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FENTANYL IN NATIVE COMMUNITIES: EXAMINING THE FEDERAL RESPONSE TO THE GROWING CRISIS

HEARING

BEFORE THE

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UNITED STATES SENATE

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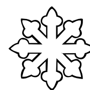

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FENTANYL IN NATIVE COMMUNITIES: EXAMINING THE FEDERAL RESPONSE TO THE GROWING CRISIS

WEDNESDAY, DECEMBER 6, 2023

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m. in room 628, Dirksen Senate Office Building, Hon. Brian Schatz, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. BRIAN SCHATZ, U.S. SENATOR FROM HAWAII

The CHAIRMAN. Good afternoon. I call this oversight hearing to order.

Last month, we heard directly from tribal leaders and Native health experts on the front lines of the fentanyl crisis that is devastating Native communities across the Country. We learned about the unique factors that complicate fentanyl response in Native communities, such as checkerboard criminal jurisdiction, minimal data, structural barriers to resources for law enforcement, prevention, intervention, staffing, and housing.

Yet, Native communities are responding to the crisis with strength and determination. Promising culturally based practices and tribally run dedicated treatment programs and recovery facilities for fentanyl misuse are on the rise and seeing great success.

Our hearing last month was important not just for our work on this Committee and in Congress, but also for the Executive Branch to better understand the situation on the ground and inform our next steps. That is why today's hearing with our Federal panel is an important follow-up. We will examine the adequacy of Federal resources to address the fentanyl crisis in Native communities from public safety to treatment and prevention.

The United States must live up to its trust and treaty responsibilities to promote the health and well-being of American Indians, Alaska Natives, and Native Hawaiians. That responsibility includes responding to modern threats, including fentanyl.

I am looking forward to hearing about how the Administration's national strategy to combat fentanyl actively considers Native needs, identifies gaps in resources and interagency coordination, and supports Native-led solutions.

Before I turn to the Vice Chair for her opening statement, I would like to thank all of our witnesses for joining us for this important discussion.

Vice Chair Murkowski?

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman, and thank you for convening this hearing, the second in a series on the fentanyl crisis. As you detailed, at our November hearing we were able to hear from Native leaders and health experts on the challenges they are facing as they work to end addiction and increase public safety efforts to stop the trafficking of these illicit synthetic opioids.

We heard some pretty devastating statistics. Native people have the highest overdose death rates from synthetic opioids when you compare them to other racial and ethnic groups. In Alaska alone, Alaska Native opioid overdose deaths increased by 383 percent from 2018 to just last year.

This increase in abuse, misuse, and overdoses led the AFN, Alaska Federation of Natives, to adopt a resolution last year calling for support and increased resources to combat this epidemic that we are seeing in far too many of our Alaska Native communities. We see calls to actions like this all across the Country. The 2023 National Tribal Opioid Summit recently released a report that includes some recommendations I hope we can get into today.

As these illegal drugs continue to make their way into our Country, we will continue to see spikes in overdoses and deaths. Drug traffickers are targeting our Native communities. I think that is what is particularly hurtful and harmful, is to know that they are specifically targeting our Native communities. They know that these communities are more rural, they know they are more isolated. They know there is less law enforcement presence, and they also know that they can make more money off our Native people.

Last month, I noted that a drug trafficking ring targeted hubs as well as smaller villages in Alaska. Some of these communities were relatively big in size, Sitka, Dillingham, Ketchikan, but also small villages, Tyonek, Good News Bay, New Stuyahok, Savoonga, Togiak. These are communities where you have 500 people. Organized, multi-State drug traffickers are seeing an incentive to get to Native communities that struggle with a lack of law enforcement. It is unacceptable and more must be done in response.

With the Federal panel here, we need to better understand what actions are being taken at the agencies when it comes to investigations, to seizures, and providing resources. We need to know how Congress can better support our Federal agencies and Native communities to work together to address this crisis.

Thank you all for being here today. And thank you, Chairman Schatz, for the opportunity to continue this important discussion.

The CHAIRMAN. Thank you, Vice Chair Murkowski.

Senator Cantwell, for an opening statement.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Chairman Schatz. And thank you and Vice Chair Murkowski for your important work on holding this second fentanyl crisis hearing in Indian Country. Thank you for your comments. I think Senator Murkowski's comments illuminated very well the challenge that we face in dealing with the fentanyl problem specifically in Indian Country.

Last month, we heard directly from tribal leaders about fentanyl and the need to help protect members from this deadly drug. Today we will learn from the Administration what they are doing to help in the crisis. I am glad that United States Attorney Waldref of the Eastern District of Washington is here. Thank you so much for being here. You can talk directly about how it is harming communities in the eastern part of our State.

Earlier this year, Federal, State, local and tribal law enforcement made huge seizures of drugs in eastern Washington. They prevented more than 100 pounds of drugs, 161,000 fentanyl-laced pills, from reaching the Colville and Yakima tribal communities. Lat week, Kalispell Tribe law enforcement officers seized another 18,000 fentanyl-laced pills in Airway Heights, just outside Spokane, Washington.

Make no mistake about it: the fentanyl crisis is a flood of poison entering Indian Country and communities. It is not a crisis that our tribes can face alone.

We have heard about tribal leaders and their law enforcement agencies and how they are chronically understaffed and under resourced. In eastern Washington, just a handful of officers are responsible for patrolling thousands of square miles of tribal land. They can't shoulder that burden alone.

Another persistent issue is the lack of strong and consistent data on fentanyl overdoses across Indian Country. We need to do a good job of understanding that problem. This poses a huge hurdle for effectively directing Federal resources, not to mention law enforcement and health care professionals, if we don't know how to accurately describe the crisis.

As tribal communities everywhere confront this crisis, we know that we need more support. Earlier this week, the National Portland Area Indian Health Board released its Federal policy recommendations from the National Tribal Opioid Summit held in August. I know that NCAI will look forward to reviewing those issues.

The summit, I thought, was a very good cross section of people throughout the United States who were talking about how this was affecting their particular region. But we need more opportunities to do health and wellness, we need more partnership from the Federal Government on law enforcement, and we need the tools to stop this product from arriving in our Country.

I want to applaud our colleagues who went to China and urged the Chinese government to stop production of the precursors that are used. I think we have made some progress on that. I know that the President met at a summit in San Francisco and had a similar commitment by the Chinese leader.

I hope that our colleagues, whoever is stopping or trying to stop the Senate provisions of the NDAA, the Fend Off Fentanyl Act,

which is literally cracking down on the distribution of drugs by cracking down on the money sources, I know my colleague from Nevada knows this very well, somehow, somebody is trying to stop us from getting this over the goal line. I hope they will just quit. I hope they will understand that this is a tool that we need to get passed, we need to crack down on these rings, we need to crack down on the money. Those pills that were just held up, this is one package of one delivery happening in our communities everywhere.

So the seizure of this product could be greatly enhanced by stopping the trafficking. We need to pass the Fend Off Fentanyl Act. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Are there any other opening statements? If not, we will turn to our witnesses. I will introduce all the witnesses, then we will begin the testimony.

First, we have Adam W. Cohen, Deputy Director of the White House Office of National Drug Control Policy. We also are pleased to have the Honorable Roselyn Tso, the Director of IHS at the U.S. Department of Health and Human Services.

We are also pleased to welcome the Honorable Vanessa Waldref, the U.S. Attorney for the Eastern District of Washington State in the U.S. Department of Justice. And Mr. Glen Melville, Bureau Deputy Director, Bureau of Indian Affairs Office of Justice Services at the United States Department of Interior.

I will remind you that your full testimony will be made part of the record. Please take no longer than five minutes, and no one's feelings will be hurt if you take even less than that.

With that, Mr. Cohen, please proceed with your testimony.

STATEMENT OF ADAM W. COHEN, DEPUTY DIRECTOR, WHITE HOUSE OFFICE OF NATIONAL DRUG CONTROL POLICY

Mr. COHEN. Chairman Schatz, Vice Chairman Murkowski, members of the Committee, thank you for inviting me here today.

The late Senator Daniel Akaka, who as you know was the first Native Hawaiian to serve in the Senate and chair this Committee, believed strongly that the United States must fulfill its responsibility to indigenous peoples. I want to be clear that this Administration shares this belief.

Since day one, the Administration has made record investments to honor the Federal Government's commitment to tribal nations and native communities. Specific to drug policy, this includes dedicating $941 million over the past three years at a time of unprecedented challenges.

Today, we are in the midst of the most dynamic and deadly drug environment we have ever seen. There were more than 110,000 overdose deaths in the United States in 2022, with three-quarters involving illicit fentanyl. That is 300 per day; more than 12 per hour. In the five minutes that I will be speaking with you, we will lose another life to this crisis.

And there is a tragic disparity. Overdose deaths continue to climb among Native communities, even as the numbers of overdose deaths nationally levels off.

Immediately prior to accepting President Biden's appointment to this position some 10 weeks ago, I served for 25 years with the De-

partment of Justice as a career prosecutor, serving under six presidents and ten attorneys general of both parties. In this role, I took part in the Department's response to drug threats spanning cocaine, heroin, and now fentanyl. I have also had a front row seat to the opioid epidemic, serving as a coordinator of our Federal law enforcement response.

And now, as one of the leaders working to synchronize all U.S. drug policy across both public health and public safety, I am here to say that President Biden and his Administration are committed to doing everything in our power to beat this crisis. This absolutely includes ensuring American Indian, Alaska Native, and Native Hawaiian communities have the public health and public safety tools that they need to build stronger and more resilient communities.

President Biden's National Drug Control Strategy, which ONDCP leads and implements, is targeted at two key drivers of this crisis: untreated addiction and the drug trafficking profits that fuel it. Under the strategy and with the bipartisan support of Congress, the Administration has taken several historic actions to improve access to treatment and counter the supply of fentanyl. These actions have led to overdose deaths leveling off in 2022 and 2023, after sharp increases the previous three years.

The National Drug Control Strategy was developed in consultation with more than 2,000 stakeholders, including tribal communities. In fact, ONDCP has engaged with tribal leaders since the beginning of this Administration, and has seen up close the toll that this crisis is taking on Native communities.

Most recently, Dr. Gupta, the Director of ONDCP, participated in the National Tribal Opioid Summit and visited the Tulalip Indian Reservation and the Tohono O'odham where families shared with him stories of their loved ones lost, and leaders spoke of the challenges that they face in reversing overdoses, treating addiction, and stopping cartels that try to take advantage of reservations as trafficking routes.

ONDCP's key grant programs, including our High Intensity Drug Trafficking Areas program, or HIDTA, and the Drug Free Communities Support Program, or DFC, work closely with the Native communities to disrupt drug trafficking and prevent youth substance use before it begins.

This summer, ONDCP met with the Arizona HIDTA and the Native American Target Investigation of Violent Enterprises, or NATIVE Task Force, who are working to combat drug trafficking along the shared border between the Tohono O'odham Nation and Mexico. Dr. Gupta rode along with the Shadow Wolves, a Native American investigative unit assigned to Homeland Security investigations, who this year alone have helped to seize more than 700,000 fentanyl pills before they could harm Americans.

It is clear that tribal nations and Native communities are committed to beating this crisis. And this Administration is committed to helping them. We urge Congress to pass President Biden's request for $15 billion to support health equity, public safety and social determinants of health in Native communities. And we are calling on Congress to pass the President's supplemental funding request, which will disrupt fentanyl trafficking and strengthen our

public health response, with $250 million going to tribes and tribal organizations.

We are dealing with an historic and unprecedented crisis, and it requires historic and unprecedented resources to match the scale. Your leadership demonstrates that the opioid crisis is not a partisan issue. It is an issue that affects every corner of every community. And that is why beating this crisis is a key pillar of the President's bipartisan unity agenda. It demands the very best from all of us.

Dr. Gupta and I will continue to speak up about this issue, including at tomorrow's White House Tribal Nations Summit. We look forward to working with you to help Native communities thrive.

[The prepared statement of Mr. Cohen follows:]

PREPARED STATEMENT OF ADAM W. COHEN, DEPUTY DIRECTOR, WHITE HOUSE OFFICE OF NATIONAL DRUG CONTROL POLICY

Chairman Schatz, Vice Chairman Murkowski, and distinguished Members of the Committee, thank you for the opportunity to testify today regarding the growing problem of illicit fentanyl in Native communities, as well as the Biden-Harris Administration's vital work to save lives by strengthening public health and public safety in order to reduce overdoses. I am honored to join you today, on behalf of the Office of National Drug Control Policy (ONDCP), to discuss lasting solutions to the opioid and overdose epidemic, which has devastated so many families across Tribal Nations and Native communities.

Every five minutes around the clock, someone in the United States dies from a drug overdose or poisoning. The majority of these deaths are caused by illicit synthetic drugs, such as clandestinely manufactured fentanyl and methamphetamine, which are often used in combination with each other or other drugs like cocaine and the emerging threat illicit xylazine.[1] The Biden-Harris Administration has focused its efforts on tackling this changing and dynamic drug supply, while addressing longstanding structural factors that have limited access to life-saving public health interventions. We must do everything in our power to ensure people get the support they need to beat this epidemic, build strong, resilient communities, and thrive—all while continuing to ensure the federal government honors its commitment to Tribal Nations and Native communities.

While the most recent provisional data shows that our efforts have helped lead to overdose deaths levelling off nationally throughout 2022 and 2023, much work remains to be done.[2] This is particularly and tragically true among American Indian, Alaska Native, and Native Hawaiian communities, where overdose deaths have climbed in recent years even as the national rate has slowed.

The reasons for this differential impact are varied and rooted in history, and they manifest themselves in our data. In addition to rising overdose deaths, we know that American Indian and Alaska Native persons, for example, experienced the second highest nonfatal opioid overdose rate last year, yet had the lowest number of administrations of naloxone per overdose.[3] We also know that American Indian and

[1] Centers for Disease Control and Prevention, National Center for Health Statistics. Drug Overdose Deaths in the United States, 2001–2021. *https://www.cdc.gov/nchs/products/databriefs/db457.htm*; Kariisa M, O'Donnell J, Kumar S, Mattson CL, Goldberger BA. Illicitly Manufactured Fentanyl-Involved Overdose Deaths with Detected Xylazine—United States, January 2019–June 2022. MMWR Morb Mortal Wkly Rep 2023;72:721–727. *https://www.cdc.gov/mmwr/volumes/72/wr/mm7226a4.htm?s_cid=mm7226a4_w.*

[2] Centers for Disease Control and Prevention, National Center for Health Statistics. National Vital Statistics System, Provisional Mortality on CDC WONDER Online Database. Data are from the final Multiple Cause of Death Files, 2018–2021, and from provisional data for years 2022–2023, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program. Accessed at *http://wonder.cdc.gov/mcd-icd10-provisional.html* on Nov. 6, 2023.

[3] National Emergency Medical Services Information System (NEMSIS). Non-Fatal Opioid Overdose Surveillance Dashboard. Accessed at *https://nemsis.org/opioid-overdose-tracker/* on Nov. 6, 2023.

Alaska Native persons in the United States were nearly two times more likely to suffer from drug use disorder compared to their White counterparts in 2022.[4]

It is one thing to understand this data, but it is far more important to experience it and understand it in direct interaction with these communities. At ONDCP, we have heard from families and Native communities who have lost loved ones to an overdose. We have listened to Tribal government officials and substance use treatment providers describe the strengths and challenges they face in their communities, including increasing access to naloxone and the need for greater information sharing with law enforcement. The toll of the opioid epidemic on their families and communities is significant.

These people, their families, and their communities, expect this Administration to stay in their corner—and we will.

That is why ending the opioid epidemic in and outside of Tribal communities is a key pillar of the Biden-Harris Administration's Unity Agenda. The President has challenged his entire Administration to implement the *National Drug Control Strategy* (*Strategy*), which ONDCP developed in consultation with more than 2,000 leaders and stakeholders including advocates representing public safety, public health, community groups, local governments, and Tribal communities.[5] Our overarching goal is to reduce the number of drug overdose deaths, put high-quality public health services within reach for people with substance use disorder, and strengthen public safety by disrupting the drug production and trafficking pipeline that profits by harming our loved ones.

Today, I want to emphatically state that the Biden-Harris Administration is delivering on unprecedented whole-of-government actions that are saving lives, and continuing to take urgent and necessary action. We have made naloxone more widely available, and are working to make it far more accessible and affordable. We have removed historic barriers to treatment, and are working to make it available to everyone who is ready for it. We have dedicated historic funding to law enforcement, and are further improving policies that target drug traffickers and disrupt their schemes as well as the profits that fuel the illicit drug trade.

While the Biden-Harris Administration is dedicating specific law enforcement and public health resources to this work—in partnership with Tribal communities—we must remember that this problem does not start at our borders and it will not end at our borders.

Through commercial disruption, we are targeting not only the illicit finished drugs and those who sell them, but also raw materials like precursor chemicals and the machinery used in production of illicit pills, the commercial shipping that moves these items around the world, and the flow of financial benefits and operating capital to individuals and groups directly and indirectly involved in the illicit drug industry.

Targeting these critical elements will allow us to remove the gaps illicit fentanyl producers and traffickers currently exploit, disrupt their production and supply chains, and reduce the availability of these dangerous substances in our communities. Disrupting global illicit drug trafficking and constraining transnational organized crime is a key public safety priority of this Administration.

Supporting Law Enforcement

Much of my career has focused on bringing together state, local, Tribal, and federal law enforcement to synchronize and coordinate efforts to keep our communities safe from criminal actors, sophisticated transnational organized crime networks, and international drug cartels trafficking cocaine, methamphetamine, and fentanyl into the United States. Disrupting the flow of drugs into our communities is important—not only to keep these substances from harming people and denying drug traffickers illicit proceeds, but it is critical to allow our historic investments in public health to be effective. That is why this Administration has invested significant amounts of funding for law enforcement efforts to target and dismantle illicit trafficking networks, deploy the latest drug detection technology, and enable historic seizures of illicit fentanyl along the southwest border.

Under President Biden's leadership, there are now a record number of personnel working to secure the border. In just the last year, Customs and Border Protection (CBP) seized 547,000 pounds of illicit drugs, including nearly 28,000 pounds of

[4] Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. Key Substance Use and Mental Health Indicators in the United States: Results from the 2022 National Survey on Drug Use and Health. November 13, 2023. *https://www.samhsa.gov/data/sites/default/files/reports/rpt42731/2022-nsduh-nnr.pdf.*

[5] White House Office of National Drug Control Policy. National Drug Control Strategy. April 21, 2022. *https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Drug-Control-2022Strategy.pdf.*

fentanyl, primarily at ports of entry on our border.[6] These numbers speak not only to the magnitude of the threat, but also to the corresponding strength of our strategic response and the incredible work of courageous, committed, and resilient CBP officials who keep our borders secure and our communities safe.

As part of President Biden's Invest in America agenda, we are expanding the use of high-tech non-intrusive inspection (NII) systems to detect trafficking at the border. These systems, which can check vehicles faster than agents doing physical searches, are an integral part of a layered enforcement strategy to secure the border. The Administration's Fiscal Year (FY) 2024 national security supplemental request to Congress provides more than $1.2 billion in counterdrug funding, including $849 million for CBP to advance its deployment of NII systems at the southwest border. These technology advancements will help CBP increase its inspection capacity from what has historically been around 1 percent of passenger vehicles and about 15 to 17 percent of cargo vehicles, to 40 percent of passenger vehicles and 70 percent of cargo vehicles.[7] But these investments are just the start; the goal is to ensure that every vehicle that needs it is inspected in a comprehensive manner. This will go a long way to keeping illicit drugs out of our country, including Tribal communities.

Collaboration across all levels of government and with Tribal partners is essential to strengthening our domestic response to drug trafficking. Prior to my current appointment, I served as the Director of the Executive Office for the Organized Crime Drug Enforcement Task Forces at the Department of Justice, the largest law enforcement task force in the United States. I cannot overemphasize the necessity of information and intelligence sharing in a dynamic drug threat environment. Effectively countering sophisticated drug trafficking organizations requires an approach combining the expertise, perspectives, and authorities of federal, state, local, Tribal, and territorial agencies, as well as foreign partners. That is why this Administration is building the tools, relationships, and capacity to address a constantly evolving set of criminal networks that adapt their methods, change their tactics and techniques, and employ new technologies to avoid detection, interdiction, arrest, and prosecution.

