



To: Subcommittee on Oversight and Investigations Republican Members
From: Subcommittee on Oversight and Investigations Republican Staff,
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Date: April 4, 2022
Subject: Remote Oversight Hearing on “*The Opioid Crisis in Tribal Communities*”

The Subcommittee on Oversight and Investigations will hold a remote oversight hearing titled “*The Opioid Crisis in Tribal Communities*” on **Tuesday, April 5, 2022, at 10:00 a.m. EDT** online via Cisco WebEx.

Member offices are requested to notify Sang Yi by **4:30 p.m. EDT on Monday, April 4, 2022**, if their Member intends to participate in person from his/her laptop in 1334 LHOB or remotely from another location. Submissions for the hearing record must be submitted through the Committee’s electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (EverettWinnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The opioid crisis is causing record-setting numbers of overdose deaths. Between April 2020 and April 2021, more than 100,000 Americans died as a result of overdose.
 - Tribal communities are especially vulnerable to the opioid crisis, as Native Americans experience higher rates of substance abuse and addiction when compared to the general U.S. population.

Fentanyl smuggled into the United States is manufactured in Mexico with chemicals supplied by China. This hearing will present an opportunity for Members to highlight the consequences of President Biden’s weak border policies.

- Mexican drug cartels are a major supplier of illicit drugs to tribal communities.
 - Cartels will continue to take advantage of weak U.S. border security and traffic illicit drugs, including fentanyl, which endangers all U.S. communities.

II. WITNESSES

- Mr. Art Del Cueto, Vice President, Western Region National Border Patrol Council, Tucson, AZ [*Republican Witness*]
- Mr. Wayne Cortez, Peer Support Specialist, Riverside-San Bernardino County Indian Health, Inc., San Jacinto, CA
- The Honorable Chuck Hoskin, Jr., Principal Chief, Cherokee Nation, Tahlequah, OK
- Ms. Maureen Rosette, Board Member, National Council of Urban Indian Health, Washington, D.C.

III. BACKGROUND

The Opioid Crisis in the United States

A record-breaking number of more than 100,000 people in the United States died of drug overdose between April 2020 and April 2021.¹ Of these deaths, 75,673 were related to opioid overdoses.² These deaths represent a 35 percent increase in opioid related deaths compared to the previous year.³ According to the American Medical Association, illicit fentanyl, fentanyl analogs, methamphetamine, and cocaine are fueling the United States' opioid crisis.⁴ The current trajectory of the opioid crisis is estimated to cause more than 1.2 million deaths in the United States and Canada by 2029.⁵

Alarming, fentanyl overdose is now the leading cause of death for Americans between the ages of 18 and 45.⁶ Fentanyl is a synthetic opioid, 50 to 100 times more potent than morphine⁷ and in some cases just a quarter of a milligram is fatal.⁸ On September 27, 2021, the U.S. Drug Enforcement Administration (DEA) issued its first public safety alert in six years, to alert the

¹ Press Release, CENTERS FOR DISEASE CONTROL AND PREVENTION, *Drug Overdose Deaths in the U.S. Top 100,000 Annually*, (Nov. 17, 2021), https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20211117.htm; Laura Santhanam, *Overdose Deaths Hit a Historic High in 2020. Frustrated Experts Say These Strategies Could Save Lives*, PBS, Jan. 13, 2022, <https://www.pbs.org/newshour/health/overdose-deaths-hit-a-historic-high-in-2020-frustrated-experts-say-these-strategies-could-save-lives>.

² Press Release, CENTERS FOR DISEASE CONTROL AND PREVENTION, *Drug Overdose Deaths in the U.S. Top 100,000 Annually*, (Nov. 17, 2021), https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20211117.htm.

³ *Id.*

⁴ AMERICAN MEDICAL ASSOCIATION, *Issue Brief: Nation's Drug-Related Overdose and Death Epidemic Continues to Worsen*, (Feb. 15, 2022), available at: <https://www.ama-assn.org/system/files/issue-brief-increases-in-opioid-related-overdose.pdf>.

⁵ Robert Hart, *1.2 Million Opioid Overdose Deaths Expected in U.S. And Canada by 2029, Experts Warn*, FORBES, Feb. 2, 2022, <https://www.forbes.com/sites/roberthart/2022/02/02/12-million-opioid-overdose-deaths-expected-in-us-and-canada-by-2029-experts-warn/?sh=118a755c3da3>.

