
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 474 **Hearing Date:** June 27, 2023
Author: Rodriguez
Version: February 7, 2023
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *State Threat Assessment Center: transnational criminal organizations*

HISTORY

Source: Author

Prior Legislation: AB 1566 (Com. on Emergency Management) never heard 2021
AB 1673 (Seyarto, 2022), held in Assembly Appropriations

Support: California State Sheriffs' Association; City of Bakersfield; City of Norwalk;
City of Simi Valley; City of Thousand Oaks; Peace Officers Research Association
of California; ReEvolution

Opposition: ACLU California Action; Oakland Privacy

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to require the State Threat Assessment Center (STAC) and the California Office of Emergency Services (Cal OES) to prioritize, to the greatest extent possible, cooperation with state and local efforts to disrupt and dismantle criminal networks trafficking opioid drugs that pose a threat to California.

Existing federal law provides that the Department of Homeland Security (DHS), under the federal Homeland Security Act of 2002, has responsibility for integrating law enforcement and intelligence information relating to terrorist threats to the homeland. (P.L. 107-296)

Existing federal law establishes the National Counterterrorism Center as the coordinator at the federal level for terrorism information and assessment. (P.L. 108-458)

Existing state law establishes the California Office of Emergency Services (Cal OES) within the office of the Governor for the purpose of mitigating the effects of natural, manmade, or war-caused emergencies. (Gov. Code, §§ 8550, 8585, subd. (a).)

Existing law provides that Cal OES shall be considered a law enforcement organization as required for receipt of criminal intelligence information, as specified. ((Gov. Code, § 8585, subd. (c).)

Existing law requires Cal OES to coordinate the emergency activities of all state agencies in connection with an emergency, and requires every state agency and officer to cooperate with Cal OES in rendering all possible assistance in carrying out its duties, as specified. (Gov. Code, § 8587, subd. (a).)

Existing law requires Cal OES to establish and lead the California Cybersecurity Integration Center (CCIC), whose primary mission is to reduce the likelihood and severity of cyber incident that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state. (Gov. Code, § 8586.5, subd. (a).)

Existing law provides that the CCIC shall serve as the central organizing hub of state government's cybersecurity activities and coordinate information sharing with local, state, and federal agencies, tribal governments, utilities and other service providers, academic institutions, and nongovernmental organizations. (Gov. Code, § 8586.5, subd. (a).)

Existing law provides that the CCIC shall be comprised of representatives from various organizations, including the State Threat Assessment Center (STAC). (Gov. Code, § 8586.5, subd. (a).)

Existing law requires the California Cybersecurity Integration Center to operate in close coordination with the California State Threat Assessment System and the United States Department of Homeland Security –National Cybersecurity and Communications Integration Center. (Gov. Code, § 8586.5, subd. (b).)

Existing law provides that the CCIC shall provide warnings of cyberattacks to government agencies and nongovernmental partners, coordinate information sharing among these entities, assess risks to critical infrastructure and information technology networks, prioritize cyber threats and support public and private sector partners in protecting their vulnerable infrastructure and information technology networks, enable cross-sector coordination and sharing of recommended best practices and security measures, and support cybersecurity assessments, audits, and accountability programs that are required by state law to protect the information technology networks of California's agencies and departments. (Gov. Code, § 8586.5, subd. (b).)

This bill sets forth several findings and declarations, including:

- The State Threat Assessment Center (STAC) serves as California's information-sharing clearinghouse of strategic threat analysis and situational awareness reporting for statewide leadership and the public safety community in support of efforts to prevent, prepare for, mitigate, and respond to all crimes and hazards impacting California citizens and critical infrastructure while preserving civil liberties, individual privacy, and constitutional rights.
- The STAC is California's state primary fusion center, as designated by the Governor, and is operated by the Department of the California Highway Patrol, the Office of Emergency Services, and the Department of Justice.
- Transnational criminal organizations (TCOs) continue to pose a threat to California, public health, and our economic security.

- According to the United States Department of the Treasury, it is estimated that drug-related crime alone generated over \$100 billion in proceeds in the United States.
- There were 7,175 deaths related to any opioid overdoses in California in 2021, of which 5,961 were related to fentanyl, according to the State Department of Public Health.
- Mexico-based TCO criminal activity is not limited to drug trafficking, as they engage in a wide variety of other criminal activity. TCOs also facilitated and profited from smuggling migrants into the United States, and their illicit trade activity led to the seizure of over \$2.14 billion in intellectual property violations in federal fiscal year 2021, according to the United States Department of Homeland Security.

