

**Statement of Tracy Perry
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Before the
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
Oversight Hearing on
Federal Law Enforcement policy and implementation**

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Chairman Lee, Ranking Member Wyden, members of the Subcommittee, I am Tracy Perry, Director of Law Enforcement and Investigations (LEI), U.S. Department of Agriculture (USDA) Forest Service. Thank you for the opportunity to speak with you today about our law enforcement program and law enforcement operations on National Forest System Lands.

The Forest Service manages national forests and national grasslands in 42 states and Puerto Rico with the mission “*to sustain the health, diversity and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations.*” Lands in the National Forest System are among the crown jewels of the United States and North America. They produce abundant clean water, provide high quality wildlife habitat and diverse wildlife and fish populations, forest products, grazing and unsurpassed recreation opportunities. A critical component of the agency’s management of the National Forest System is the law enforcement program.

FOREST SERVICE LAW ENFORCEMENT AND INVESTIGATIONS OVERVIEW

The Forest Service Law Enforcement and Investigations (LEI) program is charged with providing a safe environment for the public, our employees, and protecting the Nation’s natural resources on approximately 193 million acres of National Forest System (NFS) lands. Increasing population growth in areas adjacent to NFS lands (the Wildland Urban Interface) and increasing popularity of NFS lands for motorized recreational use have significant land management impacts, and illegal occupancy of NFS lands for the production of narcotics and other unauthorized uses increase risks to public and employee health and safety. Much of what we are able to accomplish is through partnerships and cooperative agreements with local law enforcement.

Our program provides a highly visible uniformed patrol presence which conducts rapid emergency responses to incidents affecting the public and employees visiting or working on NFS lands. We conduct regular and recurring patrols to educate the public, and, when needed, enforce Federal laws and regulations governing the successful management of the Nation’s forest and grasslands. The LEI staff respond to a range of crimes and conduct complex criminal and civil investigations. Crimes can include minor infractions such as environmental protests, destruction of government property, theft of archaeological resources, big game poaching, large group event violations and gang activity. Our investigations also include serious felonies such as homicide,

rape, assault, and threats against the public and employees, domestic disputes, robbery, drug production and trafficking, domestic terrorism and fire emergencies.

The LEI program maintains critical partnerships with Federal, State, and local law enforcement agencies and other programs by building strong relationships with sheriff's offices, State police agencies, and Federal agencies such as the Drug Enforcement Agency; Federal Bureau of Investigation; Bureau of Alcohol, Tobacco, Firearms and Explosives; the Office of the United States Attorney, the Federal Court System; U.S Customs and Border Protection Agency, in dealing with border issues; and other Federal land management agencies. Our network of partnerships also include numerous Indian nations across the country. In addition, we use Cooperative Law Enforcement Agreements, which utilize local county sheriffs and other local law enforcement to assist and augment patrols on NFS lands to enhance law enforcement coverage and to ensure public safety. However, in many remote areas or areas with diminished local law enforcement, we are often the only law enforcement personnel available.

Our staff also frequently responds to catastrophic natural or other manmade disasters at the local, regional, and national level, and most commonly provide immediate emergency response in support of catastrophic wildland fire incidents on public lands. We are often the first law enforcement responder in these incidents, and take responsibility for the safeguarding of firefighting personnel and equipment, the evacuation of visitors and residents, and the protection of property. The LEI program also cooperates with FEMA as a rapidly deployable national law enforcement asset under the FEMA Emergency Support Function (ESF) #13- Public Safety and Security.

The National Forest System's excellent wildlife habitat and clean water are unfortunately prized by illegal marijuana growers. The lands are remote with few visitors, the forest vegetation is dense, there is an extensive system of roads and trails (both open and closed), soils are fertile, and water for irrigation is readily available. Approximately 90 percent of marijuana grown on Federal public lands is grown on NFS lands. Forest Service LEI is the lead agency combating this threat to public lands, and a key component of the White House's Office of National Drug Control Policy strategy to address illegal cannabis production, the associated severe environmental damage, and the significant safety risk Drug Trafficking Organizations pose to the public.

All of the work I've just described is managed and implemented by a current staff of 429 uniformed Law Enforcement Officers, 98 Criminal Investigators or Special Agents, and 86 support personnel. Equally as important, this work could not be done without the help of the local law enforcement, sheriffs, and the community support.

COOPERATIVE LAW ENFORCEMENT AND COMMUNITY RELATIONS

The Forest Service Law Enforcement and Investigations program has long recognized the critical importance of maintaining strong and mutually beneficial relationships and partnerships with our federal, state, county, and local law enforcement partners. We also recognize the need to establish and maintain positive, proactive relationships with the communities where we work and live, as well as with those who utilize NFS lands for work, recreation, sustenance, or economic benefit. Successful management of NFS lands is simply not possible without effective relationships with our cooperators, communities, and the public. We have learned this valuable

lesson in recent times as there have been occasions where these relationships were not as strong as they needed to be and that led to questions concerning law enforcement actions, mission priorities, and jurisdiction of Forest Service law enforcement personnel. We recognize and accept responsibility for our role in failing to build and maintain these critical relationships and we have taken significant steps to improve them.