The High Intensity Drug Trafficking Areas (HIDTA) Program is one of our most impactful investments; these multi-jurisdictional task forces bring together the resources, expertise, and authorities of federal, state, local, Tribal, and territorial agencies to target drug traffickers and their networks, and stop them from distributing illicit drugs into our communities. These task forces mitigate jurisdictional challenges for law enforcement, such as investigations on Tribal lands and Tribal Trust lands that straddle international borders with Mexico and Canada, where criminal organizations exploit the gaps and seams between jurisdictions to ply their trade. Earlier this year, we designated nine new HIDTA counties that have been impacted severely by drug trafficking and overdoses. We are working to get them the critical resources and support they need to enhance law enforcement collaboration.[8]

Fourteen regional HIDTAs across the country work directly with Tribal law enforcement and the Bureau of Indian Affairs to disrupt the market for illicit drugs. Last year, these HIDTA Tribal task forces seized over $414 million in illicit drugs, cash, and other assets from traffickers. In total, all HIDTAs seized an estimated $22 billion in illicit drugs and cash in 2022—a return on investment of $82.91 for every $1 budgeted for the program.[9] President Biden's FY 2024 budget calls for $290.2

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[6] White House Office of National Drug Control Policy. In Support of President Biden's Plan to Address the Overdose Epidemic, White House Law Enforcement Awards for Outstanding Efforts to Stop Illicit Drug Trafficking. July 20, 2023. *https://www.whitehouse.gov/ondcp/briefing-room/2023/07/20/in-support-of-president-bidens-plan-to-address-the-overdose-epidemic-white-house-announces-law-enforcement-awards-for-outstanding-efforts-to-stop-illicit-drug-trafficking/*

[7] White House Office of National Drug Control Policy. ONDCP Director Dr. Rahul Gupta Visits Arizona to Highlight Administration Efforts to Crack Down on Global Drug Trafficking, Including Implementation of New Technology at Border. July 3, 2023. *https://www.whitehouse.gov/ondcp/briefing-room/2023/07/03/ondcp-director-dr-rahul-gupta-visits-arizona-to-highlight-administration-efforts-to-crack-down-on-global-drug-trafficking-including-implementation-of-new-technology-at-the-border/*

[8] White House Office of National Drug Control Policy. The White House Announces Nine Newly Designated Counties Across America Are Joining the High Intensity Drug Trafficking Areas Program. July 6, 2023. *https://www.whitehouse.gov/ondcp/briefing-room/2023/07/06/the-white-house-announces-nine-newly-designated-counties-across-america-are-joining-the-high-intensity-drug-trafficking-areas-program/*

[9] White House Office of National Drug Control Policy. High Intensity Drug Trafficking Areas. Program Summary. *https://www.hidtaprogram.org/summary.php;* White House Office of National Drug Control Policy. White House Announces Over $275 Million For Law Enforcement

million in funding for the HIDTA Program, which is managed by ONDCP.[10] Funding this program is a successful, time-tested, and evidence-based way for Congress to help us reduce the illicit drug supply, prevent overdoses and poisonings, save lives, and make our communities safer.

The Arizona HIDTA Native American Targeted Investigation of Violent Enterprises (NATIVE) task force, for example, works to reduce, dismantle, and disrupt drug trafficking organizations that utilize the shared border between the Tohono O'odham Nation and Mexico.[11] The Shadow Wolves, a Native American investigation unit assigned to Homeland Security Investigations (HSI) on the Tohono O'odham Nation, also work to disrupt all forms of transnational organized crime, including trafficking and smuggling of methamphetamine, illicit fentanyl, humans, firearms, and bulk cash.

ONDCP's Director, Dr. Rahul Gupta, traveled to Arizona in June to witness and learn firsthand the detail-oriented tracking work the Shadow Wolves perform on their unique terrain to combat smuggling and trafficking. While there, Dr. Gupta spoke with Tribal leadership and representatives from Tohono O'odham Healthcare about substance use disorder in the community as well as opportunities to increase prevention efforts and support services through telehealth and other behavioral health measures. Partnerships like these are critical to protecting both public health and safety.

Public Safety and Public Health Partnerships

The HIDTA program also partners with the Centers for Disease Control and Prevention (CDC) on the Overdose Response Strategy (ORS), which is designed to help communities reduce fatal and nonfatal drug overdoses by connecting public health and public safety agencies, sharing information, and supporting evidence-based interventions. HIDTA ORS teams are engaged with Tribes and Native communities in states like Alaska, Montana, Washington, North Dakota, South Dakota, and Oklahoma, to name a few.

For example, the Montana ORS team has been collaborating with five Tribal law enforcement agencies, two Tribal public health agencies, three federal law enforcement entities with jurisdiction on Tribal lands in Montana, and the Rocky Mountain Tribal Leaders Council—Tribal Epidemiology Center to assist with collaboration efforts, data sharing, and intelligence sharing between local, state, Tribal, and federal agencies to respond effectively to the growing drug overdose problem in Montana.

The ORS team's focus is to utilize overdose mapping software known as ODMAP to set up coordinated response plans to overdoses occurring throughout Montana—especially on the reservations. ODMAP provides near real-time suspected overdose data to support public safety and public health efforts to mobilize an immediate response to a sudden increase or spike in overdose events. This will include collaboration with over 110 local, state, Tribal, and federal public health and public safety agencies and several hospitals across Montana to expand ODMAP coverage, access, and use for each reservation.

Similarly, the HIDTA ORS team in Wyoming has been working with the Wind River Indian Reservation and the Eastern Shoshone Tribal Health Team to better understand the need for overdose services, improve access to naloxone, and expand ODMAP access to inform Tribal leadership of the epidemic's impact within the community. I can tell you today that ONDCP is committed to increasing outreach to Tribes through our regional HIDTAs and the ORS teams across the United States.

Our Strong Public Health Response

Our public safety efforts must be linked with our public health efforts to reduce demand for and use of these substances. Untreated addiction, and the drug trafficking profits that fuel it, are two sides of the same coin. Traffickers are not going to import products no one wants, and individuals cannot overdose on drugs that are not available for them to purchase. The simple truth is that if it is easier to get drugs than it is to get treatment, we will never reduce overdose deaths.

Officials Working to Disrupt Drug Trafficking and Dismantle Illicit Finance Operations. March 16, 2023. *https://www.whitehouse.gov/ondcp/briefing-room/2023/03/16/white-house-announces-over-275-million-for-law-enforcement-officials-working-to-disrupt-drug-trafficking-and-dismantle-illicit-finance-operations/*.

[10] Executive Office of the President. Congressional Budget Submission: Office of National Drug Control Policy Fiscal Year 2024. *https://www.whitehouse.gov/wp-content/uploads/2023/03/FY-2024-ONDCP-CONGRESSIONAL-BUDGET-SUBMISSION-FINAL.pdf.*

[11] The NATIVE task force is led by the Tohono O'odham Police Department and consists of federal representatives from Homeland Security Investigations, U.S. Border Patrol, Bureau of Indian Affairs, Bureau of Land Management, the Federal Bureau of Investigations, and the Drug Enforcement Administration.

The Biden-Harris Administration has been diligently tackling the structural factors that hamper our ability to decrease overdose deaths. We have committed billions of dollars, more than half of our federal drug control budget, to public health measures to prevent our youth from falling into the cycle of drug use and addiction, reduce the harms caused by these drugs and save lives, extend treatment services to everyone who needs them, and make our communities and workplaces recovery-ready.

Much of this work is being done in partnership with Congress, and I want to thank the Members of this Committee and the Congress at large for your support of numerous pieces of legislation. The bipartisan Consolidated Appropriations Act of 2023, in particular, included key provisions to help lower barriers to treatment and to deliver necessary tools and resources to our communities to address the overdose crisis, such as the Mainstreaming Addiction Treatment Act and the Medication Access and Training Expansion Act.

Thanks to these provisions, prescribers can treat their patients who have opioid use disorder with buprenorphine, a medication proven to help people achieve recovery, without obtaining additional federal licensing. This drastically boosted the number of providers eligible to prescribe buprenorphine from roughly 130,000 before December 2022 to 1.9 million today, making treatment far more accessible.

Further, the Administration announced $55 million in funding last year for the Tribal Opioid Response grant program, which seeks to address the opioid epidemic in Tribal communities by increasing access to medication for the treatment of opioid use disorder and supporting prevention, harm reduction, treatment, and recovery services. To date, the Substance Abuse and Mental Health Services Administration has awarded 398 Tribal grantees, totaling $227 million in funds, as part of this grant program.

In addition to the commitments made to Tribal Nations and Native communities in his FY 2024 budget request, President Biden has also requested $1.55 billion in domestic supplemental funding to expand essential life-saving services provided through the State Opioid Response grant program. This grant program has long been a core component of our response to the opioid epidemic and has provided treatment services to over 1.2 million people and helped reverse more than 500,000 overdoses.

This supplemental funding is urgently needed to help Tribal communities address the severe impacts of the overdose and opioid epidemic. Of this amount, approximately $250 million would be transferred to the Indian Health Service for prevention, treatment, recovery support services, and harm reduction interventions. This is a historic set-aside of emergency opioid funding for Tribes and Tribal organizations.

Dr. Gupta had the honor of participating in the inaugural National Tribal Opioid Summit hosted by the Northwest Portland Area Indian Health Board and the National Indian Health Board earlier this year. Several participants at the Summit discussed challenges that many Tribal Nations face in accessing federal resources via the cumbersome processes associated with grants.gov. The White House has been developing an online clearinghouse of federal funding opportunities available to Tribes as a direct response to these concerns. I am proud to share that ONDCP resources and funding opportunities will be included in this clearinghouse.

The Administration is also continuing to bring down other barriers to care, including: working to finalize a rule to make permanent COVID-era policies that allow take home of methadone and the use of telehealth for buprenorphine treatment initiated by an opioid treatment program; creating a new opportunity for states to increase care for individuals in the period immediately prior to their release to help them succeed and thrive during reentry; and expanding access to life-saving harm reduction services like overdose reversal medications.

Mobilizing Communities to Prevent Youth Substance Use

We have also awarded nearly $100 million in grants over the past year as part of the Drug-Free Communities (DFC) Support Program, which provides funding to more than 750 community coalitions across the country working to prevent youth substance use.[12] DFC coalitions constitute a critical part of our drug prevention infrastructure—they are a catalyst for building capacity at the local level and engaging youth with messaging and resources tailored to their needs and the challenges

[12] Executive Office of the President. Congressional Budget Submission: Office of National Drug Control Policy Fiscal Year 2024. *https://www.whitehouse.gov/wp-content/uploads/2023/03/FY-2024-ONDCP-CONGRESSIONAL-BUDGET-SUBMISSION-FINAL.pdf*

they face. ONDCP funds and directs the DFC program with critical support from the CDC.

Currently, 70 DFC-funded coalitions are located in, or serving, a federally recognized Tribal area, and approximately $8.75 million goes to fund these coalitions. Tribal representation in the DFC program has grown from 1.9 percent in 2006 to 10.2 percent in 2023-more than a five-fold increase. About 17 percent of all DFC coalitions tailor their information and prevention efforts to focus on the needs of Tribal groups, including American Indians, Alaska Natives, and Native Hawaiians.

For example, the Healing Our People and Environment Coalition works to prevent and reduce substance use among middle school youth in Sitka, Alaska, with an emphasis on working with Indigenous and LGBTQIA+ youth. And, the Cherokee Nation Coalition Action Network in Tahlequah, Oklahoma also mobilizes Tribal and community-based agencies and resources to address issues associated with youth substance use on the Cherokee Nation Reservation. By empowering youth to share their own experiences and be a part of solution-focused planning through youth coalition meetings, they are creating a generation of advocates who share these skills and messages with their home communities. The Navajo Youth Builders Coalition in Fort Defiance, New Mexico is another example of a DFC coalition engaging the local community in developing a culturally grounded youth prevention curriculum and encouraging active participation of community members, parents, and young people in the process.

ONDCP will continue to partner with Tribal and Native communities, and we are planning to offer trainings for Tribes on how to meet the DFC program's eligibility requirements in advance of the next DFC Notice of Funding Opportunity announcement.

Conclusion

Every life saved means one less grieving family and community. There is hope, there is progress, and there is an unwavering commitment from the Biden-Harris Administration to help Native communities overcome the opioid epidemic. We have much work ahead of us, and your partnership will be as critical in the months ahead as it has been thus far.

On behalf of Dr. Gupta and the hardworking team of the Office of National Drug Control Policy, I would like to thank the Committee and your Congressional colleagues for your foresight and leadership on this incredibly difficult issue. Ending the opioid and overdose crisis demands the best efforts of us all: Tribal Nations; federal and state policy makers; national and regional Tribal organizations; private-sector partners and stakeholders; and the Congress, which has time and again demonstrated a strong spirit of bipartisanship on this issue.

The Office of National Drug Control Policy looks forward to continuing its work with this Committee, the Congress, and our other partners to disrupt the production and trafficking of these dangerous drugs, prevent and reduce drug overdoses and poisonings, save lives, and protect Tribal Nations and Native communities.

The CHAIRMAN. Thank you very much. Ms. Tso, please proceed.

STATEMENT OF HON. ROSELYN TSO, DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. TSO. Thank you for the opportunity to provide testimony on the IHS efforts to combat and treat the opioid crisis, particularly synthetic opioids, like illicit manufactured fentanyl in our tribal communities.

As the Committee knows, IHS is a comprehensive, direct care delivery provider, and thus we have been on the front lines of this growing crisis. We recognize the profound toll that the opioid epidemic has taken on our American Indians and Alaska Native people. We are not only confronting medical challenges, but also standing up against the threat to our tribal communities.

Shortly after this hearing, I will join Secretary Becerra and other HHS principals at the Tribal Nations Summit breakout to dialogue between HHS and tribal leaders. The Biden Administration is addressing the devastating impacts of the opioid epidemic on tribal

lands by dedicating millions of dollars to strengthen prevention, harm reduction, treatment and recovery support services.

In October, the President requested $1.6 billion in supplemental funding for SAMHSA's State Opioid Response program. Of this, $250 million will be transferred to Indian Health Service to go to Indian Country to meet the unmet needs of the fentanyl and polysubstance misuse in Indian Country. This request underscores the emergent nature of this crisis and the work that we still have to do to strengthen our primary prevention efforts and increase access to the full continuum of care and services for individuals with substance use disorders and their families.

We at IHS understand the cost of this converging overdose emergency, the pandemic recovery, continued behavioral health crisis, and the strain on our health care system. We also recognize the overdose mortality data is rising, and that American Indians and Alaska Native overdose mortality rates increased by 39 percent between 2019 and 2020. These mortality rates were the highest compared to any other racial or ethnic group.

The impact of the fentanyl crisis is personal. In August, I partnered with many regional, State, and tribal partners at the first National Opioid Summit hosted by the Northwest Portland Area Indian Health Board to address the fentanyl crisis in tribal communities. Collectively, we worked to underscore that our approach should be centered on collaboration and support tribal practices that are already in place and are working. And we should emphasize community approaches that strengthen resiliency.

Our IHS leadership team is reminded of the importance of centering ourselves in compassionate care models and ensuring policy decisions are guided by the lessons of lived experiences. We have heard from our tribes that there is a lack of resources for detoxification services for addiction. Detoxification for opioids is challenging and medically complex. It is crucial to have specific funding allocated to support detoxification and recovery service. This is consistent with the tribal message this Committee heard last month.

I know that my entire testimony is in place. Therefore, in closing, I and my senior leadership and all of the Indian Health Service recognize the importance of working side by side with tribes and tribal leaders to develop comprehensive plans for addressing the opioid crisis in Indian Country. We also recognize that each community plan includes strategies that will work for each community.

In September, I joined the Secretary of SAMHSA and other HHS colleagues at the Secretary's Tribal Advisory Meeting in South Dakota, to consult with tribes and discuss our work in Indian Country. Just last week, we continued this dialogue with tribal leaders.

As IHS combats the opioid crisis, we will continue to work hand in hand with all of our HHS colleagues to maximize resources for Indian Country. We also have partnered with other Federal agencies beyond the Department, including the Department of the VA, Agriculture, and the departments and agencies of all the witnesses sitting next to me today.

I value the ongoing support of the Federal partners and the critical work in tribal communities. Thank you for your commitment, and I welcome any additional opportunities to work together across the Government and with Congress to enhance programs and find

solutions and resources to address the needs across Indian Country.

I am happy to answer any questions the Committee may have.
[The prepared statement of Ms. Tso follows:]

PREPARED STATEMENT OF HON. ROSELYN TSO, DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good afternoon Chairman Schatz, Vice Chair Murkowski, and Members of the Committee. I am Roselyn Tso, Director of the Indian Health Service (IHS). Thank you for the opportunity to provide testimony on the IHS's efforts to combat and treat the opioid crisis—particularly synthetic opioids like illicitly manufactured fentanyl—in Native Communities. As a comprehensive direct care and delivery provider, the IHS has been on the frontlines of the growing crisis, recognizing the profound toll the opioid epidemic has taken on American Indian and Alaskan Native people. Together, we are not only confronting a medical challenge, but also standing against a threat to the very fabric of our communities. The Biden Administration is addressing the devastating impact of the opioid epidemic on Tribal lands by dedicating millions of dollars to strengthen prevention, harm reduction, treatment, and recovery support services. Close to 70 percent of overdose deaths in 2022 involved fentanyl. In October of this year, the President requested $1.6 billion in supplemental funding for the Substance Abuse and Mental Health Service Administration's (SAMHSA) State Opioid Response program to address the opioid, fentanyl, and polysubstance use crisis in America. Of this amount, $250 million or 16 percent, would be transferred to the IHS to address unmet needs regarding fentanyl and polysubstance misuse in Indian Country. This request underscores the emergent nature of this crisis, and the work we still need to do to strengthen our primary prevention efforts and increase access to the full continuum of care and services for individuals with substance use disorder (SUD) and their families. Ultimately, this is about saving lives.

The IHS understands the cost of the converging overdose emergencies, pandemic recovery, continuing behavioral health crises, and the continued strain on our health care system and the communities we serve. We live these realities daily to support the IHS mission. We also recognize the overdose mortality data is rising and that American Indians and Alaska Natives (AI/ANs) overdose mortality rates increased by 39 percent between 2019 and 2020, with a sharp rise during the COVID–19 pandemic. These mortality rates were the highest compared to other racial and ethnic groups.

We recognize that the impact of the fentanyl crisis is personal. In August 2023, IHS joined many regional, state, and Tribal partners in a National Tribal Opioid Summit hosted by the Northwest Portland Area Indian Health Board to address the fentanyl crisis in American Indian and Alaska Native communities. These partners used their time to underscore that approaches to this problem should center on collaboration, should support Tribal practices that are already in place and working, and should emphasize community approaches that strengthen resiliency. IHS senior leadership also listened to the stories of both trauma and healing from community members, and we were reminded of the importance of centering ourselves in compassionate care models and ensuring policy decisions are guided by these lessons of lived experience.

Working Across the Department and Government

Just as we heard in the Portland Area, collaboration is a critical part of both the Department of Health and Human Services (HHS) and the Indian Health Service's approach to combat the opioid crisis. IHS recognizes the importance of collaborating and consulting with Tribes to develop a comprehensive plan for addressing the opioid crisis in Indian Country. This September, I joined Assistant Secretary Miriam Delphin-Rittmon from SAMHSA at the Secretary's Tribal Advisory Committee in South Dakota to consult with Tribal leaders and discuss our work in Indian Country. Just last week, HHS principals, including the Assistant Secretary and myself met again with these Tribal leaders to continue our conversation. As IHS combats the opioid crisis, we work hand in hand with our HHS colleagues at the Centers for Disease Control and Prevention (CDC), SAMHSA, Health Resources and Services Administration (HRSA), Administration for Children and Families (ACF), Centers for Medicare and Medicaid Services (CMS), and the Office of the Assistant Secretary for Health (OASH). We have also partnered with other federal agencies beyond the Department, including the Department of Veterans Affairs (VA), Department of Agriculture (USDA), Department of Justice (DOJ), Office of National Drug Control Policy (ONDCP), and Bureau of Justice Assistance (BJA). IHS participates

extensively on multiple interagency workgroups, providing valuable insight on the communities we serve. In particular, IHS has collaborated with SAMHSA on the Indian Alcohol and Substance Abuse (IASA) Interdepartmental Coordinating Committee to build upon efforts in addressing alcohol and substance abuse in Indian Communities. IHS also works closely with the Office of Tribal Affairs and Policy to identify resources and programs from each agency that would be relevant to combatting alcohol and substance abuse in Tribal communities. This work and these partnerships demonstrate acutely that this problem is constantly evolving. It demands a whole of government approach.

The IHS has strengthened and prioritized efforts to address the opioid crisis in Tribal communities through dedicated funding. In fiscal year (FY) 2023, the IHS provided over $266 million in funding to support alcohol and substance abuse programs, with the majority distributed directly to Tribally operated programs via compacts or contracts. These programs provide services at all stages of recovery from detoxification, behavioral counseling, outpatient and residential treatment, and long-term follow-up to prevent relapse. The IHS also administers several grant programs that impact prevention, treatment, and aftercare and support harm reduction services IHS developed the Community Opioid Intervention Pilot Project (COIPP) in coordination with SAMHSA colleagues. The IHS COIPP is a three-year pilot program and aligns with HHS' Overdose Strategy to respond to the national overdose crisis. The COIPP integrates culturally appropriate care as grantees create comprehensive support teams to strengthen and empower families confronting the opioid crisis. Developing and implementing a trauma-informed approach, including addressing historical trauma, is necessary to comprehensively address the root causes of SUDs. As a direct result of COIPP funding, there are now over 800 staff and community members trained in trauma-informed care. Finally, the COIPP grantees continue to prioritize efforts to reduce unmet needs and opioid overdose deaths through education, partnerships, and increased access to treatment for persons with opioid use disorder.

It is also important to note that SAMHSA provides Tribal Opioid Response (TOR) grants, a critical piece of the puzzle. These grants address the public health crisis of escalating opioid misuse and overdose in Tribal communities. In FY 2022, SAMHSA awarded $55 million in TOR grants. Since 2018, Tribes and Tribal organizations have provided TOR-funded treatment and recovery support services to 7,700 clients. Tribes have also purchased and distributed 16,955 naloxone kits and 7,045 fentanyl testing strips and trained 3,357 community members on the use of lifesaving naloxone using TOR funding.

Federal Healthcare Operation Efforts

In addition to dedicated funding to support overdose prevention efforts for IHS and Tribally operated programs as well as urban Indian organizations, the IHS provides administrative support and technical assistance for health care operations for direct service Tribes when requested. The IHS understands the importance of primary care and works through its Integrating Primary Care model to support integrated services. These efforts can be seen through the collaborative work championed by the IHS National Committee on Heroin, Opioids, and Pain Efforts.

