



NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

**PROTECTING THOSE WHO PROTECT US:
FEDERAL LAW ENFORCEMENT DECONFLICTION**

by

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March 2014

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**PROTECTING THOSE WHO PROTECT US:
FEDERAL LAW ENFORCEMENT DECONFLICTION**

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ABSTRACT

Police-on-police encounters, also referred to as Blue-on-Blue, are serious occurrences that can compromise investigations, cause physical injuries, or worse—result in death to officers, informants and/or innocent bystanders. Law enforcement deconfliction is the protocol that was developed to address this specific issue. This research focuses on the scope and breadth of federal law enforcement deconfliction processes within the United States. An examination of these processes uncovered complex organizational issues and human factors that undermine complete and consistent reporting of both failed and successful deconfliction events. With national oversight and accountability, however, gaps and vulnerabilities in deconfliction operations could be addressed, and a repository to archive and evaluate these efforts could be formed. This thesis proposes that the Blue Diamond Deconfliction Division (BD3) should be established within the United States Attorney’s Office to provide deconfliction oversight and reporting, reduce federal law enforcement organizational and fiscal inefficiencies, and most importantly, save lives.

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LIST OF ACRONYMS AND ABBREVIATIONS

ATF	Bureau of Alcohol Tobacco and Firearms (Explosives)
AUSA	Assistant United States Attorney
BD3	Blue Diamond Deconfliction Division
BJS	Bureau of Justice Statistics
CBP	Customs and Border Protection
CI	confidential informant
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DICE	De-confliction Internet Connectivity Endeavor (formerly DEA Internet Connectivity Endeavor)
DOJ	Department of Justice
EPA	Environmental Protection Agency
EPIC	El Paso Intelligence Center
ERO	Enforcement and Removal Operations
FBI	Federal Bureau of Investigation
FCIA	Federal Criminal Investigators Association
FLEO	Federal Law Enforcement Officer
FLEOA	Federal Law Enforcement Officer Association
FOP	Fraternal Order Police
FOUO	For Official Use Only
FY	fiscal year
GAO	Government Accountability Office
GS	grade series
HIDTA	High Intensity Drug Trafficking Area
HSI	Homeland Security Investigations
IACP	International Association of Chiefs of Police
ICE	Immigration and Customs Enforcement
ISE	Information Sharing Environment
LES	Law Enforcement Sensitive
LODD	line of duty deaths
MCCA	Major City Chiefs Association

NCIRC	National Criminal Intelligence Resource Center
NCRIC	Northern California Regional Intelligence Center
NLEOMF	National Law Enforcement Officers Memorial Fund
NYPD	New York Police Department
OIG	Office of Inspector General
OJP	Office of Justice Programs
OPM	Office of Personnel Management
RISS	Regional Information Sharing System
RISSafe	Regional Information Sharing System Officer Safety Event Deconfliciton System
SAC	Special Agent in Charge
SAFETNet	Secure Automated Fast Event Tracking Network
SES	Senior Executive Service
SRT	Special Response Team
SWAT	Special Weapons and Tactics
TFO	task force officer
UCR	Uniform Crime Report
USAO	United States Attorney's Office
USBP	United States Border Patrol
USMS	United States Marshals Service
USPS	United States Postal Service
USSS	United States Secret Service

EXECUTIVE SUMMARY

The nation's law enforcement enterprise consists of approximately 706,886 full-time sworn police officers, and all are trained to respond quickly in tactical situations that sometimes have life-death outcomes.¹ In 2008, the United States federal government had 73 agencies with a cadre of approximately 120,000 sworn law enforcement officers.² During these fast-paced operations, the potential always exists for dangerous friendly fire police-on-police encounters.

Police-on-police encounters, also referred to as Blue-on-Blue, are serious occurrences that could result in compromising investigations, causing physical injuries or worse—resulting in death to officers, informants and/or innocent bystanders. Law enforcement deconfliction is the protocol that was developed to address this specific issue. This research focuses on the scope and breadth of federal law enforcement deconfliction processes within the United States.

Throughout this thesis, deconfliction is defined as a policy, a culture and a systemic framework designed and developed in the context of law enforcement activities to:

1. Enhance officer safety by preventing officers from separate agencies from unknowingly converging and confronting each other during law enforcement actions.³
2. Decrease the risk of an investigation being compromised⁴
3. Maximize the use of law enforcement resources by reducing the duplication of effort⁵

¹ “Full-Time Law Enforcement Employees, Table 74—Crime in the United States 2009.” U.S. Department of Justice, Federal Bureau of Investigation, accessed March 24, 2014. http://www2.fbi.gov/ucr/cius2009/data/table_74.html.

² “Federal Law Enforcement Officers, 2008,” Bureau of Justice Statistics, accessed March 9, 2013, <http://www.bjs.gov/content/pub/pdf/fleo08.pdf>.

³ “Chicago HIDTA Deconfliction Submissions.” Special Order SO4- 19–04. Chicago Police Department, accessed November 20, 2012, <http://directives.chicagopolice.org/directives/data/a7a57be2-12a76ce1-24512-a776-81a0a43f293fcb18.html>.

⁴ “Chicago HIDTA Deconfliction,” Chicago Police.

⁵ Ibid.

4. Enhance officer safety, reduce risk and liability, safeguard citizens, ensure case integrity, strengthen information sharing, connect cases and suspects, and build public confidence.⁶

An examination of the contributors to effective deconfliction processes uncovered complex organizational issues along with human factors that lead to incomplete and inconsistent reporting of both failed and successful deconfliction events.

The objective of this thesis is to introduce protocols to form a systemic network, culture and paradigm to add precision and accountability to national deconfliction programs and events. The research in this thesis focused on the scope and breadth of federal law enforcement deconfliction processes within the United States, which currently, and with dangerous potential, do not represent an effective, integrated and holistic system.

With national oversight and accountability, however, gaps and vulnerabilities in deconfliction operations could be addressed, and a repository to archive and evaluate these efforts could be formed.

Establishment and support for a pilot concept in the southwest border offices of the United States Attorney's Offices, which this thesis calls the Blue Diamond Deconfliction Division (BD3), would provide national deconfliction oversight and reporting, reduce federal law enforcement organizational and fiscal inefficiencies and most importantly, save lives. The next steps for designing and implementing a BD3 are to take the recommendations of this thesis, establish the pilot BD3, formalize deconfliction practices throughout federal law enforcement agencies and build the national data repository of deconfliction events to identify concerns and/or smart practices.

The results of this thesis conclude that the imperative steps to a national deconfliction framework. These imperative steps are:

1. To identify redundancies and/overlap in federal law enforcement investigations through oversight and accountability of their deconfliction practices

⁶ "Event Deconfliction Systems," National Criminal Intelligence Resource Center, accessed February 21, 2014, https://www.ncirc.gov/Documents/event_deconfliction_call_to_action.pdf.

2. To strengthen information sharing through trust building practices
3. To formalize the United States Attorney's Office authoritative role in deconfliction by establishing a BD3 concept within its districts.

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There is a point in one's life where you take a breath and really look at your career. After nearly 27 years of dedicated and fulfilling service to the United States government as a federal agent, I considered how I could still make a positive impact along with paying it forward to those whom I lead.

With unyielding pressure, one determined friend and co-worker encouraged me to apply for this program. My excuse was I was too busy working; I did not have any time to pursue a master's degree. But Deputy Special Agent in Charge Robert Hutchinson was persistent. January 2012 will become the date that etched a new chapter in my life, thanks to him. Now, the academic growth I have experienced at the Naval Postgraduate School Center for Homeland Defense and Security is one of my most valued honors.

In support of this incredible academic opportunity, my parents, Allan and Marion Mapel, became my nonstop champions. My dearest friend, Homeland Security Investigations Special Agent Cathy Komosa, has had my back for 27 years, and these past two were no exception.

These four individuals have encouraged me every day. I may have doubted myself, but these four never did.

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Canines may not be considered family by many, but General Custer is part of mine, and he sacrificed the most. He often provided a welcome break from the deep thoughts of research by shoving wet toys onto my laptop.

Thank you all for helping me get here.

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I. THE PROBLEM SPACE

A. INTRODUCTION—LAW ENFORCEMENT DECONFLICTION

Multiple weapons are pointed at you. Everyone is yelling, “Stop, Police!” because all of them are the police. How can this happen in the 21st century, with all the available communications and technologies? Because airtight interagency deconfliction¹ processes are lacking and far from foolproof. Law enforcement officers in uniform can quickly identify each other. Undercover officers and law enforcement confidential informants’ (CI) identities are concealed for obvious reasons in order to protect them and the investigations. Departments and agencies have formal and informal processes to avoid police-on-police encounters. These processes appear to vary by system used and level of compliance. This thesis will examine this compelling deconfliction issue, which has everything to do with both the public’s safety and the force protection of law enforcement officers.

What is deconfliction designed to do in the context of law enforcement activities?

1. Enhance officer safety by preventing officers from separate agencies from unknowingly converging and confronting each other during law enforcement actions.
2. Decrease the risk of an investigation being compromised.
3. Maximize the use of law enforcement resources by reducing the duplication of effort.²

Law enforcement deconfliction is expected to enhance officer safety, reduce risk and liability, safeguard citizens, ensure case integrity, strengthen information sharing, connect cases and suspects, and build public confidence.³

¹ The term deconfliction is accepted vernacular within law enforcement and military organizations as a process to avoid police-on-police, friendly fire and or duplicative actions.

² “Chicago HIDTA Deconfliction Submissions.” Special Order SO4- 19–04. Chicago Police Department, accessed November 20, 2012, <http://directives.chicagopolice.org/directives/data/a7a57be2-12a76ce1-24512-a776-81a0a43f293fcb18.html>.

³ “Event Deconfliction Systems,” National Criminal Intelligence Resource Center, accessed February 21, 2014, https://www.ncirc.gov/Documents/event_deconfliction_call_to_action.pdf.

Law enforcement officers and special agents operate within territorial areas. Officers enforce laws in their districts, counties, states or federal jurisdictions or boundaries. Not only are there jurisdictional borders to enforcement, there may be exclusive criminal statutes or authorities that other agencies cannot enforce. Law enforcement task forces are created to bring those authorities together to maximize interagency enforcement goals. Agencies that participate in a task force or collaborative approach must clearly define their roles and responsibilities and clearly understand other agencies' roles, responsibilities, resources, and missions.⁴

The movement to use joint investigations and embed agents/officers from other departments is designed to maximize resources, build partnerships, cross jurisdictions, and provide a deconfliction process to target criminal organizations. Deconfliction is not only used to keep two or more agencies from expending resources on the same criminal organization without knowing it, but also to provide a safety net for alerting law enforcement agencies that they may be encountering another law enforcement agency during an undercover or operational event.

B. DECONFLICTION REAL SCENARIO VIGNETTE

1. Who Are the Good Guys and Who Are the Bad Guys?

A federal agency (we will call Agency Alpha) lawfully obtains cellular phone data from a target of investigation. The target offered to sell Agency Alpha's undercover assets a variety of rifles along with grenades and a .50-caliber rifle. The criminal target was informed of the proposed intent to transport these items into Mexico. This is a federal export crime. Agency Alpha ran the cellular numbers through their protocol deconfliction systems. In addition, Agency Alpha conducts checks with local High Intensity Drug Trafficking Area (HIDTA) and even makes informal calls in an effort to fully deconflict this investigation. No conflicts are reported. With the support of the United States Attorney's Office, Agency Alpha expects to pursue a court ordered wire intercept on the firearm vendor to determine the source of the weapons. An official

⁴ U.S. Government Accountability Office, *Combating Gangs: Better Coordination and Performance Measurement Would Help Clarify Roles of Federal Agencies and Strengthen Assessment of Efforts*, GAO-09-708 (Washington, DC: Government Printing Office, 2009), 67–68.

request is made for the \$50,000 needed to purchase the large variety of weapons. Additional requests are made to allow Agency Alpha's agents to "walk"⁵ the money. Agency Alpha's intent is to take their newly purchased weapons and leave. After conducting the wire intercept and gathering more evidence regarding the organization, Agency Alpha expected to arrest the target and his conspirators.

It was not that simple. For only the due diligence and tenaciousness of an Agency Alpha's group supervisor, a possible lethal situation was averted. The supervisor, while reviewing the cellular phone records, recognized a number that he knew belonged to another federal agency (Agency Bravo). After a few calls, it was clear that Agency Alpha's target was actually an asset for Agency Bravo. All of the investigative hours were wasted. The Agency Alpha supervisor attempted to uncover how this near police-on-police encounter had occurred. The supervisor was confused. He had conducted the deconfliction and all were negative. The response given to the supervisor by Agency Bravo's representative was that he would not have learned of their involvement at the time. It is clear that Agency Bravo had not submitted their asset's cellular phone numbers into established deconfliction systems in order to avoid such situations.

The gravity of the situation is that Agency Alpha expected to walk away with their weapons from a suspected criminal after the money was exchanged. Agency Bravo could not allow anyone to take custody of the "flash"⁶ of weapons. After receipt of the currency, Agency Bravo would have executed arrest procedures. Unfortunately, not knowing the firearm vendor was actually not a bad guy, but a good guy, Agency Alpha, would have presumed they were being "ripped."⁷

It is not a difficult jump to see the potential for injury and/or death. This is a bad recipe. Due to the volume of weapons involved in this law enforcement operation, it could be possible that the Special Weapons and Tactics (SWAT)/Special Response Team

5 In this context, the term "walk" identifies an enforcement tool that allows law enforcement officers/agents to pay for contraband knowing that the currency may not ever be recovered.

6 In this context, the term "flash" represents the showing of items to potential buyers without intent to actually exchange such items.

7 In this context, the term "ripped" refers to being ripped off (i.e., stolen from).

(SRT) teams would be called to execute or support the arrest. There would be an arsenal of weapons involved in this encounter/ situation.

Maybe, if this had been the first near encounter, it could have been chalked up as a fluke. But, it was not. Agency Bravo had been involved in another deconfliction issue months earlier, again involving weapons trafficking. When Agency Alpha management met with Agency Bravo command leadership, it was made clear that all Agency Alpha needed to do was to use the established deconfliction systems. These systems are Deconfliction Internet Connectivity Endeavor (DICE) and the event deconfliction systems of the local High Intensity Drug Trafficking Area (HIDTA). For both events, Agency Alpha had done exactly that.

How could two federal agencies in the same geographic area with deconfliction processes, systems, and professional relationships be this close to arriving at an undercover meet that could have ended up so very badly?

C. METRICS

Currently, there are several formal and informal systems or procedures for event and case/target deconfliction. These are examples of the formal systems that will be discussed in this thesis: Regional Information Sharing System (RISS) Officer Safety Event Deconfliction System (RISSafe), High Intensity Drug Trafficking Areas (HIDTA) Case Explorer and Secure Automated Fast Event Tracking Network (SAFENet), Deconfliction Internet Connectivity Endeavor (DICE) and Federal Bureau of Investigation (FBI) Guardian program. Other deconfliction entities are the El Paso Intelligence Center (EPIC), State Fusion Centers, and Intelligence divisions.

This thesis will identify several systems that provide event and/or case/target deconfliction. Event deconfliction is a process of determining when law enforcement personnel are conducting an event in close proximity to one another at the same time.⁸ An example of event deconfliction is the execution of a search/arrest warrant, surveillance activity and/or an undercover operation.

⁸ “Event Deconfliction Systems,” National Criminal Intelligence Resource Center.

Case/target deconfliction is the process of determining if different law enforcement personnel are investigating the same individuals or organizations.