This bill provides that the STAC shall prioritize, to the greatest extent possible, cooperation with state and local efforts to illuminate, disrupt, degrade and dismantle criminal networks trafficking opioid drugs that pose a threat to California.

This bill provides that in carrying out its provisions, the STAC shall support state and local interagency task forces established to combat illegal opioid trafficking in California.

This bill provides that support provided by the STAC shall include, but not be limited to:

- Preparing and disseminating intelligence products for public safety entities.
- Analyzing tactics and trends of transnational criminal organizations operating in California.
- Sharing information with government decision makers and state and local public safety officials regarding the extent to which transnational criminal organizations are trafficking opioids and pose other public safety threats in California.

COMMENTS

1. Need for This Bill

According to the Author:

It is critical that we counter the public health threat posed by Transnational Criminal Organizations, which have generated over \$100 billion from drug-related crimes alone and continue to threaten the lives of our children. We must use every tool at our disposal to disrupt these networks of criminals and get opioid drugs off of our streets. This bill would require the State Threat Assessment Center (STAC) to prepare and share intelligence products for public safety entities and analyze tactics and trends of Transnational Criminal Organizations operating in California. The STAC would then be required to share this information with government decision-makers and state and local public safety officials to highlight the extent to which TCOs are trafficking opioids and pose other public safety threats in California. Allowing our State to gain insights and information on TCOs and other threats to California is the first step in fighting back and stopping the opioid epidemic.

2. California's Fentanyl Crisis

California is currently in the throes of a persistent and deadly crisis related to the opioid drug known as fentanyl. Though originally developed for pharmaceutical use, fentanyl is now illicitly produced internationally – primarily in China and Mexico – and then smuggled into the United States, where it has wreaked havoc on the population on the population. In California, the number of deaths involving opioids, and fentanyl in particular, has increased significantly over the course of the last decade. Between 2012 and 2018, while opioid-related overdose deaths increased by 42%, overdose deaths related to fentanyl specifically increased by more than 800%—from 82 to 786. In 2021, California experienced 21,016 emergency room visits resulting from an opioid overdose, 7,176 opioid-related overdose deaths, and 5,961 overdose deaths from fentanyl, including 1,600 in Los Angeles County Alone.¹

As referenced above, most of the illicit fentanyl consumed in the United States originates in China, a major pipeline of the building blocks of fentanyl, known as fentanyl precursors. Chemical manufactures in China ship fentanyl precursors to Mexico where drug cartels make fentanyl and arrange for it to be transported across the U.S.-Mexico border.² The vast majority of the fentanyl seizures in the U.S. occur at legal ports of entry or interior vehicle checkpoints, and U.S. citizens are primarily the ones trafficking fentanyl.³ In 2022, law enforcement officials in California seized almost 30,000 pounds of fentanyl, a 594% increase over 2021, and enough of the drug to potentially kill the entire population of North America, twice.⁴

The state's 2022-23 budget included \$7.9 million in 2022-23 and \$6.7 million ongoing to fund the Fentanyl Task Force within DOJ to help tackle the fentanyl crisis. The task force includes 25 new DOJ positions to support those efforts. Building on the 2022-23 Budget, the state's 2023-24 Budget includes additional funding to combat fentanyl abuse. Specifically, the budget allocates \$93 million over the next four years, including \$79 million for Naloxone distribution projects; \$10 million for grants for education, testing, recovery, and support services; \$4 million to make test strips more available; and, \$3.5 million for overdose medication for all middle and high schools.⁵

The Governor's Master Plan for Tackling the Fentanyl and Opioid Crisis also includes \$30 million to expand California National Guard's work to prevent drug-trafficking transnational criminal organizations (TCOs) and \$15 million over two years to establish and operate the Fentanyl Enforcement Program within the DOJ to combat manufacturing, distribution, and

¹ CDPH, Overdose Prevention Initiative

<https://www.cdph.ca.gov/Programs/CCDC/DCDC/SACB/Pages/PrescriptionDrugOverdoseProgram.aspx?msclkid=99f1af92b9e411ec97e3e1fe58cde884>; CDPH, Overdose Surveillance Dashboard <<https://skylab.cdph.ca.gov/ODdash/?tab=Home>>; "Growing fentanyl crisis is leaving 'trail of death' in its wake, federal officials warn." Los Angeles Times. 21 November 2022. [Federal officials warn of 'unprecedented' fentanyl crisis - Los Angeles Times \(latimes.com\)](https://www.latimes.com/health/la-he-unprecedented-fentanyl-crisis-2022-11-21)

