

Statement for the Record by

**Sheriff Don Barnes
Orange County Sheriff's Department (California)
Chairman, Intelligence Commanders Committee
Major County Sheriffs of America**

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**"Protecting the Homeland: An Examination of Federal Efforts to
Support State and Local Law Enforcement"**

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Thank you Chairmen Pfluger and D'Eposito and Ranking Members Magaziner and Carter for holding this hearing and seeking local law enforcement's perspective on the security challenges facing the American homeland.

We gather here today in the midst of National Police Week, an annual time to honor the fallen peace officers of our communities. This week is also a moment for our national leaders to focus on policies that help law enforcement accomplish our public safety mission.

Today, law enforcement and the communities we serve face challenges on multiple fronts. The risks are great, but there is also no greater opportunity to take action. My testimony will focus on those challenges, some of which are the result of misguided policies, and share solutions that will ultimately secure our homeland.

Policy Driven Crime Wave

I will start with a focus on crime. The 50 states have been called laboratories of democracy. If that's the case, California's lab was blown up by our experiment with decriminalization.

Over the last decade, consequences for crime have eroded and certain tools used by law enforcement to keep our communities safe have been removed. This has made our job harder and put the safety of law-abiding residents at risk.

In 2011, the California state legislature passed Criminal Justice Realignment (Assembly Bill 109), which shifted a substantial portion of the state prison population to county facilities. In 2014, a deceptively titled ballot initiative, the "Safe Neighborhoods and Schools Act (Proposition 47)," was approved. This bill turned the two most prominent categories of crime, property theft and narcotics violations, from felonies to misdemeanors. Two years later another deceptive

initiative was approved, Proposition 57, which resulted in additional releases of people from state prison earlier than their original sentence length.¹

At the same time, we have seen legislation that either removed effective tools from law enforcement or placed burdensome requirements on our agencies. Overly burdensome and unnecessary requirements on law enforcement divert our resources away from frontline services and into administrative bureaucracy. Even today, there are proposals being considered to prevent the use of apprehension K9s, prohibit certain investigative techniques, and eliminate the enforcement of certain traffic violations.

The results of these policies speak for themselves:

- Our state prison population has declined from 165,000 in 2010 to 90,934 as of March 2023. The Legislative Analyst Office in California estimates that the state has nearly 20,000 empty prison beds, comprising 20% of the state's total prison capacity. Unfortunately this decline in the prison population and empty bed space is not a reflection of a lack of need in California. Rather, the state simply shifted a large number of people from state custody to local communities.
- In 2011 there were 1,794 homicides in California, this number increased by 31.6% to 2,361 in 2021, compared to our overall population increase of less than 10% over that same period.
- Aggravated assaults increased by 34.6% from 91,483 to 123,122 in 2021.
- A lack of true consequences for illegal behavior has put law enforcement in greater danger. The five most recent California officers killed in the line of duty were murdered by individuals with extensive criminal histories. The majority of these individuals were released early due to lenient criminal justice policies.
- Drug-related deaths have skyrocketed in our state. According to the California Department of Public Health there were 4,113 California drug-related deaths in 2011. A decade later, in 2021, that total more than doubled to 10,898.
- While we see property crime still going unreported to law enforcement, retail losses help tell the story of increased theft. The National Retail Federation reported that, in 2021, there was an estimated \$94.5 billion in losses to retail theft nationwide, with

¹ Proposition 57 was approved with the intention of showing leniency to offenders who are truly non-violent. Unfortunately, many voters were not aware that the state's definition of "nonviolent" included rape of an unconscious victim, solicitation to commit murder and assault with a deadly weapon on a peace officer amongst many other crimes.

largest losses occurring in California metropolitan areas. In a similar survey conducted in 2014 this number was estimated to be \$44 billion.

- Although our proactive posture has kept crime rates in Orange County – which is proudly home to more than 3.1 million residents – relatively low, we are beginning to see the impact of decisions made by the district attorney in the largest county within the Southern California region – Los Angeles. The DA’s failure to prosecute on a variety of offenses has emboldened career criminals. Just last week our deputies arrested a burglary crew of four individuals from Los Angeles attempting to burglarize a residence in Yorba Linda.

External Security Pressures

We cannot successfully bring down crime rates without violators facing real consequences. In addition, our challenges are exacerbated by external threats around our country. These threats include: the border crisis, the rapidly emerging cyber threat, an ongoing wave of foreign malign influence, a fentanyl crisis of epic proportions, and the proliferation of active shooter incidents.

Border Challenges. Most relevant to this committee is the lack of an effective strategy to secure our Southern Border. One thing this has meant for my community is an influx of fentanyl. In 2021, Orange County Sheriff’s Department investigators seized 132.9 pounds of fentanyl, which equates to approximately 30 million potential lethal doses, and 16,278 pills. In 2022, this increased to 449.9 pounds of fentanyl and 405,283 pills suspected of containing fentanyl seized.

The lack of border enforcement has also extended to local communities in part because U.S. Immigration and Customs Enforcement (ICE) has virtually ceased picking up inmates who are released with a detainer.