The IHS chartered a National Committee on Heroin, Opioids, and Pain Efforts (HOPE) in 2017 to promote appropriate and effective pain management, reduce overdose deaths, and improve access to culturally appropriate treatment. The HOPE Committee Treatment and Recovery work plan emphasizes two primary aims: (1) increasing access to treatment and (2) increasing patient engagement with recovery services. The strategy and work plan recognize the impact of health disparities resulting from historical structural determinants of health and align with critical concepts in the National Tribal Behavioral Health Agenda.

The work plan addresses system-level barriers to support enhanced screening and patient assessment, early identification and diagnosis of SUD, improved care coordination, and access to high-quality integrated treatment services where needed. The IHS accomplishes these aims through policy, identification of clinical recommendations to support evidence-based care, and workforce development strategies. The IHS is proud of the work of its front-line staff throughout the pandemic—the same people managing the opioid overdose response also supported COVID–19 pandemic response activities with limited additional resources.

Recent Accomplishments

I would like to bring your attention to some recent achievements by IHS in its battle against fentanyl. The IHS Opioid Surveillance Dashboard was initially released in 2022 and was recently enhanced to include an additional 19 measures, which deliver additional data visualizations for safe opioid prescribing, naloxone

saturation, co-prescribing, and harm reduction activities. Prescription level drill-down is enhanced to support targeted population health strategies. The Opioid Surveillance Dashboard data indicates initial positive increases in overall buprenorphine prescriptions, with an increase in the number of patients receiving buprenorphine and increases in naloxone prescribing. The dashboard also shows that prescribing of opioids in the IHS agency has been reduced from 261,813 opioid prescriptions in 2014 to 63,340 opioid prescriptions in 2023, a decrease of 75 percent. This indicates that our training is working.

In September 2023, the IHS released a new Essential Training on Pain and Addiction (ETPA) initial and refresher course. This on-demand, web-based course delivers evidence-based updates to clinical practice guidelines for pain management and includes a focus on patient-centered assessments and treatment planning. It also includes important content essential to support health equity for pain management conditions and opioid use disorders. This new training meets the Medication Access and Training Expansion Act requirements for new or renewing Drug Enforcement Administration licenses (provides 3 hours). The training is required for federal IHS prescribers, contractors (that spend 50 percent or more of their clinical time under contract with the Federal Government), clinical residents, and trainees. The training is also available for Tribal and urban prescribers.

The IHS has also developed an Educational Outreach Program pilot project. Three IHS sites were identified to create tailored peer-to-peer interventions to enhance opioid stewardship activities, increase access to treatment services, and promote quality of care.

The IHS is continuing to work to modernize its electronic health record to include integration of Prescription Drug Monitoring Program data. This software enhancement will streamline provider access to prescribing data and will inform clinical practice and care-planning decisions to increase the safety of opioid prescribing activities.

The IHS collaborates with the NPAIHB to support the National Clinician Consultation Center Warmline access. This service offers on-demand Clinician-To-Clinician support for IHS, Tribal and Urban Organization (I/T/U) providers managing substance use disorders, recommendations to support local policy and procedure development, and on-going site implementation. From July—September 2023, the call-center experienced a 48 percent increase in I/T/U consultation requests (compared to the same period in 2022). Word is getting out that these resources are now here to help.

Care for specialized populations

The IHS is also partnering with the Bureau of Indian Affairs (BIA) Corrections to develop a Memorandum of Agreement to improve access to care and care coordination for justice-involved populations. The collaboration aims to mitigate the impact of chronic diseases—including substance use disorders and other behavioral health conditions, reduce morbidity related to secondary complications (including persons who inject drugs), reduce disease transmission rates and treat infectious diseases for justice involved populations. The IHS has also developed a provider guide and patient resources to support a comprehensive approach to supporting pregnant and parenting persons using substances.

Harm Reduction

The IHS Pain and Addiction Care in the Emergency Department pilot project resulted in American College of Emergency Physicians (ACEP) Pain and Addiction Care in the Emergency Department accreditation of five direct-service Emergency Departments. The programs promote access to naloxone, evidence-based treatment, and enhanced care coordination. The second annual convening was hosted in September 2023 and included didactic presentations from the ACEP. There is no wrong door for treatment as this program aims to enhance screening for SUD and supports establishment of a treatment bridge and referral pathways.

The Indian Health Service supports expanded harm reduction activities and continues to support community response. Health promotion and educational materials as well as direct naloxone distribution are key strategies. Recently, syringe service materials, drug checking strips, and, more broadly, infectious disease treatments have expanded as IHS works to address secondary complications of substance use.

Expanded access to naloxone to prevent unintentional opioid overdose.

In September 2023, the IHS completed updates to IHM 3:35 *Dispensing of Naloxone to First Responders and Community Representatives*. These policy revisions expanded first responder definitions and reduced administrative burdens to naloxone access. As part of the expanded policy scope, the IHS collaborated with Bureau of Indian Education (BIE) Schools to develop and release a Naloxone in Schools

toolkit to support school systems with expanding access to naloxone and overdose prevention efforts. The toolkit provides an example of training plans and materials that may be used to support school implementation. This toolkit is available on the IHS website.

The IHS developed and released its "Naloxone Keeps the Circle Strong" campaign, which includes educational materials and additional IHS resources, including a new naloxone training to be used by and for community members, and a naloxone conversation starter guide for front-line clinicians. All IHS Employees will receive opioid overdose and naloxone use training beginning in 2024.

Increase understanding of and access to drug checking equipment.

In August 2023, the IHS started a fentanyl test strip pilot program, including sample policies and procedures, product labeling materials, educational documents, and procurement pathways. A total of four points of distribution have been identified with positive preliminary feedback. The IHS also created education materials on the use of fentanyl test strips for health care providers, community workers, and patients.

Workforce development and support

IHS continues to support new strategies to leverage advanced practice providers and paraprofessionals to support opioid crisis response activities. In September 2022, the IHS renewed the IHS Advancing Pharmacist Roles in Substance Use Disorder Treatment and Recovery Teams Extension for Community Healthcare Outcomes for a second year. This community of practice increases participant knowledge surrounding patient screening, assessments, evidence-based practices for managing Substance Use Disorders, and trauma-informed care principles. A new clinician mentorship program is set to launch later in December that includes opportunities for staffing patient cases and peer review to support new advanced practice pharmacists expanding services to include SUD treatment.

The IHS will launch a community navigator program training community health representatives, community health aides, and public health aides in 2024. The training will include training in behavioral health navigation and whole-health approaches.

The IHS is creating position descriptions for Peer Recovery Support Specialist staff to support recovery. The Peer Recovery specialists will reduce recidivism and assist the patient in re-integration into their family and community. Enhanced IHS collaboration with CMS and states to explore opportunities to leverage reimbursement parity between state Medicaid plans for outreach work provided by peer workers and community navigators is ongoing.

Treatment and Recovery

The updated IHS Purchased Referred Care clinical priorities include acute detoxification and inpatient Alcohol/Substance Use Disorder as part of our priorities to more appropriately connect persons to treatment. This prioritized availability of referral to an appropriate program will provide access to immediate treatment for substance abuse disorders.

Challenges

IHS appreciates the work of the Biden Administration to prioritize this crisis, and the work of Congress to secure additional resources to address urgent needs and remove barriers to care. The removal of the Drug Addiction Treatment Act waiver and other Federal efforts have helped, but more needs to be done. For example, there remains a lack of research and data related to effective SUD prevention and treatment interventions for American Indians and Alaskan Natives. We are still unable to quantify the extent of the disparity due to racial misclassification.

The IHS supports the policy recommendations from the National Tribal Opioid Strategy to support "housing first" initiatives that include transitional housing/supportive housing and dedicated funding to establish pilot programs. Evaluation findings from the IHS COIPP grant reported homeless persons doubled since Year 1 (April 1, 2021 to March 31, 2022). Reports of the increase in housing insecurity could be linked to an increase in street outreach systems and an increase in opioid trafficking.

Additionally, feedback from the field states there is a lack of resources for detoxification services for opioids for those contemplating entering treatment. Detoxification from opioids is challenging, and medically complex. There is often a requirement to enter residential treatment, and the current lack of services creates a barrier to treatment. It is crucial to have specific funding allocated to support detoxification services. This can act as an entry point to treatment and is essential for those struggling with addiction.

The IHS values the ongoing support of federal partners to continue the critical work happening in tribal communities. We welcome additional opportunities to work together across government and with Congress to enhance programs, further support communities, and find solutions to resource challenges to address this scourge across Indian Country and the rest of our nation. Thank you for your commitment and dedication to improving health care for American Indians and Alaska Natives. I will be happy to answer any questions the Committee may have.

The CHAIRMAN. Thank you very much.

Ms. Waldref, please proceed.

STATEMENT OF HON. VANESSA WALDREF, U.S. ATTORNEY, EASTERN DISTRICT OF WASHINGTON, U.S. DEPARTMENT OF JUSTICE

Ms. WALDREF. Good afternoon, Chairman Schatz, Vice Chair Murkowski, and members of the Committee. Thank you for the opportunity to discuss the devastating effects the nationwide fentanyl crisis continues to have in Indian Country across the United States.

The Department of Justice is committed to working in collaboration with tribal, Federal, State and local partners across Indian Country to respond to the fentanyl crisis, both through law enforcement action and supportive resources and prevention strategies.

While Federal prosecutors have been prosecuting drug trafficking cases for many years, the nature and scope of drug trafficking has changed dramatically with the rise of illicit fentanyl and other synthetic opioids. Traffickers can produce limitless amounts of illicit fentanyl if they have the appropriate chemicals and equipment, generating an unprecedented health crisis.

Fentanyl overdoses are the leading cause of opioid-related deaths throughout the United States. American Indians, Alaska Natives, and Native Hawaiians are on the front lines of the fentanyl epidemic. The drug-related overdose death rate for Native Americans significantly exceeds the national rate.

In the Eastern District of Washington, we have seen first-hand how fentanyl and other drugs have affected our four tribal communities: the Confederated Tribes of the Colville Reservation, the Kalispell Tribe, the Spokane Tribe, and the Confederated Tribes and Bands of the Yakima Nation. Together, these tribal nations make up a land mass larger than the State of Connecticut.

Much like other crises facing Native American populations, such as increased levels of domestic abuse, the climate crisis, violent crime, and the crisis of missing and murdered indigenous people, Native Americans in the Eastern District of Washington are disproportionately impacted by the fentanyl epidemic in Indian Country. In just two large takedowns this year, we seized approximately 161,000 fentanyl-laced pills intended for distribution on the Colville Indian Reservation, and approximately 120,000 fentanyl-laced pills just outside the Yakima Nation.

The Department recognizes the widespread availability and misuse of drugs in Indian Country, coupled with drug-trafficking groups operating in Indian Country, contributes to the high rates of crime on reservations. Every United States Attorney with Indian Country responsibilities has worked to develop strategies to address both drug trafficking crimes in Indian Country and the vio-

lent crimes that are associated with drug trafficking and substance abuse disorder.

The United States Attorney's Offices rely on investigations coordinated by tribal, Federal, State and local partners, including the FBI's Safe Trails task forces that conduct many of the drug investigations in Indian Country. Tribal law enforcement provides invaluable assistance and intelligence related to drug trafficking in tribal communities. These task forces allow investigations to move beyond an individual tribal community and target drug traffickers prior to their arrival in Indian Country. Our office has prosecuted significant fentanyl cases through these partnerships.

Though these criminal prosecutions are an important tool for addressing the fentanyl crisis in Indian Country, we must embrace a multi-faceted strategy that includes education, community outreach, and increased resources to combat substance use and misuse. Within our district, we have partnered with DEA's Operation Engage Initiative, a comprehensive community level approach that bridges public health and public safety.

Last summer, Operation Engage worked with the Spokane Tribe of Indians through the Boys and Girls Club to host a day of fun activities focused on making healthy choices and increasing drug prevention and awareness. Future events led by tribal youth are planned for later this winter.

We have also worked closely with the Spokane Alliance for Fentanyl Education, which partners with our office, law enforcement and community organizations to host public events raising awareness about the dangers of fentanyl and offering supportive services.

The Department is also dedicated to improving programs to assist tribal members that are re-entering the community following periods of confinement. Next year, the department's Bureau of Justice Assistance will be holding tribal intergovernmental reentry workshops to identify critical services needed to reduce recidivism and victimization.

I am proud of the investigative and prosecution efforts in our district and other Indian Country districts throughout the United States to remove fentanyl from Native American communities. We will continue to work in partnership with tribal, Federal, State and local partners to effectuate a multi-faceted approach and response to the fentanyl epidemic.

We appreciate this Committee's focus on this devastating issue, and are committed to working with you going forward. Thank you again for the opportunity to participate today.

[The prepared statement of Ms. Waldref follows:]

PREPARED STATEMENT OF HON. VANESSA WALDREF, U.S. ATTORNEY, EASTERN DISTRICT OF WASHINGTON, U.S. DEPARTMENT OF JUSTICE

Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and Members of the Committee. My name is Vanessa Waldref. I am the United States Attorney for the Eastern District of Washington. Thank you for the opportunity to discuss the devasting effects that the nationwide fentanyl crisis continues to have in Indian country across the United States and its impact on public safety. The Department of Justice is committed to working in collaboration with Tribal, federal, state, and local partners across Indian country to respond to the fentanyl crisis both through law enforcement action and supportive resources and strategies.

Background

While federal prosecutors have been prosecuting drug trafficking cases for many years, the nature and scope of drug trafficking has changed dramatically with the rise of illicit fentanyl and other synthetic opioids. Unlike heroin or cocaine, which are derived from plants, illicit fentanyl is made in a laboratory. Traffickers who distribute these drugs do not need to worry about growing seasons or droughts impacting the availability of drugs. Rather, they can produce limitless amounts of illicit fentanyl if they have the appropriate chemicals and equipment. Access to the items is often readily available at the click of a button. The resulting explosion in the availability of illicit fentanyl has generated a public health crisis unlike anything this nation has ever seen.

A majority of the drug poisoning (or overdose) deaths in the United States involve illicit fentanyl, which in the Eastern District of Washington is distributed predominantly in the form of fake pharmaceuticals, although fentanyl also is being mixed with other illicit drugs such as cocaine, heroin, and methamphetamine. In fact, in March 2022, the Centers for Disease Control and Prevention (CDC) identified fentanyl poisoning and overdoses as the number one killer of Americans ages 18–45. I have heard heart-wrenching stories from families in my community about the loss of children and loved ones to fentanyl poisoning and witnessed the DEA's Faces of Fentanyl Wall that commemorates the lives lost to this epidemic. Unfortunately, these devastating stories have become all too common. Each day approximately 275 American lives are lost largely from synthetic opioids such as fentanyl poisoning. In 2021, the CDC reported nearly 107,000 overdose or poisoning deaths—approximately sixty-six percent of these were attributable to synthetic opioids such as fentanyl.[1]

Fake pharmaceutical pills often are made to appear legitimate using pill presses and are marketed by drug traffickers to deceive Americans into thinking that they are real, diverted prescription medications. In reality, these fake pills are not made by pharmaceutical companies but by drug trafficking organizations, and they are potentially deadly. Drug traffickers also make fake pills, many of which contain fentanyl, that are brightly colored, or glow in the dark, and are clearly intended to appeal to youth.[2] These pills often are referred to on the streets of our communities as skittles, rainbows, and glow in the dark. DEA lab testing reveals that today 7 out of 10 of fentanyl-laced fake prescription pills contain a potentially lethal dose. In some cases, users may think they are purchasing Adderall, oxycodone, Xanax or some other drug that was produced in a factory using quality control standards. Instead, these users are ingesting pills that were made in makeshift labs without any regard for safety. Given that even two milligrams of fentanyl can be deadly, a 30-milligram fake Adderall tablet could easily contain several lethal doses within just one pill. A single fentanyl-laced pill often contains varying levels of fentanyl throughout the whole pill. There have been numerous instances of friends sharing a pill, where one half of the pill has a lethal dose and the other does not, killing one friend and not the other.[3]

Federal prosecutors around the country are working closely with our Tribal, federal, state, and local partners to identify and prosecute the drug traffickers who seek to profit from the sale of these deadly substances in our communities. We target the command and control elements of the cartels, the money launderers, and the violent and heartless individuals who choose to sell this poison. Through our law enforcement efforts, we are seeking to hold these criminals responsible for the damage that they have caused to our communities.

The Fentanyl Crisis in Indian Country

Fentanyl overdoses are the leading cause of opioid-related deaths throughout the United States, including Indian country. American Indians, Alaska Natives, and Native Hawaiians are on the front lines of the fentanyl epidemic. The drug-related overdose death rate for Native Americans significantly exceeds the national rate—rising to 56.6 deaths per 100,000 persons in 2021.[4] The CDC has further stated that the overdose death rate for Native Americans is higher than in any other racial or ethnic group. Indian Health Service data similarly shows that Tribal communities are experiencing an increase in overdoses stemming from polysubstance use, many

[1] *https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm*
[2] *https://www.justice.gov/opa/pr/over-220-pounds-suspected-controlled-substances-seized-including-pills-shaped-resemble-heart*
[3] *See https://www.cdc.gov/stopoverdose/fentanyl/fentanyl-test-strips.html*
[4] *https://www.cdc.gov/nchs/data/databriefs/db457.pdf*

of which arise when a person unintentionally takes drugs mixed or cut with other substances.[5]

In the Eastern District of Washington, we have seen first-hand how fentanyl and other drugs have affected Tribal communities. Families and under-resourced communities have been devastated by this crisis, compounding decades of generational trauma suffered by the Native American communities in our District.

Within our District there are four Tribal Nations that together make up a land mass larger than Connecticut. These proud Tribal Nations include the Confederated Tribes of the Colville Reservation, the Kalispel Tribe, Spokane Tribe, and the Confederated Tribes and Bands Yakama Nation. Of course, the entirety of Eastern Washington is the ancestral home of Salish-speaking people indigenous to this land. For several centuries, the Salish people have cared for this land, which includes their historical hunting grounds throughout our abundant forest, and they have harvested the salmon that once spawned in the mountain streams and rivers that give life to Eastern Washington.

Eastern Washington's Tribal Nations—which in many cases are hours from the nearest FBI office or federal courthouse—are remote and relatively rural. The rural nature of this land, however, has not spared our Native American communities from the realities of fentanyl. Much like other crises facing Native American populations—such as increased levels of domestic abuse, the climate crisis, violent crime, and the crisis of missing and murdered indigenous people—Native Americans in Eastern Washington are disproportionately impacted by the current crisis involving the prolific distribution and use of fentanyl in Indian country. I would like to walk through some examples from our District:

- Earlier this year, we made one of the largest-ever seizures in our District in a case that involved significant distribution on the Colville Indian Reservation: *United States v. Erubey Arciga Medrano*. As part of a joint investigation involving Montana and Eastern Washington, the Bureau of Indian Affairs (BIA), DEA, FBI and other federal agencies seized approximately 161,000 fentanyl-laced pills, approximately 80 pounds of methamphetamine, approximately 6 pounds of heroin, and more than 2 pounds of cocaine. This included several thousands of rainbow-colored fentanyl-laced pills that appeared to target youth. The BIA, DEA, FBI and their partners also seized approximately 12 firearms. A significant portion of the drugs, which were seized in rural Oroville, Washington, allegedly were destined for the Colville Reservation, as well as for other Native American communities and surrounding areas in Washington and Montana. Following the seizure in April 2023, we saw a significant reduction in illegal narcotics on the Colville Reservation.
- In January of this year, my office announced a takedown in Yakima County, Washington, involving the seizure of more than approximately 120,000 fentanyl-laced pills and more than 42 pounds of methamphetamine. In *United States v. Eliseo Equihua-Zamora*, the FBI and its local partners also seized a loaded Beretta pistol and approximately $152,000 in U.S. currency, including approximately $100,000 that was buried outside the residence that was searched. These drugs also were believed to be destined, at least in part, for the Yakama Nation.
- In another case, *United States v. Andre Picard*, the Defendant, who resided on the Colville Indian Reservation, was prosecuted in connection with the overdose death of a young Native American mother, who purchased drugs from Picard. During the investigation, significant quantities of fentanyl were recovered from Picard, who was distributing fentanyl and other drugs out of his own home. Picard was sentenced to 5 years in federal prison earlier this summer. Significantly, the quantity of fentanyl and other drugs recovered during the Picard investigation was not particularly large; however, cases like this demonstrate the disparate impact of fentanyl on vulnerable populations. We have seen multiple overdose deaths that have resulted even when just a handful of pills are distributed on Native American reservations in our District.

The Department's Efforts to Respond to the Fentanyl Crisis in Indian Country

On November 15, 2021, the President issued Executive Order 14053, Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People, outlining the Administration's commitment to work hand in hand with Tribal Nations and Tribal partners to build safe

[5] *https://www.ihs.gov/newsroom/ihs-blog/may-2023-blogs/ihs-supports-tribal-communities-in-addressing-the-fentanyl-crisis/*

and healthy Tribal communities and support comprehensive law enforcement, prevention, intervention, and support services.

In fulfilling the directives of the Executive Order, the Department recognizes that the widespread availability and abuse of drugs in Indian country, coupled with drug trafficking groups operating in Indian country, contribute to the high rates of crimes on reservations, including violent crime. Therefore, the Department has worked to create strategies that address both drug trafficking crimes in Indian country and the violent crimes that are associated with either drug trafficking or substance use disorder.