² "The US sanctioned Chinese companies to fight illicit fentanyl. But the drug's ingredients keep coming" CNN.com (Mar. 30, 2023) <https://www.cnn.com/2023/03/30/americas/fentanyl-us-china-mexico-precursor-intl/index.html>

³ Fentanyl Is Smuggled for U.S. Citizens By U.S. Citizens, Not Asylum Seekers." The CATO Institute (Sept. 14, 2022) <https://www.cato.org/blog/fentanyl-smuggled-us-citizens-us-citizens-not-asylum-seekers>

⁴ [California Seized Enough Fentanyl to Potentially Kill the Entire Population of North America, Twice | California Governor](https://www.sacbee.com/news/politics-government/civil-rights/article248484431.html)

⁵ "Governor's Budget Summary – 2023-24" at p. 69, <https://ebudget.ca.gov/FullBudgetSummary.pdf>

trafficking. The Governor also has allocated \$40.8 million for an education and awareness campaign to establish partnerships and create messaging and education tools for parents and educators, and \$23 million in substance use disorder workforce grants to develop substance use disorder training for non-behavioral health professionals working with children and youth.⁶

Most recently, in April, the Governor announced the formation of a public safety partnership to disrupt fentanyl trafficking in San Francisco, under which the California Highway Patrol and California National Guard would assist San Francisco law enforcement agencies. Since May, the CHP has seized more than 8 pounds of fentanyl in the city's Tenderloin district. Despite this crackdown, however, May was still the city's deadliest month for fentanyl overdoses on record.⁷

3. State Threat Assessment Center and Effect of This Bill

California's State Threat Assessment Center (STAC), organizationally located within the California Governor's Office of Emergency Services (Cal OES), "serves as California's information sharing clearinghouse of strategic threat analysis and situational awareness reporting to statewide leadership and the public safety community in support of efforts to prevent, prepare for, mitigate and respond to all crimes and all hazards impacting California citizens and critical infrastructure, while preserving civil liberties, individual privacy, and constitutional rights."⁸ The STAC is California's primary "fusion center," which, in state security parlance, refers to state-owned and operated information-sharing centers intended to facilitate collaboration and information integration between agencies, and maximizing states' ability to detect, prevent, investigate and respond to criminal terrorist activity.⁹

In 2014, then Attorney General Kamala D. Harris, released a report entitled, *Gangs Beyond Borders: California and the Fight Against Transnational Organized Crime*, which noted that "more narcotics, weapons and humans are trafficked in and out of California than any other state." The report, written with assistance from the STAC, described the strategies that are working and made recommendations to combat transnational organized crime. Among the recommendations in this report were that federal, state, and local law enforcement should use California's State Threat Assessment System as a central hub for sharing information about transnational crime and state and local law enforcement agencies should increase operational coordination in combatting TCOs.¹⁰

Though boosters argue that fusion centers, like STAC, are vital to national security and effective law enforcement, they have faced some criticism. According to ACLU California Action, which writes in opposition to this bill:

Contrary to the finding and declaration [of the bill], fusion centers like STAC are not operating in ways preserving civil liberties, individual privacy and constitutional rights. Fusion centers act as opaque data brokers for law enforcement and spy on Americans with virtually complete secrecy. They enable the sharing of people's

⁶ "Governor Newsom's Master Plan for Tackling the Fentanyl and Opioid Crisis."
https://www.gov.ca.gov/wp-content/uploads/2023/03/Fentanyl-Opioids-Glossy-Plan_3.20.23.pdf?emrc=86c07e

⁷ [May was worst month on record for fentanyl deaths in San Francisco despite crackdown \(msn.com\)](https://www.msn.com/en-us/news/politics/story/may-was-worst-month-on-record-for-fentanyl-deaths-in-san-francisco-despite-crackdown)

⁸ [State Threat Assessment Center | California Governor's Office of Emergency Services](https://www.caloes.ca.gov/State-Threat-Assessment-Center)

⁹ For more info, see the Dept. of Homeland's Security Fusion Center website: [Fusion Centers | Homeland Security \(dhs.gov\)](https://www.dhs.gov/fusion-centers)

¹⁰ https://oag.ca.gov/sites/all/files/agweb/pdfs/toc/report_2014.pdf

information with out-of-state authorities, while also exacerbating harmful policing practices. There have also been substantive questions by Congress about the quality of intelligence provided by the fusion centers. In addition to secretly collecting up vast stores of people's personal information and their history of producing flawed analyses, fusion centers also have targeted minority communities and protesters and perpetuated improper religious, racial, ethnic and political bias.