Detailed statistics relating to DICE are marked For Official Use Only (FOUO) and/or Law Enforcement Sensitive (LES) and were not included in this thesis. In 2013, the Program Manager-Information Sharing Environment (PM-ISE) published its annual report to Congress. In this PM-ISE 2013 Report, DICE was mentioned as being deployed in November 2009 and is described as a “software tool that enables HIDTA, federal, state, and local law enforcement with enhanced investigative efficiencies through ability to deconflict information, such as phone numbers, email addresses, license plates and financial account information over a secure Internet browser.”⁹ PM-ISE’s 2013 Annual Report announced that between January 2013 and June 2013, there were 62,657 operations entered into the interface between RISSafe and Case Explorer.¹⁰ Conflicts were found to have occurred in 25,054 of those operational requests.¹¹ No elaboration on the level of conflict was noted. There was also a recommendation to complete case and event deconfliction interoperability by fiscal year (FY) 2014.¹²

The Regional Information Sharing System initiated its RISSafe operation/event Deconfliction program in the summer of 2008. In November 2013, RISS announced its 750,000th operation entered into RISSafe.¹³ RISS announced that more than 260,600 conflicts had been identified to date, which represented a 35% of all operations entered.¹⁴ RISS calculated those findings to report that 7 of every 20 operations entered into RISSafe conflicted with other entries, which could have resulted, if not identified, in near

⁹ “Section 3: Optimizing Mission Effectiveness through Shared Services and Interoperability,” ISE.gov, accessed March 16, 2014, <http://www.ise.gov/annual-report/section3.html#section-6>.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Donald Kennedy, “Deconfliction and Officer Safety: RISSafe Reaches Program Milestone,” *ISE Information Sharing Environment* (blog), November 4, 2013, <http://ise.gov/blog/donald-kennedy/deconfliction-and-officer-safety-rissafe-reaches-program-milestone>.

¹⁴ Ibid.

confrontations, injuries or death.¹⁵ There was also no further elaboration to the level of the conflict and whether it related to direct event deconfliction or case/target deconfliction.

D. RESEARCH QUESTION

What framework would provide accountability and oversight for federal law enforcement event and case/target deconfliction efforts?

The framework discussed in this thesis will concentrate on federal criminal investigations in order to scope the deconfliction issue. Any recommendation(s) could then be further evaluated for application throughout the entire national population of sworn law enforcement officers (federal, state, local and tribal). These circumstances are not unique to federal law enforcement, but in order to scope the assessment on event and case/target deconfliction, federal law enforcement agencies will be the main focus of this thesis. When two or more federal law enforcement agencies within the Department of Homeland Security (DHS) or the Department of Justice (DOJ) investigate criminal organizations, there is a risk of duplication of effort and/or concerns relating to officer safety. Since the majority of federal criminal investigators are employed by the Department of Justice and the Department of Homeland Security, these two departments will be the precise focus of any recommendations. If existing deconfliction processes are sufficient, what oversight and reporting is necessary if agencies fail to deconflict and police-on-police encounters occur?

To date, no agency or entity has direct (or indirect) oversight of failed deconfliction efforts. Without a national repository for failed deconfliction events, there is no measurement available to determine how many and at what level of seriousness police-on-police encounters have occurred. These data and the specific scenarios are necessary to provide lessons learned in order to address vulnerabilities. There is also no mechanism to capture fiscal waste and inefficiencies when two or more federal criminal investigations are developing without knowledge of partner agencies. Federal criminal

¹⁵ Ibid.

investigative agencies do not currently have any formal mechanism, requirement, and/or incentive to document police-on-police confrontations.

The framework of participation in the deconfliction process involves many interconnected issues. Multiple questions were asked. Are the established deconfliction systems interoperable? What motivates compliance or hampers participation? Are there cyber security concerns relating to the provided data? What role does congressional funding play with agency performance measures? How can the organizational structure of federal criminal investigative agencies challenge the deconfliction process? With the lack of any national repository of failed deconfliction, it is not clear how pervasive the lack of accountability and oversight is.

In a May 2007, the U.S. Government Accountability Office's (GAO) report on violent crime task forces, it was documented that federal law enforcement agencies are not participating in deconfliction efforts. While the literature is not abundant on this specific issue, lack of coordination and lack of information sharing are common themes. This same GAO report also identified agencies' concerns about providing investigative information to deconfliction entities as a factor in why officers and departments are reluctant to disclose complete details of their investigation during requests for deconfliction.¹⁶

E. METHODOLOGY AND ANALYSIS

Gap analysis of current policies regarding federal law enforcement deconfliction were conducted to uncover formal and informal processes occurring within the federal law enforcement community, to determine whether there is sufficient framework to provide oversight on deconfliction efforts. Through this analysis, key gaps and/or lapses in the framework were identified. After evaluation of the findings, this thesis made recommendations that could be implemented in order to provide greater degrees of deconfliction oversight.

¹⁶ U.S. Department of Justice, Office of Inspector General, Evaluation and Inspections Division, *Coordination of Investigations by Department of Justice Violent Crime Task Forces: Results of Review* (Washington, DC: U.S. Department of Justice, May 2007), www.justice.gov/oig/reports/plus/e0704/results.htm.

The U.S. Office of Personnel Management (OPM) identifies the position of a Grade Series 1811 as a criminal investigation series that requires the ability to plan and execute federal criminal investigative operations. The focus group of this thesis will be the DOJ and the DHS GS 1811 grade series criminal investigators/special agents, as these two departments employ the majority of federal criminal investigators/special agents. As previously stated, deconfliction is not limited to federal agents and for the purpose of this analysis, the deconfliction activity of only federal criminal investigative agencies will represent any initial recommendations.

1. Data Sources

In an effort to understand the intricacies of the current deconfliction processes, an examination of existing literature occurred. Individuals involved in the deconfliction environment were expected to provide suggestions relating to additional literature not previously available regarding policies and/or objectives of deconfliction.

In addition to a scholarly review, the author's personal experience with a federal civil law enforcement agency will be analyzed. Based on nearly 27 years of service as a federal criminal investigator, including career promotions since 1999 to positions of senior management, the author will provide insight that may not be found in literature. The author will use her own knowledge and experience in an effort to address key issues.

2. Type and Mode of Analysis

Gap analysis was the preferred method of analysis. After the data collection was completed, themes were identified and evaluated. Additional analysis was conducted when new information was learned that was not previously identified through the literature review. These newly identified issues or revelations were then analyzed in order to understand their connection, if any, to the research focus. Conscious effort was made to understand the interconnectivity of this complex issue so that any possible alternatives/recommendations did not then provide unintended consequences or cascading effects. In cases where successful efforts to deconflict exist, any recommendations will attempt to protect those existing smart practices. Any gaps and/or

lapses that highlight the vulnerabilities within the deconfliction processes were identified and additional evidence sought to provide clarity.

As the analysis developed, budgetary issues were considered and whether they would impact the implementation of a final recommendation. A comprehensive review of any known applicable laws and/or regulations was conducted in order to provide additional clarity in understanding the collected data. A review of existing reports and analysis on deconfliction efforts, along with available federal agency deconfliction protocols, uncovered the lack of a national repository for deconfliction efforts whether positive or negative.

3. Solution

Any notable findings will be provided to the DOJ and the DHS for potential policy implementation.

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II. LITERATURE REVIEW

A. HISTORY POLICE LINE OF DUTY DEATHS

As of 2009, there were approximately 706,886 full-time sworn police officers in the United States.¹⁷ In 2008, the United States federal government had 73 agencies with a cadre of approximately 120,000 sworn law enforcement officers.¹⁸ Of those 73 agencies, the Department of Homeland Security (DHS) agencies Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) ranked first and fourth respectively with a combined 49,309 sworn law enforcement officers.¹⁹

The National Law Enforcement Officers Memorial Fund (NLEOMF) maintains records of officers who classify as line of duty deaths (LODD). According to NLEOMF, 697 law enforcement officers have lost their lives by gunfire (January 1, 2000 to November 18, 2012).²⁰ This number includes all deaths by gunfire, which means these 697 officers may have died due to actions of a criminal offender, an unintentional discharge, or handling of their weapon, a training, or gun range accident, a stray round of fire during a gunfight, or by accident when misidentified as a perpetrator.

The Federal Bureau of Investigation's (FBI) Uniform Crime Report (UCR) of 2010 reports that 33 law enforcement officers were accidentally killed by firearms for the

17 "Full-Time Law Enforcement Employees, Table 74—Crime in the United States 2009." U.S. Department of Justice, Federal Bureau of Investigation, accessed March 24, 2014. http://www2.fbi.gov/ucr/cius2009/data/table_74.html.

18 "Federal Law Enforcement Officers, 2008," Bureau of Justice Statistics, accessed March 9, 2013, <http://www.bjs.gov/content/pub/pdf/fleo08.pdf>.

19 Ibid.

20 "Officer List," National Law Enforcement Officers Memorial Fund, accessed November 18, 2012, http://www.nleomf.org/officers/search/officer-list.html?state=&reason=SHOT&race=&sex=&age_range=&service_range=&dateType=date_of_death&startDate=1%2F1%2F2000&endDate=11%2F18%2F2012.

period of 2001–2010.²¹ Twenty-one of those deaths were related to crossfire, mistaken for subject, or firearm mishap.²²

Another location with a repository of data for officers killed in the line of duty is the website “Officer Down Memorial Page.” In addition to having specific search criteria for accidental gunfire, this website provides electronic links to each killed officer’s incident details. After reviewing the incident details of each of the 45 cases of death by accidental gunfire for the period of 2000–2012, 17 officers died when they were misidentified as a perpetrator.²³ It appears that at least two of these officers were involved in undercover activities when other officers believing they were criminals intentionally shot them.²⁴

These statistics do not provide for nonfatal incidents where the officer was injured by a fellow officer. They also do not provide for incidences where officers encountered each other and the situation was deescalated to avoid the use of deadly force. This information needs to be collected in order to scope the severity of deconfliction issues

Robert O’Brien wrote in the *Police Magazine* online SWAT blog, “All line-of-duty deaths are tragic, but perhaps the most devastating type of all LODDs is from ‘friendly fire.’ Simply put, blue-on-blue deaths should never happen. Yet, statistics show an average of two officers die at the hands of other officers in blue-on-blue engagements each and every year.”²⁵

21 U.S. Department of Justice, Federal Bureau of Investigations, “Law Enforcement Officers Accidentally Killed 2001–2010,” accessed November 18, 2012, <http://www.fbi.gov/about-us/cjis/ucr/leoka/leoka-2010/tables/table61-leok-accidentally-circumstance-01-10.xls>.

22 Ibid.

23 “Find a Fallen Officer,” Officer Down Memorial Page, accessed November 18, 2012, <http://www.odmp.org/search>.

24 Ibid.

25 Blue-on-Blue is a term used to explain enforcement activities where police-on-police encounters occur; Robert O’Brien, “Friendly Fire: A Devastating LODD,” *SWAT Blog*, April 26, 2011, <http://www.policemag.com/blog/swat/story/2011/04/blue-on-blue-shootings-and-swat-part-one.aspx>.

B. ISSUES AND REPORTS

1. New York State Task Force on Police-on-Police Shootings

In 2009, New York State commissioned an investigative task force to complete a comprehensive report on police-on-police shootings and appears to be the first independent and comprehensive inquiry into this issue. The report was not limited to New York, but focused on the issue nationally and concentrated on mistaken-identity, police-on-police shootings. The New York State Task Force Report on Police-on-Police Shootings defined police-on-police mistaken-identity shootings as:

One in which a police officer fires on another police officer or law enforcement agent in the mistaken belief that the subject officer is a criminal and poses an imminent physical threat. The shooting officer in a mistaken-identity incident is purposefully and intentionally choosing to fire on a subject officer. This is distinguished from a crossfire incident, in which another officer utilizing an imperfect target choice during a combat situation shoots an officer. Mistaken-identity incidents that do not result in gunfire are termed “confrontation situations,” in which one officer—the “challenging officer”—identifies himself as an officer (optimally using the phrase “police, don’t move”) and confronts an unidentified officer—the “confronted officer”—who is usually attired in civilian clothes.²⁶

The national data compiled by this New York State commissioned task force since 1981 identified 26 police officers who lost their lives across the United States, having been shot and killed by another officer in blue-on-blue engagements. Six of these officers were killed while in an undercover capacity and eight were plainclothes.²⁷

Five trends were noted in this New York State Task Force report as it relates to mistaken-identity, police-on-police shootings:

- **Trend 1:** Fatal, mistaken-identity, police-on-police shootings have occurred at a slow but steady pace over the past 30 years.

26 Wilbur Chapman, “Statement of New York City Police Department Deputy Commissioner, Training,” statement before the Police-on-Police Shooting Task Force, accessed November 20, 2012, <http://www.policeonpolicecf.ny.gov/assets/documents/Chapman%20Testimony.pdf>.

27 New York State Task Force, *Reducing Inherent Danger: Report of the Task Force on Police-on-Police Shootings*, May 27, 2010, ii, <http://www.hks.harvard.edu/programs/criminaljustice/research-publications/measuring-the-performance-of-criminal-justice-systems/new-york-state-task-force-on-police-on-police-shootings>.

- **Trend 2:** For the current generation of police officers and residents of New York State, fatal, mistaken-identity shootings are a new phenomenon in the last few years.
- **Trend 3:** These shootings occur in all parts of the country and in police departments of all sizes.
- **Trend 4:** Officers of color were more frequently the victims in fatal, mistaken-identity, police-on-police shootings in the second half of our 30 year-study period than they were in the first half.
- **Trend 5:** Almost all of the officers of color killed in these incidents were taking police action while off duty at the time they were killed (9 out of 12), whereas almost none of the white officers were off duty at the time (1 of 13).²⁸

Although the New York State Task Force report noted, and was duly concerned about, the statistical racial disparity noted in trends 4 and 5, this thesis concentrated on the necessary framework needed for all law enforcement deconfliction.

In December 2009, New York Police Department (NYPD) Deputy Commissioner of Training Wilbur Chapman provided a statement to the governor of New York. Deputy Commissioner Chapman noted that 10 NYPD officers had lost their lives in mistaken-identity shootings since 1930.²⁹ In his testimony, Chapman stated, “no patterns were discerned from this small statistical sample.”³⁰ However, one notable finding was that 80% of the officers were off duty.³¹ Two different surveys were conducted with more than 200 undercover and plainclothes officers.³² The survey also found that 12% experienced police-on-police encounters, sub-surveys identified 83% were off duty, followed by 50% undercover and 42% plainclothes.³³ The report noted that the International Association of Chiefs of Police (IACP) also attempted to gain data on

²⁸ Ibid., 18–21.

²⁹ Chapman, “Statement of New York City Police,” 3.

³⁰ Ibid., 1.

³¹ Ibid., 4.

³² Ibid., 1–2.

³³ Mark A. Spawn, “Officer Safety during Police-on-Police Encounters,” *The Police Chief* LXXVII, no.4 (2010), http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=2049&issue_id=42010.

mistaken-identity incidents and found that there was “no national data repository” regarding this subject.³⁴

These findings support the fact that there are no known statistics for the number of officers killed, injured, or confronted in the line of duty relating to event or case/target deconfliction. As noted, the closest estimate of this type of situation is found in the accidental gunfire statistics, which do not differentiate between several types of accidental gunfire. The accidental gunfire statistics do not provide sub-sets of statistics for mistaken-identity deaths, injuries, or confrontations. Nowhere are there statistics on the number of investigative operations where the absence of investigative deconfliction led to police-on-police mistaken identity deaths, injuries, or confrontations. As comprehensive as the New York State Task Force report was, it did not address the specific law enforcement coordination and investigatory deconfliction element.

