



NATIONAL SHERIFFS' ASSOCIATION

March 31, 2025

The Honorable Darrell Issa
Chair, Subcommittee on Courts,
Intellectual Property, Artificial
Intelligence, and the Internet
U.S. House of Representatives
2108 Rayburn House OB
Washington, D.C. 20515

The Honorable Henry Johnson
Ranking Member, Subcommittee on Courts,
Intellectual Property, Artificial
Intelligence, and the Internet
U.S. House of Representatives
2240 Rayburn House OB
Washington, D.C. 20515

The Honorable Chip Roy
Chair, Subcommittee on the
Constitution and Limited Government
U.S. House of Representatives
103 Cannon House OB
Washington, D.C. 20515

The Honorable Mary Gay Scanlon
Ranking Member, Subcommittee on the
Constitution and Limited Government
U.S. House of Representatives
1214 Longworth House OB
Washington, D.C. 20515

Re: April 1, 2025 Hearing on Judicial Overreach and Constitutional Limits on the Federal Courts

Dear Representatives:

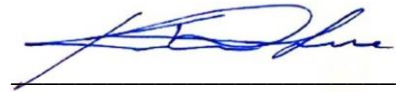
We understand that your central purpose in the April 1 joint hearing is to discuss the constitutional limits of the judicial power, with a focus on temporary restraining orders and injunctions that may infringe on the President's powers to protect national security. No doubt this is a significant topic as the Constitution's separation of powers between the three branches of government is a cornerstone of the founders' larger plan to control government power. As representatives of 3,081 sheriffs across the nation, we ask you to consider—in your longer-term work and in considering any legislative proposals—another dimension of federal judicial overreach: federal judicial power as it relates to counties and other local governments.

We recognize that the federal injunctive power has proven invaluable in enforcing civil rights across the nation. The 9–0 opinion in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971), which affirmed federal court authority to hasten the integration of local school districts, is a shining example. Nonetheless, it is possible for an injunction to exceed the bounds of reasonableness. Some federal injunctions, even consent decrees, may impose substantial burdens, drag on for years, and cost millions of dollars. Injunctions may place a sheriff's office, county jail, or police department under monitor or other court-appointed authority. These appointees may exercise considerable authority over personnel, staffing decisions, and policies and procedures. Not only do some appointees infringe on local officials' authority, but a few arguably exercise Article III power. In some cases, a monitor or U.S. District Judge will move the compliance goalposts, which seems to stretch an injunction's life interminably from a local perspective. Some injunctions even survive multiple changes in local governing officials. At some point, federalism should impose limits.

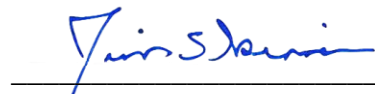
Although a local government or official often has a right to an appeal an injunction under 28 U.S.C. § 1291 (final) or § 1292 (interlocutory), these provisions are general, deferential, and not tailored to preserve federalism. We ask you to consider a statute that authorizes interlocutory appeals with provisions to better ensure an injunction's reasonableness and consistency with federalism. For example, a statute should require an appellate court to assess an injunction's reasonableness under various factors, including the nature of the original problem, the measures imposed, costs, and the duration of various directives. A statute should require a proponent of an injunctive measure to support the factual predicates by a preponderance of the evidence. A statute should require heightened justification for new injunctive measures, and it might even include more-searching standards of review as an injunctive measure wears on.

In any event, we don't have all the answers now. But we applaud your purpose in examining possible federal judicial overreach, and we understand that you have a duty to help protect the President's national-security power. We ask you, however, to also consider the possibility of federal judicial overreach in the context of counties and other local governments. In particular, we ask you to consider a statute to confer rights to appeal tailored to ensure that federal injunctions are reasonable and comply with federalism. As always, we appreciate your continued support of public safety and the nation's sheriffs.

Sincerely,



Sheriff Kieran Donahue, Canyon County, ID
President, National Sheriffs' Association



Sheriff Jim Skinner, Collin County, TX
Third Vice President, and Chair, Government Affairs Committee

cc: Jonathan Thompson, Executive Director & CEO, National Sheriffs' Association