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INTRODUCTION: MACRO AND MICRO EVALUATION OF THE FEDERALIZATION OF CRIME

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Whether one characterizes the phenomenon of the multiplication of federal criminal statutes as a matter of federalism or federalization, the question is basically the same — which governmental entity, the states or Congress, is better situated to enforce what types of crime? There is, however, a difference in the two concepts, and it lies in the perspective from which the issue is viewed. The concept of federalism conjures up the image of states' rights, and the intrusion of the federal government into an area of governmental authority traditionally reserved to the states. It also presupposes state resistance to this incursion. But looking at the problem in this way largely causes it to disintegrate. The states are not suffering from or complaining about the rampant enactment of federal criminal statutes which duplicate the coverage of their own criminal codes. The enforcement of these dual jurisdictional offenses by the federal government takes some of the burden off of state and local law enforcement, and it is a burden that readily translates into dollars in the form of police, prosecutors, defense attorneys, judges, courthouses, probation and parole officers, and prisons. This represents the kind of money that the public wants to see spent, but does not want to spend. Almost everyone seems to want law

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and order, but putting money where one's mouth is happens to be another matter. So be it if the federal government wants to step in.

Looking at the policy issue from the perspective of federalization is not much more helpful. Framing the matter in this way, instead of in terms of federalism, gives it a cast that characterizes it from the viewpoint of federal policy-makers, rather than the states. But ironically, even though the enactment (and more importantly enforcement) of new federal criminal statutes implicates considerable federal resources (which incidently are becoming more budget-balancing scarce by the minute), federal officials do not seem worried. Why not? Fighting crime is just too good politically, even if being tough on crime means more criminal statutes, more cops, more prosecutions, more prisons, more jail time, and yes, more capital punishment. Much of this has played itself out in Congress by the federalization of street crime or other criminal activity well within the reach of local law enforcement.

Federal officials seem to be particularly myopic about the devotion of federal resources to law and order policies, and thus largely blind to the federalizing phenomenon, because this is apparently what the public wants (*i.e.*, read votes). This is what I like to refer to as the overdemocratization of crime, and legislative bodies, primarily Congress, are not entirely responsible.

The modern media is a major player here. Sensationalizing crime and criminal trials attracts readers and viewers, and thus increases advertising revenue. The public, already afraid of crime because of what they read and hear, is whipped into a frenzy by continuous media fixation with criminal events. The result is a kind of self-propelling law and order mentality, even in times where crime rates are fluctuating downward. Public officials, especially those in Congress, respond to this admixture of publicity and public sentiment by throwing more statutes, enforcement, prosecutions, and prison time, in other words, money, at the issue. This barrage of anti-crime hostility is unlikely to produce an atmosphere where lawmakers objectively examine the big picture of proliferated and proliferating federal criminal legislation and enforcement. Regardless of criticism and exposure of misguided policy, the political atmosphere is likely to prevent re-evaluation at the macro level.

Examination of the proper roles of states versus the federal government in criminal law enforcement might rather have to be done at the micro level before any overall macro effect is realized. Consideration of specific federal policies, such as enforcement priorities, sentencing, the defunding of public defender organizations, and the use of broad federal statutes against state and local entities, may reveal problems of over-federalization and expose federalist concerns. Conscientious evaluation from a micro perspective potentially may lead to a broader rethinking of jurisdictional policy in the macro context.

In this vein, our symposium in this issue examines the federal/state relationship in criminal law enforcement from both the macro and micro angles. Referring to this topic as federalism or federalization is largely superfluous. Both terms aim at the same target, only from somewhat different perspectives. We have chosen the term federalism only because it may better connote the policy tension created by overlapping or dual jurisdiction.