As part of those efforts, the Department throughout 2022 held a series of consultations with Tribal leaders and stakeholders as part of Executive Order 14053. During those consultations, the Department heard about the unique challenges that each Tribal community faces in addressing drug trafficking and substance use disorders and how the prevalent substances and available treatment options vary from Tribe to Tribe.

In response to the Tribal consultations, in July 2022, the Deputy Attorney General issued a memorandum requiring each United States Attorney to consult with relevant Tribal, federal, state, and local law enforcement agencies in their districts and to develop a strategy to combat drug trafficking. In developing strategies, United States Attorneys are to consider targeted prosecutions that have the most significant impact on public safety in individual Tribal communities. Recognizing that enforcement alone cannot solve the substance misuse crisis in Indian country, United States Attorneys also were directed to partner with other Department components to provide a wide range of resources and conduct outreach.

I, and the 50 other United States Attorneys with Indian country responsibilities, followed the Deputy Attorney General's directive and worked to implement coordinated and collaborative strategies to combat drug trafficking that has caused such catastrophic impact to Tribal communities throughout the United States. As mentioned earlier, our office has prosecuted significant fentanyl cases, targeting activity which has negatively affected the Tribes within our District. Further, our office, along with other United States Attorney's Offices, have coordinated and collaborated with Tribal, federal, state, and local partners to provide education, resources, and outreach.

The United States Attorney's Offices rely on investigations coordinated by Tribal, federal, state, and local partners. The FBI utilizes Safe Trails Task Forces that conduct many of the drug investigations in Indian country. These task forces include officers from Tribal, federal, state, and local agencies that work in coordination and collaboration within the local communities they serve. Tribal law enforcement task force officers provide invaluable assistance and intelligence related to the drug trafficking in Tribal communities and the identification of suspects. Further, the task force model allows investigations to move beyond an individual Tribal community and target drug traffickers prior to their arrival in Indian country. The DEA provides significant resources to further target cartel operatives and conduct wide-reaching investigations. The DEA and FBI, in partnership with BIA, Tribal, state, and local law enforcement, reach the source of supply, not just the local dealer.

Prevention and Education

Though criminal prosecutions, like the ones I outlined earlier, are an important tool for addressing the fentanyl crisis in Indian country, we must do more. It cannot be said enough that enforcement operations alone will not stop the flow of fentanyl and other controlled substances to Tribal communities. To combat this crisis and the other crises disproportionately affecting Native American populations, we must embrace a multi-faceted strategy that includes prevention, education, community outreach, and increased resources to combat substance use disorder. Our District is already engaging in proactive measures to implement this type of multi-faceted strategic approach.

Within our District, we have partnered with the DEA's Operation Engage initiative, a comprehensive community-level approach that bridges public health and public safety to address the drug epidemic by implementing prevention strategies, facilitating conversations, and collaborating with local partners. During the summer 2022, Operation Engage worked with the Spokane Tribe of Indians through the Boys and Girls Club in Wellpinit, Washington, to host a day of learning and activities that focused on making healthy choices, protecting your brain, and increasing drug prevention/awareness, all in the context of a fun environment. Another event is scheduled for early winter 2023.

Operation Engage currently is leading a group of community members who are planning a Youth Cultural Event for this winter. The event will bring Tribal youth together to discuss the dangers of fentanyl and bring education, awareness, and sus-

tainable programs to Tribal communities. The goal is to have youth lead this event, which will include the Kalispel, Spokane, and Colville Tribes.

We also have worked closely with the Spokane Alliance for Fentanyl Education (SAFE) and the Rayce Rudeen Foundation, which consists of a Board of Directors from all facets of our community, including from the Tribes in our District. SAFE has put on numerous community events, including a recent youth summit where high school students from Tribal Nations joined in a unified voice of support and assistance for those facing fentanyl misuse.

SAFE, the Rayce Rudeen Foundation, and Operation Engage have also participated in round table discussions with Tribal leaders about promoting awareness programs within the community and trainings for administering naloxone to overdose victims. Our office is actively engaged in SAFE, and the leader of our Violent Crime and Drug Trafficking Section, along with several stakeholders from the greater Spokane community, serves on SAFE's Board of Directors, providing essential insight and education to the community on how the fentanyl crisis impacts vulnerable communities and Tribal nations.

Addiction and Reentry

The Department also is dedicated to improving programs to assist Tribal members that are reentering the community following periods of confinement. For individuals returning from incarceration, successful reentry depends on intergovernmental collaboration that is responsive to both community and returnees' needs, so that chances for drug use and recidivism are minimized and public health and safety are maximized. This is especially true in Tribal communities, where the complex nature of jurisdiction makes coordination among Tribal, federal, state, and local justice systems particularly challenging. When Tribal members reenter their communities without adequate support, the risk of drug use and violence is greatly increased.

In 2024, the Department's Bureau of Justice Assistance will be holding in-person, state-based Tribal Intergovernmental Reentry (TIRW) Workshops. These interactive events will provide participants with tools to develop effective reentry plans based on the sharing of operational, organizational, and culture-based concepts and processes that result in the identification of critical services and interventions needed to reduce recidivism, relapse, and victimization. The Eastern District of Washington is committed to working closely with Tribal Nations to engage in these workshops, which will include the U.S. Attorney's Office, Federal Bureau of Prisons, U.S. Probation, and their Tribal court counterparts.

Closing

I am proud of the investigative and prosecution efforts in our District and the other Indian country districts throughout the United States to remove fentanyl from vulnerable populations, such as our Native American communities. At the same time, United States Attorneys do not simply prosecute criminals.

Many United States Attorneys are active in their Tribal communities and are seeking new and innovative ways to connect with our youth, educate the community about the dangers of fentanyl, and help citizens save lives by administering naloxone to their friends or family who overdose. Our commitment to serving Indian country goes beyond prosecution. We are public servants who want to do all we can to make Tribal communities stronger and safer. To accomplish that goal, we will continue to work in partnership with Tribal, federal, state, and local partners to effectuate a multi-faceted response to the fentanyl epidemic. We appreciate this committee's focus on this devastating issue and are committed to working with you going forward. Thank you again for the opportunity to participate today.

The CHAIRMAN. Thank you very much.

Mr. Melville, please proceed.

STATEMENT OF GLEN MELVILLE, BUREAU DEPUTY DIRECTOR, BUREAU OF INDIAN AFFAIRS, OFFICE OF JUSTICE SERVICES

Mr. MELVILLE. Thank you. Good afternoon, Chairman Schatz, Vice Chair Murkowski, and members of the Committee. My name is Glen Melville, I am an enrolled member of the Makah Tribe of Northwest Washington, and I serve as the Deputy Bureau Director for the Bureau of Indian Affairs Office of Justice Services

Thank you for the opportunity to discuss the fentanyl crisis affecting Native communities throughout the United States.

The United States has a trust relationship with each of the 574 federally recognized tribes. As a part of that relationship, we have a trust obligation to protect the continued existence of Indian tribes and the physical security of their citizens. BIA plays a crucial role in meeting this obligation.

Office of Justice Services employs 352 uniformed police officers and criminal investigators serving over 200 Indian communities across the Country. We have several law enforcement supporting operations and functions, which include the Missing and Murdered Unit, Victim Assistance, Drug Enforcement, Internal Affairs, Land Mobile Radio Program, Indian Highway Safety, Tribal Justice Support, and the operation of the Indian Police Academy.

The Office of Justice Services also conducts investigations that include but are not limited to violent crimes against persons, illegal narcotics, gangs, human trafficking, and border violations in Indian Country. We have a specialized division of drug enforcement that tracks and investigates the distribution of illegal narcotics in Indian Country.

The drug-related activity in tribal communities imposes health and economic hardship as a major contributor to the violent crime in Indian Country. Our Division of Drug Enforcement has identified methamphetamine and fentanyl as the biggest emerging drug threats to our tribal communities.

Tribes have reported 1,590 fatal overdoses in Fiscal Year 2023, and 899 non-fatal overdoses. In addition to fentanyl, other synthetic opioids are becoming more prevalent, such as carfentanil. Carfentanil is used as a medical tranquilizer for large animals, including elephants. It is estimated to be 100 times more potent than fentanyl.

So far there have only been limited seizures of carfentanil in Indian Country, but experts estimate there are about 25 to 30 different chemical versions of fentanyl that are often more powerful and dangerous. So far, only one death in Indian County has been attributed to Carfentanil.

In response to the illegal drug epidemic, many of these tribal justice systems have incorporated traditional and culturally appropriate solutions to address the drug addictions within their communities, through healing to wellness courts. Tribal healing to wellness courts are experiencing some successes in addressing behaviors and are seeing reduced recidivism rates. These success rates demonstrate that the tribes are best suited to provide solutions to the challenges within their communities.

The department supports the work of tribal justice systems to ensure the safety of their communities and people.

Thank you for the opportunity to testify today. I am pleased to answer any questions you might have.

[The prepared statement of Mr. Melville follows:]

PREPARED STATEMENT OF GLEN MELVILLE, BUREAU DEPUTY DIRECTOR, BUREAU OF INDIAN AFFAIRS, OFFICE OF JUSTICE SERVICES

Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Glen Melville, and I am the Deputy Bureau Director

for the Office of Justice Services (OJS) at the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior (Department). Thank you for the opportunity to discuss the impacts of fentanyl in Indian Country.

Background

The United States has a trust relationship with each of the 574 federally recognized Tribes, and their Tribal citizens. Through these relationships, the United States has charged itself with obligations of the highest responsibility and trust—including the obligation to protect the existence of Indian Tribes and their citizens. This obligation is at its highest when it comes to protecting the physical safety and well-being of Indian people within Indian country. BIA OJS plays a crucial role in meeting this obligation on behalf of the United States. Drug related activity in Tribal communities is a major contributor to violent crime and imposes health and economic hardship, and it is continuing to escalate throughout Indian Country.

OJS conducts investigations on narcotics, gangs, human trafficking, and border violations in Indian Country. OJS also has a specialized national drug enforcement division, the Division of Drug Enforcement (DDE), that investigates the distribution of illegal narcotics in Indian Country. The DDE provides investigations that focus on disrupting drug distribution networks and analytical support to track drug cases that directly impact Indian Country. The DDE also offers drug related training and technical assistance to law enforcement programs that operate in Indian Country.

Current Drug Seizure Totals

Each year, our DDE plans and executes multiple undercover narcotic and highway interdiction operations throughout Indian Country. The operations will typically range from 4 to 14 days, where assigned special agents and police officers focus efforts solely on a specific reservation. The number and success of these operations is the strongest driver of our annual illegal drug seizures. During FY 2023, twenty-two such operations were completed, leading to seizure totals of:

- Fentanyl Pills: 1,097,671
- Methamphetamine: 1,846 lbs.
- Fentanyl Powder: 98 lbs.
- Marijuana: 11,411 lbs.
- Heroin: 23 lbs.
- Cocaine: 1,418 lbs.

Current Drug Threats and Impact on Tribal Communities

Nationwide activities of our drug enforcement team are identifying methamphetamine and fentanyl as the prevalent emerging drug threats to the safety of Tribal communities. Tribes reported 1,590 fatal overdoses in FY 2023 and 899 non-fatal overdoses.

American Indian, Alaska Native, and Native Hawaiians, are all seeing significant impacts from opioids. Since the emergence of fentanyl in Indian Country, we have seen increases in overdose deaths in Indian Communities. In addition to fentanyl, other synthetic opioids are becoming more prevalent. One example is carfentanil, medically used as a tranquilizer for elephants and large mammals, it is estimated to be 100 times more potent than fentanyl. One Indian Country overdose death has been attributed to carfentanil so far. Limited seizures have been seen to date; however, the emergence of this and other similar substances is likely on the horizon as -our communities encounter other fentanyl analogues and fentanyl-related substances, which are chemically similar to fentanyl and, in some cases, more powerful.

While the data conveys the seriousness of these threats, we are unable to measure the resulting impact to victims, affected families, and the already strained Tribal justice and social service systems in these communities. However, Tribal officials have consistently called for action toward addressing this increasingly common cause of crime in Indian Country and Tribal justice systems are incorporating traditional and cultural practices to support their communities.

Healing to Wellness Tribal Courts

Many Tribes are reforming or creating judicial systems which incorporate traditional and cultural aspects to create a more effective measure to address the trauma induced circumstances within their communities through Healing to Wellness Tribal Courts.

Healing to Wellness courts have provided positive results in healing and strengthening Tribal communities. For example, Penobscot Nation has not incarcerated a defendant this year, but has graduated individuals from the Healing to Wellness court and provided participants with options for higher education and resulted in commitments to work to create a safer and better community.

Penobscot Healing to Wellness Court

According to the Tribal judges at Penobscot, fentanyl is a major concern for Tribal justice systems, especially for Tribal Healing to Wellness Courts. Fentanyl shows up in criminal cases and child dependency cases as the main reason for unhealthy Native communities.

The Healing to Wellness Court has seen exceptional success with addressing recovery from fentanyl use for the individuals participating in the Healing to Wellness Court. The Healing to Wellness Court uses many avenues for treatment, including culturally relevant practices to successfully address an individual's behavior. Adults are immediately transferred to a hospital for 7–10 days to detox and a Healing to Wellness case manage manages the adult's 30–90-day inpatient treatment while providing biweekly updates to the Healing to Wellness Court. Once the adult individual graduates from the inpatient treatment, they enter a sober living facility within the Healing to Wellness court's jurisdiction.

It's also important to note that since the Penobscot Healing to Wellness Court opened its doors to Tribal members charged by the State, Tribal members using fentanyl have sought to be admitted to the Healing to Wellness court. Penobscot has seen a 60 percent success rate for Tribal members within their Healing to Wellness court with only two re-offenders.

The Penobscot Tribal Court noted that the cost of addressing fentanyl is much less in the Healing to Wellness courts. For example, the annual cost for incarceration is approximately $60,000.00 -$90,000, while the cost of addressing Tribal fentanyl users in the Healing to Wellness court is approximately $12,000.00 to $15,000.00, depending on the level of care. Not only is the cost lower, but the recidivism rate is also far less.

Tribal courts are an essential aspect of Tribal sovereignty and are an opportunity for Tribes to run their own justice systems. There are approximately 400 Tribal justice systems throughout the Nation. The OJS, Tribal Justice Support provides training, technical assistance, and funding for the operation, maintenance, and support of Tribal Justice Systems.

The focus of all these courts is to address issues "upstream" instead of dealing with ultimately tragic issues which debilitate our communities. Tribes are better suited to provide best practices and discuss challenges with their peers.

Conclusion

The Department continues to prioritize and reinforce Tribal sovereignty and self-determination by providing support and resources to improving public safety in Indian Country.

Chairman Schatz, Vice Chairman Murkowski, and members of the Committee, thank you for the opportunity to provide the Department's views. We look forward to working with Congress to affirm and support Tribal sovereignty and public safety within Tribal communities. I am happy to answer any questions that you may have.

The CHAIRMAN. Thank you very much. I will start with Mr. Cohen, and I am going to go down the line.

At our hearing last month, tribal leaders testified that producers and traffickers routinely target Indian reservations due to the jurisdictional maze, and the resulting gaps in law enforcement. What are your agencies doing to reduce those gaps? I will start with you, Mr. Cohen.

Mr. COHEN. Thank you for the question, Chairman Schatz. I think that there are clearly seams between some of the law enforcement efforts. But organizations like the HIDTA that comes out of the ONDCP are synchronizers of that kind of effort. They try to fill those gaps as best as possible.

The CHAIRMAN. I get the structure. I am not trying to be adversarial here. I get the structure, and that would be the concept. But then I hear from tribal leaders who feel like best laid plans, that there still remain these gaps. How do we close them on the ground?

Mr. COHEN. It is important for us to continue to drive home the idea of the force multiplying impact of the multi-agency. In the HIDTA program, we have 33 HIDTAs nationwide, 14 of them are directly engaged with tribal nations across the United States and

tribal law enforcement. We have actually had quite a bit of success in those 14. In those 14, they seized over $414 million in assets over the last year.

There are places for improvement. But I think our investments are being well spent so far.

The CHAIRMAN. Ms. Tso?

Ms. TSO. Thank you for that question, Chairman.

The work that we are doing at the Indian Health Service is collaborating across HHS first. I want to make sure all my colleagues at HHS understand the challenges of Indian Country. I referenced in my earlier statement the trip out to South Dakota. For some of my colleagues, that is their first time out in Indian Country.

So understanding some of the challenges, the distances that our people have to drive and the limited resources that we have to address this is the first step. Then there are other tools that we are building now and continue to build with our tribal partners to talk about and to develop strategies by which we can address these and working very closely with our tribal partners for each community. Because it is not a one-size-fits-all, and so we are looking at that. Utilizing the resources that we have to make sure that they are put out there in Indian Country, to again work with our partners to develop the best practices that can be shared across Indian Country.

The CHAIRMAN. So for you in particular, and I am going to get to Ms. Waldref, but for you in particular, you have the kind of inter and intra agency stuff, right? Because you have SAMHSA and some other agencies that may not have deep familiarity with working with Indian Country. So you kind of have to work within your parent agency and then across agencies.

I want to turn this into a question for the record, partly because I feel like these hearings can be a little bit of a gotcha. I am also not satisfied that we are filling the gaps. I think we are trying. I think we have, it is sort of like a golf coach—I am not a good golfer—but it is sort of like, keep your eye on the ball, a bunch of things that we ought to be doing. Sure, we ought to be doing it, but executing that is the hard part. I don't quite see the execution, not because I have special visibility, but because tribal leaders told me that as recently as last month.

So I don't think we are there yet. This is not a personal criticism. But I do think we need to do a little more work in this space.

Ms. Waldref?

Ms. WALDREF. Thank you, Chairman. The Department of Justice and individual U.S. Attorneys offices have jurisdiction to prosecute Federal drug crimes. There can be a jurisdictional challenge in addressing other violent crimes on Indian reservations, depending on the jurisdictional makeup of each individual State.

The United States Attorneys offices, consistent with Savanna's Act and the Department of Justice guidelines, each office works very closely with the tribal partners in their district. For every tribe we develop an operational plan to ensure that we can fill any jurisdictional gaps and have appropriate investigative resources available so that we can build cases and have them charged federally as appropriate.

The CHAIRMAN. In my remaining time, is that something that you are doing in the Eastern District or that every U.S. Attorney is doing as a matter of DOJ policy?

Ms. WALDREF. Chairman, both. In the Department of Justice, every United States Attorney's office has an operational plan for working with each individual tribe for which they consult with the tribes to get valuable input to ensure that the tribe is weighing in on what are the largest needs for that community, so the United States Attorney's office can be responsive to those needs.

The CHAIRMAN. Thank you very much.

Vice Chair Murkowski?

Senator MURKOWSKI. Thank you, Mr. Chairman. Thank you to our witnesses.

I want to start with you, Deputy Director Cohen. I have been a big supporter of what HIDTA does. I think we have seen some results overall in Alaska. You mentioned in your written testimony that the HIDTA Tribal Task Force across the Country has been able to seize $414 million in illicit drugs, cash and other assets from traffickers. In total, all HIDTAs have seized an estimated $22 billion just in 2022 alone, allowing the return of $82 for every $1 spent on their budgets. So it sounds like this is an effort that is worth funding.

The question is, you have a relatively large return there. We have heard from everybody on this panel, and we know in this Committee that those that are being most impacted right now disproportionately are American Indians, Alaska Natives, and Native Hawaiians.

So you have $290 million going toward the HIDTA program, apparently, in the Fiscal Year 2024 budget. I am curious to know whether we have specific tribal priorities or setasides included in that funding. So do you have a portion that is set aside for this population that we have identified as clearly being most impacted right now?

Mr. COHEN. My understanding of the proposal for the Fiscal Year 2024 budget is that there is not a dedicated setaside.

Senator MURKOWSKI. Should there be, given the statistics, given what we know, given the impact on Indian Country and Alaska Natives and Native Hawaiians?

Mr. COHEN. I think it is something that is worth considering.

The important thing to understand about the HIDTA program, as you have noted is that there is genuine return on investment. Most importantly, it is this idea that the HIDTAs are locally driven law enforcement strategies. It is not Washington telling the field how to operate.

So what you have is 33 HIDTAs across the United States which are bringing together Federal, local, State and tribal law enforcement, and more pointedly for this hearing, in 14 instances tribal law enforcement directly partnering with law enforcement to create the force multiplier that I mentioned a moment ago.

And the fact that they can actually look at what is going on in their community and try to tailor their law enforcement approach is critically important to us.

Senator MURKOWSKI. Let me ask also, we understand that the White House is developing this clearinghouse for tribes to apply for

Federal funding. We hear very clearly that you have tribal leaders commenting that it has been hard to access the Federal resources. It is a cumbersome process, apparently.

When is this clearinghouse expected to go live? What have we done to make sure that the processes are easier for the tribes to apply for the funding?

Mr. COHEN. At last year's tribal summit, we heard a lot of feedback from the tribes that it was very difficult for them to manage grants.gov and figure out all these different locations to get other resources. So the White House has launched this effort to try to create this clearinghouse. We were in the midst of doing that, I don't have a date for you today. I can try to get back to you with a little bit more fidelity.

But we are working very hard to ensure that that clearinghouse is the user friendly clearinghouse that we have heard from the field that we need. From an ONDCP perspective, we are going to make sure that ONDCP resources are in that clearinghouse, and then we also have at ONDCP a forward-facing location where tribes can go to find all drug related, narcotics related grants.