C. VARIABLES AND COMPLIANCE

1. Government Reporting

A July 2011, Government Accountability Office report assessed whether the Immigration and Customs Enforcement and the Drug Enforcement Administration had fully implemented the 2009 agreement provisions relating to the deconfliction requirement. They found that “the manner of deconflicting in advance of enforcement operations is left up to the discretion of local SACs,” (sic. Special Agents in Charge). DEA and ICE field offices are to invite their counterpart to participate in their investigations and task forces.”³⁵

Research of deconfliction systems identified several initiatives, agencies, or organizations touting their deconfliction elements within their services. Some of these are the Department of Justice (DOJ)—Bureau of Justice Affairs—Regional Information Sharing Systems (RISS), DEA El Paso Intelligence Center (EPIC), DEA Special

³⁴ Chapman, “Statement of New York City Police Department,” 3.

³⁵ U.S. Government Accountability Office, *Combatting Illicit Drugs: DEA and ICE Interagency Agreement Has Helped to Ensure Better Coordination of Drug Investigations*, GAO-11-763. (Washington, DC: Government Printing Office, July 2011), 23.

Operations Division (SOD), Deconfliction Internet Connectivity Endeavor (DICE), DEA High Intensity Drug Trafficking Areas (HIDTA), FBI Guardian, state and local fusion/intelligence centers, Secure Automated Fast Event Tracking Network (SAFETNet), Omega Group (crime mapping), biometric identification, local informal ad hoc processes and non-compliance with any system.

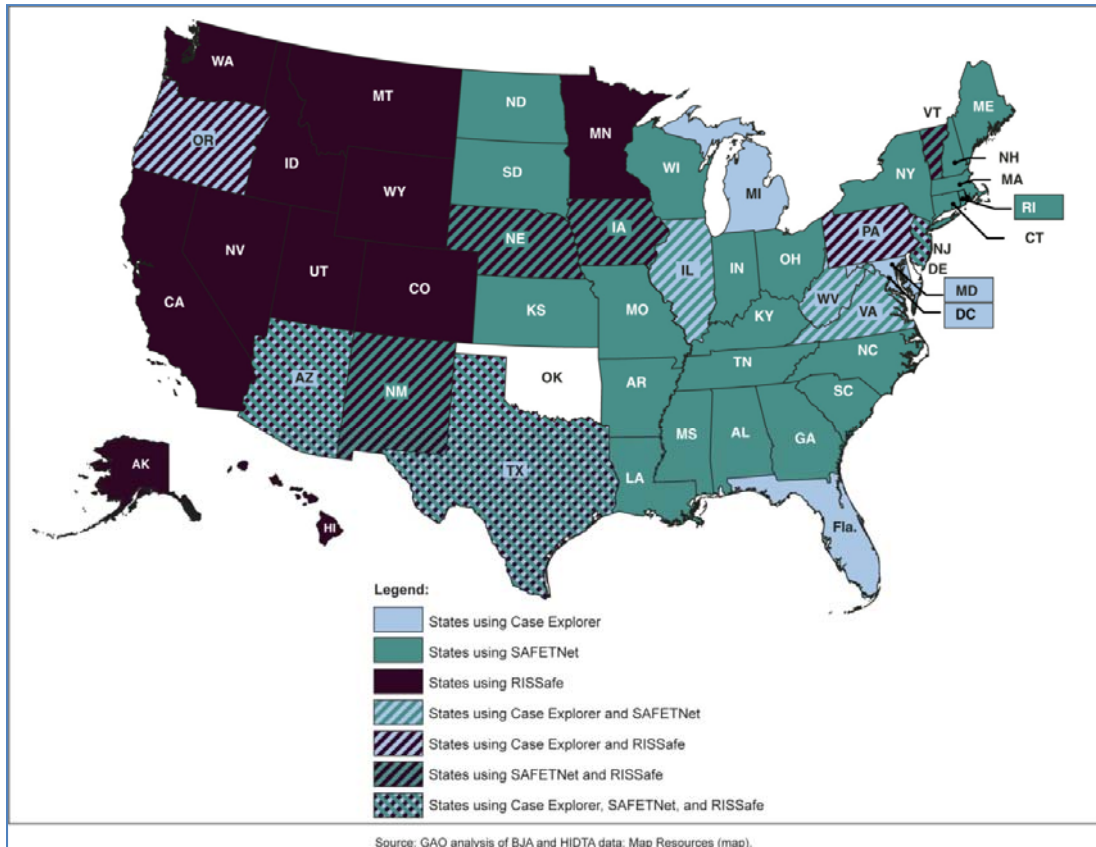


Figure 1. GAO Findings of Deconfliction Systems Used by State³⁶

The illustration in Figure 1 indicates deconfliction use by state as of April 2013. In addition to identifying use of systems, the GAO report provided two examples of failed deconfliction. In one case, an undercover officer was shot and killed, and the other

³⁶ U.S. Government Accountability, *Information Sharing: Agencies Could Better Coordinate to Reduce Overlap in Field-Based Activities* (Washington, DC: Government Printing Office, April 2013), 30.

case involved a situation where two undercover officers pulled guns on each other believing the other was a drug dealer.³⁷

Some of these deconfliction processes require a person to complete the queries. Not all mechanisms to deconflict are available 24 hours a day, which is inherently problematic as police agencies do not close. Agency deconfliction can range from word of mouth/peer-to-peer to online secure Internet based reporting. HIDTA nationally coordinated deconfliction efforts for 949 local, 172 state and 35 federal law enforcement agencies, and 86 other participating organizations.³⁸

A GAO July 2011 report stated that DEA and ICE developed and implemented local deconfliction protocols and used a variety of mechanisms to deconflict counter narcotics' investigations.³⁹ As previously noted, DEA has DICE, and EPIC, along with the established HIDTA systems. ICE/HSI uses HIDTAs, but then deconflicts with all other known entities to provide additional confidence that all avenues to deconflict have been exhausted.

A May 2007 Office of the Inspector General (OIG) report found the following relating to law enforcement coordination and deconfliction efforts:

The Department [of Justice] does not require the components to coordinate task force operations, cooperate on investigations, or deconflict law enforcement events." "ATF, DEA, and USMS headquarters' managers entered into Memorandums of Understanding that require their task forces to coordinate their operations. In contrast, the FBI's policy does not address FBI coordination with new task forces created by the other Department components..."⁴⁰

The nationwide arrest data showed that the task forces duplicated one another's efforts more often than they cooperated in joint investigations.⁴¹

37 Ibid., 29.

38 Office of National Drug Control Policy, *National Drug Control Strategy: The High Intensity Drug Trafficking Area Program* (Washington, DC: Executive Office of the President, 2001), 2. <https://www.ncjrs.gov/ondcppubs/publications/enforce/hidta2001/index.html>.

39 U.S. Government Accountability Office, *Combating Illicit Drugs*, 23.

40 U.S. Department of Justice, Office of Inspector General, *Coordination of Investigations*.

41 Ibid.

The ATF Special Agent in Charge admitted that there was potential for their investigations to duplicate one another.⁴²

An FBI Supervisory Special Agent stated, “I am truly concerned that we are seriously going to be duplicating [each other’s investigations of] gangs.”⁴³

One FBI official stated how do we coordinate with federal agencies that have specific jurisdictions when we have jurisdiction for all of this [violent crime]?” “We aren’t going to give up a case.” “We’ll let other agencies know [the FBI’s plans].”⁴⁴

Not only did this OIG report discover a lack of coordination and deconfliction, it identified a practice of duplicative arrest reporting nationwide.⁴⁵ They found during fiscal year (FY) 2003–2005 nationwide task forces reported 97,228 arrests.⁴⁶ Arrests were claimed by more than one task force in 1,288 cases.⁴⁷ The report was not able to determine the reporting of the remainder of the arrests. When the inspectors reviewed case investigations, they found that task force “components were increasingly duplicating effort.”⁴⁸ They found that there was a 167% increase in duplicative investigations for the period of FY 2003–FY 2005.⁴⁹

Relating to deconfliction efforts, the report added that another “critical factor in event deconfliction was task force compliance with policies mandating the use of a deconfliction system for every event.”⁵⁰ Three police-on-police deconfliction failures were documented in this report. In one case, two agencies encountered each other doing surveillance of a criminal target. Another case involved an undercover gun purchase, in which an Alcohol, Tobacco, Firearms, and Explosives (ATF) agent was arrested in error.

42 Ibid.

43 Ibid.

44 U.S. Department of Justice, Office of Inspector General, *Coordination of Investigations*.

45 Ibid.

46 Ibid.

47 Ibid.

48 Ibid.

49 Ibid.

50 Ibid.

The third example also involved weapons. ATF arrested an individual who turned out to be an FBI informant. No explanation was ever given by the FBI for why they did not deconflict their undercover operation.⁵¹

Some reasons were provided to the OIG inspectors for failing to deconflict. An FBI special agent would not deconflict with his local police department (Chicago Police). He told the OIG inspectors “if he told the Chicago Police Department that he was “hitting the place,” the investigation would be stolen.”⁵² Another explanation was each department in a task force thought the other deconflicted. The report concluded by stating that the only agency having a policy that mandated their actions be deconflicted was DEA. They are required to use the HIDTA deconfliction system.⁵³

Several recommendations were made by the New York State Task Force report on police-on-police shootings. Two recommendations involved the request for the Department of Justice to develop national protocols for police-on-police confrontations and strengthen national reporting on police-on-police confrontations.⁵⁴

There is also recognition that there are many police-on-police confrontations that do not escalate to any use of force.⁵⁵ These encounters are also not documented in a formal system.

The findings of these government reports reveal that in some cases the level of deconfliction is left up to the discretion of senior managers who are encouraged, but not mandated to invite their counterparts to participate in investigations. In addition to informal standards, there was also data that supports the fact that duplicative investigatory efforts occur between agencies. It is concerning that it was noted that some did not deconflict because they thought the other agency was going to do it.

⁵¹ Ibid.

⁵² U.S. Department of Justice, Office of Inspector General, *Coordination of Investigations*.

⁵³ Ibid.

⁵⁴ New York State Task Force, *Reducing Inherent Danger*, 90–91.

⁵⁵ Spawn, “Officer Safety during Police-on-Police Encounters.”

2. Deconfliction Use during Operation “Fast and Furious”

Operation Fast and Furious involved the sale and eventual transportation of weapons to Mexico, which is a federal crime. In December 2010, U.S. Border Patrol Agent Brian Terry was killed in the line of duty by one of the suspect weapons. John Dodson was an agent with the ATF Phoenix office in 2009. The *New York Post* published an excerpt of Dodson’s book “The Unarmed Truth.” Dodson writes of the “routine query of several federal law enforcement and phone-number databases to see if any of our targets had “pinged”⁵⁶ any other agency’s radar.”⁵⁷

After March 2010, DEA “through their own deconfliction protocols” had discovered that the two suspects that ATF had identified as larger targets in their investigation were in fact already part of a joint investigation involving the DEA and the Federal Bureau of Investigation (FBI).⁵⁸ Dodson asserts that later he and others learned that these same two suspects were actually confidential informants for the FBI.⁵⁹

3. National Criminal Intelligence Sharing Plan, October 2013

Discussion of the value of deconfliction was addressed in the National Criminal Intelligence Sharing Plan, October 2013. Specifically, it was recommended that “law enforcement agencies at all levels of government should participate in deconfliction using existing technology solutions to ensure both officer safety and increased interagency coordination.”⁶⁰

⁵⁶ In this context, the term pinged signifies a confirmation that agency cellular phone deconfliction checks are shown to be associated with other agencies investigations or targets.

⁵⁷ John Dodson, “How the U.S. Gave Guns to Mexican Cartels,” *New York Post*, December 1, 2013, <http://nypost.com/2013/12/01/book-excerpt-how-america-gave-guns-to-mexican-drug-cartels/>.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Criminal Intelligence Coordinating Council. *National Criminal Intelligence Sharing Plan: Building a National Capability for Effective Criminal Intelligence Development and the Nationwide Sharing of Intelligence and Information* (Washington, DC: U.S. Department of Justice, 2013), 35.

4. Regional Information Sharing System

The Regional Information Sharing System (RISS) initiated its RISSafe operation/event deconfliction program in the summer of 2008. This past November 2013, RISS announced that its 750,000th operation entered into the RISSafe.⁶¹ RISS announced that more than 260,600 conflicts had been identified to date, which represented 35% of all operations entered.⁶² RISS calculated those findings to report that seven of every 20 operations entered into RISSafe conflicted with other entries, which could have resulted in near confrontations, injuries or death.⁶³ A variety of operational attributes can result in a notification of conflict. Some examples are: proximity, subject names, aliases, phone numbers, state license plates and/or commodity.⁶⁴ A commodity may be the contraband being purchased (i.e., 24 kilograms of heroin).

When RISS Watch Center staff identifies conflicts in operational submissions, they notify the agencies impacted by the conflict. This notification is expected to ensure safety of officers and the public

D. LESSONS LEARNED U.S. MILITARY ORGANIZATIONAL STRUCTURE

1. Historical Perspective of United States Military Organizational Challenges

An organizational synopsis of the United States military demonstrates some challenges and evolution that occurs when many departments or branches have independent operational control. It shows a glimpse of the complexity and possible policy challenges to having multiple jurisdictions, agencies, and departments who do not have any operational oversight of the each other.

Joel Brenner writes in his work *“America The Vulnerable: Inside the New Threat Matrix of Digital Espionage, Crime and Warfare”* that “the departments of the executive

61 Kennedy, “Deconfliction and Officer Safety.”

62 Ibid.

63 Ibid.

64 Ibid.

branch—State, Treasury, Justice and Homeland Security, and so on—are isolated silos that in most circumstances are incapable of coordinated action.”⁶⁵ Brenner add that “civilian law enforcement agencies could learn from the history of the Army and Navy when coordination was not working as well.”⁶⁶

Brenner highlights the creation of the War Department in 1789 and the Navy Department in 1798 by commenting that the “two remained rigorously and jealously independent until after World War II.”⁶⁷ Noting memoirs of Lieutenant General Ulysses Grant at the Battle of Vicksburg in 1863, Brenner submits: “The secretary of war was the civilian head of the Army, the Navy had its own secretary and each reigned supreme in this earthen or watery realm.”⁶⁸ “As a result, joint operations in wartime were hazardous affairs that produced as much friction as cooperation,” Brenner said.⁶⁹

Brenner’s Chapter 10, “Managing the Mess,” highlights actions during the Spanish-American War and up to the attack on Pearl Harbor:

Relations between the army and navy were so bad in Cuba during the Spanish-American War that “the army commander refused to turn captured Spanish ships over to the Navy or allow a navy representative to sign the surrender document.”⁷⁰ “In theory, the president could command them both, but by the twentieth century the task of presiding over the government had become too complex for the president to concern himself with the details of government operations, civilian or military.”⁷¹

Brenner often references the works of James R. Locher III, who wrote *Victory on the Potomac*, *The Goldwater-Nichols Act Unifies the Pentagon*. It was obvious that two different managerial systems would not afford efficient logistical coordination.⁷²

65 Joel Brenner, *America the Vulnerable* (New York: The Penguin Press, 2011), 216.

66 Ibid., 216.

67 Ibid., 216–217.

68 Ibid.

69 Ibid., 217.

70 Ibid.

71 Ibid.

72 Ibid.

Here are some key dates of Military Joint Organization as chronicled by Brenner:⁷³

- 1947: Congress split the War Department into the Department of the Army and the Department of the Air Force.
- 1949: Congressional action created the Department of Defense, but separate military departments still existed.
- 1986: “Congress addressed military fiefdoms by passing the Goldwater-Nichols Act. The Army, Navy, and Air Force were stripped of operational command authority and for the first time vested effective command authority in joint commands.”⁷⁴

Although great success came from the unified efforts, changing the mindset of those who had deep held service loyalties did not happen overnight.⁷⁵ One of the outcomes of the Goldwater-Nichols Act was an understanding that in order to attain higher rank, officers would need to complete a “joint duty” tour with one of the other services.⁷⁶ Brenner references a conversation with Admiral Mike McConnell who was then the director of National Intelligence. Admiral McConnell said, “When I was a young naval officer, if I had said I was interested in a tour with one of the other services, my career would have been finished.” “After Goldwater-Nichols, I couldn’t get ahead without it.”⁷⁷ In essence, this cross cultural knowledge immersion was the mechanism to expose other service members to the operations and challenges they would not experience in their own silo. The benefits for such cross-pollination are an important point. The ability to expand military leader’s experience and build on their professional networks across historically independent silos was a great way to break down the silos between services.