⁶ Uttam Dhillon & T. Michael Andrews, *Fentanyl: Killing More Americans Than COVID-19*, THE WASHINGTON TIMES, Feb. 14, 2022, <https://amp.washingtontimes.com/news/2022/feb/14/fentanyl-killing-more-americans-than-covid-19/>.

⁷ Claire Felter, *The U.S. Fentanyl Crisis: What to Know*, COUNCIL ON FOREIGN RELATIONS, Oct. 20, 2021, <https://www.cfr.org/in-brief/us-fentanyl-crisis-what-know>.

⁸ Alaa Elassar, *Border Agents Reported a 1,066% Increase in Fentanyl Seized in South Texas Last Year*, CNN, Jan. 8, 2022, <https://www.cnn.com/2022/01/08/us/fentanyl-seized-south-texas-border-2021/index.html>.

public of the dangers of fentanyl.⁹ The public safety warning followed the DEA’s seizures of criminal network-manufactured counterfeit pills containing fentanyl in every U.S. state.¹⁰ DEA Administrator Anne Milgram reported that enough fentanyl was seized in 2021 to give a lethal dose of fentanyl to every American.¹¹

Drugs At the Border

The DEA identified Mexican transnational criminal organizations (TCOs) as “the greatest drug trafficking threat to the United States.”¹² Further, illicit fentanyl, manufactured in foreign clandestine laboratories and trafficked into the United States was recognized as the substance “primarily responsible for fueling the ongoing opioid crisis.”¹³ The DEA noted that the majority of counterfeit pills are produced in Mexico, with China supplying the chemicals necessary to manufacture fentanyl.¹⁴

U.S. Customs and Border Protection (CBP) agents are our nation’s first line of defense against Mexican drug cartels trying to smuggle addictive, deadly substances into our country. In Fiscal Year (FY) 2021, CBP seized 913,000 pounds of drugs, including 191,000 pounds of methamphetamine, more than 97,000 pounds of cocaine, and more 11,000 pounds of fentanyl.¹⁵ Shockingly, in FY 2021, the South Texas Ports of Entry reported seizing 588 pounds of fentanyl, a 1,066 percent increase compared to FY 2020.¹⁶ Between October 2021 and February 2022, CBP reported confiscating 296,000 pounds of drugs, including more than 77,000 pounds of methamphetamine, 23,500 pounds of cocaine, and more than 4,200 pounds of fentanyl.¹⁷

CBP’s limited resources strain agents’ focus areas. In particular, immigration surges leave border patrol agents spread thin,¹⁸ and swaths of the border are left open as agents process extraordinary numbers of individuals arriving at makeshift ports of entry.¹⁹ As a result of

⁹ Public Safety Alert, U.S. DEP’T OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION, *Sharp Increase in Fake Prescription Pills Containing Fentanyl and Meth*, (Sept. 27, 2021), <https://www.dea.gov/alert/sharp-increase-fake-prescription-pills-containing-fentanyl-and-meth>; Press Release, U.S. DEP’T OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION, *DEA Issues Public Safety Alert on Sharp Increase in Fake Prescription Pills Containing Fentanyl and Meth*, (Sept. 27, 2021), <https://www.dea.gov/press-releases/2021/09/27/dea-issues-public-safety-alert>.

¹⁰ *Id.*

¹¹ *Supra* note 8.

¹² U.S. DEP’T OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION, 2020 NAT’L DRUG THREAT ASSESSMENT at 4, available at https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf.

¹³ *Id.*

¹⁴ *Supra* note 9.

¹⁵ U.S. CUSTOMS AND BORDER PROTECTION, *Drug Seizure Statistics*, <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics> (last visited Mar. 31, 2022).

¹⁶ Press Release, U.S. CUSTOMS AND BORDER PROTECTION, *CBP at South Texas Ports of Entry Post Significant Increases in Fentanyl, Cocaine Seized in FY 2021*, (Jan. 5, 2022), <https://www.cbp.gov/newsroom/local-media-release/cbp-officers-south-texas-ports-entry-post-significant-increases-0>.

¹⁷ *Supra* note 15.

¹⁸ Charles Creitz, *Sara Carter Reports on ‘Hannity’: Border Patrol Overrun by Sinaloa Cartel in ‘Smuggler’s Gulch’*, FOX NEWS, Mar. 11, 2021, <https://www.foxnews.com/us/sara-carter-exclusive-border-patrol-overrun>.