This bill requires STAC to prioritize, to the greatest extent possible, cooperation with state and local efforts to disrupt and dismantle criminal networks trafficking opioid drugs that pose a threat to California. In achieving this objective, the bill provides that STAC shall support state and local anti-opioid task forces by preparing intelligence products, analyzing TCO tactics and trends, and sharing information with government decision makers and public safety officials regarding the threat posed by TCOs.

4. Argument in Support

According to the City of Thousand Oaks:

According to the U.S. Drug Enforcement Administration, criminal drug networks are mass-producing fake pills and falsely marketing them as legitimate prescription pills to deceive the public. The U.S. Drug Enforcement Administration asserts that drug traffickers are using fake pills to exploit the opioid crisis and prescription drug misuse. In 2021, 107,622 people died by drug poisoning in the United States.

Early this month, Ventura County Sheriff's Office confiscated drugs from an apparent drug delivery ring. After a three-month investigation which began in March, narcotics deputies learned about the organized activity involving daily drug deliveries in the cities of Thousand Oaks and Ojai. Approximately 2800 fake prescription pills—3.5 pounds of heroin—were seized. The fake oxycodone pills were laced with fentanyl.

AB 474 would require STAC to prepare and share intelligence for public safety entities and analyze tactics and trends of Transnational Criminal Organizations operating in California. STAC would then be required to share this information with state and local public safety officials to highlight the extent to which Transnational Criminal Organizers are trafficking opioids and posing public safety threats in the State. Sharing information with state and local public safety agencies will help create better awareness and response, counteract trafficking of counterfeit pills, and, mostly importantly, prevent lethal overdoses.

5. Argument in Opposition

According to ACLU California Action:

AB 474 wastes taxpayer money by recreating the failed War on Drugs rather than centering proven non-law enforcement approaches to curtailing the demand for these drugs. AB 474 further wastes taxpayer money by adding to the remit of problematic fusion centers and asking them to do work that is duplicative of the work done by other agencies already.

Instead of AB 474, California should approach drug crises in restorative and life-affirming public health-oriented ways that do not have dangerous collateral consequences on people and communities of color and of lower incomes. For example, according to the National Center for Drug Abuse Statistics, the average cost to treat a patient for substance abuse disorder in California is just under \$57k. If our collective goal is to address the demand for drugs—which is the only way to stifle the market—we must make quality treatment readily available. AB 474 takes the wrong fiscal and policy approach—an enforcement-only approach. Under AB 474 taxpayer money will instead be used to incarcerate individuals at a cost of more than \$106,000 per year for every individual incarcerated in state prison for a total prison budget of \$14 billion. Locally, jurisdictions spend nearly \$7 billion each year for detention and corrections

The opioid crisis is a matter of public health that the criminal legal system is ill-equipped to solve. As previous “War on Drugs” efforts have more than demonstrated, notably the war on crack cocaine, we cannot police ourselves out of drug overdoses and the collateral damage of such efforts lasts for a long period of time and takes a great deal of work to undo. A better solution would center a health-based uniform effort to address the opioid overdose problem. [...]

AB 474 has other problems as well. Its operative language mandates STAC to take action against unspecified criminal organizations while providing no basis for assuming these unspecified organizations cause the problems the bill hopes to remedy nor providing any metrics or guidelines to establish what "success" looks like in this endeavor.

Additionally, AB 474 would redirect STAC to focus on work that is already being done by other agencies. Disrupting and dismantling trans-national crime rings distributing drugs is the mission of the Drug Enforcement Agency (DEA) and its 33 affiliates in the High-Intensity Drug Trafficking Areas and 19 Organized Crime Drug Enforcement Task Force Strike Forces. It is unclear why STAC would be redirected to duplicate this work.

Rather than appreciating the domestic causes of opioid addiction and the fentanyl crisis or providing support for proven non-law enforcement approaches to curtailing the demand for these drugs, the bill assumes that "transnational criminal organizations" are the causes for these crises and further entrenches the misguided assumption that we can police and criminalize our way out of our drug problems. We have tried this before with the failed War on Drugs and seen the devastating consequences on people’s lives – how it harms communities most impacted by drug addiction without addressing the public health issue these laws were meant to solve.

-- END --