

**Hearing before the  
Senate Committee on the Judiciary  
Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts  
On**

**“The War on Police: How the Federal Government Undermines State and Local Law  
Enforcement”**

**Tuesday, November 17, 2015  
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Chairman Cruz, Ranking Member Coons, and members of the Committee, thank you for this opportunity to address the importance of supporting our nation’s law enforcement officers. Every day, federal, state, and local law enforcement are working, often in collaboration, to protect our communities from the violence, drugs and criminal organizations that systematically threaten them. They often put themselves in grave danger to do this, and they deserve our admiration and thanks.

In this testimony I will briefly share what I have learned about the importance of federal support for our nation’s law enforcement efforts. Specifically, I will share what I learned during the eight years I spent as the Director of National Drug Control Policy, where I assisted our national efforts to push back against the flow of illegal drugs by criminal organizations and heal those Americans harmed by these drugs.

**Positive features of the federal role: what has worked in the past?**

United States law is unitary, but has role differentiation by agency, by jurisdiction, and by authority. Effective integration of programs, capacities, and activities across the various dimensions of federal, state, local, and tribal arenas is a critical responsibility in all circumstances, and can become imperative under certain circumstances, such as when the nation is confronted by threats that themselves contain multiple levels of operation.

When properly structured and constrained under Constitutional guidance, the federal role in law enforcement can be a positive and even necessary adjunct for achieving justice and public safety. Below, I will review the challenges which make a federal role essential in coordinating the totality of our efforts, and provide examples where the proper functioning of federal programs has been important.

Needless to say, where there is great power and authority at the federal level, there is also the potential for great disruption where federal law enforcement activities are not properly structured and constrained. In these cases, the interventions of the federal government can become intrusive or even counterproductive.

The presence of a federal role for integrating functions can be seen when the threat itself is multi-dimensional across the boundaries of respective responsibilities. The effort to counter the terror threat and the effort against illicit drugs are two primary examples where effective integration is essential, given that the threat phenomena are presented in a networked continuum, themselves crossing boundaries, and exploiting the seams and interstices of agencies and jurisdictions.

The forms of organization and action presented by the threat must be met by counterpart organizations and actions in response, as the threat transits from an outer boundary of national security challenges found in international arenas, moving into a variety of domestic law enforcement and juridical domains, and finally arriving at and acting at the level of local communities.

Further, just as the threat itself is presented in these various arrays of organization and activities, a central means by which the threat remains viable depends upon their capacity to secure financial instruments, either as a goal of the action, or as a mechanism for sustaining its continuation. It follows that an integrated counter-threat response must address the multiple dimensions of threat: finance, from the acquisition and movement of cash supply through money-laundering and access to banking legitimacy, to broader questions of institutional legitimacy, the weakening of democratic governance, and the threat of corruption.

My experience at the Office of National Drug Control Policy (ONDCP), where I was charged with the function of coordinating multiple federal agencies and budgets into an effective strategic whole, the actions of which could then be integrated at all levels of law enforcement and the judiciary.

Each of the respective domains of law enforcement and the system of the judiciary, from the international arena to the intersection with borders down to the community and street level, possesses particular assets, capabilities, and knowledge. These features must be tied together for effective and sustained response.

Specifically, beyond the powers assigned to certain authorities, there are common elements required by all actors: intelligence, targeting, mobilization, interdiction, and prosecution are among them.

Certain actions, such as international engagement, interdicting maritime and aerial trafficking, and securing borders can only be undertaken at the federal level; as well, large-scale public health and medical research activities are best supported by federal resources. Yet other functions require specific state authorities, involving everything from medical licensing or state

policing units, while at the community level policing and courts, often augmented by federal resources, operate in conjunction with educational and social services support.

But each jurisdiction and agency has limited reach and limited resources. Thus it is a principle federal responsibility to create and sustain frameworks where resources and capacities can be fused to ensure such outcomes as de-confliction, jurisdictional hand-off, reinforced joint operational capacity, and a continuum of effort whereby successful prosecutions can be linked to the acquisition of intelligence for subsequent effective attack.

Joint task-forces, intelligence fusion centers, and cross-authorization of personnel and powers against the threat can be force-multipliers—and they can make the difference between stopping a threat and merely weakening it a bit.

During my service at ONDCP, we helped manage many programs that contained essential federal dimensions that worked in partnership with state and local authorities. Examples ranged from the National Youth Anti-Drug Media campaign, a multi-year exercise in prevention and communication, to efforts associated with the Counter-Drug Technology Assessment Center (CTAC), which not only supported medical research efforts aimed at strengthening drug treatment, it implemented the transfer of critical technologies (such as detection, analysis, surveillance and monitoring technologies) into the hands of state and local law enforcement forces. Our federal efforts provided for community anti-drug coalitions, the promulgation of drug courts, and support for essential data collection and analysis.

