

**United States House of Representatives  
Committee on the Judiciary  
Subcommittee on Oversight  
March 18, 2026**

**“The Legal Basis for Action Against Venezuelan Drug Traffickers”**

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## Prepared Testimony

Chairman Jordan and Chairman Van Drew, Ranking Member Raskin and Ranking Member Crockett, thank you for inviting me to testify. My name is Josh Blackman and I hold the Centennial Chair of Constitutional Law at the South Texas College of Law Houston.

I'm grateful this hearing was titled at a broad level of generality: "The Legal Basis for Action Against Venezuelan Drug Traffickers." This hearing is not about a series of isolated events, such as boat strikes in the Caribbean or the arrest of Nicolas Maduro. Rather, over the course of six years, the first and second Trump Administrations have taken a series of escalating actions against Venezuela drug traffickers, culminating in Operation Absolute Resolve on January 3, 2026. The legal basis for the boat strikes and Maduro's arrest must be understood in the context of all that came before. In my brief testimony, I want to offer a birds-eye view of the actions taken.

First, on March 26, 2020, the United States Attorney for the Southern District of New York unsealed a criminal indictment against Nicolas Maduro on charges of narco-terrorism.<sup>1</sup> No action would be taken to extradite Maduro for nearly six years.

The process continued on inauguration day of Trump's second term. Second, on January 20, 2025, President Trump designated Tren de Aragua (TdA) as a foreign terrorist organization.<sup>2</sup> The order stated that TdA "operate[s] within and outside the United States" and "present[s] an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States."

The third event occurred on March 15, 2025.<sup>3</sup> President Trump invoked the Alien Enemies Act of 1798 regarding TdA. The proclamation stated that Maduro

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<sup>1</sup> <https://www.justice.gov/opa/page/file/1261806/dl?inline=>

<sup>2</sup> <https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/>

<sup>3</sup> <https://www.whitehouse.gov/presidential-actions/2025/03/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-united-states-by-tren-de-aragua/>

“maintains close ties to regime-sponsored narco-terrorists” including TdA. The proclamation observed that the link between Maduro and TDA yields “a hybrid criminal state that . . . poses a substantial danger to the United States.” An FBI intelligence memo concluded that the Maduro regime “likely use[d] TdA members as proxies.”<sup>4</sup> The President used this proclamation to remove alleged TdA members. However, Judge James Boasberg infamously ordered that military planes over international waters must turn around. To this day, the federal courts are still considering whether President Trump properly invoked the Alien Enemies Act, a statute that has been on the books since the John Adams Administration.

The fourth event occurred on March 24, 2025. President Trump imposed emergency tariffs on Venezuelan oil.<sup>5</sup> The executive order found that the Maduro regime “continue[s] to pose an unusual and extraordinary threat to the national security and foreign policy of the United States.” The order further ruled that the actions of TDA “have intensified this threat.”

Over the summer, the pressure would increase. Fourth, on July 17, 2025, the Treasury Department imposed sanctions on top leaders of TdA.<sup>6</sup> At the time, Secretary of State Marco Rubio announced that “Maduro, currently indicted by our nation, has corrupted Venezuela’s institutions to assist the cartel’s criminal narco-trafficking scheme into the United States.”<sup>7</sup>

Fifth, according to press reports, by August 2025, President Trump had directed the Pentagon to use military force against TdA.<sup>8</sup> Throughout August, there was a major build of naval forces in the Caribbean Sea.<sup>9</sup>

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<sup>4</sup> <https://static01.nyt.com/newsgraphics/documenttools/cf81b6125042f40a/71f6f46f-full.pdf>

<sup>5</sup> <https://www.whitehouse.gov/presidential-actions/2025/03/imposing-tariffs-on-countries-importing-venezuelan-oil/>

<sup>6</sup> <https://home.treasury.gov/news/press-releases/sb0195>

<sup>7</sup> <https://www.state.gov/releases/office-of-the-spokesperson/2025/07/standing-with-the-venezuelan-people-one-year-after-yet-another-sham-election>

<sup>8</sup> <https://www.nytimes.com/2025/08/08/us/trump-military-drug-cartels.html>

