



Written Testimony of

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Before the Committee on Natural Resources, Subcommittee on Oversight and Investigations
*Accountability, Policies, and Tactics of Law Enforcement within the Department of the Interior
and the U.S. Forest Service*

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Mr. Chairman, Ranking Member Dingell, and Members of the Committee,

My name is Dave Brown and I serve as the Sheriff in Skamania County in Washington State.

I am here today to testify on behalf of the Western States Sheriffs Association, and more than 800 Sheriffs in the 15 states we represent.

The nearly 200 million acres of federal land managed by the United States Forest Service represent a national treasure of incredible value. A treasure that deserves sound management and resource protection.

The U.S. Forest Service has been tasked with that protection, including the dedicated Law Enforcement Officers (LEOs) who enforce resource protection laws.

Historically those LEOs were assigned to the District Ranger and worked closely with local law enforcement, particularly the elected county Sheriffs. My nearly 29 years of law enforcement experience includes nine years of patrolling the Gifford Pinchot National Forest in Washington State, where I routinely worked with LEOs and district rangers.

The productive working relationships I developed in the late 1980's and early 1990's saw a dramatic change after 1993 when USFS Law Enforcement and Investigations became an independent entity within the Forest Service, under central direction from Washington, DC. This restructuring has commonly been called the stove-pipe effect. The result of this restructuring quickly created a disconnect with local communities and, in essence, created a national police force.

The District Ranger and Forest Supervisor as well as the Regional Forester no longer had budgetary authority, supervisory or operational control over law enforcement activities on the forest. When this happened, the local county Sheriff had no incentive to meet with the District

Ranger or Forest Supervisor to discuss operational objectives for law enforcement on national forest system lands within the county and expect any reasonable progress on addressing enforcement concerns. The negotiation of cooperative law enforcement agreements was no longer in the purview of the District Ranger as the stovepipe provided that the Special Agent in Charge (SAC) was solely responsible for this effort. The SAC can often be responsible for oversight on multiple national forests spread out over as little as two states and sometimes across four to five states. The ability for a county Sheriff to have a strong working relationship with the SAC became an impossible task for most sheriffs due to distances between the Sheriff's Office and the forest headquarters where the SAC is assigned.

This stove-pipe served only to distract LEOs from their primary responsibility of resource protection by shifting their focus to other policing functions best left to local law enforcement. As time progressed through the 1990's and into the early 2000's, additional LEOs were added to the patrol efforts of the USFS and funding that was provided to Sheriffs for cooperative law enforcement contracts continued to decline.

Over time, the USFS law enforcement and investigations division began to add K-9 units and radar enforcement capabilities. Traffic enforcement both on and off National Forest System roads became a common occurrence. LEOs began seeking assistance from county Sheriffs to house arrestees on federal charges in the local jail. It became evident in many counties across the west that the USFS law enforcement component was no longer focused on resource protection and timber related issues.

In some instances, LEOs began arresting individuals on state warrants and transporting them to the local jail. These actions were recognized by county Sheriffs as being outside the scope of authority and jurisdiction of the USFS law enforcement component.

Most western states only recognize a Federal LEO to have authority over Federal crimes on federally managed lands. It became apparent to sheriffs in many jurisdictions that some USFS LEOs were generating a multitude of citizen complaints. Those complaints were most often filed with the Sheriff. The Sheriff, having no supervisory authority over a federal officer was obligated to pass the information on to a patrol captain or SAC. In many cases, there was never a response back or any apparent investigation into the actions of the LEO. I experienced this specific scenario in Skamania County throughout the late 1990's into the early 2000's. The point here is that there appeared to be no accountability within the structure of the USFS law enforcement component and no willingness to communicate with the local sheriff or the community regarding the actions of the LEOs. As these actions continued, citizens began to express concerns for their personal safety, feeling as if they were being harassed and targeted. While additional complaints were forwarded to the local supervisors and sometimes directly to the Washington Office, in my particular case, there appeared to be no desire to deal with the officers' actions.

This new order was, for all intents and purposes, a federal police agency attempting to patrol and enforce the code of federal regulation, a code that had been revised to assimilate state crimes in a manner that mirrors those responsibilities mandated to the county Sheriff.

This failure of the ‘stove piping’ of the USFS Law Enforcement and Investigations was the subject of a congressional hearing in 1998. A copy of that hearing has been submitted as a part of the written testimony and supporting documents packet. The very issues we are discussing today are the same issues that were discussed 17 years ago.

While I am aware the committee is seeking information from Sheriffs regarding BLM law enforcement, my county has no BLM managed land. I have, however, spent much time listening to Sheriffs across the other western states regarding similar issues. There are examples out of the state of Utah that illustrate a heavy handed approach by the BLM rangers and Special Agents in more than one case. The tactics and operations utilized in these cases go well beyond the boundaries of decent, professional and appropriate conduct of any law enforcement officer. There have been specific issues arising out of San Juan County Utah that eventually led to the deaths of 3 citizens of that county. These were instances of suicide and one can argue that it was the result of the manner in which the BLM approached the case and how they interacted with those involved. These cases were related to the closure of a trail in the Recapture Canyon area of San Juan County Utah and an alleged artifacts theft case in San Juan County Utah. These cases deserve review by congress and should well articulate the lack of oversight and accountability of the part of the BLM law enforcement.

There should be no question as a matter of state statute as to who the Chief Law Enforcement Officer of the County is. The elected sheriff is responsible for determining the law enforcement philosophy of the unincorporated land mass of the county including our national forests lands.

There can be no argument that there are some county Sheriffs who do not recognize the USFS law enforcement as a legal and legitimate entity. Some go as far as to dispute the constitutional basis that allows this organization to exist. The Western States Sheriffs Association does not dispute the legitimacy of the USFS law enforcement component but does hold the belief, based on state law, that the Sheriff is the Chief Law Enforcement Officer of the county.

