does it look like in Europe?

MR. BYMAN: So, in Europe, we're seeing a mingling of some of the ideas from the United States as well as many that are I'll say more rooted in the European tradition. So, ideas such as white genocide that really had kind of strong intellectual roots in the United States show up in Europe. And at the same time, there are people like Anders Behring Breivik, who killed 77 people in Norway in 2011, who becomes a hero in the United States. So, the distinctions we used to make between over there and over here are diminished. They're not gone, but they're diminished.

In Europe, the anti-government tendency is lower than in the United States. There's less of a libertarian tradition and the kind of small communities that are very resistant to government authority, it's just less of a thing in Europe. But the white supremacist trend is very strong. It tends to manifest in Europe primarily against immigrants, and those could be immigrants from the Middle East, it could be immigrants from South Asia, from Africa. And the specifics will vary depending on the country in question. It could be people from Turkey or a Kurdish community in Germany, South Asian in the U.K.

But a big distinction I would say between Europe and the United States is the amount of weaponry available to the citizenry. Right? The idea of, you know, any citizen being able to have their own AR-15 is something completely alien to the European tradition. And it shows up regularly in violence. Europe has tons of violence against immigrants, but it tends to be assault, it tends to beatings,

it tends to be truly horrible things, but different from the kinds of mass shootings that are more common in the United States.

So, we see stabbings on a regular basis. We see things that do kill people and do cause permanent harm, but that scale of weaponry is simply lacking. And that has profound implications for the overall threat. It doesn't mean people can't debate it. It doesn't mean you don't have bombings or occasional people get serious weaponry. But the day-to-day individual who's angry and upset at an immigrant tends to use a much lower level of technology than in the United States in terms of lethality.

GENERAL ALLEN: Great, Dan, thanks. We've got about five minutes more before I try to go to some questions. I've already busted my threshold by 10 minutes, this is such a great conversation.

Rashawn, please, how have the communities of color reacted to this emergence? I mean, this really exploded in the last several years in ways, in my own experience, I just have not seen before. How have the communities of color, particularly in 2020, reacted to the emergence of these heavily armed groups and generally white supremacist organizations writ large?

MR. RAY: Yeah. I think it's probably four main things.

The first is being victimized. I mean, we know over the past several years that when we look at hate crimes, reported hate crimes -- because we've got to be clear there are so many that are not reported -- but based on what we know that are reported, well over 50%, in most cases 60% of hate crimes reported deal with race and, in that regard, dealing with racism. And it's not just directed toward Black people. It's also directed toward Latinos. It's also directed toward other groups.

And then, of course, we can obviously bring in religion and the other source of issues there when we start talking about hate in that regard. So the first regard is in regards to victimization.

But then there is also an enhancement of micro level of what we call micro aggressions in the form of micro level discrimination. And, look, we've seen tons of videos about people doing things like innocuous things, just part of their job, making deliveries for major companies being harassed by people; trying to shop; trying to go to a store; just trying to go for a run even and the impact that this has and the

extension of victimization beyond the way we might traditionally think about these right-wing militias. And I'm saying that because they're part of a continuum that we don't necessarily like to put things on in the United States.

We like to say, oh, these right-wing groups, these white nationalists, these white supremacists, it's just this small group over here. Well, no, their impact has started to expand.

And I think the second part, which we've talked about, is the social media impact, so I won't belabor that. But part of that is not only the confusion in terms of what's actually happening, but it's also the inundation of images and videos that show victimization of people of color.

Which then leads me to the third point, which are the health implications. Fear is a big thing. People worry about fear. And what also then happens is the impact that people's mental and emotional and physical health actually takes.

So, some of the work I've done on policing, which I think also relates here, is showing that for men, men who are oftentimes victimized or just acutely aware of someone else's victimization, their mental health suffers. For women in these communities, their physical health suffers, higher rates of diabetes, higher blood pressures, more likely to be obese. So, the stress that comes with this.

And it's layered up when people of color have children because now you are sending little people -- even if they're teenagers, they're little people to you -- out into the world to deal with something that they haven't been properly prepared for and, mind you, in a situation where they've grown up with the first Black-identifying President in Barack Obama, where people told them that this wouldn't be happening. And so we're seeing this rise there.

And then I think the final thing, which is big, is there's also a need for people to start realizing that they need to take up arms and express their Second Amendment right. So, we've also seen increases, particularly in the Black community and the Latino community, in purchasing guns and ammunition or least people discussing that in ways that they haven't before.

And I think these are all problematic things that some of these right-wing militia groups really want to have happen. They want to see a civil war. They want to see people who otherwise would

not fight, who would not mobilize in this way, start to pick sides. And I think not only did we see that with the election, we're also seeing that in people's everyday lives.