⁷³ Ibid., 217–218.

⁷⁴ Ibid.

⁷⁵ Ibid., 218.

⁷⁶ Ibid.

⁷⁷ Ibid., 218–219.

2. Goldwater-Nichols Act of 1986 Hailed as Success

U.S. General John Wickham was quoted referencing the Goldwater-Nichols Act of 1986, “Nine years after the act was implemented, one of its leading military opponents hailed it as “a major contribution to the nation’s security.”⁷⁸ Brenner summarized the success by stating, “This act is one of the most important organizational reforms in the history of the United States government—as important as our technological edge in making our military the most powerful in the world.” “All our military services are proud of it—and all of them resisted it fiercely at the time.”⁷⁹

The current organizational structure of the U.S. military establishes a way for independent branches to retain their identity and individual missions that still requires joint coordinated operations (Figure 2). Using the history and evolution of the U.S. military is relevant to U.S. law enforcement deconfliction efforts. Law enforcement federal agencies are also independent silos and do not fall under the command and control of other agencies. They only intersect within the Executive Branch of U.S. Government. Understanding the challenges of the U.S. military in building a joint operations mindset is important. Change did not come quickly, but the benefits of coordinated efforts and information sharing were clearly an outcome for the U.S. military.

⁷⁸ Ibid.

⁷⁹ Ibid.

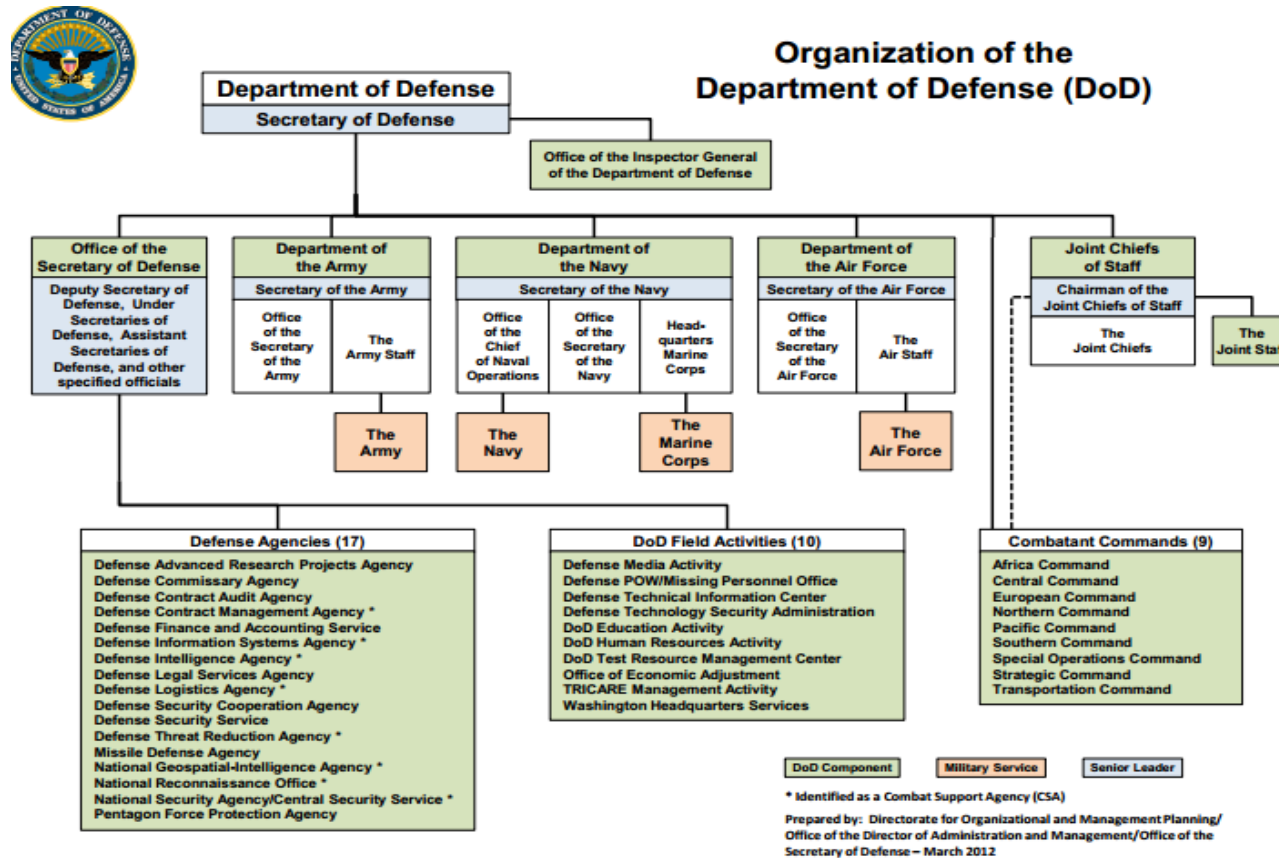


Figure 2. Organization of the Department of Defense as of March 2012⁸⁶

⁸⁶ U.S. Department of Defense, "Organization of the Department of Defense," accessed February 12, 2014, [http://odam.defense.gov/Portals/43/Documents/Functions/Organizational Portfolios/Organizations and Functions Guidebook/DOD_Organization_March_2012.pdf](http://odam.defense.gov/Portals/43/Documents/Functions/Organizational%20Portfolios/Organizations%20and%20Functions%20Guidebook/DOD_Organization_March_2012.pdf).

3. U.S. Government Federal Structure in Comparison

Brenner's *America the Vulnerable* asks this question with key observations:

- a) "Why isn't the rest of the government organized this way?"⁸⁷
- b) "But it's simply wrong to assume that the organization of the military can teach us nothing about the organization of our civilian departments." "From an organizational point of view, the military side of our government is light years ahead of the civilian side in its ability to attack problems jointly."
- c). "The American military's ability to plan and execute stupendously complex, efficient operations anywhere on the planet is astounding." "This could not occur without the seamless integration of the services in the field."
- d) "Cross-departmental governance is extremely difficult-and not just in the United States." Doing it well requires an office with authority over the departments and the power to muscle entrenched and often parochial bureaucracies and we don't have it."

Within the civilian law enforcement realm, operational control is effectively held within each Department (i.e., DOJ, DHS, and Department of State [DOS]). Departments work under the auspices of "coordination."⁸⁸

Departmental Secretaries are the final authority within their departments. Their authority comes from law. Brenner speculates, "as a result, America's federal government is run by an awkward compromise among powerful fiefdoms – much like military operations in World War II."⁸⁹ "This is not a viable model for governing a powerful nation in the twenty-first century."⁹⁰

In reviewing the organizational chart of the United States Government, the complexity and layers are apparent. Thus, deconfliction efforts must bridge the diverse organizations and provide for comprehensive data collection. There are 15 executive departments. Within those departments, are various federal criminal investigatory

⁸⁷ Brenner, *America the Vulnerable*, 218–220.

⁸⁸ Ibid., 220.

⁸⁹ Ibid.

⁹⁰ Ibid.

agencies and agents. There are also independent establishments and government corporations. Within those establishments and corporations are criminal investigators conducting criminal investigations. These U.S. departments, establishments and agencies ultimately report to the president of the United States, just as the United States military does. Recalling the lessons-learned during the discussion of the organization of the United States military, the growth of this country and the inability of the president to be the daily coordinator for all military matters is just as visible within this organizational structure with the multitude of departments, establishments, and corporations (Figure 3).

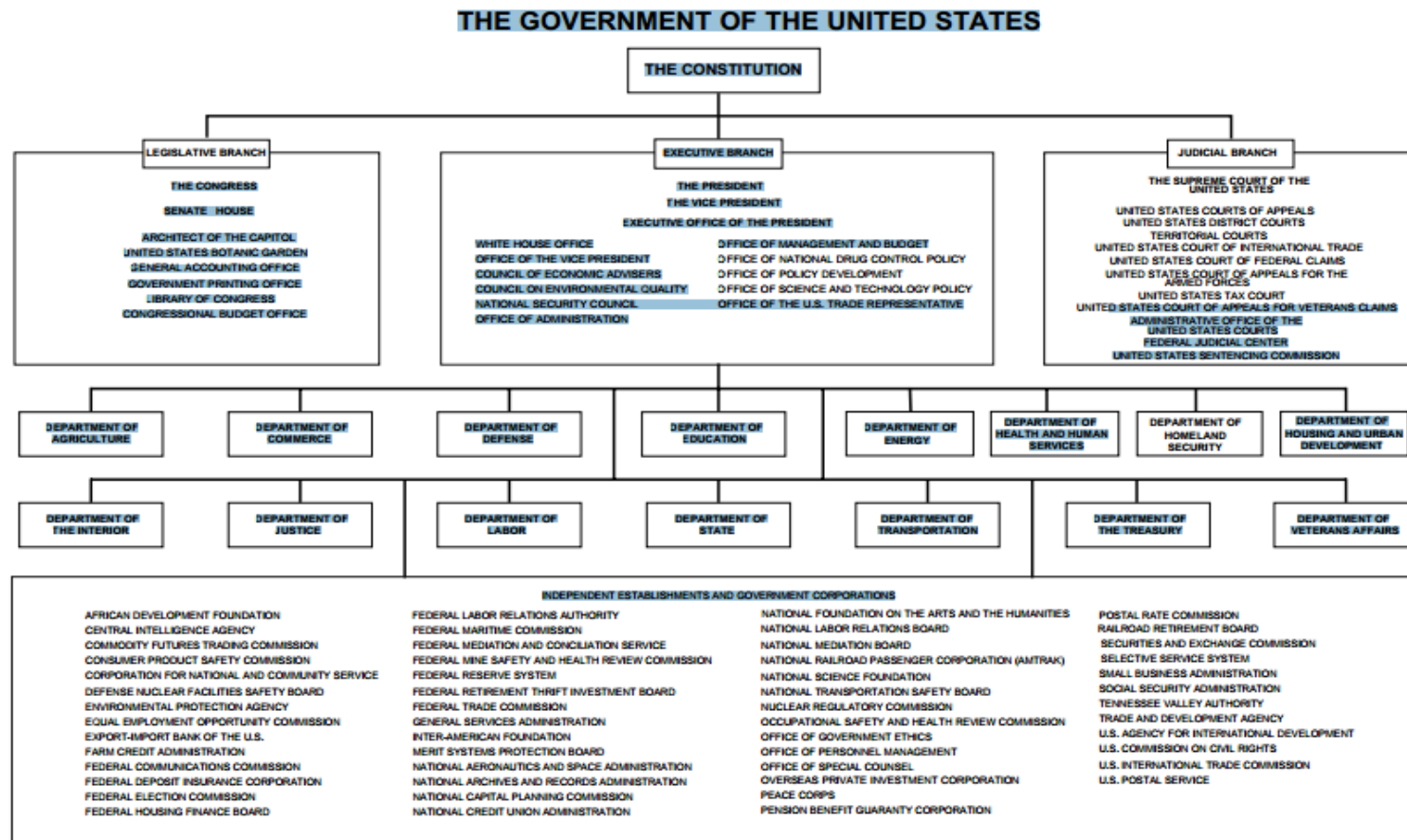


Figure 3. The Government of the United States Organization⁹¹

⁹¹“Federal Law Enforcement Officers, 2008,” Bureau of Justice Statistics.

4. Federal Agencies Involved in Criminal Investigations

In June 2012, the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS) published a bulletin titled “Federal Law Enforcement Officers, 2008” that identified federal agencies who employ full-time officers with authority to carry firearms and make arrests. The information in Table 1 outlines the 40 federal agencies that represent 13 Departments/Branches, not including the Independents such as the railroad police, U.S. Environmental Protection Agency (EPA) and U.S. Postal Service (USPS).⁹² Of the nearly 120,000 sworn full-time federal officers in 2008, 37.3% (approximately 45,000) of them were found to have a primary function of conducting criminal investigations.⁹³ This would show the magnitude of the deconfliction issue and the imperative to ensure investigations are fully coordinated.

⁹² Ibid.

⁹³ “Federal Law Enforcement Officers, 2008,” Bureau of Justice Statistics.

Table 1. Department and Branch of Federal Agencies Employing Full-Time Officers with Authority to Carry Firearms and Make Arrests by Primary Place of Employment, September 2008.⁹⁴

APPENDIX TABLE 4
Department and branch of federal agencies employing full-time officers with authority to carry firearms and make arrests, by primary place of employment, September 2008

Department/branch	Federal agency	Primary place of employment			Primary duties of law enforcement officers
		Total	50 states and District of Columbia	U.S. territories	
Agriculture	U.S. Forest Service, Law Enforcement and Investigations Organization	648	644	4	Uniformed law enforcement rangers enforce federal laws and regulations governing National Forest lands and resources. Special agents are criminal investigators who investigate crimes against property, visitors, and employees.
Commerce	Bureau of Industry and Security, Office of Export Enforcement	103	103	0	Special agents conduct investigations of alleged or suspected violations of dual-use export control laws.
Commerce	National Institute of Standards and Technology Police	28	28	0	Officers provide law enforcement and security services for NIST facilities.
Commerce	National Oceanic and Atmospheric Administration, Office of Law Enforcement	154	149	5	Special agents and enforcement officers enforce laws that conserve and protect living marine resources and their natural habitat in the U.S. Exclusive Economic Zone, which covers ocean waters between 3 and 200 miles off shore and adjacent to all U.S. states and territories.
Defense	Pentagon Force Protection Agency	725	725	0	Officers provide law enforcement and security services for the occupants, visitors, and infrastructure of the Pentagon, Navy Annex, and other assigned Pentagon facilities.
Energy	National Nuclear Security Administration, Office of Secure Transportation	363	363	0	Special agents, known as nuclear materials couriers, ensure the safe and secure transport of government-owned special nuclear materials during classified shipments in the contiguous United States.
Health and Human Services	National Institutes of Health, Division of Police	94	94	0	Officers provide law enforcement and security services for NIH facilities.
Health and Human Services	U.S. Food and Drug Administration, Office of Criminal Investigations	187	183	4	Special agents investigate suspected criminal violations of the Federal Food, Drug, and Cosmetic Act and other related Acts; the Federal Anti-Tampering Act; and other statutes, including applicable Title 18 violations of the United States Code.
Homeland Security	Federal Emergency Management Agency, Security Branch	84	84	0	Officers are responsible for the protection of FEMA facilities, personnel, resources, and information.
Homeland Security	U.S. Customs and Border Protection	37,482	36,863	619	CBP officers protect U.S. borders at official ports of entry. Border patrol agents prevent illegal entry of people and contraband between the ports of entry. Air and marine officers patrol the nation's land and sea borders to stop terrorists and drug smugglers.
Homeland Security	U.S. Immigration and Customs Enforcement	12,679	12,446	233	Special agents conduct investigations involving national security threats, terrorism, drug smuggling, child exploitation, human trafficking, illegal arms export, financial crimes, and fraud. Uniformed immigration enforcement agents perform functions related to the investigation, identification, arrest, prosecution, detention, and deportation of aliens, as well as the apprehension of

⁹⁴ Ibid.