That belief is firmly held by our membership. The county Sheriff, an elected representative of the people, is responsible for determining the law enforcement philosophy as it relates to the protection of life and property within their jurisdictional boundaries.

It should be stated that there have been many successes in the past five years. The Director of Law Enforcement and Investigations for the USFS has genuinely reached out to the Western Sheriffs since 2011. Together we have built a stronger working relationship with both the Director and the Deputy Director. There has been an ongoing effort to unite the Sheriffs across the west with the Special Agent in Charge responsible for the federal law enforcement activities on the public lands in their county. It has been evident that recent complaints regarding the actions of individual LEOs are being heard now and in some cases there appears to be a concerted effort to address those complaints. The Western States Sheriffs Association worked together with the Director to create a Memorandum of Understanding that provides a template for Sheriffs to use when considering providing state authority to a LEO. In the agreement, the USFS recognizes the Sheriff as the Chief Law enforcement Officer of the county. There is language that provides the ability to house federal inmates at local jails and to incorporate LEOs into the Sheriffs training programs.

This philosophy should extend to all policing efforts on federally managed lands. This philosophy should be instilled into the leadership of the USFS and the BLM. We cannot serve the county residents and visitors who use our nation's public lands when we are divided on the philosophy, method, and manner in which we treat the people we serve.

Both county Sheriffs and the managers of federal law enforcement agencies deserve a positive working relationship and open lines of communications. I submit there are a number of effective remedies that must be considered:

1. The first of these remedies can be found in the recently signed Memorandum of Understanding (MOU) between the Western States Sheriffs Association and the USFS Director of Law Enforcement and Investigations. This document calls for the creation of local Law Enforcement Councils (LECs). In this model, the county Sheriff chairs the Council which is comprised of adjoining county Sheriffs and local USFS law enforcement leadership. These LECs provide the greatest opportunity for open communication on a variety of issues and all occurs at the local level where it stands the best chance of being effective.
2. Eliminate the stove-pipe structure of the USFS LE&I. Reestablish the operational structure that inserts the Special Agent in Charge back under the supervision and direction of the Regional Forester. At the same time, put the LEOs back into the command structure of the local district ranger. By reintegrating the SAC and the LEOs into the regional and local structure, there will be a greater opportunity to reconnect USFS law enforcement with the county Sheriff and create the necessary local focus in order to conduct the important work of protecting our treasured National Forests.
3. Conduct a widespread review of the Code of Federal Regulation currently in use by USFS and BLM law enforcement. Every effort should be made to eliminate all language that assimilates state crime or state statutes into USFS and BLM enforcement. The enforcement of crimes against persons and personal property crimes is, and should continue to be, the primary role of the county Sheriff.
4. Examine the staffing levels of the USFS and BLM law enforcement agencies. It is the belief of the Western States Sheriffs that the LEO and Ranger positions are across the two agencies could be reduced. The costs savings recognized through the reduction should be distributed back to the county Sheriff through the cooperative law enforcement agreements. This additional funding would potentially allow the county Sheriff a better ability to respond to and investigate criminal activity on our public lands.

While it seems we have made progress in alleviating some concerns of Western Sheriffs, we continue to be vigilant to ensure there is no expansion of authority and that the USFS law enforcement continues to recognize the authority and responsibility of the county Sheriff.

The Sheriff is chosen by the people of the county to serve as their elected law enforcement representative. The people did not choose the Forest Service or the Bureau of Land Management

for this function. If the local sheriff desires the assistance of the federal law enforcement officers, there is a mechanism in place to accomplish this. Sheriffs, under state statute, have the authority to cross-deputize LEOs. As mentioned earlier, this can also be accomplished through MOUs such as the one in place now.

The health of our national forests has been on the decline for the past 20 years. Since the implementation of the Northwest Forest Plan the annual timber harvests on National Forest lands in the Pacific Northwest has dropped dramatically. This effect has led to a decline in local economies, a reduction in local and state government services, and has had a severe impact on public safety services in many counties across the west.

Is it merely a coincidence that in 1993 the stove-pipe structure for USFS Law Enforcement was created? Perhaps it was intentional that this was done in order to protect the jobs of the law enforcement officers within the agency. Traditionally funded through timber receipts and general appropriations, the law enforcement division was now its own entity and no longer dependent on timber harvests. This would prove to be beneficial for the LE&I division considering the decline in timber funds after the Northwest Forest Plan was implemented. Since that time, the ability of the Forest Service to carry out its mission has declined and many positions have been lost due to lack of funding. At the same time, the law enforcement division has expanded, creating more positions and increasing their budget for many years.

The original function of resource protection and timber related criminal investigations were no longer the priority due to decline in management of our national forests. However, the desire to morph into a traditional police force has been realized and perpetrated in counties across the west. It is possible this stove-pipe structure was intentionally carried out to preserve and grow the USFS law enforcement component during a time when the normal, recognized functions of the agency were and have continued to suffer.

While these hearings are important in order to expose the issues and openly debate them, right now is a time for action. Now is the time to take a substantial step to rebuild trusts among Sheriffs and our federal partners. Now is the time to truly evaluate the levels of enforcement capabilities of our national forests law enforcement providers and to finally realize that the county Sheriff is in the best position, from a matter of law, to effectively deal with crime on our nation's forest. I urge this committee to take the time to review all of the written testimony. I am hopeful that you will recognize and appreciate our position and reach out to our leadership and the USFS law enforcement leaders. By doing so, we will continue to have opportunities to dialogue with each other and hopefully reach consensus regarding a course of action that improves our public safety services to citizens who recreate and visit our national forest lands.

Respectfully submitted,

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President, Western States Sheriffs Association