GENERAL ALLEN: Well, I'm glad this session is being recorded because I hope that folks are going to go back to this recording and listen very carefully to what you've just said. This is extraordinarily important because the weight of this falls disproportionately upon the communities of color. And it's not just that they worry. That worry carries on into fear and the fear carries on into stress, etc., and it's just right into how long people will live. I mean, that's the end state of this and it's something we should all be listening very carefully to.

I think we're going to have time for just a little bit in terms of questions and I've gotten some excellent ones. But let me conclude finally with coming back to our initiative director.

Vanda, in your fieldwork, how do these groups compare or interact with other extremist groups or even the transnational criminal networks that we know are so prominent, but often very low on the horizon in terms of visibility elsewhere in the world? You've done a lot of this kind of work. How do we see the intersections and what does that mean?

MS. FELBAB-BROWN: Let me start, John, by answering, as I have said before, to me the rise of these groups is more frightening than threatening to U.S. rule of law and democracy than the presence of organized crime groups in the United States. Why do I say that?

For two reasons on which we have already touched. One is the ambivalence and slowness of particularly county-level law enforcement officials in some jurisdictions in responding to the threat. Mary has done extraordinarily important work in exposing the illegality of the groups that provides opportunities for enforcement. But opportunities for enforcement need to be matched by will to enforce. And I'm absolutely certain that there are very many excellent law enforcement officers highly committed to rule of law and democracy, and I have great respect for such officers.

But this comes into the forefront at the time where there is a highly-contested debate about how to properly reform law enforcement in the United States to get away from excessive brutality, excessive reliance on lethal force, disproportionate targeting of communities. So, it's clear that there is a

fundamental need to rebuilt trust between law enforcement and communities, particularly minority communities. But this is taking place at the same time where the right-wing groups have many feeders to law enforcement communities, have excessive -- extensive, rather, relations and are actively attempting to court them.

This is not fully new. It goes back decades. It's hardly new. And entire investigations, very important investigations, by the FBI, for example, there was often quite a bit of pussyfooting and reluctance to go deep into investigations when it was shown that these right-wing groups have connections to local law enforcement, whether with groups that are both directly associated with them, like Oath Keepers and Three Percenters or others. So, we need to get away from them.

The second element that gives me real concern is the very deliberate decision by the groups to cultivate political capital, both by providing public or semi-public services, such as very benevolent relief influx. I highly applaud anyone who does commit to public services in terms of emergencies, but this is very clearly motivated to build support for other political agenda, including potentially a violent agenda.

And there is also an effort to reach out to businesses that we have seen multiple incidents or multiple events of that with the groups showing up at businesses and saying don't comply with COVID lockdown regulations, don't comply with masks. We will protect you. We'll keep the business open. So, I fear this effort to build political capital with a disgruntled population in the context of high polarization.

And there is also the political dimension, Mary's talk about the disastrous, corrosive, and enormously dangerous role that president Trump has had in egging on and positively encouraging, implicitly or explicitly, the militias, such as in the Virginia demonstrations. But we are seeing linkages with officials across the country, whether it's county sheriffs in Idaho with members of militias becoming elected officials or militias reaching out to county officials. For example, in Virginia, there is an extensive effort by various militias to reach out to county officials.

So, it is these political dimensions and political capital that give me the greatest sense of

vulnerability that needs to be very diligently countered.

Across the world, there is one lesson. When self-defense forces --

GENERAL ALLEN: One minute.

MS. FELBAB-BROWN: -- militias emerge, they are extraordinarily hard to roll back. And often the system to roll them back is to enroll them into the military or the police. That's not what we want to see in the United States. We want to see the opposite. So, it's very hard to deal with them and any more allowing them to grow and mushroom just magnifies the difficulties in controlling the situation.

GENERAL ALLEN: Vanda, that's great. And I think Dan and I, well, many of you on the screen, would recognize in the context of transnational criminal that works; that these types of individuals -- ISIL, al Qaeda, international terrorist organizations -- often ride the superhighway of the transnational criminal network themselves. There's a symbiosis there that's worth our taking a look at the next one of these, Vanda, that you permit us to have.

We've got very little time left. Let me just check my time here. We've got about four minutes.

I want to ask one question that has two parts, and this is a speed round. So, first, and we'll go, Rashawn, to you, but the question is, is it time for us to consider a domestic terror designation? Now, we have the foreign terrorist designation. Is it time for us to have a companion domestic terror designation? And how do we understand how these groups are financed?

So, one question, we'll go around. Everybody take about a minute or so and do the best you can. Sorry to cram that one on you at the very end. It's a great question.

MR. RAY: It is a great question and I'll just try to be brief. I'll touch on the first one because I think people can touch on the second one.