¹⁹ Pat Parris, *Border Union Concerned About Rising Number of ‘Got Aways’ in Tucson Sector*, 9ABCTUCSON, May 27, 2021, <https://www.kgun9.com/border-watch/border-union-concerned-about-rising-number-of-got-aways-in-tucson-sector>.

unattended areas, cartels find opportunities to more easily smuggle drugs into the United States.²⁰ After cartels evade CBP agents, their smuggled drugs spread throughout the United States.²¹ With newly anticipated surges of immigrants expected at the Southern Border,²² cartels will again be able to take advantage of the CBP's limited resources. Therefore, President Biden's weak border policies may consequently also provide an influx of the drugs driving the opioid crisis.

Opioids and Tribal Communities

Native Americans experience higher rates of substance abuse and addiction than the general U.S. population.²³ According to the 2018 National Survey on Drug Use and Health (NSDUH), Native Americans were more likely to report drug abuses in the past year than any other ethnic group.²⁴ Additionally, the 2018 NSDUH reported 10 percent of Native Americans have a substance use disorder and four percent of Native Americans have an illicit drug use disorder.²⁵ For example, the 2018 NSDUH found of any group, Native Americans have the highest rates of methamphetamine abuse.²⁶

A recent report describes the Lummi Nation's efforts to combat the opioid crisis.²⁷ The interim director of the Lummi Chemical Addiction Recovery and Education (CARE) described the struggles facing her tribal community, noting that as soon as one addictive substance is addressed, another new drug seems appears.²⁸ In recent years, methamphetamine and fentanyl have exacerbated addiction issues.²⁹ The interim director detailed the threat of fentanyl as "the worst one that we've seen yet," and described how overdose risk increases when fentanyl is combined with methamphetamine.³⁰

In its assessment of the drug threat posed to tribal communities, the DEA highlighted concerns related to illicit drugs.³¹ The DEA noted that Mexican traffickers are responsible for most illicit drugs available on Indian reservations.³² Further, the assessment detailed how Mexican TCOs take advantage of the desert bordering Mexico and remote highways on reservations to traffic

²⁰ *Id.*

²¹ *Id.*

²² Eileen Sullivan, *Homeland Security Is Making Plans to Handle a Record Surge of Migrants*, THE N.Y. TIMES, Mar. 29, 2022, <https://www.nytimes.com/2022/03/29/us/politics/title-42-us-border-crossings.html>.

²³ Michael Kaliszewski, American Addiction Centers, *Alcohol and Drug Abuse Among Native Americans*, <https://americanaddictioncenters.org/rehab-guide/addiction-statistics/native-americans> (last updated Jan. 7, 2022, last visited Mar. 31, 2022).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Hallie Golden, *The Indigenous Tribe Fighting Back Against the Addiction Epidemic*, THE GUARDIAN, Mar. 30, 2022, <https://www.theguardian.com/us-news/2022/mar/30/lummi-nation-fights-addiction-epidemic-care-program>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Supra* note 12 at 82-84.

³² *Supra* note 12 at 82-83.

illicit substances to major cities.³³ For example, “TCOs continue to smuggle multiple tons of marijuana through the Tohono O’odham Nation in southeastern Arizona.”³⁴

To address the opioid threat to tribal communities, the Trump administration created the Department of the Interior (DOI) Joint Opioid Reduction Task Force.³⁵ In 2019, the Task Force seized 2,607 pounds of illegal narcotics, which included seizing 30,000 fentanyl pills trafficked by Mexican drug cartels through the Tohono O’odham Nation and more than nine pounds of heroin worth \$559,000 on the Pueblo of Laguna in New Mexico.³⁶

Additional federal resources are dedicated to combatting the threat illicit drugs pose to tribal communities. For example, the Shadow Wolves are a Native American tactical unit within the Department of Homeland Security (DHS), focused on addressing the smuggling threat in the Tohono O’odham Nation.³⁷ Between 2010 and 2020, the Shadow Wolves have taken part in the seizure of more than 117,000 pounds of drugs.³⁸

IV. REPUBLICAN APPROACH

This hearing presents Members an opportunity to highlight the deadly consequences of President Biden’s weak border policies. After President Biden took office, the number of illegal border crossings increased significantly.³⁹ During his campaign, President Biden advocated for easing immigration controls, halting construction of the border wall, and ending the “Remain in Mexico” policy.⁴⁰ As a result, a crisis emerged with historic surges of immigrants at the Southern Border at the beginning of Biden’s presidency.⁴¹ In FY 2021 alone, 1.7 million illegal immigrants were apprehended, the highest number recorded in one year.⁴² Approximately 1.3 million of these apprehensions occurred after President Biden took office.⁴³ Additionally, the Biden administration set another record between January and August of 2021, with more than 273,000 illegal immigrants who evaded detection and entered the United States.⁴⁴

³³ *Id.* at 83.