Senator MURKOWSKI. Again, we hear this a lot. We put in place these programs, we fund these programs and then it is just hard for those on the ground, for the tribes to actually be able to access them. So we may as well just be putting it out there and putting up a glass wall in terms of access. We have to address that. So I would urge you to move on this clearinghouse, to make this process easier.

I will tell you, and this is not necessarily a question to anyone, but I come from a State where the only way in, the only way in for these drugs is when they come through the email and when they come on an airplane on somebody's body. It is two ways, because you are not driving it in, very few are boating it in. Our reality is we know that it is being flown in.

And the fact that it is getting into these tiny, tiny, tiny little villages where the only way in is that bush carrier and knowing that in that cargo hold or on that person are hundreds, maybe 1,000 fentanyl pills that could wipe out every single person in that village and then some, and we can't figure out how we can address the flow into these rural communities. It is killing us in a way that is just—it is beyond comprehension, really.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Vice Chair.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

I think I am going to follow the two of you in this line of questioning, and just keep digging on why this is such a prevalent problem for the populations that we are talking about. Mr. Melville, it is good to know that you are an enrolled Makah. That means you know what remote is, and how remote Indian Country can be.

I want to welcome the Yakima Nation who is here in the audience.

The amount of volume that we are uncovering in Indian Country in various reservations, whether you are talking about the Colville and the 160,000-plus pills for a population of about 7,000 people, enrolled members, or Yakima or some of these other places says to

me that it is not just the population that they are after, that perhaps this is also a location to run operations out of, because there isn't enough law enforcement in the region.

Are we seeing data on this? We had this big bust up in Lummi, and Lummi is very close to the Canadian border. We needed the help of the FBI to bust up that ring.

So are we seeing people not just preying on this population, which they clearly are preying on this population, as Senator Murkowski described, but in addition, it is just a good place to operate their facilities from? Does anybody have a comment on that? Mr. Melville.

Mr. MELVILLE. Thank you, Senator. Absolutely.

There is a well-known fact in the Mexican cartels that if you can go onto an Indian reservation and work your way into an Indian reservation, that that is an area they know they can try to utilize and manipulate. Because they know that the tribal police officers are only really in charge of or looking at their tribal members.

Visitors, there is a myriad of jurisdiction everywhere you go. Washington is especially difficult with tribal jurisdiction, State jurisdiction and Federal jurisdiction. So they have figured out that that is a place that they want to try to go and get a foothold. It is very, very difficult in some of these remote areas for these task forces to be able to operate. Because as soon as you drive onto the Makah Indian reservation, everybody knows you are there already. There is one way in, one way out. Any strange cars come in that are not known, people talk about it.

If you are driving an SUV that looks like a government vehicle, you are not going to be able to do much surveillance. So our drug division is very, very intuitive and inventive in the way they try to get into those areas and try to work with the tribes and the task forces to try to root that out.

That is one of the things that they work on. But it is a very, very difficult area to work in.

Senator CANTWELL. Anybody else on that point? Yes.

Ms. WALDREF. Thank you, Senator.

There are certainly challenges in addressing the trafficking drugs in rural communities. You have identified a lot of them. The same strategies that we have found throughout rural communities in eastern Washington have been effective in addressing drug trafficking on our tribal lands as well. That is really trying to have, using resources like HIDTA, and our task force, Safe Trails task forces, so that we have accurate information from our tribal law enforcement members. Because they really know what is going on on the ground.

So if those tribal law enforcement members can be either task force officers or have the special law enforcement commissions, those are extremely valuable tools for us to be able to bring Federal prosecutions effectively.

Senator CANTWELL. Senator Mullin and I both have sponsored legislation, the Tribal Law Enforcement Parity Act, which would help tribes with law enforcement self-governance contracts in retaining law enforcement. So I certainly support that. I certainly support more resources for local task force bottom up.

But I was also trying to get at just this notion that not only are they preying on a population, they are also finding a good place to hide. Is that correct?

Ms. WALDREF. There are challenges in rural communities. We have that throughout the Eastern District, both in and around the Yakima area and Yakima Valley as well as in northeast Washington, where there are rural communities that can be areas to hide those drugs.

What we do to try to address that and to effectively prosecute these cases is having the most effective information sharing that we possibly can, which is using all of our information sharing resources, such as HIDTA, our task forces, and our DEA and BIA cross-designated partners.

Senator CANTWELL. Just to be clear, what is the data change that we need to do that you think is, who do you think needs to get us better data?

Ms. WALDREF. We could always be partnering with this Committee to try to provide the data information that we can. We are working with our tribal partners on gathering that information and would be happy to support this Committee's interest in additional information about the impact of fentanyl in our Indian Country communities.

Senator CANTWELL. Thank you. I know my time is expired, Mr. Chairman, but I do think that improving the data connection was something the Northwest Indian Health Board out of Portland has talked about, and I know that leaders here, that we need to, we will get something for the record asking Director Cohen about that.

Thank you.

The CHAIRMAN. Senator Mullin.

STATEMENT OF HON. MARKWAYNE MULLIN, U.S. SENATOR FROM OKLAHOMA

Senator MULLIN. Thank you, Mr. Chairman. And thank you for holding this hearing, thank you to all the panelists.

I was fortunate enough to be raised in Indian Country my whole life. Still live there, and I raise my kids there to stay. The opioid crisis, which started this whole drug crisis, has led to the fentanyl crisis, has touched all of us. All of us that live in Indian Country, we all have family members it has touched very close. Most of us could probably say we have family members who have been locked up because of use of drugs or they got cut up worse.

So it is very personal to me. I was happy to work with the Trump Administration on trying to address this. I thought we went a pretty good way on actually just identifying some of the issues. In fact, in front of me I have a very detailed 30-page report to Congress from BIA on the Opioid Reduction Task Force that was put in in 2018 and 2019. These are two detailed pages right here. I would like to submit it for the record if that is okay, Chairman.

The CHAIRMAN. Hearing no objection, so ordered. *

Senator MULLIN. And I will tell you that I haven't heard anything, and this is no backhand, because Indian Country is bigger than politics. It is not a Republican thing; it is not a Democrat

* The information referred to has been retained in the Committee files.

thing. In fact, most of us just say just get the heck out of our way, let us live our lives. That is what we have always wanted to do.

But I haven't heard anything from this Administration. Not a word. And I helped with this task force. I helped bring some reality to it. I brought a different law enforcement to the Cherokee Marshalls or Light Horse or whatever task force it was to deal directly with them. I am at a loss.

So I have a couple questions for you. One of them is really, who is running the Opioid Task Force for OGS right now? OJS, I guess.

Mr. MELVILLE. Thank you, Senator. Right now the Opioid Task Force really hasn't been, so it hasn't been followed up on as much as it should have.

Senator MULLIN. And that is a problem. It is a huge problem. This isn't politics. This is about our families. I have to ask almost every tribal member out here, how many of you all know grandparents who are raising the third generation of their kids? Not their grandkids, their great grandkids now. Because two generations have been lost. I see heads bobbing everywhere.

Let me bob my head. I have three adopted children right now because of drugs that came from ICWA, Cherokee tribal members. We have an Administration that says they are for Indian Country, but this task force was put in place and it was being pretty danged effective, and no one is heading it up now? How are you going after fentanyl if you are not going after opioids? They are a heck of a lot easier to get your hands on. And it is the foundation. Does anybody argue that point? It is the foundation to these drugs.

Because the opioid is where the accidental overdose took place. It is where they accidentally got addicted. It is because they were prescribed by IHS doctors after surgery or back pain or any injury, and they took it according to the doctor's recommendations. And yet we all know after seven to ten days 30 percent of the population is going to be dependent on it.

And if they quit getting that, they go on to fentanyl. You don't have a task force for it anymore? There is a problem.

Have we seen any arrests from OJS? Do we know what the arrests are for, underneath the arrests for seizures on the southwest border since 2018 and 2019? Do we know how many people have been arrested or drugs been seized?

Mr. MELVILLE. Sir, I don't have the numbers in front of me about who has been arrested. But we have done an amazing job this year under this Administration working on prosecution, not only just catching people who are coming across with drugs but also —

Senator MULLIN. I will switch that question.

Ma'am, how many have been switched to and been convicted now?

Ms. WALDREF. I don't have the data in front of me.

Senator MULLIN. Can we get that data?

Ms. WALDREF. We can absolutely provide information regarding —

Senator MULLIN. Because I can get pretty close to it with what is happening in our Country, most of them are going unprosecuted. The arrests are being, they are being arrested, but they are not being prosecuted. In fact, when you deal with the FBI, the FBI says, listen, we are just trying to deal with the most heinous

crimes in Indian Country right now. Is that different than what you are hearing? No? Good. Say it out loud for the record so I can hear that.

Mr. MELVILLE. No.

Senator MULLIN. No. So we are not even prosecurting these individuals. That is a problem. That is a huge, huge problem. So we are up here and we are talking about fentanyl, we are talking about the opioid crisis, and we are doing nothing for it. This is all dog and pony show. Because I am living in it. And it is worse now than it has been.

This is not, guys, for my Democrat colleagues, this isn't about politics to me. I could care less, because this is my back yard. This is my home. This is my family. It has nothing to do with Republicans, nothing to do with Democrats, this has to do with getting the drugs off our streets.

And you can't seize it and think it is not going to come back if you don't prosecute. If you don't get the vendors, I am not talking about the users, I am talking about the dealers, if you don't get them off our streets, what good does it do? In fact, it just breeds more dealers, because they know they won't be prosecuted.

It is a hole, and we need help with it. I am just trying to help, sir, I know I am over my time, I am just trying to help open peoples' eyes, because maybe you don't see it because you don't live it. That is why I am saying I do. And I am willing to work with anybody on this, including this Administration, to just help get these—ma'am, I know you want to do your job. I know you do. So this isn't on you. And sir, I know you do, too.

Help us help you. What do we need to do? I yield back.

The CHAIRMAN. Thank you very much. Senator Cortez Masto?

STATEMENT OF HON. CATHERINE CORTEZ MASTO, U.S. SENATOR FROM NEVADA

Senator CORTEZ MASTO. Well, let me follow that. Because I absolutely agree with you.

Here is what I know. Nevada is 110,000 square miles. There are 3 million people who live there, 28 tribal communities. I know, working there in law enforcement, that the Mexican cartels use the distance of vast deserts and areas to peddle their drugs. And they can get into some of our tribal communities.

I also know, of the 28 tribal communities, not all of them have law enforcement. They rely on BIA.

My challenge is with BIA, and this is what I want to hear, is if they are under-resourced and understaffed. In Nevada, the BIA comes from three different regions. Just recently, I was with the Fort McDermott Paiute Shoshone Tribe, which is on the border of Nevada and Oregon, talking with the tribe and the BIA agents. There are not enough of them to cover that territory, those vast distances, and the other territory that they have to cover if they are coming from Arizona or California or wherever they are coming from.

I also will tell you that every U.S. Attorney's office, and I thank you for being here, but everyone is going to be unique and different. Some are very aggressive when it comes to staffing AUSAs on tribal communities and working it with the FBI who are as-

signed to it to go after the crime, and some are not. That is part of the problem.

So my first question to Mr. Melville is, be honest with us, tell us if you need more BIA agents, and what do you need to staff those BIA agents? And is that enough?

I will add one final thing here. I just got off the phone this past week, we lost two police officers, NHP police officers in southern Nevada. We have a funeral tomorrow. I was talking with the head of our DPS. He literally wants to enter into an agreement with some of our tribes to be able to provide investigation and law enforcement. But BIA and Interior are blocking that.

So what is the answer here? If we can't have BIA be honest with us and tell us the resources you need to cover the territory, have our AUSAs, U.S. Attorneys, our FBI agents, by the way, who are not tasked, enough resources to go after a lot of the drugs we see and the activity that happens here, what do we do? And what do the tribes do?

We also know that tribes, most of the crime is by non-Indians. How do we handle that?

We are all asking for answers. That is why I have the BADGES Act, that is why the Parity Act is here, that is why there is a lot of work trying to get at how do we staff this and address the challenges, the complexity of it. But I have always wanted BIA to be here, and I am asking you, what do we need to do? You are understaffed. Tell us why. What is going on, and what else do you need?

Mr. MELVILLE. Thank you, ma'am. I will be honest with you. The issue of lacking law enforcement in Indian Country is a lack of interest in being in law enforcement by qualified Indians who don't really want to go into law enforcement, don't really want to be part of that anymore.

We are actively working with youth to try to bring in some interest, to understand that law enforcement is not a bad career, that it is a place where you can serve your people and serve your country.

Senator CORTEZ MASTO. So are you telling me that you have open positions for BIA agents and you can't fill those positions?

Mr. MELVILLE. That is correct.

Senator CORTEZ MASTO. And the reason why you can't fill those positions is because of a lack of interest, or because the salary, the retention, the benefits are not enough?

Mr. MELVILLE. We are working on the salary and benefits. We are working on the pay parity for our law enforcement officers. Our police officers, when I took over, were GS–083s. They stepped out at GS–8. We have now moved them into the 1801 series of law enforcement officer, professionalized them to department standards, along with every other bureau, or most every other bureau, in the Department of Interior. Now they have gone to GS–11 wages. So that is living wages for our police officers. That is for OJS direct service.

Senator CORTEZ MASTO. In the meantime, you are trying to retain more officers to cover the territory that you need. Even at the capacity that you have, do you need more officers, number one? And two, are you opposed to entering into agreements with local

law enfocemenet, State law enforcement, to help cover the territory when tribes don't have tribal law enforcement?

Mr. MELVILLE. Absolutely not, ma'am. I want Indian Country to be as safe as possible. I want departments, tribal, local, Federal, everybody, to be able to work together in cooperative agreements, mutual aid agreements, whatever. It doesn't matter. If somebody needs police assistance, I don't want anybody to think, okay, what badge or what color uniform is coming to help me? All I am getting is police service when I need it.

Senator CORTEZ MASTO. I know my time is up, and thank you. We are going to follow up. I want answers to all this, so we are providing the resources we need.

But let me ask Ms. Waldref, thank you for being here, how many AUSAs do you have assigned to tribal communities?

Ms. WALDREF. My office has 40 AUSA positions, and I would say probably half of our AUSAs are doing work that impacts our tribal nations.

Senator CORTEZ MASTO. What does that mean? They are actually prosecuting cases?

Ms. WALDREF. Yes. We have prosectuors, we have a dedicated Indian Country liaison who is on the ground, talking with all of our tribal nations.

Actualy, I am very excited to be having one of the MMIP AUSAs who is going to be hired in eastern Washington joining our team as well, serving the entire western region to collaborate and provide better resources for —

Senator CORTEZ MASTO. And how many FBI agents are working with you for tribal communities?

Ms. WALDREF. For our entire region, we have two SSRAs and I would say it is about nine to ten FBI agents serving our tribal communities in eastern Washington.

Senator CORTEZ MASTO. Thank you. I know I am done and I am going to run over time.

But not every ASUA, not every U.S. Attorney's office devotes that entire, what you have done to tribal communities. Every one is unique, and some are missing out on providing that type of enforcement and prosecution. That is part of the challenge we see. Thank you.

The CHAIRMAN. Senator Hoeven?

STATEMENT OF HON. JOHN HOEVEN, U.S. SENATOR FROM NORTH DAKOTA

Senator HOEVEN. Thanks, Mr. Chair, and thanks for holding the meeting today.

I want to fololow up on what Senator Cortez Masto was talking about here. Last month, we had Chairman Jamie Azure of the Turtle Mountain Band of Chippewa Indians testify in front of this Committee. He said that there is one, and this is going to be for you, Mr. Melville, one BIA drug agent stationed to patrol all of our reservations in North Dakota. We have five reservations spread out over thousands of miles, two of which we share with South Dakota. Turtle Mountain actually is up on the Canadian border.

So to address this, the North Dakota legislature authorized additional North Dakota Bureau of Criminal Investigation agents to

work with and near tribal communities. So last year, Spirit Lake entered into an MOU with the State of North Dakota agreeing to share resources and information pertaining to law enforcement operations.

My question is, why has the department taken over three years to review an MOU between the Turtle Mountain Tribe and the State of North Dakota to address law enforcement and public safety issues on the Turtle Mountain Reservation, when we have that shortage of BIA agents? Why would you delay that for three years?

Mr. MELVILLE. Thank you for the question, Senator. I will let you know that the agreements have been reviewed by our solicitor's office, and that tends to, when you have solicitors get involved, it takes a little bit longer. I guarantee that we have our folks on the ground trying to work together, no matter what, if they have an MOU or not.

Senator HOEVEN. Do you think that is acceptable, three years?

Mr. MELVILLE. No, absolutely not.

Senator HOEVEN. That is just our experience. There are more than 700 reservations around the Country. Will you commit to me that you are going to do something about this?

Mr. MELVILLE. Absolutely.

Senator HOEVEN. Okay. Along those lines, we have set up a law enforcement training center for FBI agents at Camp Grafton, which is our National Guard site in North Dakota. I think something like 50 percent of the jobs in the upper Great Plains for BIA law enforcement officers are vacant, places like Montana, Alaska, North Dakota.

The whole idea is because they formerly all had to go down to New Mexico for training. A lot of the folks from the northern tribes or reservations didn't want to do that. They wanted to stay closer to home. That is why we set up this center.

So what can you do to help us continue to recruit and get more of these BIA law enforcement candidates to our training center? Actually, the reality is, I think we are already running over capacity. So it is really, what can you do to help us continue to staff up and resource it to handle more of these agents when we need so many of them across all of our northern plains reservations?

Mr. MELVILLE. What can we do? We can always be looking for additional positions, so that we are constantly recruiting, we are reaching out to the tribal colleges. We have even started working with high-school age kids.

Senator HOEVEN. I think the biggest thing is, to help us resource it, we already have more applicants than we can handle. These are folks who will fill these northern plains BIA law enforcement positions. So we need your help.

Mr. MELVILLE. I think under the BADGES Act we have a proposal that the Bureau of Indian Affairs would be able to do their own background investigations, which would speed up the hiring and getting boots on the ground a whole lot quicker.

Senator HOEVEN. What I am looking for is help getting them to and through the academy, resources there. Are you willing to work with my staff on that?

Mr. MELVILLE. Absolutely.

Senator HOEVEN. Okay. And then I want to ask about the commitments and border, for Mr. Cohen. Why aren't we doing more to stop the influx of fentanyl across the border, as well as just the flow of people across the border, and the flow of drugs, not only to every community in this Country, but to every reservation? What do you think ought to be done, or do you think it is acceptable, what is going on right?

Mr. COHEN. Senator, we have record numbers of personnel on the border. Something like 85 percent of CBP is facing south. That is actually paying off. The teams at CBP are making record seizures of illicit narcotics coming across the border, some 547,000 pounds of illicit narcotics last year. Of that, 28,000 pounds was illicit fentanyl. So we are making sort of an historic commitment there, and we are seeing some historic return.

Senator HOEVEN. Should the metric be how much you seize, or how many more people come here illegally and how much more drugs come here illegally? So if you are seizing more all the time and there are more and more coming into our communities, do you consider that success?

Mr. COHEN. The metric for me is reducing overdose death. That is the north star for me, that is the north star for the President, for this Administration.

Senator HOEVEN. It isn't reducing the amount of drugs that actually flow into the Country?

Mr. COHEN. The metric is trying to reduce, from 110,000 Americans that passed away last year due to drug poisoning, 70 percent of which was due to fentanyl poisoning, is to try to get that number down as much as possible.

Senator HOEVEN. How are we doing on that?

Mr. COHEN. The fact is that we are now seeing a level-off in that overdose rate after three-plus years of increases up through calendar year 2021. We have now seen a leveling off. That gives us a chance to find a plateau. I am hopeful that that plateau gives us decrease. We won't know unless we continue to fololow our historic ivnestments with more investment.

Senator HOEVEN. Final follow-up, Mr. Chairman.

So you feel that the flow of drugs and people, including drug dealers coming across the border now, you feel you are making progress on that? Is that what you are telling us?

Mr. COHEN. I am focused on the amount of narcotics coming into the United States and the illicit fentanyl coming into the United States, and trying to seize as much of that as I can. Every ounce, every pound, every package of fentanyl that we seize along the border is not getting to Americans that are ultimately overdosing.

So that is progress to me.

The CHAIRMAN. Senator Smith?

STATEMENT OF HON. TINA SMITH, U.S. SENATOR FROM MINNESOTA

Senator SMITH. Thank you, Chair Schatz, and Ranking Member Murkowski.

I can tell from this conversation that people feel really strongly about this. We feel strongly about it because we know that it is such a huge issue in our States. I can't remember a time that we

have held two hearings so close to one another like this. I think it underscores the importance of this.

I can tell you that I hear from tribal leaders in Minnesota all the time about the devastation of the fentanyl crisis, for every single family. Just as Senator Mullin said, it touches everybody in one way or another.

Just last week, I heard a story about a situation at Sisseton Wahpeton in South Dakota, just across the border from Minnesota. Just terrible violence that was driven by drug trafficking.

I also want to say, Mr. Chair, to note our Minnesota experience, while there is a huge problem with figuring out how to do prosecutions for these crimes, there are some examples where there has been some success. This has been a story that I have heard over and over again from Red Lake Nation, for example, the sort of revolving door that happens with non-Native people coming onto tribal land, committing crimes, drug crimes, sex trafficking crimes, and then just basically walking away.