⁹⁴ "The Government's Growing Police Force," *Wall Street Journal*, December 17, 201, <http://online.wsj.com/news/interactive/REGS121520111215>.

					absconders.
Homeland Security	U.S. Secret Service	5,226	5,213	13	Special agents have investigation and enforcement duties primarily related to counterfeiting, financial crimes, computer fraud, and threats against dignitaries. Uniformed Division officers protect the White House complex and other Presidential offices, the main Treasury building and annex, the President and Vice President and their families, and foreign diplomatic missions.
Independent	Amtrak Police	305	305	0	Officers provide law enforcement and security services for the passengers, employees, and patrons of the national railroad owned by the U.S. government and operated by the National Railroad Passenger Corporation.
Independent	Federal Reserve Board Police	141	141	0	Officers provide law enforcement and security services for Federal Reserve facilities in Washington, D.C.
Independent	National Aeronautics and Space Administration, Protective Services	62	62	0	Officers provide law enforcement and security services for NASA's 14 centers located throughout the U.S.

APPENDIX TABLE 4 (continued)

Department and branch of federal agencies employing full-time officers with authority to carry firearms and make arrests, by primary place of employment, September 2008

Department/branch	Federal agency	Primary place of employment			Primary duties of law enforcement officers
		Total	50 states and District of Columbia	U.S. territories	
Independent	Smithsonian National Zoological Park Police	26	26	0	Officers provide security and law enforcement services for the Smithsonian Institution's 163-acre National Zoological Park in Washington, D.C.
Independent	Tennessee Valley Authority Police	145	145	0	Officers provide law enforcement and security services for TVA employees and properties, and users of TVA recreational facilities.
Independent	U.S. Environmental Protection Agency, Criminal Enforcement	202	202	0	Special agents investigate suspected individual and corporate criminal violations of the nation's environmental laws.
Independent	U.S. Postal Inspection Service	2,324	2,288	36	Postal inspectors conduct criminal investigations covering more than 200 federal statutes related to the postal system. Postal police officers provide security for postal facilities, employees, and assets, as well as escort high-value mail shipments.
Interior	Bureau of Indian Affairs, Division of Law Enforcement	277	277	0	Officers provide law enforcement services in some tribal areas. In addition to providing direct oversight for these bureau-operated programs, the division also provides technical assistance and some oversight to tribally operated law enforcement programs.
Interior	Bureau of Land Management, Law Enforcement	255	255	0	Law enforcement rangers conduct patrols, enforce federal laws and regulations, and provide for the safety of BLM employees and users of public lands. Special agents investigate illegal activity on public lands.
Interior	National Park Service, United States Park Police	547	547	0	Officers provide law enforcement services to designated National Park Service areas (primarily in the Washington, D.C., New York City, and San Francisco metropolitan areas). Officers are authorized to provide services for the entire National Park System.
Interior	National Park Service, Visitor and Resource Protection Division	1,416	1,404	12	Park rangers, commissioned as law enforcement officers, provide law enforcement services for the National Park System. Additional rangers serving seasonally are commissioned officers but are considered part-time and not included in the FLEO census.
Interior	U.S. Bureau of Reclamation, Hoover Dam Police	21	21	0	Officers provide security and law enforcement services for the Hoover Dam and the surrounding 22-square-mile security zone.
Interior	U.S. Fish and Wildlife Service, Office of Law Enforcement	603	598	5	Special agents enforce federal laws that protect wildlife resources, including endangered species, migratory birds, and marine mammals.
Judicial	Administrative Office of the U.S. Courts	4,767	4,696	71	Federal probation officers supervise offenders on probation and supervised release. In seven federal judicial districts, probation officers are not authorized to carry a firearm while on duty and are excluded from FLEO officer counts.

APPENDIX TABLE 4 (continued)**Department and branch of federal agencies employing full-time officers with authority to carry firearms and make arrests, by primary place of employment, September 2008**

Department/branch	Federal agency	Primary place of employment			Primary duties of law enforcement officers
		Total	50 states and District of Columbia	U.S. territories	
Justice	Federal Bureau of Prisons	16,993	16,835	158	Correctional officers enforce the regulations governing the operation of BOP correctional institutions, serving as both supervisors and counselors of inmates. They are normally not armed while on duty. Most other BOP employees have arrest and firearm authority to respond to emergencies.
Justice	U.S. Marshals Service	3,359	3,313	46	The agency receives all persons arrested by federal agencies and is responsible for their custody and transportation until sentencing. Deputy marshals provide security for federal judicial facilities and personnel.
Legislative	Library of Congress Police	85	85	0	Officers provided law enforcement and security services for Library of Congress facilities. On October 1, 2009, the agency ceased operations and its personnel, duties, responsibilities, and functions were transferred to the U.S. Capitol Police.
Legislative	U.S. Capitol Police	1,637	1,637	0	Officers provide law enforcement and security services for the U.S. Capitol grounds and buildings, and in the zone immediately surrounding the Capitol complex. The U.S. Capitol Police assumed the duties of the Library of Congress Police on October 1, 2009.
Legislative	U.S. Government Printing Office, Uniformed Police Branch	41	41	0	Officers provide law enforcement and security services for facilities where information, products, and services for the federal government are produced and distributed.
State	Bureau of Diplomatic Security	1,049	1,049	0	In the U.S., special agents protect the secretary of state, the U.S. ambassador to the United Nations, and visiting foreign dignitaries below the head-of-state level. They also investigate passport and visa fraud.
Treasury	Bureau of Engraving and Printing Police	207	207	0	Officers provide law enforcement and security services for facilities in Washington, D.C., and Fort Worth, Texas, where currency, securities, and other official U.S. documents are made.
Treasury	Internal Revenue Service, Criminal Investigation Division	2,655	2,636	19	Special agents have investigative jurisdiction over tax, money laundering, and Bank Secrecy Act laws.
Treasury	United States Mint Police	316	316	0	Officers provide law enforcement and security services for employees, visitors, government assets stored at U.S. Mint facilities in Philadelphia, PA; San Francisco, CA; West Point, NY; Denver, CO; Fort Knox, KY; and Washington, D.C.
Veterans Affairs	Veterans Health Administration, Office of Security and Law Enforcement	3,175	3,128	47	Officers provide law enforcement and security services for VA medical centers.

Note: Table excludes offices of inspectors general (see table 3), U.S. Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard), Central Intelligence Agency, and Transportation Security Administration's Federal Air Marshals. (See Methodology.)

Source: Bureau of Justice Statistics, Census of Federal Law Enforcement Officers, 2008.

5. Increase in Nontraditional Agencies Involved in Criminal Investigations

In December 2011, the *Wall Street Journal* reported on the growth of federal agents within agencies not immediately associated with having criminal investigations. These smaller agencies have approximately 25,000 sworn officers.⁹⁵ In 1973, there were 507 criminal investigators in nontraditional civilian agencies.⁹⁶ By 2011, there were 3,812 criminal investigators in this category (Figure 4).⁹⁷ This represents a 750%

95 "The Government's Growing Police Force," *Wall Street Journal*.

96 Ibid.

97 Ibid.

increase in nontraditional investigators. These numbers did not include units who were absorbed into the Department of Homeland Security (DHS) after 2002.⁹⁸ This information is relevant to depict the increase in agencies not typically known for conducting criminal investigations and who would need to deconflict.



Figure 4. Gaining Force: Total Number of Criminal Investigators in Nontraditional Civilian Agencies.⁹⁹

The majority of federal agents conducting criminal investigations are employees of the Department of Justice (DOJ) and the Department of Homeland Security (DHS) (Figure 5).¹⁰⁰ A clarification is needed because not all federal agencies who employ sworn officers conduct criminal investigations. The United States Office of Personnel Management (OPM) classifies federal criminal investigators as a Series 1811.

An example of that would be the U.S. Immigration and Customs Enforcement (ICE). ICE contains two divisions: Homeland Security Investigations (HSI) and

⁹⁸ “The Government’s Growing Police Force,” *Wall Street Journal*.

⁹⁹ Ibid.

¹⁰⁰ “Federal Law Enforcement Officers, 2008,” Bureau of Justice Statistics.

Enforcement and Removal Operations (ERO). ERO conducts operations as does Customs and Border Protection (CBP), U.S. Border Patrol (USBP), but they do not conduct criminal investigations. With the increase in the number of Border Patrol agents, it would be prudent to consider the importance of interagency (DHS) deconfliction (Figure 6).¹⁰¹ In this example, these two agencies would also be a factor in operational deconfliction just as a police patrol division could encounter the city detective's undercover operations.

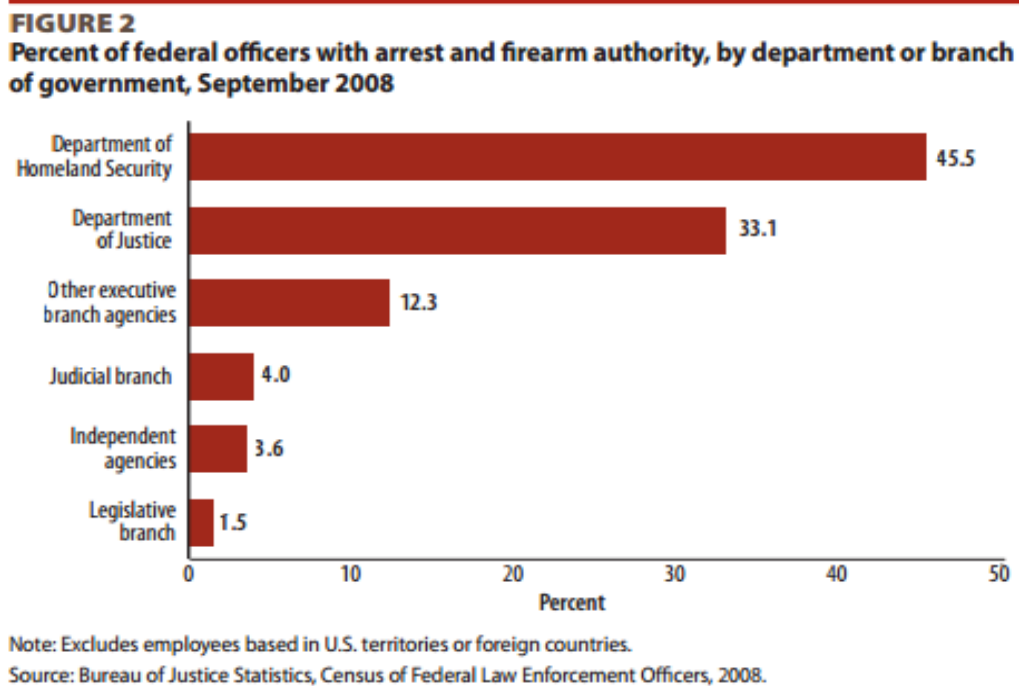


Figure 5. Percent of Federal Officers with Arrest and Firearm Authority, by Department or Branch of Government, September 2008¹⁰²

¹⁰¹ Ibid.

¹⁰² Ibid.

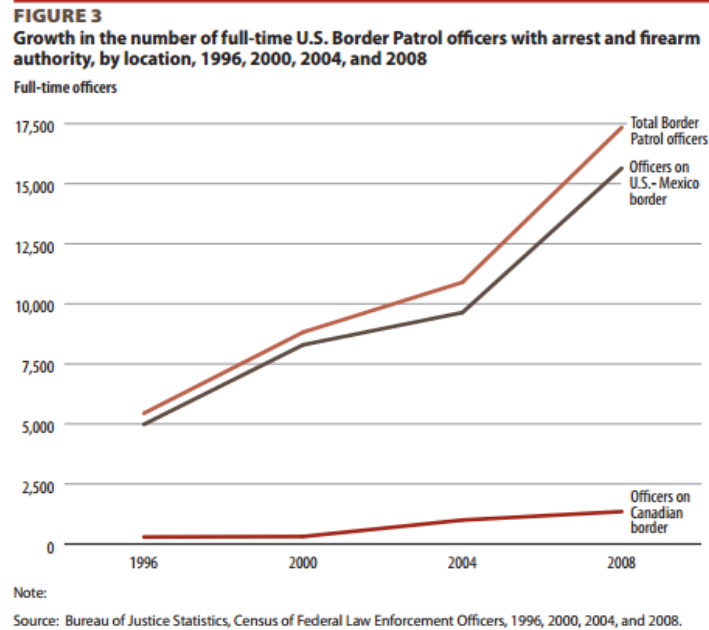


Figure 6. Growth in the Number of Full-Time U.S. Border Patrol Officers from 1996–2008¹⁰³

Figure 7 and Figure 8 are provided in an effort to depict the chains of command and organizational silos within the Department of Homeland Security and Department of Justice.

The Organizational Chart of the Department of Homeland Security depicts the chain of command for its law enforcement components (Figure 7). The organizational chart of the Department of Justice depicts the chain of command for its law enforcement components (Figure 8).

¹⁰³ Ibid.