³⁴ *Id.*

³⁵ Press Release, U.S. DEP’T OF THE INTERIOR, *Trump Administration Seized More than 2,600 Pounds of Illegal Narcotics in Indian Country Last Year*, (Aug. 24, 2022), <https://www.doi.gov/pressreleases/trump-administration-seized-more-2600-pounds-illegal-narcotics-indian-country-last>.

³⁶ U.S. DEP’T OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS – OFFICE OF JUSTICE SERVICES, DIVISION OF DRUG ENFORCEMENT, FY 2019 YEAR END REPORT (2020), at 27-33, https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/DDE_2019_Annual_Report_draft_08-18-2020.pdf.

³⁷ U.S. DEP’T OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Ice Shadow Wolves*, <https://www.ice.gov/factsheets/shadow-wolves> (last visited Mar. 31, 2020).

³⁸ *Id.*

³⁹ *Supra* note 22.

⁴⁰ W. James Antle III, *Biden Immigration Policies Cause a Predictable Border Crisis. Why Didn’t He Plan For It?*, NBC NEWS, Mar. 14, 2021, <https://www.nbcnews.com/think/opinion/biden-immigration-policies-cause-predictable-border-crisis-why-didn-t-ncna1260992>.

⁴¹ *Id.*

⁴² *Supra* note 22.

⁴³ Rafael Carranza, *Sinema, Kelly Urge Biden Not To End Title 42 Without Plan to Avoid Harm to Border Cities*, AZ CENTRAL, Mar. 25, 2022, <https://www.azcentral.com/story/news/politics/border-issues/2022/03/25/sinema-kelly-urge-biden-avoid-abrupt-repeal-title-42-border/9459387002/>.

⁴⁴ Press Release, SEN. JAMES M. INHOFE, *Inhofe Questions Top Military Commanders About U.S. Response to Influx of Illegal Immigrants at Southwest Border, China’s Presence in South America*, (Mar. 24, 2022),

Despite record-breaking illegal immigration issues, President Biden is contemplating additional policies that will further exacerbate the border crisis. For example, President Biden is considering ending Title 42, which was invoked by the Trump administration in response to the COVID-19 pandemic and which gives federal health officials authority during a pandemic to limit “the introduction of communicable diseases.”⁴⁵ As a result, DHS is preparing for increased numbers of people trying to cross the Southern Border, with contingency plans to address encountering up to 18,000 people a day.⁴⁶

Not only are illegal immigrants crossing the Southern Border, but cartels simultaneously traffic drugs in an overwhelmed border security system. Though the amounts of known drugs seized by CBP are staggering, even more disconcerting is that the total amount of drugs being trafficked across the border is unknown.⁴⁷ In addition to the efforts of CBP, state and local law enforcement officers are working to intercept illicit drugs before they reach U.S. communities. For example, in Cibola County, New Mexico, the county sheriff reports that interdiction units seize drugs, including methamphetamines, heroin, fentanyl, and marijuana on a weekly basis.⁴⁸ The Cibola County sheriff attributed the increase, in part, to the cartels taking advantage of open areas along the border.⁴⁹

The Republican witness, Mr. Art Del Cueto, is a 19-year veteran Border Patrol agent. Throughout most of his career, Mr. Del Cueto patrolled the Tohono O’odham reservation where he handled drug and smuggling cases.⁵⁰ Mr. Del Cueto is expected to detail the impacts of drug cartels evading CBP, including the repercussions for communities throughout the United States, in addition to border states.⁵¹ Specifically, he may discuss the Sinaloa Cartel and their prevalent narcotics smuggling operations in Arizona and other border states.⁵²

U.S. neighborhoods, including tribal communities, are paying the price for President Biden’s weak border policies. By ensuring an unsecure border, the Biden Administration is leaving American families vulnerable to illicit drugs smuggled into the United States by Mexican TCOs.

<https://www.inhofe.senate.gov/newsroom/press-releases/inhofe-questions-top-military-commanders-about-us-response-to-influx-of-illegal-immigrants-at-southwest-border-chinas-presence-in-south-america>.

⁴⁵ *Supra* note 42.

⁴⁶ *Supra* note 22.