An example of what we are doing that I think is working is the U.S. Attorney in Minnesota, Andy Luger, went up to Red Lake, understood what was going on. As a result of that and their consultation with Red Lake, they were able to hire five special prosecutors for Indian Country in Minnesota, with new resources from the Biden Administration to be able to get at that prosecution. So it is not a panacea, but it is helping to be able to make an improvement.

What I want to focus on is this question of how, on the other hand, if tribes have special tribal criminal jurisdiction, that they are able to prosecute these crimes in ways that will also make a big difference.

Deputy Director Melville, I know that the special tribal criminal jurisdiction goes through the DOJ. I would like to ask you about the lessons you have learned from that program that we could apply up here. I have worked on this, with many on this Committee, particularly with the VAWA reauthorization.

So what can you tell us about the impact of that special tribal criminal jurisdiction on the missing and murdered indigenous people issue, and what can we learn from that that might guide us as we try to get more progress in this area?

Mr. MELVILLE. Thank you, ma'am. I can tell you that any time that the tribes get special authorization or special jurisdiction that they take care of it, they go after it incredibly hard. Because they had had taken away that jurisdiction from before.

They finally are at a point where they can do something themselves, that they can see the product of what they are putting forward. That really empowers them. They are very emotional about what they have going on. By giving them that additional jurisdiction that was taken away under Public Law 280 or Oliphant, all of a sudden that gives the tribes buy-in. They absolutely are taking care of it.

It helps quite a bit.

Senator SMITH. So, some lessons that we have learned for providing special criminal jurisdiction on missing and murdered indigenous people, we could think about applying that to create a drug

crime special jurisdiction that could have some of the same positive results, you think?

Mr. MELVILLE. Absolutely.

Senator SMITH. Thank you.

Director Tso, I wanted to ask you, when you were first nominated, we discussed my hope to create a special behavioral health program in Indian Country, modeled on the successful Special Diabetes Program. What we were talking about, there is a great interplay, of course, between behavioral health issues and substance use disorder issues.

I am wondering if you could comment briefly on how you think a special behavioral health program could help address the fentanyl crisis in Indian Country.

Ms. TSO. Thank you, Senator, for that question.

Two things I would say. One is that of course, building on the Special Diabetes Program, really incorporating, and the foundation of that was built in Indian Country. Each community was able to build what they needed for their communities. It is the same place that we need to start for behavioral health. That is where we are right now with behavioral health.

The tribal leaders, tribal communities, are taking control of what it is that they need for their specific communities. I see that Indian Health Service or the Federal Government becomes a support. We are technical advisors at some point, and we are no longer and should not be driving what is appropriate for Indian Country. This has been something we are working on.

So as we are looking more at strategies, building strategies that we can offer partnering with people like the Portland Area Indian Health Board and other national organizations to help us build strategies, that can be incorporated at the local level to best address this. It has to be following the same model as SDPI.

Senator SMITH. Thank you very much. That is very good guidance for us. I appreciate it.

The CHAIRMAN. Senator Daines.

STATEMENT OF HON. STEVE DAINES, U.S. SENATOR FROM MONTANA

Senator DAINES. Chairman Schatz, thank you, as well as Vice Chair Murkowski.

This Committee recently heard first-hand from tribal leaders about the devastating consequences of fentanyl, fentanyl flowing into Indian Country, which I think in many ways is ground zero for the overall fentanyl crisis in our Nation. In fact, we heard a simple message from Councilman Bryce Kirk, who was here from the Fort Peck Reservation in Montana. To paraphrase what he said, he said we need to shut down the southern border, that is what he said, to stop these dangerous drugs from entering our Country.

There must be real policy changes to make the border more secure. It is all tied together. Until we do that, I am very concerned that lives will continue to be lost, communities will continue to be destroyed, law enforcement overwhelmed by fentanyl and other drugs that are being brought to the United Sttes.

When I spend time out in our resevations on Montana and talk to law enforcement, talk to tribal leaders, they will tell you from the time that fentanyl crosses the Rio Grande until it gets to a reservation in Montana is 48 to 72 hours.

In Montana, Native Americans are dying from overdoses at a two to one ratio. Montana law enforcement broke last year's record of fentanyl seizures in just the first six months of this year. It continues to climb. It is not a mystery where these drugs are coming from; they are coming across the wide-open southern border.

Deputy Director Cohen, the Biden Administration's National Drug Control Strategy promised bold action to combat the fentanyl crisis. The Office of National Drug Control Policy cites a mandate from the President to stop drug trafficking organizations that bring fentanyl into our Country.

My question is, do you think the Administration is doing enough to stop the flow of illegal drugs across the southern border?

Mr. COHEN. Senator, I share your concerns. The fact that overdose rates are as high as they are in the indigenous communities is difficult.

As I mentioned a moment ago, in response to Senator Hoeven's question, the fact that overdose deaths continue to rise in that community is the north star. There is a historic commitment by this Administration. I appreciate that there is that difficulty. But the fact is that we have put record amounts of resources into the southwest border. We are seizing record amounts of narcotics as it is coming across the border.

One of the reasons that I urge this Committee to pass the supplemental is that I need to continue to keep my foot on the gas to continue to seize——

Senator DAINES. Have you been down on the southern border before?

Mr. COHEN. Yes, sir.

Senator DAINES. Have you talked to Border Patrol?

Mr. COHEN. Yes, sir.

Senator DAINES. Did you ask them about what they tihnik about the resources directed there, they have apprehended over 8 million illegals coming across the border, how that somehow is part of the calculus in terms of stretched capabilities? Why Border Patrol agents now are starting to retire at record levels, because they were hired to protect the border, not process illegals? Have you had those conversations with them?

Mr. COHEN. The focus of my conversations with CBP rank and file as well as leadership is all about doing everything that this Administration can possibly do to reduce the flow of narcotics.

Senator DAINES. Do you think it distracts the Border Patrol's mission of trying to stop illegal drugs by having to process some now 8 million illegals plus 1.6 million known gotaways since the President took office?

Mr. COHEN. I am hesitant to conflate border security, immigration policy, and narcotics trafficking.

Senator DAINES. This is not immigration policy. This is about an out of control southern border that is wide open. Do you think the Administration is doing enough?

Mr. COHEN. I think that with our historic investments and with the focus on narcotics trafficking, the fact that we are seizing as much as we are seizing as much as we are seizing is saving American lives. That is the metric.

Senator DAINES. I understand and with respect to your opinion, it is certainly somebody out there trying to help. But I wouldn't trade you jobs right now. But I think that is the wrong metric to look at, because we have absolutely a flood, it is like saying, if you started measuring how many illegals they have apprehended at the border and say, we are proud of the fact that we seized 8 million since the current President took office, that is not a record to be proud of.

So I will move on. Director Tso, it is my understanding that the relationship between your office at IHS and the Blackfeet Tribe has deteriorated to the point that the Blackfeet leadership has called for new leadership. The government-to-government relationship between IHS and the Blackfeet is broken.

I am not seeing actions being taken to resolve the issue. There is a lack of doctors to treat basic medical concerns, provide resources necessary. The issue of certainly the harm done by Dr. Stanley Weber on the reservation, IHS has failed the Blackfeet Nation.

Do you believe the IHS is doing enough for the Blackfeet people to fulfill its trust responsibility?

Ms. TSO. Thank you, Senator, for that question. Of course, every relationship with tribal leaders is absolutely important for the work that I do at the Indian Health Service. I cannot do my job without working very closely with all tribes, including the Blackfeet Tribe.

Senator DAINES. Have you been to the Blackfeet Reservation in your capacity as Director? As Director?

Ms. TSO. No. I was planning to go there, and we did not make it there. I will continue to, and I have continued to have conversations and outreach to the tribe to make sure that we continue dialogue and conversations about the health care services in their community.

Senator DAINES. On behalf of the Blackfeet Tribe, I would request that you would make that trip. Meet with the tribal leaders, meet with the people there on the reservation, hear it first-hand. Because I am hearing it. You should be able to make the same trip out to Montana to hear from them.

Ms. TSO. I have been out to Montana about four times. I will continue to do outreach with them.

Senator DAINES. As Director, though, the position you have now. Please go see the Blackfeet.

Ms. TSO. Yes, sir.

Senator DAINES. Thank you.

The CHAIRMAN. Senator Tester?

STATEMENT OF HON. JON TESTER, U.S. SENATOR FROM MONTANA

Senator TESTER. I want to thank you, Mr. Chairman and Ranking Member, for having this hearing. The questions that have been asked here so far got me thinking of the first time I came to an

Indian Affairs meeting; it was when Byron Dorgan was Chairman and Craig Thomas was Ranking Member.

One of the issues we were talking about was declination in Indian Country, and why there was such a high rate of declination. Because quite frankly, it is a problem and it has been a problem, and I am not going to get political here, so I am not going to talk about what a wonderful job Trump has done or what a wonderful job Biden has done. The truth is, this has been a train wreck for a long time, through multiple administrations, through multiple, regardless of which party has been in the White House.

U.S. Attorney, why has this been the case, and why does it continue to be the case? Are there any shining stars where we are actually seeing cases being prosecuted at the same rate as off-reservation cases?

Ms. WALDREF. The department is committed to achieving public safety in Native American communities. I think one example that I can highlight as a success was actually a cross-jurisdictional effort between my office and the Montana U.S. Attorney's office, where we were able to share information very effectively with partnerships between DEA, BIA, and our tribal law enforcement partners to seize 160,000 fentanyl pills before they entered the Colville Reservation and made their way over into the Montana areas as well.

Senator TESTER. Let me ask you, why is it this way? I know we only have one FBI officer in Montana. Sounds like you only have one FBI officer in North Dakota. Why is it that the declinations are so high? I don't want to throw the BIA under the bus, because you guys need more people. There is no doubt about it.

In fact, I had a tribe in earlier this week, and I had a tribe that I talked to on the phone right before Thanksgiving. We have a minimum number of BIA agents and 638 tribes are in the same boat, they don't have enough folks. If you don't have law enforcement, you can't put down the paper trail, and you can't have a good case to be able to get these folks convicted.

Let's cut right to the chase. Is that the problem?

Ms. WALDREF. Thank you, Senator. You have identified the challenges of law enforcement in bringing cases that can be prosecutable to the United States Attorneys offices. The challenges we have with recruitment and retention on both tribal reservations with 638 contracts or in the BIA, the department is trying to do all it can to fill those jurisdictional gaps and fill those law enforcement gaps.

Senator TESTER. I got you. But a lot of this falls on us, making sure that the BIA has the resources it needs to be competitive. This is not pointed at you in any way whatsoever, Mr. Melville. I am just asking a question.

How do your wages and benefits compare with the highway patrol?

Mr. MELVILLE. Thank you, Senator. They are getting better.

Senator TESTER. But they are not close to them, are they?

Mr. MELVILLE. They are getting better.

Senator TESTER. Okay, so when you get an agent trained up, a BIA agent, you know what they are going to look at going to? They are going to go to Customs and Border Protection, or they are going

to go to the county, or they are going to go to the highway patrol. This isn't your fault. This is our fault. The folks on this side of the rostra.

And it is not these folks who are the problem, either, because every one of us understands that we have to have money in the budget for the BIA to hire officers. If they don't have the budget, and by the way, also in the budget for when a tribe 638s, that they are getting the same amount of money as you guys have to do the same kind of job.

So it is on us. Let me give you a perspective on that. I don't want to throw us all the way under the bus, but you can throw us part of the way.

Mr. Melville?

Mr. MELVILLE. You are exactly right, Senator, absolutely right. Being able to compete with the other departments out there, there is a shortage of law enforcement nationwide. When you have city police departments that are offering a $25,000 hiring bonus just for somebody who has law enforcement experience, of course, somebody that is going from a tribe or even the Bureau of Indian Affairs at one point would be tempted to go and get that money.

Senator TESTER. And you combine that with a lack of housing, with schools that need attention in Indian Country, and why are you going to be able to out-recruit anybody, is the point? So we have a lot of work to do.

Just one thing for the record that I want to put forth, the fentanyl that is coming into this Country, some of it is coming in between the border stations. But the vast majority is coming through the border stations. We need technology. We have technology, by the way, that can determine that stuff if it is in a car or a truck or in a hubcap or whatever it might be. We need to get serious about doing technology and manpower to secure the southern border.

But if we really want to do this, we have to quit making it a political talking point and get after it, both sides. Thank you.

The CHAIRMAN. Thank you very much, Senator Tester.

Senator Luján?

STATEMENT OF HON. BEN RAY LUJÁN, U.S. SENATOR FROM NEW MEXICO

Senator LUJÁN. Thank you, Mr. Chairman, and thank you to our Vice Chair as well for this hearing.

Mr. Melville, as the hearing began, I had the honor of handing a letter over to your staff which I believe has since been shared with you. It is a letter from Mescalero Apache Nation in New Mexico dated August 30th. They still haven't had a response to this letter and previous letters related to this.

Mr. Melville, I was hoping that I can maybe get a timeframe when the agency might be able to get the tribe a response to that letter.

Mr. MELVILLE. Thank you, Senator. Absolutely. Since we have received the letter from the tribe, we have been working very, very closely with them, sending folks in to take a look at the programs, seeing what they can do, having more communication with the tribe.

The fact that a formal letter hasn't gone back to them is something I will need to follow up on.

Senator LUJÁN. Is that something we can work on and get a formal response to the tribe?

Mr. MELVILLE. Absolutely, Senator.

Senator LUJÁN. I appreciate that, Mr. Melville.

In New Mexico, thousands of tribal members fell victim to an extensive Sober Home Medicaid fraud scheme in Arizona. Many were kidnapped from New Mexico and driven hundreds of miles to Arizona under the false promise of treatment. Then they were left there without any means to get home or any treatment whatsoever. The tragedy highlighted the dire need for increases in substance use disorder treatment.

Mr. Cohen, I appreciated in your testimony that you said, "If it is easiser to get drugs than it is to get treatment, we will never redcuce overdose deaths." I appreciate that.

Ms. Tso, how is IHS increasing access to substance use disorder treatment so that people do not fall prey to these horrible frauds? I will include that what I would add to Mr. Cohen's statement is also for alcohol related deaths as well. But my question to Ms. Tso is, what is IHS doing to increase access to substance use disorder treatment, so that people don't fall prey to these horrible frauds?

Ms. TSO. Thank you, Senator. This continues, of course, to be a challenge across the Country, to find places where our people can go, specifically our people from Indian Country. We do continue to work across the agency to find places where we can support our people to go.

But much of this also takes integrating into the community level strategies that we can use to again, help tribes use what is working in their communities to build before we can, if there is any delay to get them into treatment. So we are looking at strategies and trying to find ways to do this.

Senator LUJÁN. The IHS Community Opioid Intervention pilot project awarded 35 grants in 2021, a little over $16 million in funding appropriated by Congress, including one to the Albuquerque Area Indian Health Board of New Mexico. But no new awards are available due to lack of funding.

Ms. Tso, yes or no, should Cognress provide additional funding for this pilot grant program?

Ms. TSO. Yes.

Senator LUJÁN. Ms. Tso, yes or no, does the IHS support permanent authorization of this program?

Ms. TSO. Yes.

Senator LUJÁN. And Ms. Tso, what would be the impact of IHS' treatment work if Congress does not pass a domestic supplement with funding to combat the fentanyl crisis?

Ms. TSO. Thank you, Senator. We are already behind, as all of us are talking about here, with regard to strategies to get in front of the opioid crisis. Failing to fund the supplemental will continue to put us further behind.

Senator LUJÁN. Ms. Waldref, in your testimony you mentioned that earlier this year one of the largest ever seizures of narcotics in your district included thousands of rainbow-colored fentanyl tablets. The Senator showed us a large photo of just one of those bags.

You allege that a significant portion of the drugs were destined for the Colville Reservation and other Native American communities and surrounding areas. My question is, why are cartel operatives using tribal lands to transport and hide fentanyl?

Ms. WALDREF. Thank you, Senator. The challenges that rural communities are facing for addressing the crisis of fentanyl are serious. We do see drug trafficking operations using rural communities as areas to stash drugs.

The DEA is engaged in all efforts to ensure that our large drug trafficking organizations are being held accountable for the fentanyl that they are bringing into our communities. There is information sharing that we absolutely encourage between our tribal law enforcement, our FBI and our DEA to ensure that we are gathering appropriate information to not allow those drug traffickers to use any of our communities, particularly our tribal communities, as safe areas. It should not be. There are Federal prosecution priorities around ensuring that these drug traffickers are being held accountable for that work.

Senator LUJÁN. Ms. Waldref, in your testimony, you endorsed a multi-faceted strategy to address the fentanyl crisis in Indian Country. Does the multi-faceted strategy include proactive steps that DOJ will take to address the crisis on missing and murdered indigenous people?

Ms. WALDREF. Absolutely, Senator. The dangers that we are seeing in our communities that are related to drug trafficking has so much crossover with violent crimes, including the root causes of missing and murdered indigenous people. Our efforts to prosecute both drug crimes and domestic violence, violent crimes, assaults, are all efforts to address the missing and murdered ingeneous people crisis.

Senator LUJÁN. I appreciate that. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

We thank all of our testifiers. If there are no more questions for our witnesses, members may also submit follow-up questions for the record. The hearing record will be open for two weeks.

I want to thank all of you for your time, your testimony and your hard work.

This hearing is adjourned.

[Whereupon, at 4:02 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. MARVIN WEATHERWAX, CHAIRMAN, COALITION OF LARGE TRIBES; MEMBER, BLACKFEET TRIBAL BUSINESS COUNCIL

My name is Marvin Weatherwax, Jr., and on behalf of the Coalition of Large Tribes, I thank you for holding this important oversight hearing on "Fentanyl In Native Communities: Federal Perspectives On Addressing The Growing Crisis." The Coalition of Large Tribes is an intertribal Section 17 corporation representing the interests of the more than 50 tribes with reservations of 100,000 acres or more. Fentanyl is a crisis on many COLT Member Tribes' reservations. The testimony of President Frank Star Comes Out represents our typical experience on our large land base reservations.

Cartels are omni-present on our reservations, something about which I speak out often. *See, e.g., Tribal Leaders Warn Biden's Menthol Ban Will Only Further Empower Cartels National Review* ("The cartels have a 'big presence' in his community, where tribal police don't have authority over nonmembers. They pretty much feel unmatchable; they're just brazen, out in the open. It's almost like it's raining fentanyl on our community").

The cartels are empowered by tribes' lack of criminal jurisdiction over non-Indians. Cartels know they can get away with anything—that little to no law enforcement presence is available and prosecution is exceedingly unlikely even if they are arrested because of federal declination rates. Congress has known this for decades. Indeed, a generation after the U.S. Supreme Court's decision in *Oliphant v. Suquamish Tribe*, finding that tribes had been implicitly divested of criminal jurisdiction over non-Indians because of tribes' status as "conquered peoples," then-United States Senator Ben Nighthorse Campbell questioned the impact of *Oliphant* and observed that "the word is out that people can get off the hook, so to speak, if they are not Indian and they do something on Indian land." S. Hrg. 107–605.

COLT and other tribal organizations have long proposed solutions to address this. *See Oversight Hearing "Opportunities and Challenges for Improving Public Safety in Tribal Communities" Coalition of Large Tribes; COLT-Resolution-04–2022.pdf (largetribes.org); SAC–22–043–FINAL–SIGNED–WITH–ATTACHMENT.pdf (largetribes.org).* *

Tribal law enforcement is also critically underfunded. COLT Member Tribes often have only one or two officers per shift on duty to serve areas the size of Delaware or West Virginia. The vast distances, lack of broadband and cellular coverage, and jurisdictional gaps exacerbate the crisis.

COLT has previously echoed the U.S. Senate concerns raised by Senators Cassidy, Rubio, Budd and Hagerty in their July letter to Commissioner Califf of the Food and Drug Administration, sounding the alarm over the Biden administration's plans to restrict tobacco products for Americans, potentially creating opportunities for foreign cartels to profit from illegal tobacco on the black market. *Ranking Member Cassidy, Colleagues Sound. . .Senate Committee on Health, Education, Labor and Pensions; COLT Chairman Echoes Senate Alarm on Foreign Illicit Tobacco Threats Amid FDA Prohibitory Rulemakings on Menthol and Nicotine in Cigarettes Coalition of Large Tribes.* COLT is very concerned about the illicit markets this rule will create and the pressure that will result on already-strained tribal law enforcement. This will be a cash cow for cartels already present on reservations and bombarding us with fentanyl and other drugs.

As with other forms of prohibition, unregulated supply chains will take over once legal pathways to adult consumers are closed off. Banning the legal sale of menthol and nicotine-containing cigarettes will cede control of the market to illicit producers. Tribes are painfully aware from our experience with the fentanyl crisis that criminal interests in China, the Middle East and Mexico already use various channels to traffic drugs through and concentrate drugs on our reservations, where the juris-

* The information referred to has been retained in the Committee files.

dictional maze and chronic underfunding of tribal law enforcement leaves a persistent gaps for public safety. COLT's *June 2, 2023 Resolution #03–2022 (WR-Las Vegas), Calling for Pause in FDA Rulemaking on Tobacco to Allow for Tribal Consultation and Protecton of Tribal Ceremonial Uses and Public Safety* addressed these concerns head on. COLT sent that Resolution to its Congressional delegations, the FDA and to the White House and has followed up in numerous meetings and communications since.