In calendar year 2021, the Orange County Sheriff’s Department notified ICE of 143 individuals who had detainers and were due to be released from our jail. Of the 143 individuals referred, only 73 – or 51% – were taken into ICE custody. Those not taken into custody by ICE were released back into the community. A total of 24 of those released individuals were re-arrested for new offenses in Orange County.

In calendar year 2022, my department notified ICE of 155 individuals who had detainers and were due to be released. Of those 155 individuals, only 17 – or 10.9% – were transferred to ICE’s custody. With respect to the other 138 individuals who, under state law, were eligible for transfer to ICE, ICE took no action and these individuals were released back into the community. A total of 20 of these individuals were re-arrested for new offenses in Orange County.

Failure to remove these individuals jeopardizes the safety of all Orange County residents. California law limits notifications to inmates who have committed serious crimes and/or have a

criminal history. In effect, this state law results in my department only notifying ICE of those individuals with detainers who pose the greatest risk to our community. We only notify ICE when the individuals have aggravating factors and therefore merit being taken into ICE custody.

What we are seeing at the border today in the wake of Title 42's end, will manifest into additional security challenges for local communities.

Local Solutions-Fusion Centers

I know this is a bleak picture. The challenges faced by the men and women of law enforcement are daunting. But there is hope. There are plausible solutions. As the inscription on the nation's peace officer memorial over at Judiciary Square states, "in valor there is hope." There is much valor amongst the individuals working in law enforcement today. There is a commitment to do the work necessary to meet those challenges and to use innovative measures to overcome obstacles.

Today I will highlight how we use our fusion center in Orange County to address threats before they materialize and support efforts to address current crime trends.

The Orange County Intelligence Assessment Center (OCIAAC) was created in 2007 by the Orange County Sheriff's Department and our municipal agency partners. It started as a Terrorism Early Warning group pre-911. Operated by my department, OCIAAC includes multiple municipal, state and federal agencies working alongside each other every day to make sure information stovepipes are minimized and relevant threat information is shared routinely. While initially designed to address threats of terrorism, it has evolved into a tool to address all crimes and all hazards.

While some people criticize the expansion of fusion centers' mission from terrorism-only to all crimes and all hazards, they ignore the reality that information sharing among local, state, and federal agencies and the private sector is fundamental to countering all types of threats, whether they are terrorism, cyber, or criminal. My agency is responsible for preventing and investigating all of those types of crimes, and we will continue to do all we can to ensure our people and our partner agencies throughout Orange County, southern California, our state, and our nation get the benefit of that institutionalized information sharing.

Recognizing the fact that the sharing information is key to addressing challenges of the day, we have integrated OCIAAC into many facets of our operations. A few examples:

- **Cyber Threat.** According to the FBI, California residents lost over \$2 billion to cyber criminals in 2022. This number is an increase from the \$1.2 billion in 2021 and the \$621 million in 2020. Ransomware attacks are one of the most prevalent threats. We have recently seen this kind of attack on public sector agencies like the San Bernardino Sheriff's Department and the City of Dallas, Texas.

To meet the increased cyber threat OCIAC developed a Cyber Liaison Officer (CLO) Program. Through this program we train our staff to recognize cyber threats and take appropriate action. We teach the CLO program at our academy. To date, approximately 700 personnel have been trained countywide.

Last May, OCIAC led a multi-agency tabletop exercise regarding cyber-attacks with municipal agencies, federal agencies to include DHS, and private sector partners. This preparation and education of staff is critical to staying ahead of virtual cyber criminals including terrorists.

An example of how OCIAC assists in addressing a cyber-attack occurred in 2021 when emergency call centers in Orange County experienced a Telephone Denial of Service to our Public Safety Answering Point, or 9-1-1 system. The incident caused by malicious actors overwhelmed our incoming 9-1-1 lines with illegitimate 9-1-1 calls delaying critical calls for service to our community. The Orange County Cyber Crime Task Force (OCCTF) and the Orange County Intelligence Center (OCIAC) Cyber Unit were activated. OCIAC specifically helped with the investigation and restoration of service by identifying similar issues in other jurisdictions and best practices to resolve this kind of attack.

- **Active Shooter and School Safety.** OCIAC is integrated with our School Mobile Resource and Assessment Team (SMART). SMART is utilized in school situations and incidents related to violence, threats, possession and/or use of weapons, unstable behaviors, and suicidal actions or tendencies. The team responds at the request of law enforcement personnel or school administration to provide services and resources, including threat assessments, criminal investigation, case management and referrals to mandatory counseling, where deemed appropriate. The goal of SMART is to evaluate and assess each incident individually, to effectively resolve the matter through the least intrusive means available (while still maintaining safety and security to the school), and ultimately return the staff and students to their daily routine. For the 2021-22 school SMART, in consultation with OCIAC, conducted over 300. As an example, earlier this month OCIAC worked with public safety agencies and school personnel to determine the veracity of a viral social media posts circulating online threatening a school shooting causing a pivot of law enforcement resources while creating panic and anxiety to school districts, parents, and our communities.