U.S. DEPARTMENT OF HOMELAND SECURITY

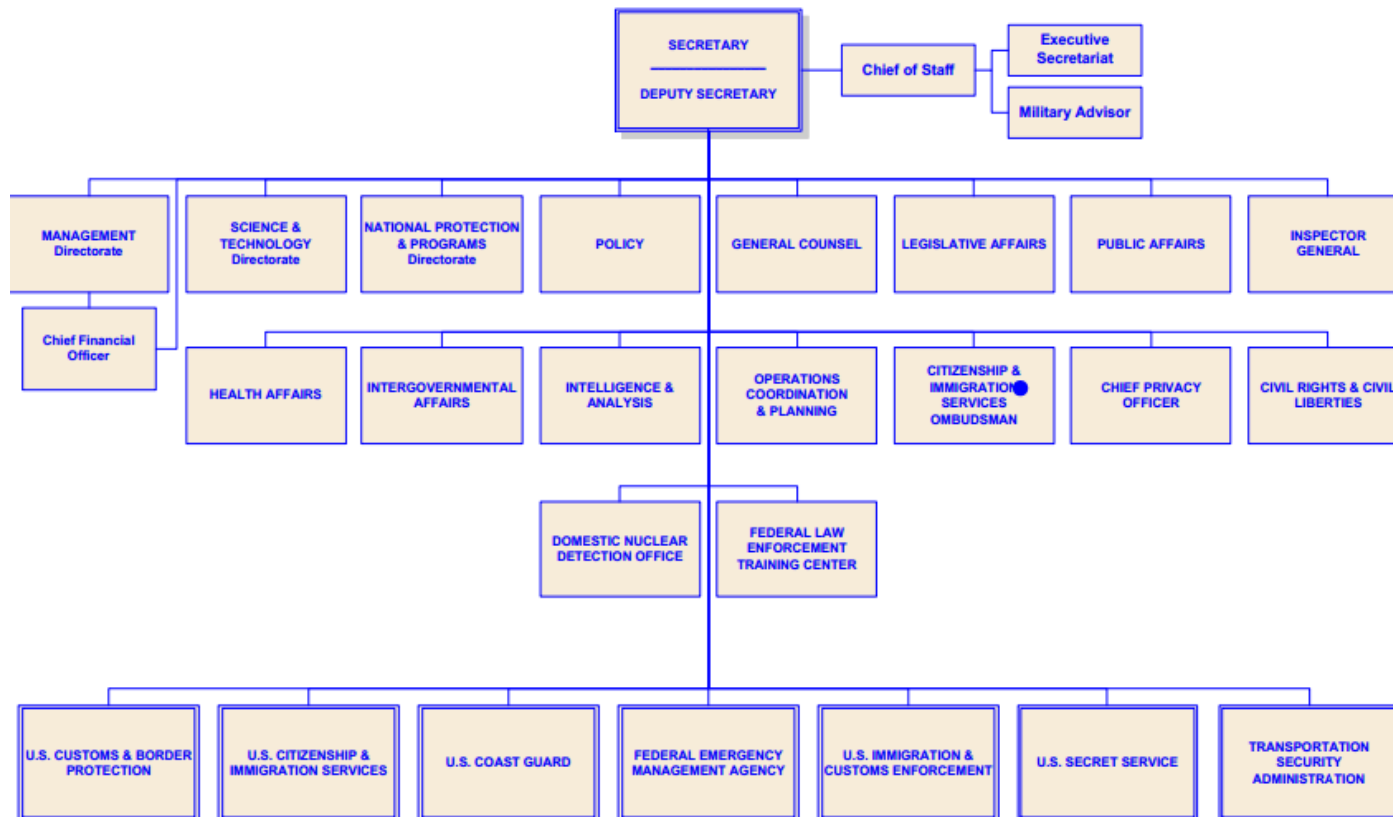


Figure 7. The U.S. Department of Homeland Security Organization¹⁰⁴

¹⁰⁴ “Organizational Chart,” U.S. Department of Homeland Security, accessed February 12, 2014, <http://www.dhs.gov/xlibrary/assets/dhs-orgchart.pdf>.

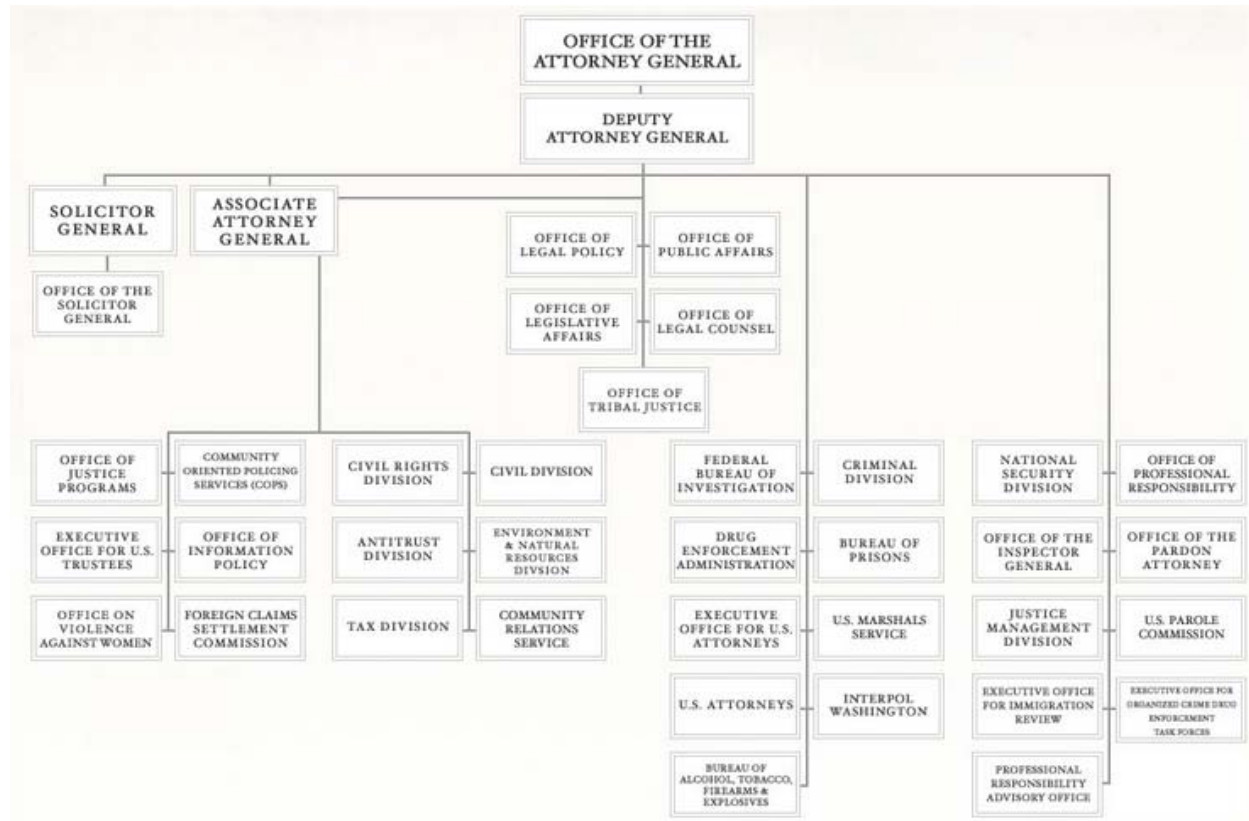


Figure 8. The U.S. Department of Justice Organization¹⁰⁵

¹⁰⁵ "Department of Justice Agencies," U.S. Department of Justice, accessed February 12, 2014. <http://www.justice.gov/agencies/index-org.html>.

There is an additional group in which deconfliction would be prudent, but operationally more difficult. The Office of Inspector General within their individual federal agencies conduct investigations involving criminal violations relating to fraud, waste, and/or abuse conducted by federal programs and/or employees. In 2008, there were 3501 full time officers/agents in 33 agencies.¹⁰⁶ Inherently, their investigations can have targets who are other government employees. The operational security of those investigations and targets is even more sensitive.

E. SUMMARY OF THE LITERATURE

Through a review and analysis of the literature, there are compelling gaps in law enforcement deconfliction and important questions should be addressed.

- There are approximately 706,886 sworn police officers.
- Nearly 20,000 police officers have died in the line of duty.
- From 2000–2012, six hundred ninety-seven (697) have lost their lives by gunfire (shot by offender, accidental discharge, stray round, training accident, and or mistaken for offender).
- From 2001–2010, thirty-three (33) were killed accidentally (crossfire, mishap and mistaken for offender).
- There are approximately 120,000 federal law enforcement officers (FLEO) conducting criminal investigations.
- Approximately 45,000 of FLEOs are criminal investigators/special agents.
- How many federal agents conducting enforcement operations (undercover and tactical) are confronted by other law enforcement departments or worse are purposefully injured or killed due to mistaken identity? (Unknown)
- How many innocent bystanders are injured or killed due to mistaken-identity shootings during police-on-police encounters? (Unknown)
- How many criminal investigations are being provided federal funding when there are duplicative investigations going on within other federal law enforcement agencies? (Unknown)
- What agency has the responsibility as the national repository for successful or failed deconfliction efforts? (None)

¹⁰⁶ “Federal Law Enforcement Officers, 2008,” Bureau of Justice Statistics.

- Who is reviewing lessons learned from inefficiencies and overlap in federal criminal investigations involving deconfliction? (Unknown)

1. **Additional Findings from the Literature**

- The U.S. military experienced many challenges as it matured. Their early organization structure did not support joint operational oversight and information sharing. Those same lessons apply in some degree to federal law enforcement agency structure as they exist today.
- Even after the International Association of Chief of Police (IACP), the United States Government Accountability Office (GAO) and members of the New York State Task Force on police-on-police encounters supported recommendations for action. To date, no entity is designated to be the national repository for the collection of failed deconfliction efforts and/or mistaken-identity encounters.
- It is clear that law enforcement deconfliction centers and systems exist. Some law enforcement departments utilize local informal processes. Some were noted to have not used any deconfliction.
- No formal protocol, mechanism, or regulation that is universal to all law enforcement entities as it relates to deconfliction was found. It appears to be an individual agency decision/discretion on how they deconflict. This may also require the need to deconflict through several different systems or mechanisms to feel confident that an officer has exhausted all efforts. To date, it is unclear on whether the established deconfliction systems are completely interoperable. There is no national repository for deconfliction failures. There is no formal reporting required for failed deconfliction events.
- No literature reviewed indicated any negative aspects of participation in event or case/target deconfliction. Actually, terms like optimizing information, leveraging capabilities of partners, coordination and cooperation initiatives, collecting/analyzing and dissemination of strategic intelligence are associated with deconfliction efforts.
- The literature reveals that on more than one occasion recommendations have been made to strengthen interagency coordination. The GAO in April 2013 clearly identified the issue by saying, “establishing a mechanism to measure coordination would hold entities accountable for working with other entities, and help to reduce overlap.”¹⁰⁷ Others like ISE, clearly support the “interconnectivity of existing event deconfliction systems and developing nationwide standards for deconfliction.”¹⁰⁸ The question is

¹⁰⁷ U.S. Government Accountability Office, *Information Sharing*, 34.

¹⁰⁸ “Section 3: Optimizing Mission Effectiveness,” ISE.gov.

what are some of the key challenges to event and case/target deconfliction?

The next chapter will discuss some obstacles to effective deconfliction compliance and new concepts to consider.

III. DECONFLICTION OBSTACLES AND CONCEPTS

A. OBSTACLES

1. Should We Care?

From the literature review in Chapter II, it is apparent that there are no clear statistics to support or defend issues relating to deconfliction among law enforcement communities. Until the full picture of event and case/target deconfliction efforts is known, the prudent choice is to stand on the side of saving lives and reducing inefficiencies through identification of overlapping investigations across several federal organizations.

2. Organization Challenges

As shown in the previous chapter, federal criminal law enforcement agencies within the DOJ and the DHS operate within their own silos. The successes and failures of the organizational design are not the focus of this thesis. The identified problem in this research is to work within the organizational structure to develop workable solutions to deconfliction challenges. As discussed in Chapter II, the U.S. military clearly had growing pains relating to working through their individual silos and accepting joint operational oversight while maintaining their specific mission and identities.

Already conflicts of overlapping investigations involving multiple jurisdictions are being evaluated and settled by the United States Attorney's Office (USAO). Assistant United States Attorneys (AUSA) are presented investigations and informally become aware of duplicative investigative efforts within different law enforcement agencies. Task Force Officers (TFO) within federal law enforcement agencies can also become a form of informal interagency deconfliction. TFOs can be familiar with investigations within their own departments that may conflict with federal operations in which they are participating. TFOs also add value by blending investigations and building organizational trust between departments/agencies. TFOs are valuable assets to federal agencies in that they provide a level of interagency partnership that bridges many organizational obstacles. As professional relationships and trust are developed, the benefits are visible in the depth of information sharing and deconfliction efforts.

The role of senior leaders through first line managers is essential as they reinforce the importance of information sharing and partnership. The U.S. military has had many years of joint operations to coordinate and balance activities between their Departments. The U.S. joint services encourage cross-pollination of their professional officers by assigning them to other military departments. This career officer exposure to joint service duties facilitates team building, education, and familiarity to the entire Department of Defense structure and ways of doing business.

3. Congressional Funding and Connected Incentives

Federal law enforcement agencies are also evaluated by several statistical and demonstrative measures. These measureable results are often linked to congressional funding for special programs and/or enforcement missions. A few examples of these statistical measures would be agencies' number of indictments, arrests, convictions, and seizures. Demonstrative results may be positive responses of the public and/or media outlets from the perception of reducing crime in their area.

Agencies are competing for an ever-smaller share of the federal criminal investigative funding. There is a built-in incentive for agencies to want to be the ones who make the arrest or seize the evidence. Not only do agencies inherently want to be successful with their missions, but also the individual special agents are driven to solve the big case. Unlike the special agents with the DHS/ICE Homeland Security Investigations (HSI) who reach a journeyman pay level of Grade Series 13 (GS-13), near automatically, as time in grade requirements are met, agencies like DEA may still require submission of documentation by the special agent to attain a GS-13. How is that relevant? If this big case and/or wire intercept investigation is the enforcement activity missing on your resume to support a promotion to GS-13, there is a connection to the success of the investigation. An agent may be even more driven to attempt to maintain operational control of the targets and/events within their investigation. This could affect an agent's willingness to promptly and repetitively deconflict information in fear that they might lose ownership and/or any successes that the case would bring. Thereby, losing the professional accomplishment

needed to secure the next promotion. This is an inherent pay grade inconsistency between GS 1811 special agents with the DOJ and the DHS.

4. The Role of Trust in Informational Sharing

Government agencies could benefit greatly by reviewing Steven M.R. Covey's "The 7 High-Trust Organizational Dividends" as they would relate to deconfliction efforts."¹⁰⁹

- Increased Value
- Accelerated Growth
- Enhanced Innovation
- Improved Collaboration
- Stronger Partnering
- Better Execution
- Heightened Loyalty

Instead, governmental agencies are likely far more known for "The 7 Low-Trust Organizational Taxes."¹¹⁰

- **Redundancy:** unnecessary duplication leading to overlapping structures and excessive layers
- **Bureaucracy:** complex cumbersome rules
- **Politics:** organizational politics can cause division, resulting in wasted time and money along with derail strategies and sabotage initiatives
- **Disengagement:** cost of disengagement nears \$300 billion a year where employees do just enough, but do not contribute their talent, creativity, energy or passion
- **Turnover:** retention problems undermine stability and trust
- **Churn:** turnover of stakeholders
- **Fraud:** flat out dishonesty and deception

Deconfliction efforts can touch many of the so-called organizational taxes described above. The president of the National Fusion Center Association and director of

¹⁰⁹ Steven Covey, "Speed of Trust Book Summary," accessed February 9, 2014, <http://www.myspeedoftrust.com/How-The-Speed-of-Trust-works/book>.

¹¹⁰ Ibid.

the Northern California Regional Intelligence Center (NCRIC), Mike Sena encapsulated the role of trust and information sharing when he testified before the House of Representatives in 2012:

Most law enforcement will tell you that the best intelligence collaboration and information sharing happens when relationships among agencies and individuals are built on trust and experience. The right policies, technology, processes, protocols, and funding are essential enablers of effective information sharing, and we've seen dramatic improvements in these areas since 9/11. But information sharing is fundamentally about creating, building, and sustaining RELATIONSHIPS. Legislation and mandates can only get us so far. When it comes to leveraging the full scope of the public safety community in the United States for homeland security purposes, a constant effort to build relationships and develop trusted mechanisms is how it will get done."¹¹¹

Event deconfliction is another major area of needed focus. True information sharing includes both threat information and event deconfliction. We believe we need a single national deconfliction system. While there are several good examples of event deconfliction systems in use by different law enforcement agencies, we need to work toward standardization or interoperability systems.¹¹²

Not a day goes by without conversations among partners that are serving to build the trust, confidence, and relationships necessary to realize true information sharing.¹¹³

Trust plays a role within law enforcement deconfliction. The agent must trust that the information submitted to a deconfliction system is safe and not inappropriately shared with others without a need to know. Agents and agencies must trust that the deconfliction process works properly. There is also a perceived trust that other agents and agencies are properly deconflicting their events and case/target information in a prompt and sometimes reoccurring fashion. Agencies must trust that other agencies or departments are honoring their information sharing and Deconfliction Memorandums of

111 *The National Preparedness Report: Assessing the State of Preparedness*: Hearing before the Subcommittee on Emergency Preparedness, Response, and Communications Committee on Homeland Security 112Cong. (2012) (statement of Mike Sena, deputy director, Northern California Regional Intelligence Center, 4–5. <http://homeland.house.gov/sites/homeland.house.gov/files/Testimony-Sena.pdf>.