The High Intensity Drug Trafficking Area (HIDTA) program is a powerful example of how the coordination and interaction of federal, state, local and tribal resources can be stood up and activated. This program, currently budgeted at \$238 million a year and overseen by the ONDCP in conjunction with the Department of Justice, brings together federal, state, and local law enforcement entities to set coordinated goals and strategies in specific regions where drugs pose a elevated threat.

Additional examples of entities that work with or support local law enforcement efforts include the El Paso Intelligence Center (EPIC), the National Drug Intelligence Center (NDIC), the border control agencies under the Department of Homeland Security, the Drug Enforcement Administration (DEA) and the Organized Crime Drug Enforcement Task Force (OCDEF), both of the Department of Justice, and the State Department's Bureau of International Narcotics Control and Law Enforcement (INCLE), as well as various national intelligence agencies.

As these federal organizations coordinate and support the work of local law enforcement, they can have remarkable success. A federal/local law enforcement partnership aimed at stopping the trafficking of drugs and their illicit proceeds on U.S. roads, highlighted in the 2008 National Drug Control Strategy, is a good example of the types of positive outcomes of this type of law enforcement cooperation can have:

*For drugs to reach individual communities, they usually are transited across our national interstate highway system. The transportation of massive quantities of illicit drugs and cash on our nation's roads and highways, which span countless jurisdictions, both state, local, and tribal, requires a coordinated law enforcement response.*

*A traffic stop performed by officers of the Colorado State Patrol last year illustrates how these local actions can have a broader law enforcement impact. Two men driving a pickup truck containing 461 pounds of marijuana were stopped on an interstate in Logan County, Colorado. The details of the arrests were passed to DEA, which determined that the driver of the vehicle was a courier connected to OCDETF/DEA investigations in Phoenix, Arizona; Yakima, Washington; and Fargo, North Dakota. Thus, the Logan County traffic stop substantially strengthened key priority cases. In a similar example, a traffic stop in Texas that resulted in the seizure of \$149,000 led to an ICE investigation that eventually identified the head of an organization responsible for transporting bulk currency from the United States to Mexico for at least three Mexican cartels. As a result of information provided by ICE during the course of this investigation, Mexican authorities were able to initiate the first money laundering wire intercept in Mexico. Pursuant to the joint Mexican and U.S. investigation, 14 subjects were arrested including 12 Mexican nationals. In this way, highway interdiction programs make a vital contribution to the disruption of major drug trafficking organizations both domestically and internationally.*

The task of the coordinating federal agency, in this case, ONDCP, is first to set the strategy and the goals, as well as the measures of effectiveness and accountability, across the interagency. Next, strategy implementation augments particular budget authority among the agencies contained in the drug-control nexus, and allows for prioritization of agendas and programs.

The drug threat is a specialized danger that requires actions across a broad horizon of agencies and concerns, because the response requires coordinating a variety of public health, educational, law enforcement, international aid, and national security forces as it develops a comprehensive strategy involving drug-use prevention, treatment, and supply reduction programs.

The latter are made up of sequenced programs of domestic arrests and prosecutions, international partner engagement, border and transit zone interdiction, counter-corruption and training activities, and organizational attack against transnational criminal elements as well as their financial resources.

The transnational criminal organizations themselves frequently merge with counter-terror and national security threats, both against the U.S. Government and the institutions of partner nations.

There are implications running from families, schools, community police and local courts, to national health research institutions, entities from the Departments of State, Defense, and Homeland Security, the state and federal courts and their capacities, and international bodies operating under treaty responsibilities.

The federal government and local law enforcement have a long record of working together to combat criminal activities that seek to exploit jurisdictional borders--international, state, county, or local. This success is a product of each level of law enforcement building trust with the others by operating in good faith within their constitutionally defined sphere. Examples of this include the precipitous decline in domestic methamphetamine production in the 2000's after a coordinated focus at the national and local level, and the huge reduction in cocaine usage that began in 2007 after a multi-pronged law enforcement effort to disrupt its production and distribution.

These examples are but a few of the many that demonstrate the real effect focused, coordinated law enforcement efforts can have on crime, particularly when the federal government is a contributing partner. But recent history has also shown us that when this coordination of policy goals and efforts are not maintained, these gains can quickly evaporate.

Thank you.