When an active shooter incident occurred on May 15, 2022 at the Geneva Presbyterian Church in Laguna Woods in Orange County, OCIAC coordinated with the Las Vegas fusion center (the suspect's hometown) to provide vital information on the suspect. This is an example of the type of information sharing and collaboration that is uniquely enabled through the National Network of Fusion Centers every day around the country.

OCIAC assisted in intelligence analysis that led to the arrest of a 40-year-old man who threatened a "killing spree" in YouTube videos. The arrest stemmed from reports of

bizarre email exchanges and threats to a staff member of a large 4-year university in Orange County. The suspect had nine firearms in his possession.

- **House of Worship Security.** In 2016, OCIAC launched its Faith Liaison program. More than 500 houses of worship have partnered in the faith outreach program. This program engages the faith community in trainings for critical infrastructure safety, active shooter awareness and security briefings. Program staff fields 70-100 calls per week with 10-15 meetings per week with faith communities. This effort was highlighted as a “best practice” in the 2019 U.S. Homeland Security Advisory Council Report, “Preventing Targeted Violence Against Faith-Based Communities.”
- **Foreign Malign Influence.** OCIAC has taken a lead in educating local businesses and public officials about malicious attempts by foreign actors to steal intellectual property and influence elected officials. OCIAC is coordinating closely with DHS’ Office of Intelligence and Analysis and FBI’s Foreign Malign Influence Task Force. This includes vetting all requests from foreign entities received by our county government.
- **Integration with High Intensity Drug Trafficking Area (HIDTA) Program.** Fusion Centers have become an important component of HIDTA operations. Fusion center can provide tactical support during ongoing investigations, analytical products, subject workups, takedown packages, communications charts, assessments, mapping products, organizational profiles, and intelligence bulletins. This information provides our narcotics information with tools to identify suspects and make both seizures and arrests. OCIACs relationship with FBI and DHS is critical to identify individuals and organizations involved in transnational organized crime.
- **Human Trafficking.** OCIAC plays a critical role in efforts to address human trafficking through their information sharing amongst multiple agencies. As an example, In February 2022, OCIAC coordinated Operation Red Zone in partnership with 11 local law enforcement agencies, the Orange County District Attorney’s Office and the US Department of Homeland Security to identify victims of human trafficking and hold their perpetrators accountable. Fifty-six suspects were arrested and 16 victims were recovered, including two juveniles under the age of 16.

Federal Solutions

In closing, I would like to highlight a few ways the federal government can better support local law enforcement efforts. This support will ultimately translate to a safer homeland.

Secure the border. The crisis and the border and ensuing chaos that has occurred since the expiration of Title 42 remains a significant threat to the security of local communities. Congress must pass legislation to secure our border once and for all. The Major County Sheriffs of America’s “Border Security and Immigration Principles” document outlines necessary actions that should be taken (attached). Key priorities include:

- Gain and maintain operational control of all United States borders.
- Fully implement a biometric entry/exit system.
- Use all available American power, including sanctions, to eradicate murderous Mexico-based cartels.
- Ensure access to information and intelligence for all state and local law enforcement.
- Support state and local law enforcement with proper training and updated technologies.
- Require reimbursement to locals for housing of illegal immigrants.
- Continue to work with local law enforcement to develop a strategy to ensure proper procedure is followed regarding ICE detainees.
- The legal immigration process should be reformed and align with enacted Congressional priorities.
- In order to accomplish the above articulated goals, it is imperative these efforts be fully budgeted, authorized, and appropriated. Increased funding for federal grants like Operation Stonegarden would further help local law enforcement mitigate security risks associated with the border.

I want to recognize and appreciate the fact that this Committee's recently passed *Border Reinforcement Act* incorporates several of those priorities.

Support fusion centers. The way we utilize our fusion center in Orange County is a model that jurisdictions across the nation could follow. To maximize our effectiveness, fusion centers require sustained investment in personnel and resources. Increased FEMA grant funding through the State Homeland Security Grant Program and the Urban Area Security Initiative are important. An enhanced and sustained commitment by federal agencies to embed personnel in local and state fusion centers will strengthen their abilities nationwide.

Cyber security and emerging technology. More interagency communication among federal partners and with local partners would assist in addressing the cyber threat. The current uncoordinated approach of addressing the cyber threat creates a challenge. Multiple federal law enforcement agencies appear to be addressing the cyber threat independent of one another with disparate approaches. Additionally, we must redouble efforts to obtain lawful access to encrypted devices and platforms when they are concealing evidence of a crime. Finally, local law enforcement must be given the tools to address emerging technologies like unmanned aircraft systems.

Guard against decriminalization. Let California's example be a warning for other jurisdictions. When consequences for law-breaking are minimized, it results in less safety for our communities and ultimately a breakdown of our society at the local level. Congress must be watchful of the destabilizing impact of policies that empower criminals and victimize law-abiding residents.

Thank you again for the opportunity to share my perspective and I am happy to help this committee address the critical issues it continues to address.