Yet, the FDA is barreling ahead with this despite the strong and well-grounded opposition and even as media reports on the significant illicit/cartel markets that have sprung up in California immediately after their flavor ban. *See, e.g., https://www.axios.com/2023/10/13/illegal-vapes-thwart-fda-enforcement; https://sjvsun.com/california/study-ban-hasnt-stopped-californians-from-using-flavored-tobacco-menthols/.* [1]

The multi-billion-dollar product gaps created by the proposed rules will be filled by foreign criminal interests and directly and negatively impact public safety on remote rural Indian reservations like those of COLT Member Tribes. The California empty and discarded packs study showed the dominance of the "Sheriff" brand of menthol cigarettes which is a well-documented Mexican cartel brand, and that dominance emerged after just one year of California's flavor ban. If FDA's menthol rule were to go into effect, tribal law enforcement would need to be fully funded at $2.4 billion annually [2] to try to address it. We are already out-manned and out-gunned and the proposed rules would provide the cartels with abundant cash as they fill the multi-billion-dollar product gap.

Why am I talking about menthol and fentanyl in the same testimony? Because if menthol is banned, the cartels will meet the demand and use the menthol illicit market as a cash cow utilizing their existing on-reservation networks that work so well for them to rain fentanyl on us with impunity. The U.S Department of the Treasury recognizes that fentanyl is coming from Mexico and being financed with other illicit products. *See U.S. Treasury Launches Counter-Fentanyl Strike Force U.S. Department of the Treasury; Remarks by Secretary of the Treasury Janet L. Yellen on New Treasury Actions to Counter Illicit Financing Tied to Fentanyl in Mexico City, Mexico U.S. Department of the Treasury* ("Just last week, and thanks to collaboration with Mexican government counterparts, OFAC designated three Mexican individuals and 13 Mexican entities linked to CJNG, which traffics a large portion of the illicit fentanyl and other deadly drugs that enter the United States. These individuals and entities had engaged, directly or indirectly, in timeshare fraud, in which elderly Americans can be robbed of their life savings. These funds are then used to fuel an expansive criminal enterprise"). Why the FDA would throw fuel on the raging fentanyl fire by banning menthol is unfathomable.

To being to address the fentanyl issues, COLT recommends three things:

1) Don't make it worse by inserting another product and more cash into the cartels' arsenals by enacting the FDA menthol bam. Abandon the menthol ban.

2) Fully fund tribal law enforcement. By BIA–OJS' own estimates, it would take $2.4 billion per year to fully fund tribal law enforcement. All of BIA is funded at $2.9 billion. We need to at least double that number because the mismatch is absurd.

3) Enact the public safety legislative proposal put forth by COLT and endorsed by NCAI and virtually every other major intertribal organization. Text attached. *

Thank you for your consideration.

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[1] Massachusetts' 2020 flavored tobacco ban is another good example of prohibition's expansion of illicit market. *https://www.wbur.org/commonhealth/2019/11/27/explainer-flavored-tobacco-vaping-law.* After the Massachusetts flavor ban went into effect adult consumers shifted their flavored tobacco purchases to neighboring states. The ban also fueled the already robust illegal market. *Sharon man charged in connection with major illegal tobacco operation (bostonherald.com); Smuggled cigarettes continue to flow into Massachusetts (bostonherald.com); Ban on menthol cigarettes sends sales to black market, convenience store owners say (bostonherald.com).*

[2] According the Bureau of Indian Affairs Office of Justice Services information presented in April 2023 to the Tribal Interior Budget Council, tribal law enforcement needs minimum annual funding of $2.9 billion. That number should be the floor. Presently, all of BIA, across many dozens of functions, is funded and $2.4 Billion. The underfunding is stark.

* The information referred to has been retained in the Committee files.

PREPARED STATEMENT OF VINCENT YAZZIE, RESIDENT, FLAGSTAFF AZ

Dear Dr. Honorable Senators,

My mom Annie Walker suffered a Right Middle Cerebral Artery Stroke on l/30/23 at home and ambulated to Flagstaff Medical Center(FMC) who gave her 2 doses ofTPA. Helocopter grounded by weather, so had to be driven to Phoenix, University Medical Center Banner. Stroke changed from blockage to bleeding. Helicopter crew was in Winslow, AZ and had to drive to Flagstaff to drive my mom down to Phoenix. A good one hour delay. After 2 weeks discharged to South Mountain Post Acute. After 2.5 months, Medicare ran out and physical therapy plateaued due to spasticity pain. Discharged home. Flagstaff where she lives does not have a 24/7 Neurology Team, but TV Neurologist. She spent 5 months on Tylenol aka no treatment for level 10 pain. After 2 choking/seizure incidents she finally got some Baclofen to control spasticity. During this undertreatment she also got 3 doses of Fentynal on August 28, 2023, September 3, 2023 and September 22, 2023 which caused more damage to her brain stem which was partially damaged on 1/30/23.

Fentynal by IV by Flagstaff Medicial Center aggravated her damaged brain stem even more.

TV neurologist Dr. Muhammad Munir, “Try to limit the use of opiates and use alternative medicines for pain control. Consult pain management.” but Fentynal was given on September 22, 2023 by Dr. Scott Lotz “Post procedure management: Fentanyl, propofol, Ventilator settings as documented.”

See attachment that Fentanyl is an opiod and can shrink blood vessels. With already damaged blood vessels to my moms’ brain, Fentanyl would cause a stroke. *

In the past morphine was used, but never heard of the use of fentynal for pain relief.

In *USA v. Jessica Joyce Spayd*, Case No. 4:19-mj-00023-SAO, United States District Court for the District of Alaska, Criminal Complaint when death occurs as a result of Fentynal overdose that is a violation of 21 USC Paragraph 841(1)(1), (b)(l)(C) where fentanyl a highly-addictive controlled substance has been distributed without a legitimate medical purpose. 21 CFR Paragraph 1306.04 sets forth the requirements for a valid prescription. It provides that for a “prescription for a controlled substance to be effective [it] must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.” The DEA consulted with medical expert Dr. Timothy Munzing, MD” set forth specific criteria to consider when determining if a physician acted within the scope of professional practice. According to Dr. Munzing, in a pain management practice, a physician must have:

a. Adequately evaluated the patient and used good judgment in developing a treatment plan;
b. Physical exam—general plus detailed exam of painful area
c. Practiced period clinical reviews
d. Obtained or contemplated specialy consultation
e. Kept and maintained complete and accurate medical records
f. Developed a working diagnosis and maintained a differential diagnosis
g. Offered alternative therapies and approaches to treating the disorder
h. Reviewed previous medical records, diagnostic work-up, and medical therapy
i. Developed a plan of action for future diagnostic evaluation

She was flown by helicopter to Dignity Health in Phoenix where she was in neuro ICU on 9/22/23. She was discharged on October 4, 2023. Recently, my mom’s brain stem has degenerated as she is starting to lose control of her right arm. She can barely speak and dysphagia. Also Flagstaff Medical Center on 9/22/23 did not bill my mom’s Medicare and sent a $16,449.24 Medical bill. FMC would tell Navajo patients that they would notify Tuba City Regional Health Care Corporation (TCRHCC) Purchased Referred Care (PRC), but in this case FMC did not. If PRC has money, they could pay the bill if notified within 72 hours. PRC was notified 12/8/23. PRC option to not pay. FMC was to retaliate against Navajos.

On September 2, 2023 I alleged Fentynal Overdose at FMC Emergency Department (ED). Dr. Guy did not believe and did not want to admit her under that classification. She said I could admit under another stroke which I said yes. Later, she extorted me that I had to agree to send my mom to a nursing home. I had to say yes. No MRI was done as she did not believe she had a cerebral vascular accident (CVA). She was admitted as observational. Next physician was told that to admit

* The information referred to has been retained in the Committee files.

to nursing home she had to be admitted as inpatient. She was admitted and consulting TV neurologist doctor ordered up MRI, CT scans and EEG. EEG picked up mild abnormal brain rhythms. Dr. Guy must have gave my mom fentynal on 9/3/23 at 4:20 am. Medical records say 9/2/23 at 4:20 am, but must be typo as my mom was home on 9/2/23 at 4:20 am.

Who knows how many Navajos were accidentally killed by FMC fentynal. I took a genetic test which revealed I have more serious side effects to antiseizure drugs. Takes longer for anti-seizure drugs to clear my system. FMC gives out narcotics like candy to cure the symptoms and not solve the problem. Navajos that go there for help are instead fanned out to nursing homes to die on dope. Lots of Navajos from the reservation are flown to FMC.

PREPARED STATEMENT OF DOREEN G. BLAKER, PRESIDENT, KEWEENAW BAY INDIAN COMMUNITY

I am writing on behalf of the Keweenaw Bay Indian Community ("Community"), located in the Upper Peninsula of Michigan, to express support for increased federal funding to address the opiate and fentanyl drug issues in the nation. Increased resources would help Tribal communities address the severe impacts of the opioid and fentanyl crisis that is affecting tribal individuals, families, and communities across the nation.

This ongoing crisis has resulted in a surge of overdoses, deaths, and severe negative social consequences across rural and urbru1 tribal communities. From our own experiences, we know that people with an addiction may require withdrawal management (detoxification); long-term inpatient treatment (90+ days); followed by a halfway house (6-months to 12-months) to help integrate them back into the Community. Cmrently, there is only one detoxification center located in the Upper Peninsula of Michigan and very limited funding to cover costs of the needed treatments. Many tribal communities also face disparities in quality healthcare that can hinder the early detection and treatment of substance use disorders. Additionally, people suffering from a substance use disorder may require extensive medical, dental, and mental health care to help them with recovery. Some chi ldren in the Community, as young as twelve years old, experiment with drugs on the reservation. Fentanyl comes into our area mixed with other substances and causes upswings in overdoses. Lastly, families require services to help heal the wounds caused by addiction and services are needed to reunify families and help people in recovery find gainful employment and obtain affordable housing.

One way the Community addresses this crisis is through the utilization of our Tribal Court's Healing to Wellness (HTW) program, which is showing great success. This highly structured program consists of four phases to graduate and a fifth phase where if the graduate is clean and has no criminal history in a 90-day follow up interview, the fines and probation fees that were not vacated at the Graduation Ceremony would be waived. Our Healing to Wellness program uses a mental, physical, spiritual and emotional approach to "fill the void" to help prevent recidivism once they graduate from the program. Youth prevention services are geared towards counseling our youth and teaching them the dangers of drugs such as fentanyl and opiates and invites public speakers to speak realistically about addiction and recovery. Our tribal police work with other law enforcement agencies to address drug trafficking activities on and around the reservation. Our law enforcement officers face unknown dangers when confronting people in traffic stops or executing search warrants when dealing with fentanyl or other illegal substances. The Community's K9 unit is well trained and has assisted with drug searches with other agencies. Our community connects with every service available to treat people addicted to drugs. With the success we have already seen, our Tribal Court is exploring the possibility of expanding the HTW program to include a HTW Family Court. Another goal is to create a detoxification center on the reservation that could service the region.

In closing, addressing the opioid and fentanyl cns1s in tribal commumtles requires a comprehensive and culturally sensitive approach that considers the unique challenges and strengths of each Tribe. There are hundreds of Tribes in the United States, and each has a strong sense of self-governance. Additional funding and resources will allow Tribes to improve and expand on established, proven, effective programming and create opportunities for recovering addicts to become sober contributing members of their communities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO ADAM W. COHEN

Question 1. Is there data showing how High Intensity Drug Trafficking Areas (HIDTAs) are engaging with Tribes to support their public safety needs on the ground?

Answer. Fourteen of the 33 regional HIDTA Programs have task forces that include representatives of Tribal police and/or the Bureau of Indian Affairs. These multi-jurisdictional task forces bring together the resources, expertise, and authorities of federal, state, local, Tribal, and territorial agencies to target drug traffickers and their networks, and stop them from distributing illicit drugs into our communities. These task forces include investigations on Tribal lands and on Tribal lands that lie on or near international borders with Mexico and Canada.

In 2022, the most recent year for which data are available, these 14 HIDTAs disrupted or dismantled 187 drug trafficking organizations, apprehended 2,284 fugitives, made 1,894 arrests, and seized 727 firearms. In addition, these HIDTAs denied criminal organizations substantial profits by seizing drugs with a wholesale value of $395 million, and cash and assets totaling $19 million. In total, all HIDTAs seized an estimated $22 billion in illicit drugs and cash in 2022—a return on investment of $82.91 for every $1 budgeted for the program.

Question 2. Does the Hawaii HIDTA work with the Native Hawaiian Community?

Answer. Through its criminal intelligence network, the Hawai'i HIDTA closely monitors how drug trafficking affects its communities, including those who identify as Native Hawaiian or Pacific Islanders. This information allows the HIDTA to tailor its investigative approaches and demand reduction initiatives to address the needs of specific communities. In terms of public safety and public health partnerships, the Hawai'i HIDTA engages with a wide variety of stakeholders to mitigate the impact of substance use on Kanaka Maoli. This engagement includes (1) partnerships for youth prevention; (2) training for educators and social services; and (3) support for Health Department and private sector organizations working to address the disproportionate impacts of Social Determinants of Health on Native Hawaiians.

Prevention Plus Wellness. In partnership with the Hawai'i State Department of Health, the Hawai'i HIDTA was able to use funding from the Centers for Disease Control and Prevention (CDC) to purchase a statewide license for an evidence-based primary drug prevention program called Prevention Plus Wellness (PPW). This funding allows the HIDTA to disseminate the PPW curriculum and train implementors free of charge throughout the state. Rather than focusing solely on the dangers of drug use, PPW utilizes the Behavior-Image Model to help youth imagine healthy futures by sharing visual examples of peers enjoying healthy behaviors. The images used in the standard PPW curriculum, however, are reflective of demographics in the continental United States rather than those predominantly found in Hawai'i. Therefore, the Hawai'i HIDTA is adapting images used in the curriculum so that they look more like the kids they're trying to reach and show healthy activities that are popular with Hawai'i youth.

Palama Settlement. Palama Settlement, established in 1896, predates the Territory of Hawaii and served the Kalihi-Palama neighborhood of Honolulu since that time. Palama Settlement leadership and youth prevention experts from Hilopa'a are building on the kernel of PPW to develop a broader program that includes trauma informed care to address Adverse Childhood Experiences (ACEs) and cultural adaptation of the Girls Circle/Boys Council model to better fit with Polynesian and Micronesian worldviews.

The Hawai'i HIDTA was instrumental in connecting Palama Settlement with the Honolulu Police Department to plan a youth diversion program that will divert low-level youth offenders (including Native Hawaiians) from the criminal justice system, and introduces these at-risk youth to community and supportive services at Palama Settlement. The Hawai'i HIDTA, Palama Settlement, and the Honolulu Police Department have received approval to formally partner in developing these comprehensive prevention goals under the new Overdose Data to Action in States (OD2A–S) grant from CDC.

The Hawai'i HIDTA is also partnering with Palama Settlement who are engaged in a Community-Based Participatory Research (CBPR) program, which is a collaborative process that involves local community members in developing health interventions specific to their needs. Further, the Hawai'i HIDTA supported linguistic adaptation of the curriculum by translating parent materials into 'Olelo Hawaii, Chuukese, and Marshallese (new generation of immigrants who seek refuge at Palama Settlement). The partnership with Palama Settlement is now growing beyond PPW into a comprehensive youth prevention program.

Hawai'i HIDTA—Overdose Response Strategy. The Hawai'i HIDTA is also working with CDC and the Hawai'i State Department of Health to develop public health—public safety partnerships through HIDTA's Overdose Response Strategy (ORS). The ORS team has conducted dozens of training sessions on Overdose Education and Naloxone Distribution (OEND), Drug Recognition, Data Trends, and Fentanyl Awareness/Safety. In collaboration with the University of Hawai'i, the ORS team provided several presentations to future public health and social service workers that connected the current drug problem to historical traumas stretching back to colonialism and land dispossession. The team was invited to train several educational institutions, including Kamehameha Schools (a school exclusively for Native Hawaiian children) on Drug Recognition. In addition to providing information on drug use trends and concealment techniques, the ORS team used the public health—public safety approach to couple this information with a deeper understanding of trauma, adverse childhood experiences, and attachment disorders that emphasized the key role of educators in supporting youth who may be experimenting with drugs to cope with trouble at home.

Finally, the positioning of the ORS as a bridge between the Hawai'i HIDTA and the State Department of Health has allowed the team to provide background support to other partners working to address substance use and behavioral health in Native Hawaiian communities. As an example, the ORS team was able to provide data to partners from the State Department of Health and Papa Ola Lokahi, who successfully obtained SAMHSA funding to create the Asian American, Native Hawaiian, and Pacific Islander (AANHPI) Ohana Center of Excellence (CoE). This new CoE is drawing together subject matter experts nationwide to provide technical assistance to behavioral health and substance use providers who treat AANHPI patients. The CoE also aims to transform our understanding of issues affecting these populations, by supporting the disaggregation of ethnicity data to better reflect the unique needs of each community.

Question 3. Tribal leaders have testified that illegal drug producers and traffickers routinely target Indian Country for illicit fentanyl trafficking due to the criminal jurisdictional maze and the resulting gaps in law enforcement. What is the Office of National Drug Control Policy (ONDCP) doing to address these gaps? What can Congress do to help ONDCP's efforts?

Answer. ONDCP has identified strengthening communities in Tribal lands as an essential component of its counternarcotics strategies focused on the Southwest and Northern Borders of the United States. Through these efforts, ONDCP is coordinating federal efforts to reduce illegal trafficking of drugs into or through Indian Country, offer technical and financial assistance to Tribal police, build infrastructure capacity, including through expanded use of multijurisdictional task forces, and to address interoperability deficiencies by sharing and pooling resources. ONDCP seeks continued federal support to advance these efforts through implementation of the Northern and Southwest Border Counternarcotics Strategies.

Navigating jurisdictional complexities in Indian Country is a consistent challenge, and frustrates efforts to most efficiently or effectively address the crisis. Collaboration across all levels of government, especially with Tribal partners is essential to strengthening our response to illicit fentanyl trafficking. The inclusion of Tribal law enforcement in multijurisdictional drug task forces—particularly those operating in border regions—supports bridging jurisdictional gaps and is an effective counterstrategy to the exploitation of Tribal lands by criminal organizations. ONDCP supports these efforts through the HIDTA Program, and has championed innovative approaches like the Homeland Security Investigations' Shadow Wolves, which participates in the Arizona HIDTA's Native American Targeted Investigations of Violent Enterprises (NATIVE) task force, and is led by the Tohono O'odham Police Department. The NATIVE task force and Shadow Wolves work to reduce, dismantle, and disrupt all forms of transnational organized crime, including trafficking and smuggling of methamphetamine, illicit fentanyl, humans, firearms, and bulk cash. In 2022 for example, the Shadow Wolves helped seize 885,344 fentanyl pills and 1,060 kilograms of methamphetamine.

Like many public safety matters in Indian Country, chronic underfunding by the federal government exacerbates this crisis, and limits what we can do to respond. President Biden's Fiscal Year 2024 budget calls for $290.2 million in funding for the HIDTA Program, which is managed by ONDCP. Funding this program is a successful, time-tested, and evidence-based way for Congress to help us reduce the illicit drug supply, prevent overdoses and poisonings, save lives, and make our communities safer.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO HON. VANESSA WALDREF

Question 1. Tribal leaders have testified that illegal drug producers and traffickers routinely target Indian Country for illicit fentanyl trafficking due to the criminal jurisdictional maze and the resulting gaps in law enforcement. What is the Department doing to address these gaps? What can Congress do to help the Department's efforts?

Answer. The Department of Justice has taken steps to address the changing landscape of public safety issues in Indian Country. Since 2010, each U.S. Attorney's Office with Indian country in its district has been required to have an Operational Plan that establishes protocols for working with other agencies to respond to crime in Indian Country. These Operational Plans consider jurisdictional issues, including those imposed by Public Law 83–280. Increased coordination among Federal, State, Tribal, and local law enforcement agencies is key to comprehensive enforcement to combat illicit fentanyl trafficking. In July 2022, the Deputy Attorney General directed each U.S. Attorney's Office with Indian country in its district to review and revise its Operational Plan, and to add a strategy to combat drug trafficking in Indian Country and, consistent with Savanna's Act, guidelines to respond to cases of missing or murdered American Indian/Alaska Native persons. As part of the Department's commitment to honor Tribal sovereignty, this memorandum also required United States Attorneys' Offices to build intergovernmental relationships with federally recognized Tribes within their districts that honor the unique conditions and challenges faced by each individual Tribe.

The Department also provides the Criminal Jurisdiction in Indian Country (CJIC) training to State, Tribal, and local law enforcement officers. Since August 2020, more than 4,600 police officers successfully completed the CJIC training, thereby satisfying one of the criteria to receive a Special Law Enforcement Commission (SLEC) from the Bureau of Indian Affairs. A SLEC allows those officers to enforce federal criminal statutes, including federal drug laws, in Indian country. Additionally, each U.S. Attorney's Office with Indian Country in its district has an Assistant United States Attorney serving as a Tribal Liaison, whose statutory duties include providing technical assistance and training regarding evidence-gathering techniques and strategies to address victim and witness protection, and conducting training sessions and seminars to certify SLECs to tribal justice officials and other individuals and entities responsible for responding to Indian country crimes. Further, through the FBI's 25 Safe Trails Task Forces across the United States, the FBI partners with agencies at all levels to target violent crime, illegal drugs, gangs, fraud, and crimes against children. Participating State, Tribal, and local task force officers are deputized to perform the same functions as FBI Special Agents.