Yes, we need this designation. And we need this designation because these domestic terrorist groups are a threat to our democracy. They impact us all in a multitude of ways, not just the people who they are aiming to victimize, but they are literally aiming to destroy our ability to create a perfect union. And these are the sort of things that should literally concern all of us as we try to move

forward to something where everyone in our country have the same opportunities to be upwardly mobile and pull themselves up by their bootstraps, but to also not walk around a free country and live in fear. And some of these groups have changed things in a way where there are people in our country who walk around in fear every single day.

GENERAL ALLEN: Thank you very much. Mary, please.

MS. McCORD: Sure. You know, that's a tough question because of the First Amendment.

GENERAL ALLEN: Right.

MS. McCORD: It's so protected in this country the ability to associate with like-minded people, even those who share really abhorrent views. I will say when you look at groups, though, like the group that was plotting the kidnapping of Governor Whitmer, as well as the overthrow of other state governments, when you look at groups like the base, some of whose numbers have been arrested who are existing solely to start a civil war and with the end result, they hope, to be the creation of a white ethnostate, and this sounds just like ISIS. General Allen, I mean, it's like a page of out of their playbook. There's no question that there are organizations that would meet the criteria for a foreign terrorist organization designation if they were foreign. And so I do think it's something that needs to be studied. It is tough because of the First Amendment.

But there are other things to be studied, too: a more generally applicable domestic terrorism statute, potentially some federal clear criminal prohibitions on unlawful, unauthorized militia activity. So, I think there are other things we can look at to try to hone in on this problem and combat this threat.

GENERAL ALLEN: Thank you. Dan, about a minute, please.

MR. BYMAN: Let me take on the funding. So, we can go to a lot of very elaborate things, right? Some use crypto and some use kind of use YouTube contributions and so on. But for the vast majority of these groups they don't have significant funding. Right? And that's a tremendous vulnerability for them. The fact that many have to use these elaborate mechanisms actually is a sign of

desperation, not a sign of success.

They've had further problems because of regular lawsuits, which have impoverished many of the larger organizations and really taken them out of business. Often their members go to jail and they have questions on do they bail them out? Do they pay for legal costs? So, the money is a huge and constant issue.

And one thing that tech companies have done a much better job of is taking down the financial mechanisms for these groups. So, we've seen PayPal and similar organizations really go after them. So, there's been a better effort.

I would only caveat by saying I wouldn't say there's been a concerted effort. I think that a lot of good actors have been doing a good job, but there's less coordination than we should see and this is less comprehensive that I'd like to see.

GENERAL ALLEN: And as we all know from our respective counter and anti-terrorism efforts, the finances both breathe oxygen into the groups themselves, but they're also a huge vulnerability for the groups when the time comes to begin to go after them.

Vanda, let me give you a very short final comment and then we'll close it up.

MS. FELBAB-BROWN: Well, I would add to the financial and financing issues the possible implication of an effort by these groups to start financing through organized crime. And this goes, John, back to your prior comment about the nexus. We haven't seen the nexus to be robust, including for many reasons I don't have time to get to, but there is certainly the possibility that there would be exploration of financing, for example, through opioid distribution, so something to keep attention to.

And I would like to make one comment about the terrorist designation to link to how we respond. So, the law enforcement response is very important, but so is thinking about how to de-radicalize, rehabilitate, and integrate. What we know from terrorist designations around the world is that they often preclude any kind of possibility of any restorative engagement, any kind of reintegration. Once a group is labeled, often the U.S. and international legal system means that there cannot be even protection -- even provision of efforts to rehabilitate them in any way. Just any kind of support becomes

material support. We see this is an enormous problem from Afghanistan to Colombia to Nigeria to Somalia.

So, if we move toward domestic terrorism designations and legislation, we really want to avoid the problem of then having to rely solely on imprisonment. And once imprisonment ends, what then?

GENERAL ALLEN: That's right. Single sanction outcomes, we know that just doesn't work.

Well, ladies and gentlemen who joined us today, I want to thank you all for your time. My apologies for going over. I broke my own rule, but this was a great discussion, a really important discussion.

And Mary, Dan, Rashawn, thank you for your expert input. It's always very welcome here and we truly value every occasion where we can get you on a Brookings platform to help us to better understand these difficult issues.

And to Vanda, congratulations. Thank you for organizing this panel today. Congratulations on the new Brookings Initiative on Nonstate Armed Actors. We all have great expectations for how you'll help us to shine a light on these difficult, difficult groups and the issues that they create.

So, ladies and gentlemen, thank you again very much for tuning in. This will be online once it's processed. And we wish you good health and safety going forward. Thank you very much and good day.

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