We have worked hard to reestablish, repair, and significantly strengthen our relationships. Much of this work began in 2013 with the help of the National Sheriff's Association (NSA) and the Western States Sheriff's Association (WSSA). The NSA helped to facilitate high level discussions between key members of WSSA and LEI leadership. These discussions eventually led to a Memorandum of Understanding (MOU) with WSSA that helped to address many of the concerns and issues. However, I believe the most important result of these discussions was the relationships established with key WSSA members. Those relationships led to additional dialogue with many other Sheriff's that resulted in a vastly improved level of communication and trust.

For the past several years, LEI leadership has routinely attended annual NSA and WSSA meetings and state level Sheriff Association meetings. The level of communication, cooperation, and trust continues to improve at all levels. Yes, there are still some problems, questions, and concerns, however, these issues are now being routinely discussed and addressed in a positive environment with a high level of mutual respect to the benefit of all involved. The MOU and our commitment to regularly meet with the WSSA have been instrumental in helping us better communicate, and have also facilitated efforts to resolve issues as they arise. Relatedly, we recognize that many law enforcement issues such as traffic enforcement and general public crimes are often best addressed by local law enforcement and local judicial processes.

We currently maintain nearly 500 Cooperative Law Enforcement Agreements with state, county, and local law enforcement partners. Over \$5 million in funding is provided through these agreements to cooperators for services such as dispatch and patrol operations. Many of these agreements also confer state law enforcement authority to our officers and agents. This authority greatly enhances our ability to assist state, county, and local partners. We recognize that local, State, and Federal law enforcement agencies often have limited resources to cover vast, undeveloped territories. Public safety and protection of public and private property often hinge on the ability to respond quickly with available resources, which means taking full advantage of any and all trained, professional law enforcement personnel who are in the best position to respond promptly to an incident.

This LEI cooperative and coordinated approach reflects Secretary Perdue's desire to be good neighbors and to share the stewardship of our natural resources with state and local governments for the benefit of the public.

Developing this USDA LEI program to protect the public and its resources and further improving so that it can continue to be part of a well-coordinated network of professional officers across the country and across jurisdictions is possible due to Congressional authorizations.

FOREST SERVICE LAW ENFORCEMENT AUTHORITY

The Forest Service's law enforcement authority stems from the Property Clause of the United States Constitution. The Property Clause, in broad terms, empowers Congress to make all "needful" rules "respecting" federal lands. U.S. const., art. IV, sec. 3, cl. 2. Developing the LEI program into a well-coordinated network of professionals is made possible in part by this constitutional authority along with Congressional authorities.

For example one of the many laws enacted to protect federal lands, The National Forest System Drug Control Act of 1986, as amended (16 U.S.C. 559b-g), authorizes the Secretary of Agriculture to "take actions necessary, in connection with the administration and use of the National Forest System, to prevent the manufacture, distribution, or dispensing of...controlled substances." These amendments expressly provide authority for Forest Service agents to carry firearms, conduct investigations, make arrests, serve warrants and other process, and conduct searches and seizures (16 U.S.C. §559c). This Act provides the necessary authority for LEI to eradicate numerous illegal marijuana grows. It is clear that stopping these operations and removing the illegal marijuana removes a dangerous health and safety risk. However, possibly lesser known is the significant natural resource damage that marijuana grows cause. Water is diverted and highly polluted, highly toxic poisons are introduced into the environment that – through research – has been detected in dead birds who have fed on animals killed by those poisons. And finally, between 2008 and 2014, the City of Palm Springs, California lost the use of its primary water source that originates on NFS land in the San Bernardino National Forest intermittently on several occasions due to water contamination directly attributed to marijuana cultivation upstream from their catchment. Examples such as these highlight how these laws play a critical role in the overall administration of the National Forest System and the safety of our visitors and employees.

STRATEGIC PLANNING

We are also taking several other positive steps to help strengthen our mission capabilities, define our mission, and improve our workforce. We have recently developed and released on 5/3/2018, a Strategic Plan that will help to increase efficiencies, prioritize work, and more closely align LEI activities with the mission and priorities of the Forest Service and the Department of Agriculture. A key theme of the Strategic Plan is the emphasis on prioritizing the traditional natural resource law enforcement mission tasks and skills unique to LEI staff. These niche skills and tasks such as fire investigation, timber investigations, resource damage, public land marijuana eradication, and cultural/historical site protection are essential to the management of NFS lands. Prioritizing work activities to conform to these essential mission areas will also help to focus our limited resources. Our Strategic Plan will also serve to help us continue to share information with our workforce, other Forest Service employees, and the public on what we do and why we are an essential component of the management of the National Forests.

Finally, LEI has also established a new Office of Professional Responsibility (OPR) to help ensure that we continue to maintain the high levels of professionalism and integrity expected of a law enforcement agency. We are also improving our internal and public complaint system by leveraging technology and refining internal controls. These new processes will serve to increase

transparency, accountability, and responsiveness to the agency, elected officials, cooperators, and the public.

By drawing on the authorities given by Congress, investing in relationships with our cooperators and local communities, and focusing our efforts on education as well as enforcement, we have grown into a highly trained law enforcement organization that continues to listen, learn and protect our national forests and the public we serve.

CONCLUSION

Mr. Chairman and Mr. Co-Chairman, this concludes my testimony. I am happy to answer any questions that you may have.