DEA also actively participates in investigations involving Native American communities and is working with their counterparts to help in dealing with this threat. To combat the illicit fentanyl crisis, the permanent class-wide scheduling of fentanyl-related substances is a top legislative priority for the Department. Class-wide scheduling allows DEA and other law enforcement agencies to seize new, deadly substances when they are found, including in Indian Country, and to prosecute those who traffic them. The current temporary class-wide scheduling expires in 2024. The Administration continues to call on Congress to permanently place fentanyl-related substances into Schedule I and to take other complementary actions to enhance public health and public safety, consistent with the comprehensive proposal developed jointly and submitted to Congress by the Department, the Department of Health and Human Services, and the White House Office of National Drug Control Policy. I encourage Congress to support a long-term, consensus approach to reduce the supply and availability of illicitly manufactured fentanyl-related substances.

Question 2. Attorney Waldref, during the Committee's November 8th hearing on fentanyl, Tribal leaders testified that drug trafficking is destroying their communities, and while they are doing what they can to address treatment and prevention of fentanyl misuse, Tribes are currently unable to exercise criminal jurisdiction over non-Indians for drug offenses. Consequently, Tribes must rely on state and federal partners to investigate, arrest, and prosecute such offenses. Tribal leaders testified that these partnerships aren't enough to fill jurisdictional gaps, and traffickers exploit those weaknesses. Would restoration of Tribal special criminal jurisdiction over non- Indians who commit drug offenses on Tribal lands help address these issues? How could existing law be amended to assist?

Answer. The Department of Justice is committed to engaging and consulting with Tribes regarding the exercise of "special Tribal criminal jurisdiction" (STCJ) over non-Indian offenders, as provided in the Violence Against Women Act Reauthoriza-

tion Act of 2022 (VAWA 2022). VAWA 2022 recognizes the inherent authority of Tribes to exercise STCJ over non-Indian offenders who commit covered crimes—such as dating violence, domestic violence, sexual violence, violation of a protection order, sex trafficking, stalking, child violence, obstruction of justice, and assault of Tribal justice personnel—in Indian country. To the extent that criminal conduct by a non-Indian implicates one of these crimes, Tribes that have implemented STCJ would be able to exercise criminal jurisdiction over such a subject. In addition, Section 813(d) of VAWA 2022 establishes the Alaska Pilot Program, which enables Alaska Tribes designated by the Attorney General to exercise STCJ over non-Indian defendants for a covered crime in their Villages. Tribal implementation of STCJ and the Alaska Pilot Program will provide valuable information about the expansion of STCJ.

Further, as described above, the Department will continue to provide the Criminal Jurisdiction in Indian Country (CJIC) training to State, Tribal, and local law enforcement officers, which enables these officers to receive a Special Law Enforcement Commission (SLEC) from the Bureau of Indian Affairs. An SLEC allows those officers—including Tribal police officers—to enforce federal criminal statutes, including federal drug laws, against both Indian and non-Indian subjects, in Indian Country. Tribal prosecuting attorneys can be designated as Special Assistant United States Attorneys to prosecute federal offenses, including those committed by non-Indian subjects. Additionally, through the FBI's 25 Safe Trails Task Forces across the United States, the FBI partners with agencies at all levels to target violent crime, illegal drugs, gangs, fraud, and crimes against children. Participating State, Tribal, and local task force officers are deputized federally to perform the same functions as FBI Special Agents.

Informed by these and other resources, the Department's Office of Legislative Affairs is available to provide technical assistance on legislation proposed by Congress that addresses criminal jurisdiction in Indian country.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO GLEN MELVILLE

Question 1. Tribal leaders have testified that illegal drug producers and traffickers routinely target Indian Country for illicit fentanyl trafficking due to the criminal jurisdictional maze and the resulting gaps in law enforcement. What is the Bureau of Indian Affairs doing to address these gaps? What can Congress do to help the Bureau's efforts?

Answer. Congress and the courts have tied decisions on who exercises criminal jurisdiction to several factors. These factors include the type of crime, Indian or non-Indian status of the defendant, Indian or non-Indian status of the victim, and whether the crime scene lies within Indian country. In Indian country, determining these factors is often a complex element to be resolved before beginning investigation. The Bureau of Indian Affairs (BIA) uses interagency coordination to address these jurisdictional complexities. For example, some Tribes sign memoranda of understanding (MOUs) with local and state law enforcement to coordinate addressing illegal activity on Tribal lands. The Department of the Interior (Department) has also signed an MOU with the Federal Bureau of Investigation (FBI) to establish guidelines regarding the handling of investigative matters. The MOU provides for the effective and efficient administration of criminal investigations in Indian country.

BIA Drug Agents and Tribal officers alike participate in drug task forces with the FBI, Drug Enforcement Administration, and Homeland Security Investigation, as well as many states. These task forces broaden BIA's ability to address criminal activity. BIA currently is involved in numerous Organized Crime Drug Enforcement Task Force (OCDETF) cases in multiple states and impacting multiple Tribes. In addition, BIA provides Mobile Enforcement Team (MET) deployments to various Tribal jurisdictions focusing on high impact covert and overt enforcement operations that target traffickers and dealers of illegal narcotics to and through Indian country.

These MOUs and task forces, as well as the High Intensity Drug Trafficking Areas (HIDTA) program, aid in the sharing of information across jurisdictional lines and in the enforcement of federal, state, and tribal drug laws against those who attempt to capitalize on the jurisdictional complexities.

Congress has legislated to clarify and affirm criminal jurisdiction in Indian country, notably in the reauthorization of the Violence Against Women Act in 2022. Congress also enacted Savanna's Act and the Not Invisible Act to improve and reform intergovernmental coordination and establish best practices for state-tribal-federal law enforcement to combat the epidemic of missing persons, murder, and trafficking

of Native Americans and Alaska Natives, which is intricately tied with illegal drug trafficking and have created appropriate models for addressing the fentanyl crisis in Indian country. Promoting coordination and the restoration of Tribal jurisdiction over certain crimes demonstrates that Indian Tribes must be centered in any efforts to meet the public welfare and safety needs of communities within their jurisdictions. The Department supports these goals and interagency cooperation to ensure that Tribal communities are safe.

Question 2. How are Tiwahe-supported wellness courts helping Tribal communities heal from the impacts of illicit fentanyl use, and what can Congress do to strengthen and expand the Tiwahe Initiative?

Answer. Many Tribes are reforming or creating judicial systems to incorporate traditional and cultural aspects through Healing to Wellness Courts. In addition to dealing with narcotics issues, Tiwahe-supported Healing to Wellness courts also address child dependency and family matters brought by the Tribal social service agencies and play an essential role in family reunification by providing support and services needed for parents to complete within the reunification plan. Many Tribes have seen an improvement in the reunification process when relatives and community members provide encouragement and support to those families needing assistance. These reunification efforts are more successful through the Healing to Wellness court process, as is addressing addiction issues, which often go hand in hand with child dependency cases. The Tiwahe funding has also provided funding for essential positions for Tribes seeking to have representation in state court on Indian child welfare matters. In fiscal year 2024, the Biden-Harris administration requested an additional $1,850,000 to further expand Healing to Wellness Courts.

The focus of all these courts is to address issues “upstream” instead of dealing with ultimately tragic issues that debilitate Tribal communities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO HON. ROSELYN TSO

Question 1. As co-chair of the Department of Health and Human Services’ Intra-Departmental Council for Native American Affairs, what steps are you taking to make sure your sister agencies, including the Substance Abuse and Mental Health Services and Food and Drug Administrations, are addressing Native communities’ fentanyl related needs?

Answer. The Indian Health Service (IHS) is collaborating with the Agency for Healthcare Research and Quality and the Department of Veterans Affairs as well as other Department of Health and Human Services (HHS) sister agencies and federal interagency partners following the tenets outlined in *Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination Executive Order*. Examples of collaboration include:

- IHS working with the Substance Abuse and Mental Health Services Administration (SAMHSA) to identify potential opportunities for synergy and improved technical assistance for expanding access to Medications for Opioid Use Disorder (MOUD) and whole health approaches to community wellness under the Tribal Law and Order Act. This includes providing an overview of the new IHS Naloxone Safety Net Program.
- IHS co-chairing the National Institutes of Health Native Collective Research Effort to Enhance Wellness Program and providing two panelists for ongoing technical support. This effort will result in approximately $268 million new monies to support Tribal communities and the development of additional practice-based evidence.
- IHS providing representatives for four Office of National Drug Control Policy Interagency Workgroups and five HHS Overdose Prevention subcommittees. The focus of these working groups include interventions addressing stigma, improving screening for substance use disorders, enhancing peer recovery and recovery ready workforce strategies, treating stimulant use disorders (including contingency management), enhancing linkages to care, and increasing access to harm reduction services.
- IHS is collaborating with the Food and Drug Administration (FDA) to host the November 13, 2024 High Dosage Buprenorphine round-table for Indian Health Service/Tribal/Urban Organization (I/T/U) clinicians. This roundtable provided an opportunity for IHS prescribers to share feedback on dosing strategies needed to support treatment engagement for persons exposed to high-potency opioids (including fentanyl).

Question 2. What HHS services are available in the Native Hawaiian Community to combat and prevent fentanyl misuse?

Answer. The Health Resources & Services Administration (HRSA) administers the Native Hawaiian Health Care System Program grants, which provides comprehensive health promotion, disease prevention, and primary health services, as required by the Native Hawaiian Health Care Improvement Act. The five systems (Ho'ola Lahui Hawai'i, serving Kaua'i and Niihau; Ke Ola Mamo, serving O'ahu; Na Pu'uwai, serving Molokai and Lana'i; Hui No Ke Ola Pono ,serving Maui; and Hui Malama Ola Na 'Oiwi, serving Hawai'i) provide physician services, outreach services, and health education services specific to the Native Hawaiian population by Native Hawaiian health care practitioners, wherever possible. All five systems provide mental health services and two provide substance use disorder (SUD) services as well.

Additionally, HRSA's Health Center Program is a cornerstone in our country's health care system, providing care to over 30 million individuals in nearly 15,000 sites in medically under-served areas. For many communities, they are the only access to health care. In 2022, the Health Center Program served 270,660 patients who identify as Native Hawaiian and Pacific Islander. Additionally, some health centers can provide behavioral health services, including SUD treatment. The Fiscal Year (FY) 2024 President's Budget included a proposal to require that all health centers provide mental health and SUD services. Currently, health centers are meeting approximately 27 percent of the estimated demand for mental health services, and approximately six percent of the estimated demand for SUD services among their patients.

SAMHSA State Opioid Response Grants—Currently, the Hawaii State Department of Health, Alcohol and Drug Abuse Division (ADAD), provides naloxone to all county police departments, public safety, and syringe exchange entities through the Hawaii Health and Harm Reduction Center (HHHRC). Naloxone is purchased through a combination of State Opioid Response (SOR) funds, opioid litigation settlement funds, and other grant initiatives.

From December 2022 through December 2023, Hawaii reported the following data using SOR funds:

- 22,272 naloxone kits purchased
- 19,766 naloxone kits distributed
- 319 overdose reversals reported
- 1,359 first responders trained
- 1,959 individuals in key community sectors trained
- 1,248 persons educated on the consequences of misuse

The *Hawaii Opioid Initiative website* provides the public with culturally relevant and easy to understand information about treatment access, safe drug disposal, naloxone availability, behavioral health resources, and other tools and resources to reduce illicit opioid and stimulant use, misuse, and overdoses.

Naloxone dissemination and anti-stigma media campaigns have greatly increased. The Prevention and Public Education workgroup from the Hawaii Opioid Initiative launched a "Talk Story" campaign, using stories of resilience to promote naloxone, access to treatment, and to address stigma pertaining to opioid use disorder and stimulant use disorders. In addition, ADAD partners with the HHHRC to provide overdose prevention education.

There are service providers and organizations providing SUD treatment, drug prevention and support services to Native Hawaiians. For example, with the assistance of the 2022 Hawaii SOR grant, ADAD contracts with specific organizations to provide culturally anchored primary prevention. The Na Pua No'eau Program emphasizes the need for cultural reclamation and identity within the family setting and among younger generations through cultural knowledge, history, music, stories, skills, and other types of prevention and support.

ADAD plans to use SOR–III funds, in combination with opioid litigation settlement funds, to purchase fentanyl test strips (FTS). By September 19, 2024, they plan to enhance and implement a revised statewide naloxone and FTS distribution program.

Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUPTRS BG)—There are a number of fentanyl and opioid-related initiatives targeting illicit fentanyl use funded by SAMHSA's SUPTRS BG: purchase and distribution of naloxone and FTS, culturally-anchored primary prevention programs targeting Native Hawaiians, the Hawaii Island Fentanyl Task Force (Task Force), and increasing treatment program capacity statewide.

The passage of Act 111, Session Laws Hawaii, 2023, which excluded FTS from the definition of drug paraphernalia in the Uniformed Controlled Substance Act, has allowed ADAD to purchase and distribute 25,000 FTS statewide.

ADAD has increased naloxone distribution to the Hawaii State Department of Education, Hawaii Liquor Commission, bars, restaurants, hotels, and private schools. Seizures of illicit fentanyl by law enforcement has also increased. Using block grant funds, ADAD has partnered with the Hawaii High Intensity Drug Trafficking Area (HIDTA) to provide trainings to organizations across the state. This has been beneficial in providing education about opioids and new and emerging drugs, thus decreasing the power of scare tactics and stigma. Between FY 2021 and FY 2023, a total of 63,252 naloxone kits were purchased and distributed statewide. There has been an increase in requests for naloxone in the past year due to the increase in news coverage about illicit fentanyl and opioids, the increase of overdoses throughout the islands, and the overall increase in awareness and education about opioids.

ADAD partnered with the Task Force on a community-based organization established in November of 2021, to address the opioid crisis on Hawaii Island. The Task Force distributes naloxone and FTS, conducts informational and prevention presentations at schools and other community events, and interacts with/supports local treatment providers, local first responders and law enforcement. It is being used as a model to develop other fentanyl task forces on the four major islands: Oahu, Maui, Kauai, and Hawaii Island.

SAMHSA's Center for Substance Abuse Treatment (CSAT)—As of December 6, 2023, SAMHSA/CSAT supported 4 active opioid treatment programs (OTPs) in Hawaii.

CSAT's provides ongoing training and support of the state's Opioid Treatment Authorities (SOTA). Hawaii's SOTA participated in in-person meetings in 2022 and 2023 in addition to regularly scheduled virtual meetings. These meetings were used to discuss integration of MOUD in the state's prison system, use of mobile units, planned revisions to part 8 of title 42, Code of Federal Regulations, the federal regulations that set standards for treatment in Opioid Treatment Programs, and other topics to better support state efforts.

In December 2023, CSAT provided onsite training and technical assistance for the Hawaii State ADAD and visited two of its treatment facilities. The training oriented Hawaii staff on CSAT's current priorities, and the benefits of MOUD and ways in which the state and OTPs might address local service needs, including the state's plans for expansion of MOUD.

SAMHSA's Center for Substance Abuse Prevention (CSAP)—CSAP's Strategic Prevention Framework—Partnerships for Success (SPF–PFS) program provides funding to states, Tribes, territories, and communities to focus on substance use prevention, which in some communities may include a focus on illicit fentanyl and other opioid misuse.

Both the Coalition for Drug-Free Hawaii and ADAD have received SPF–PFS funding, and both have carried out activities to address illicit fentanyl use:

- October 2022, the Coalition disseminated social media messages to raise awareness about illicit fentanyl as part of the Red Ribbon Week campaign; and
- November 2023, the Hawaii Department of Health provided funding to the East Hawaii Drug-Free Coalition to train staff and volunteers from the Big Island Substance Abuse Council, Kohala Resilience Hub, Hawaii Island Tobacco-Free Coalition, and Vibrant Hawaii as Choose Not to Use Facilitators and equip them with skills to present about illicit fentanyl and other drugs, alcohol, and nicotine to students, parent groups, kupuna groups, and Hawaii Department of Education staff/educators.

In addition, through its First Responders-Comprehensive Addiction and Recovery Act Grants (FR–CARA) program, CSAP provides resources to support first responders and members of other key community sectors on training, administering, and providing naloxone and other over-the-counter opioid overdose reversal medications that are approved by the FDA. State and local governments, including those that serve Native Hawaiian communities, are eligible for FR–CARA.

Asian American, Native Hawaiian, and Pacific Islander Behavioral Health Center of Excellence (AANHPI-CoE)—SAMHSA funds the Asian American, Native Hawaiian, and Pacific Islander Behavioral Health Center of Excellence (AANHPI-CoE) or 'Ohana Center of Excellence, which serves as a resource to behavioral healthcare providers, community-based and faith-based organizations, research institutions, and federal entities by providing trainings and technical assistance specific to the behavioral health of AANHPI communities. Technical assistance is completed on case-by-case basis based on requested information. Replays of past webinars are ac-

cessible here *Event Replays—'Ohana Center of Excellence (aanhpi-ohana.org)*. 'Ohana also has a *free harm reduction toolkit* and *harm reduction webinar* on their website, both of which were spearheaded by a Native Hawaiian health organization, Papa Ola Lokahi.

Behavioral Health and SUD Resources for Native Americans—The Consolidated Appropriations Act of 2023 authorized SAMHSA to award funding through the Behavioral Health and Substance Use Disorder Resources for Native Americans program. The purpose of the program is to provide services for the prevention of, treatment of, and recovery from mental health and substance use disorders among American Indians, Alaska Natives, and Native Hawaiians. Eligible entities include any health program administered directly by the IHS, a Tribal health program, an Indian Tribe, a Tribal organization, an Urban Indian organization, and Papa Ola Lokahi. Although the program was authorized at $80,000,000 for each FY from 2023 through 2027, no funds have been appropriated for this program.

Additionally, the Division of Behavioral Health (DBH) within the Indian Health Services serves as the primary administration of behavioral health, alcohol and substance use, and family violence prevention programs for American Indian and Alaska Native (AI/AN) people. Working in partnership with Tribes, Tribal organizations, and Urban Indian health organizations, DBH coordinates national efforts to share knowledge and build capacity through the development and implementation of evidence-based, practice-based and culturally-based activities in Indian Country.

Question 3. Last month, Secretary Becerra sent a letter to Tribes and Urban Indian Organizations about fake sober homes that target American Indians and Alaska Natives experiencing substance use disorder and mental health issues. What is the Indian Health Service and HHS doing to respond to this fraud, including coordination with the Department of Justice?

Answer. The IHS response has been twofold: (1) to assist individuals directly impacted by fraudulent activity and (2) to alert our communities and ensure that reports of alleged fraudulent activity are communicated to the appropriate authorities.

1. Assisting individuals impacted by this fraudulent scheme has required coordination across all of the Indian Health Service and with all of Government. In May 2023, the IHS Phoenix, Tucson, and Navajo Area Offices established an Incident Command at the Phoenix Indian Medical Center and opened a Community Intake Center, which coordinates with the Arizona Health Care Cost Containment System contracted Solari Crisis Response Network, as well as with other local community, Tribal, and Urban Indian Health Programs to aid beneficiaries in need of immediate housing, transportation, and health services following a provider closure. Also, in May 2023, IHS issued a Dear Tribal Leader Letter [1] to alert Tribes across the country about fraudulent schemes targeting Native American communities in Behavioral Health Treatment Centers. In August 2023, IHS Area Directors selected individuals to serve as points of contact for concerns related to fraudulent behavioral health activity, given that many impacted Tribal members are from communities outside of Arizona and provided training on how to address fraudulent behavioral health incidents and facilitated ongoing collaboration and sharing of information. In February 2024, based on consensus that the IHS response has moved out of the emergency management phase, the Incident Command team has stood down the Joint Incident Command, moving this into an ongoing operational phase to continue to assist individuals affected by fraudulent providers.

2. Each account of suspicious activity related to residential behavioral health centers or sober living has been reviewed and forwarded to the HHS Office of the Inspector General and the Federal Bureau of Investigation for their review.

Question 4. How is IHS implementing the Biden Administration's National Response Plan to address fentanyl combined with xylazine in Indian Country? Are additional tools or resources needed to support IHS and Tribes as they respond to the emerging threat of xylazine?

Answer. The IHS continues to emphasize harm reduction and work-force development strategies to implement the activities in the *Fentanyl Adulterated or Associated with Xylazine National Response Plan.* [2] Specifically, we have developed a new Naloxone Safety Net Pilot Program to deliver additional naloxone doses to sites struggling to meet needs. The IHS is developing a mandatory employee training titled, Reversing Opioid Overdose with Naloxone, to increase awareness for all per-

[1] *https://www.ihs.gov/sites/newsroom/themes/responsive2017/display__objects/documents/2023__Letters/DTLL__DUIOLL__051923.pdf)*

[2] *https://www.whitehouse.gov/wp-content/uploads/2023/07/FENTANYL-ADULTERATED-OR-ASSOCIATED-WITH-XYLAZINE-EMERGING-THREAT-RESPONSE-PLAN-Report-July-2023.pdf*

sons to recognize and respond to life-threatening opioid-related overdose events that may occur in the health-system setting or in the community. Additionally, the IHS has developed community education tools for illicit fentanyl and has supported access to fentanyl and xylazine test strips through centralized procurement activities.

Additional resources are necessary to support an effective response to the overdose crisis intensified by emerging drug threats, including xylazine, and to expand the impact of the following evidence-based strategies: increase access to harm reduction supplies; build community navigator response capacity to effectively connect persons to treatment; create/expand holistic detoxification and residential treatment models; expand capability to manage co-occurring SUD and behavioral health conditions; and improve data linkages to effectively target strategies.