<sup>9</sup> <https://www.nytimes.com/2025/08/22/us/politics/trump-venezuela-drug-war.html>

Sixth, on September 2, 2025, President Trump announced that “U.S. Military Forces conducted a kinetic strike against [a] positively identified” TdA boat in “international waters,” which was “operating under the control of Nicolas Maduro.”<sup>10</sup> Secretary of State Rubio said those on the boat, “pose[d] an immediate threat to the United States, period.”<sup>11</sup> President Trump told Congress the strike was justified as “self-defense” of the United States.<sup>12</sup> To date, the military has struck approximately forty-five vessels.<sup>13</sup>

Seventh, in October, Pentagon officials and the head of the Office of Legal Counsel, briefed members of Congress about the legal basis of the boat strikes.<sup>14</sup> According to press reports, the Office of Legal Counsel prepared a classified forty-page opinion concluding that the boat strikes are lawful as the United States is engaged in an armed conflict with TdA, a terrorist drug cartel that sells narcotics to finance violence.<sup>15</sup> The opinion was based on the premise that the President can determine that the United States is in a formal armed conflict with “narco-terrorist” drug cartels. This opinion has not been made public. On November 6, 2025, the Senate voted on a war powers resolution that would have terminated hostilities against Venezuela.<sup>16</sup> The resolution failed.

Eighth, on December 10, 2025, the United States seized an oil tanker off the coast of Venezuela.<sup>17</sup> Six days later, on December 16, President Trump ordered a complete blockade of oil tankers traveling to and from Venezuela.<sup>18</sup>

Ninth, on December 23, 2025, the Office of Legal Counsel signed a twenty-two page opinion concluding that the “President may lawfully order military personnel to

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<sup>10</sup> <https://truthsocial.com/@realDonaldTrump/posts/115136798909755892>

<sup>11</sup> <https://www.nytimes.com/2025/09/03/us/politics/hegseth-venezuela-drug-strike.html>

<sup>12</sup> <https://static01.nyt.com/newsgraphics/documenttools/8616481a85b02a2c/b05f64ca-full.pdf>

<sup>13</sup> <https://www.nytimes.com/interactive/2025/10/29/us/us-caribbean-pacific-boat-strikes.html>

<sup>14</sup> <https://www.nytimes.com/2025/10/29/us/politics/military-drug-boat-strikes.html>

<sup>15</sup> <https://www.nytimes.com/2025/11/13/us/politics/boat-strikes-doj-memo-trump.html>

<sup>16</sup> <https://www.congress.gov/bill/119th-congress/senate-joint-resolution/90><https://www.congress.gov/bill/119th-congress/senate-joint-resolution/90>

<sup>17</sup> <https://www.nytimes.com/2025/12/10/us/politics/oil-tanker-seized-us-venezuela-trump.html>

<sup>18</sup> <https://truthsocial.com/@realDonaldTrump/posts/115731908387416458>

assist law enforcement in forcibly removing Maduro from Venezuela to the United States for prosecution.”<sup>19</sup> That opinion became public in January.

Tenth, on January 3, 2026, the United States executed the law enforcement operation known as Operation Absolute Resolve. FBI agents, who were protected by a massive but short-lasting military operation, arrested Maduro and his wife. The defendants were transported to the Southern District of New York to face criminal charges. (A superseding indictment charged Maduro’s wife.<sup>20</sup>) On January 14, 2026, another War Powers Resolution failed in the Senate.<sup>21</sup>

The legal issues here are complex and touch on matters of domestic and international law. Difficult decisions were made based on classified information that is not public as well as legal opinions that have not been released. My analysis here is necessarily incomplete and speculative. Finally, I think it is useful to remember that these issues are not the sort that the courts will resolve. Rather, these matters fall to the political branches: the Congress and the President. I am thankful to be here as Congress perform its constitutional role in providing oversight of the executive branch.

Thank you for your attention.

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<sup>19</sup> <https://www.justice.gov/olc/media/1423306/dl?inline>

<sup>20</sup> <https://www.nytimes.com/2026/01/03/us/politics/maduro-venezuela-trump-legal-issues.html>

<sup>21</sup> <https://www.congress.gov/bill/119th-congress/senate-joint-resolution/98/all-actions>