112 Ibid., 8.

113 Ibid.

Understanding, if they have one. DEA and ICE/HSI have an Interagency Cooperation Agreement that addresses deconfliction and operational coordination. In addition to the interagency agreement, HSI has internal memorandums enforcing compliance with deconfliction protocols.

5. Legal

There are no laws governing law enforcement deconfliction. At most, agencies author memorandums of understanding between each other that may address their deconfliction protocols. HSI has directives that address deconfliction compliance. HSI recommends event deconfliction using the local jurisdiction HIDTA; and case/target deconfliction using DICE. At this time, there does not appear to be a need for legislation relating to deconfliction.

6. Technology

Currently, established deconfliction systems appear to be effective and agencies are working to make them more interoperable. This thesis did not concentrate efforts on the security of the systems or their interoperability. But, it should be stated that no derogatory information relating to system security was identified. There would have to be many policy decisions within and between agencies and departments requiring national oversight to orchestrate such an endeavor. A system would need to be in place to purge dated information so as not to be so stale it has no value.

As technology continues to evolve and new mechanisms become available, many other deconfliction elements may become available to agents and agencies. Currently, the National Criminal Intelligence Resource Center (NCIRC) provides an interactive map to locate the local deconfliction systems (Figure 9).

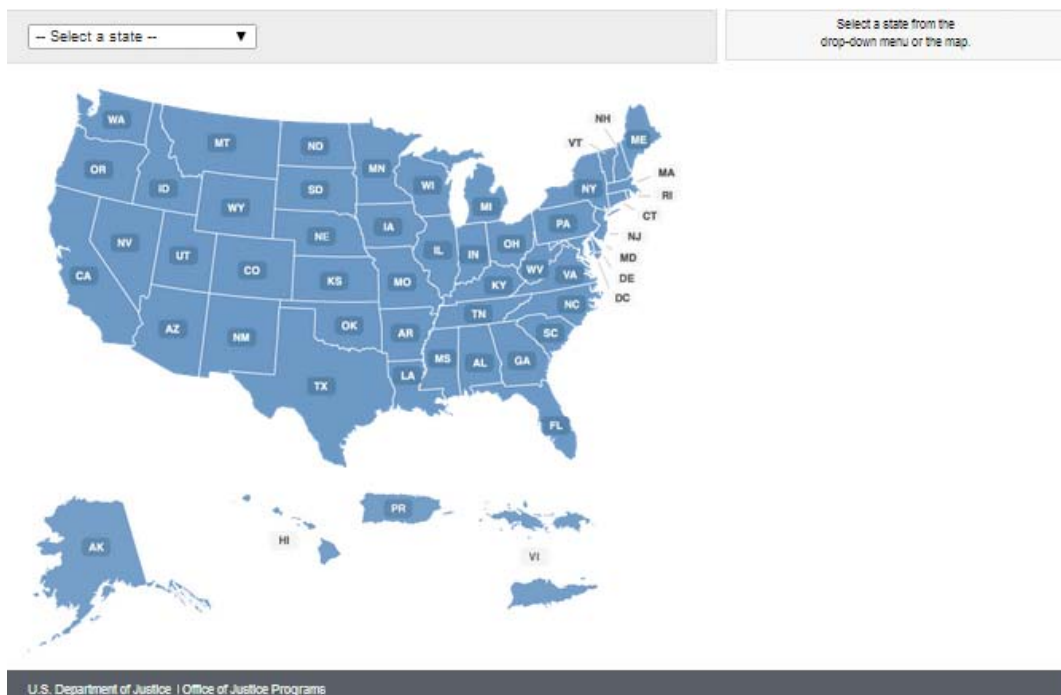


Figure 9. Interactive Map of Deconfliction Services¹¹⁴

This map identifies event deconfliction systems (Case Explorer, RISSafe, and SAFETNet) available in each state and U.S. territory. When a state is selected from the drop-down menu or map, deconfliction systems and contact information for the state or territory are listed. The system with the greatest number of users (in a state) is listed first.

These event deconfliction systems will soon be interoperable. As such, agencies should identify and use the system that best meets their needs.¹¹⁵

7. Compliance Motives

Although this thesis is not focused on compliance or noncompliance motives as it relates to law enforcement deconfliction, interagency compliance is relevant. The literature review uncovered agents not wanting to deconflict, as there were concerns over other persons corrupting and/or accomplishing the arrest or seizure. There was mention

¹¹⁴ “Event Deconfliction Systems,” National Criminal Intelligence Resource Center.

¹¹⁵ Ibid.

of the delay in initiating the case/target deconfliction until after another agency has already expended investigative hours and possibly fiscal expenditures. The delay may or may not be intentional, but the possible inefficiencies and/or overlap would still exist. There is also the desire to protect the confidential informant/source, solve the case, make the arrest and seize the contraband. There are inherently strong motives to be the successful agent and/or agency. The literature reviewed did not uncover any claims of any agent/officer intentionally not conducting deconfliction in order to do harm. Since deconfliction cannot occur without human interface, awareness of compliance motives is imperative.

The Federal Bureau of Investigation (FBI) and quite possibly the Office of the Inspector General (OIG) could have concerns relating to dissemination of case information. These concerns would involve the sensitivity of their official corruption investigations. The Assistant United States Attorneys (AUSA) assigned to their corruption and or related sensitive investigations would already know the intricacies of the FBI and OIG investigations and be able to provide some informal deconfliction.

B. CURRENT EFFORTS

The National Criminal Intelligence Resource Center (NCIRC), in partnership with the International Association of Chiefs of Police, the National Sheriffs' Association, the Major Cities Chiefs Association, the Major County Sheriffs' Association, the National Fusion Center Association, the Association of State Criminal Investigative Agencies, the Regional Information Sharing Systems, the High Intensity Drug Trafficking Areas, and various federal partners, "all support the need to integrate systematic event deconfliction into agency operations."¹¹⁶ This action-oriented group in 2013 issued a document titled, "A Call to Action: Enhancing Officer Safety Through The Use Of Event deconfliction."¹¹⁷ This bulletin addresses key points regarding event deconfliction

- To ensure officer safety, it is vital for all law enforcement agencies and personnel to participate in event deconfliction.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

- Without event deconfliction, officers may unintentionally interfere with another law enforcement operation or action, potentially resulting in injury or death to officers or a negative impact on an investigation.
- Enhancing officer safety, reducing risk and liability, safeguarding community members, ensuring case integrity, disruptions to investigations, strengthening information sharing, connecting suspects and cases, and building community confidence.¹¹⁸

Partnerships like this one that created this bulletin are necessary to build organizational trust between agencies. This was the most forward leaning effort regarding support of event deconfliction found during this research. Although, this effort focused primarily on event deconfliction and case/target deconfliction, it would also build community confidence and connect suspects and cases. Community confidence would be associated with potential cost savings from reduction of overlapping investigations.

One disclaimer was added to the “Call To Action.” The bulletin stated, “The use of event deconfliction should not replace professional protocols when deconflicting events with agencies in other jurisdictions.”¹¹⁹

This small disclaimer punctuates another gap in the deconfliction process. Event deconfliction occurs traditionally in local areas. If investigations are more far reaching, running event deconfliction through for example, a HIDTA system, may not afford the agent/officers with complete confidence that he/she has no conflicts regarding his/her operation. This would especially be true in cases with interstate movements, as the local HIDTA deconfliction will only support the information within its system. In fact, additional queries or submissions may be needed until a complete interface with other federally supported deconfliction systems exists.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

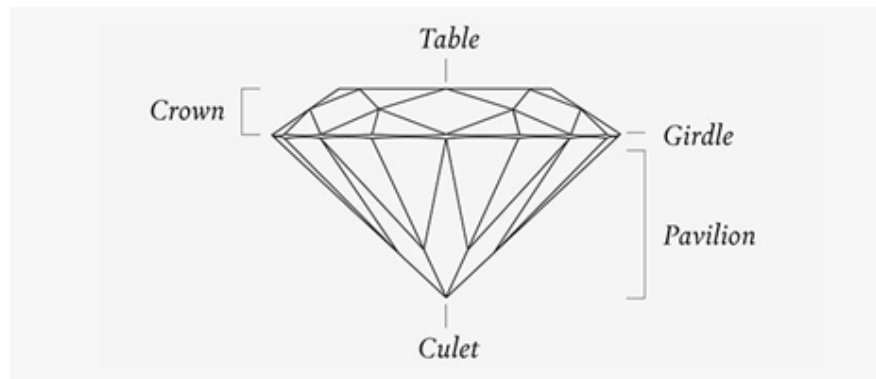
C. CONCEPTS

1. Creation of the Blue Diamond Deconfliction Division

With approximately 120,000 federal law enforcement officers housed within 73 different agencies and departments, the chance for overlapping investigations and/or police-on-police encounters is possible. With approval, an agency [the author recommendation is that it be Department of Justice (DOJ), United States Attorney's Office (USAO)] will be charged to collect data on both failed and successful deconfliction events. The data would be evaluated in an effort to identify patterns and provide recommendations to federal departments who have no operational oversight of the others. The only entity short of the executive branch that by design is the hub between agencies is the USAO. Their visibility of connected operations and investigations already puts them in a unique position to be an informal deconfliction system. The USAO prosecutors already hold the appropriate security clearances and access for investigative case files, source files, and grand jury documents. This division within the USAO would draft and work to gain acceptance of protocols for reporting events. Most of the efforts would be concentrated on gaining federal compliance to already established and utilized deconfliction systems that are the De-confliction Internet Connectivity Endeavor (DICE) for case/target Deconfliction and High Intensity Drug Trafficking Areas (HIDTA) for event Deconfliction. Both of these systems are maintained within DOJ/DEA. The goal would be to reduce or eliminate police-on-police encounters and reduce inefficient funding for duplicative enforcement efforts.

The creation of a federally supported element within the DOJ/USAO to house the national repository of deconfliction efforts within federal criminal investigative agencies would be an initial start. As a method to describe this element, it will be referred to as the Blue Diamond Deconfliction Division (BD3). Why a blue diamond? Traditionally, law enforcement is associated with the color blue as firefighters are associated with the color red. The diamond represents being premier with clarity and strength (Figure 10).

BD3 Conceptual Metaphor



Culet – It represents the entry point of data into a deconfliction system.

Pavilion – It represents the individual queries/submissions from various law enforcement agencies to include interoperability between deconfliction systems.

Girdle – It represents the intersection between individual data and synthesis of information/actionable intelligence.

Crown – It represents the departments and agencies with responsibility and authorities to conduct criminal investigations.

Table - Largest facet of the diamond, located at the top through which refracted light escapes as brilliance. The American Justice Scales represent the prosecutors of the United States Attorney's Office. They represent the pinnacle of an investigation i.e., prosecution. They have been informal "deconfliction agents" as a course of their position. The table represents their level and impartial position as it relates to investigations brought to them from the participating crown members.

PINNACLE – IMPARTIAL - BALANCED

Figure 10. Blue Diamond Deconfliction Division Conceptual Metaphor¹²⁰

¹²⁰ Diamond image in chart is from Tiffany.com, accessed March 24, 2014, <http://www.tiffany.com/Expertise/Diamond/Glossary.aspx>.

The BD3 liaisons would be Assistant United States Attorneys (AUSA) who represent each of the 93 USAO Districts (Figure 11).

District Profiles

Click on your district to find your United States Attorney, contact information, and news for your United States Attorney's Office.
[Text-only version](#)

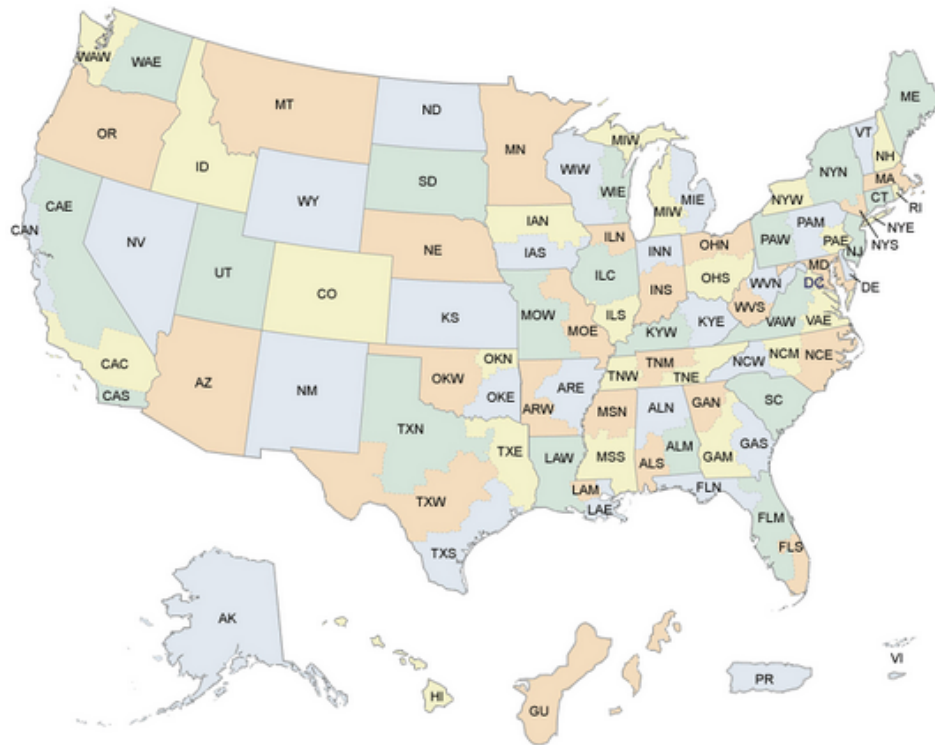


Figure 11. United States Attorney's Offices¹²¹

The U.S. Attorney's Offices are the chief federal law enforcement official within their Districts. The BD3 concept would be introduced as a pilot in select USAO's offices with a nexus to the southwest border. The selection of offices would encompass multi-agency law enforcement areas with the added complexity of border effort.

A milestone would be met with simply the identification of the local BD3 AUSA who would embrace this role as a collateral assignment. There is an expectation that the

¹²¹ "Find Your United States Attorney," U.S. Department of Justice, accessed March 16, 2014, <http://www.justice.gov/usao/districts/>.

DOJ would support travel related expenses relating to continued outreach by these BD3 AUSAs.

2. Organizational Structure of the BD3

The BD3 AUSA would represent its USAO District as a conduit for reporting successes, fielding complaints, issues, and/or incidences of deconfliction within their representative areas. It is important to reemphasize that this AUSA networking is already occurring daily and informally between federal agencies presenting investigations for prosecution. The creation of the BD3 AUSA point of contact would then formalize the capture and oversight of deconfliction efforts within their areas.

Each BD3 AUSA would be assigned an administrative support person to assist with compilation of acquired data. Any subsequent year's funding would support the technological needs along with various administrative costs. This would include the creation of a data management system that captures existing interagency agreements regarding deconfliction and information sharing between federal partners. This system would also populate the initial national repository for deconfliction efforts for the various federal law enforcement agencies. An agreement with the Bureau of Justice Statistics (BJS) may be needed in order to comply with any additional reporting elements. An example of this would be the collection of data on how many police-on-police encounters have occurred with focus on near-confrontations and ones with injuries and/or fatalities.

3. Funding Considerations for BD3

As a key portion of this initial phase of the BD3 involves outreach to key stakeholders, the AUSAs may need to support travel expenses within their areas of responsibility as their respective areas may be geographically great distances from each other. These AUSAs would then coordinate regular meetings with senior level managers to establish ground floor assessments of deconfliction efforts.

Within 18 months of creation of the BD3 concept, an initial findings report will be produced and submitted to the Attorney General. The purpose of this report will be to determine if the BD3 should be replicated throughout the United States and begin to

support the States Attorney Generals in compilation of this type of data. The ultimate goal would then be the national repository for deconfliction conflicts and the building of lessons learned. The responsibility for this national repository would reside with the U.S. Office of the Attorney General at the Department of Justice. A portion of this lessons learned report, if measureable, will be the cost savings to the United States Government for reducing duplicative spending within agencies who are targeting the same individual/group.

This BD3 initiative would require the support and authority of the Department of Justice, specifically the Attorney General. Being that the pinnacle of any enforcement activity is the anticipated prosecution; the decision of the U.S. Attorney General to support such an initiative as the BD3 would be enough to mandate compliance and/or participation by federal departments in such an initiative.

In an effort to support compliance, the U.S. Attorney General could require that fiscal incentives be connected to this effort. For example, if agencies fail to deconflict their case/target and event information, they will not receive case funding for wire intercepts or other cost intensive investigations.

It is anticipated that some agencies would have concerns about some of the transparency that participation in various levels of deconfliction would bring. For example, in Chapter II of this thesis, the Federal Bureau of Investigation voiced concerns within a GAO report regarding compromising investigations and/or sensitivities of their public corruption investigations. The same could be an argument made by investigators with the various Office of the Inspector General. The AUSAs assigned to these types of investigations already know the intricacies and would work through their BD3 points of contact within their offices to ensure that a blue-on-blue is not going to occur relating to sensitive investigations.

In order to neutralize any arguments, it would be important to stress the need for patience until the first 18-month's report. This report may discover that there are near negligible findings relating to deconfliction issues. It may also find room for improvement or after action lessons learned that could be replicated elsewhere.

The sheer creation of a reporting element and a national repository for failed deconfliction efforts will force a self-evaluation by agencies of their deconfliction guidance and interagency memorandums of understanding. It is the intent of the BD3 concept that if agencies are aware that another agency has a mechanism to report failed compliance, through synergy and collaboration they will be more cautious to avoid incidents all together. It is the expectation that calling attention to this issue and supporting it with a method of oversight and accountability will be enough to gain a high compliance rate. A mandatory reporting element alone could become the catalyst to reduce near confrontations of police, reduce fiscal inefficiencies in federal investigations, and most importantly save lives.

The overall cost of an element like the BD3 would be connected to the availability of Assistant United States Attorneys in each of the 93 Districts to support this element as a collateral duty. The intent of the 18-month reporting is to identify any measureable results and if needed request any specific funding needs. If it is determined that there is substantial near confrontational events or documented complaints, then a more robust computer platform or program may be required.

A snapshot of the benefits of establishing an element like the Blue Diamond Deconfliction Division (BD3):

- To save lives and reduce inefficiencies, a national repository of federal Deconfliction is essential
- A national repository for law enforcement Deconfliction efforts and reportable actions
- Supports Accountability
- Provides oversight and mediation; or if needed, remediation
- Promotes fiscal responsibility – reduce overlap of investigations
- Incentives for participating in event and case/target Deconfliction (i.e., agency or department funding based on submission of data into agency/department protocol Deconfliction element/entity (DICE, HIDTA, RISS, etc.)
- Trust building by recommending rotation of senior management for temporary assignments in another departments/agencies (i.e., HSI, FBI, DEA, USMS and/or ATF)

This chapter analyzed various issues, concepts and benefits for the purpose of developing recommendations and solutions. The in-depth research of Chapter II and Chapter III provided clarity on the current state of deconfliction, which identifies the way forward for an increasingly more robust response to deconfliction challenges. Chapter IV will address this current state and future options

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IV. CURRENT STATE AND FUTURE OPTIONS

A. CURRENT STATE: OPTION ONE

If the current state were adequate, the GAO, OIG, HIDTA, NY State Task Force, RISS, NCRIC, NCIRC and others would not have called for action to provide oversight and accountability to law enforcement deconfliction and information sharing. Federal law enforcement agencies could continue with voluntary compliance and self-policing their deconfliction compliance. The unfortunate outcome would be that agencies and departments would not be fully aware of possible overlaps and inefficiencies. Erring on the side of caution, being able to give visibility to the entire federal deconfliction process would provide many senior leaders with some confidence that their partners understand all the implications of failing to deconflict events and targets.

GAO's April 2013 *Information Sharing* report provided specific recommendations that included obtaining interoperable deconfliction systems and performance metrics related to coordination, and promoting coordination to reduce overlap and inefficiencies.¹²² As these were only recommendations, agencies were not required to comply.

B. LEANING IN: OPTION TWO

More active conversation between stakeholders would be an improvement from the current status quo. It is important that this implementation involve a bottom to top evaluation of all current efforts of federal law enforcement deconfliction. The Department of Homeland Security and Department of Justice would co-lead this effort. Upon receiving the necessary input, it is important to involve the state, local, and tribal law enforcement partners who inevitably will be involved directly or indirectly in federal law enforcement operations. These entities are important in that they not only will they be involved in enforcement activities that occur within their communities for which they are responsible, but also they may have task force officers assigned to various federal agencies.

¹²² U.S. Government Accountability Office, *Information Sharing*, 46.

In addition, collaboration and buy-in would be beneficial from professional police organizations, possibly police unions, and the established deconfliction entities (i.e., RISS, HIDTA, DICE and others) that provide deconfliction services. It appears several of these entities are making efforts to be more interoperable; however, there is not a clear leader to national deconfliction efforts. Professional associations and other supporting elements would be a mechanism to promote agency and departmental compliance with all aspects of deconfliction. All efforts should be made to solicit support and subject matter experts from the International Association of Chiefs of Police (IACP), Fraternal Order of Police (FOP), Federal Criminal Investigators Association (FCIA), Federal Law Enforcement Officers Association (FLEOA), Major City Chiefs Association (MCCA), narcotics, gang and related tactical law enforcement organizations. Any decisions or recommendations that require legislation would then require support from congressional elements. But, at any time, federal agencies could invoke their own directives.

Once the federal agencies and subject matter experts develop standards, each of the Departments will need to agree on the manner and level of oversight to maintain mandatory levels of compliance. There would also need to be a mechanism to report near-confrontations and blue-on-blue/police-on-police events. An identified body of senior level departmental leaders would then internally address issues and provides recommendations and decisions.

These senior-level professionals would be responsible to provide clarity on the reporting of police-on-police firearm related deaths and injuries through existing agency structures. This rigorous reporting and accountability would send the message that headquarters' elements must be involved to solve local law enforcement issues. But, the fact that there would be reporting and accountability would be more than is being captured now.

Eventually, the larger federal agencies will still need to provide outreach to smaller federal criminal investigative agencies in an attempt to ensure unilateral federal compliance with deconfliction efforts. This would all be voluntary actions. At this point, there would not be a mechanism for documenting police-on-police confrontations or deconfliction related concerns nationally. Without empowering a single overarching entity with the authority, there will still be a lack of ownership, oversight, and remediation.

C. COMPLETE COMMITMENT: OPTION THREE AND THE RECOMMENDATION

After a complete assessment of the current environment surrounding federal law enforcement deconfliction, a framework that encourages compliance, provides accountability and establishes the appropriate level of oversight is needed.

The creation of the Blue Diamond Deconfliction Division (BD3) within the Department of Justice, United States Attorney's Office (USAO) represents an entry point for all deconfliction data collection in order to establish a national repository (see Figure 12). The USAO and their Assistant United States Attorneys (AUSA) are uniquely positioned as an impartial entity that can build partnerships and bridges between competing federal agencies. Due to the operational structure and silos of federal law enforcement, the USAO is the only agency that has the power and position to enforce compliance with deconfliction standards. A decision from the United States Attorney General to support the BD3 concept would be seen as a mandate to federal agencies to participate in deconfliction. The sheer creation of a reporting mechanism and a national repository for deconfliction efforts would force individual agency into self-evaluation.

With the identification of BD3 AUSAs within the piloted southwest border locations, they would be the conduit for reporting successes, fielding complaints, issues, and/or incidences of deconfliction. BD3 AUSAs would initially review existing protocols, agreements and identify established deconfliction systems in order to identify smart practices, gaps, and vulnerabilities. Individual federal agencies must incentivize deconfliction compliance by linking their financial support of their criminal investigations to the appropriate use of deconfliction efforts. The BD3 AUSAs would populate a data management system that would have DOJ oversight. With the initial pilot, the expectation is that this role would be a collateral duty for the BD3 AUSA. With the requirement to provide a summary report within 18 months, the value of the interagency forum and national repository would be revealed. Any lessons learned and identified issues will then be evaluated in an effort to determine the future viability of the BD3 concept.

- Save lives	- Support accountability
- Build trust	- Establish oversight
- Integrate & empower the national network	- Make recommendations
- Improve information sharing	- Facilitate mediation or remediation
- Reduce inefficiencies	- Promote fiscal responsibility
- Establish a national repository	- Reduce overlap

Figure 12. The Blue Diamond Deconfliction Division (BD3)

V. CONCLUSION

This thesis focused on the scope and breadth of federal law enforcement deconfliction processes within the United States. An examination of the various contributors to effective deconfliction processes uncovered complex organizational issues along with the human factors that lead to incomplete and inconsistent reporting of both failed and successful deconfliction events. With national oversight and accountability, various gaps and vulnerabilities in deconfliction operations would be addressed. The findings of this thesis will be surprising to some; however, from the research and analysis conducted, it is shown that there is a significant absence of specific information and statistics relating to law enforcement deconfliction efforts. One statistic stands out and is alarming: An average of two officers die every year at the hands of another police officer during blue on blue confrontations.¹²³ The only acceptable number is zero. Some anecdotal stories from peers are more specific with respect to actual numbers, but none of these deconfliction events is formally recorded in a national repository. The thesis research demonstrates that there are overlaps in law enforcement efforts, and yet at the same time, there are significant and dangerous gaps relating to law enforcement officer safety. It is vital that law enforcement agencies deconflict investigative actions.

While different agencies pursue their legal jurisdictions against different threat elements within the same criminal organization, a problem arises when two or more agencies target the exact same individual or commodity without the other agencies being aware. This is an example of the overlap of coverage that occurs when deconfliction is not pursued appropriately. In addition and not insignificant, are the federal dollars expended (i.e., salaries and investigative costs) that can be identified as duplicative in effort; while at the same time agencies and departments are competing for limited congressional dollars. In addition, there is a significant increase of federal agencies involved in criminal investigations that before 911 were not previously known for that

¹²³ O'Brien, "Friendly Fire," *SWAT Blog*.

level and focus of enforcement. The foregoing then adds to the potential volume of overlapping investigations requiring deconfliction.

While there are sufficient deconfliction systems, the challenge remains with interoperability. Clearly, there are organizational silos, as within the Department of Justice and the Department of Homeland Security, as each agency does not have operational control or oversight of one another. This thesis shows an important fact: The only location where DHS and DOJ intersect is at the United States Attorney's Office that prosecutes their investigations. Within the United States federal law enforcement agencies, they have established policies, protocols, and interagency agreements regarding information sharing to include deconfliction efforts between agencies. For this reason, this thesis recommends that the USAO be the central organization to provide oversight and accountability for federal deconfliction.

What the thesis also demonstrates is that there is no national repository or single entity with the task and responsibility to provide oversight and promote accountability of the federal deconfliction process. Is this important to law enforcement operations and officer safety? Absolutely. Establishing one entity to oversee and promote event and case/target deconfliction will provide extensive visibility for what has been previously unknown or only known through dispersed and random anecdotal stories between law enforcement officers. The Blue Diamond Deconfliction Division (BD3) would provide the essential an appropriate level of oversight for federal law enforcement event and case/target processes.

While an expected outcome of BD3 oversight and accountability would be reductions in overlapping coverage, decreases in gaps of coverage and improved fiscal management of criminal investigations, the goal of this research is to reduce or eliminate police-on-police encounters. This will avoid near confrontations, injuries or worse, losses of life. The lives saved will be those of law enforcement officers, their sources, and/or innocent bystanders.

Highlights of a reform in deconfliction that this thesis identifies are:

1. Fiscal Responsibility

With oversight and accountability, there would be an effort to identify redundancies and/or overlap. With the establishment of the BD3, Assistant United States Attorneys would have increased visibility of duplicative and redundant efforts, thereby reducing fiscal waste. At present time, there is no visibility to better understand whether fiscal savings would occur.

2. There Is Consensus

No federal law enforcement agency, entity or report has opposed a national repository or the value of deconfliction and information sharing. There is consensus that better oversight and accountability is needed. Currently, no federal agency or department has assumed ownership as the national repository for law enforcement deconfliction and this thesis finds that there must be a national repository.

3. Lead Change and Guide Efforts

The next steps would be the appointment of an executive agency to lead change and guide the efforts which would hold all agencies and departments accountable. This greater degree of oversight would eliminate deconfliction noncompliance, establish national protocols and strengthen reporting. The BD3 would be the conduit for reporting successes, failures, complaints and issues involving incidences of deconfliction. Lessons learned from the BD3 would be used to develop nationwide deconfliction standards and solutions. The U.S. Department of Justice, United States Attorney's Office (USAO) holds this unique position to accept the responsibility and become the catalyst to connect agency cases and reduce the number of existing agency deconfliction processes.

4. National Repository

Federal law enforcement agencies are tethered to prosecutorial efforts of the United States Attorney's Office. Undoubtedly, they are the correct location for an entity like the Blue Diamond Deconfliction Division (BD3). A national repository is required to

archive both failed and successful deconfliction efforts must be established in order to provide oversight and accountability of law enforcement activities occurring daily around the country. Data collection remains absent on both the successes and failures of deconfliction. Both are needed to show the importance. The BD3 would accomplish this goal.

5. Strengthen Information Sharing through Trust Building Practices

The BD3 would build partnerships by initiating dialogue regarding deconfliction. Uniquely balancing individual agency allegiances with the obvious benefits of joint coordination and information sharing can be accomplished with the BD3. The greatest ingredient to strengthen information sharing and meaningful exchanges is to work diligently to build that trust through experiences. Bringing all federal investigative agencies to the table at the United States Attorney Offices in their respective Districts is a meaningful step in building and sustaining those relationships. The BD3 would be this framework.

In conclusion, the imperative steps to a National Deconfliction Framework that this thesis defines are:

1. To identify redundancies and/overlap in federal law enforcement investigations through oversight and accountability of their deconfliction practices
2. To strengthen information sharing through trust building practices
3. To fully develop the United States Attorney's Office informal deconfliction role by establishing a BD3 concept within their Districts.

Law enforcement officers protect those they serve. All efforts must be made to protect them. Law enforcement officers must be better protected from deconfliction failures and this thesis outlines the first steps to a plan of action.

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