⁴⁷ Anna Giaritelli, *Record Fentanyl Seizures at Border Contribute to Soaring Overdose Deaths in US*, THE WASHINGTON EXAMINER, Nov. 2, 2021, <https://www.washingtonexaminer.com/news/record-fentanyl-seizures-at-border-contributed-to-soaring-overdose-deaths-in-us>.

⁴⁸ Sasha Lenninger, *Cibola County Deputy and K-9 Seize More than \$6 Million Worth of Drugs*, KOAT, Feb. 21, 2022, <https://www.koat.com/article/cibola-county-deputy-seize-millions-drugs-pandemic/39166353#>.

⁴⁹ *Id.*

⁵⁰ *Life On the Border: Examining Border Security Through the Eyes of Local Residents and Law Enforcement: Hearing before the Subcomm. on Border and Maritime Security of the H. Comm. on Homeland Security*, 114th Cong. (2016) (Biography of Mr. Art Del Cueto) available at: <https://docs.house.gov/meetings/HM/HM11/20160509/104818/HMTG-114-HM11-Bio-DelCuetoA-20160509.pdf>.

⁵¹ *Supra* note 19; Rachel del Guidice, *Meet a Son of Mexican Immigrants Who Helps Protect Our Border*, THE DAILY SIGNAL, May 17, 2021, <https://www.dailysignal.com/2021/05/17/meet-a-son-of-mexican-immigrants-who-helps-protect-our-border/>.

⁵² *Supra* note 18.

V. ISSUES DEMOCRATS MAY RAISE

Democrats will likely focus on the impact of pharmaceutical opioids on tribal communities, as well as accessibility of healthcare services. Mr. Wayne Cortez is expected to detail Riverside-San Bernardino County Indian Health, Inc.'s focus on providing culturally sensitive care for Indian communities.⁵³ Additionally, Mr. Cortez may address the goals of achieving sobriety within tribal communities.⁵⁴ Ms. Maureen Rosette will likely discuss the importance of access to services, and describe her work with the NATIVE Project, which provides medical services to individuals from more than 300 tribes.⁵⁵ Based on previous congressional testimony, Ms. Rosette is also expected to advocate for increased funding to support urban Indian healthcare efforts within the Indian Health Services.⁵⁶ Chief Chuck Hoskin, Jr. will likely discuss the \$75 million settlement the Cherokee Nation in Oklahoma reached with three drug distributors, AmerisourceBergen, Cardinal Health, and McKesson, based on opioid related legal claims brought by the tribe.⁵⁷

Democrats are expected to focus on the role of prescription drugs in the opioid crisis and discuss the settlements between drug manufacturers and the Cherokee Nation as well as with other tribes. In addition to the September 2021, \$75 million Cherokee Nation settlement,⁵⁸ Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson reached a \$590 million settlement with more than 400 tribal plaintiffs in February 2022.⁵⁹ In their lawsuit, the tribes described increased costs for their communities resulting from the opioid crisis, and asserted the drug manufacturers and distributors bore responsibility for the opioid crisis.⁶⁰ All 574 federally recognized tribes are eligible to receive funds from the settlement, even if they did not participate in the lawsuit.⁶¹

Democrats will also likely raise concerns related to Native American communities' access to culturally appropriate healthcare, both on and off reservations. In response to the settlement, tribes indicated some of the money would be directed toward "on-reservation, culturally appropriate opioid treatment services."⁶² To supplement the efforts funded by settlement

⁵³ RSBCIHI, *About the Clinic*, rsbcihi.org (last visited on Mar. 31, 2022).

⁵⁴ Press Release, SOBOBA BAND OF LUISEÑO INDIANS, *Body, Mind and Spirit Wellness Fair at Soboba*, <https://www.soboba-nsn.gov/news-press/body-mind-and-spirit-wellness-fair-soboba>.

⁵⁵ The NATIVE Project, *About*, <https://nativeproject.org/about-us/> (last visited Mar. 31, 2022).

⁵⁶ *Nat'l Council of Urban Indian Health Testifies Before House Interior Appropriations for American Indian and Alaska Native Public Witness Days*, INDIAN COUNTRY TODAY, Feb. 13, 2020, <https://indiancountrytoday.com/the-press-pool/national-council-of-urban-indian-health-testifies-before-house-interior-appropriations-for-american-indian-and-alaska-native-public-witness-days>.

⁵⁷ Brian Mann, *The Cherokee Nation Has Agreed to a \$75 Million Settlement with Opioid Distributors*, NPR, Sept. 28, 2021, <https://www.npr.org/2021/09/28/1041206034/choke-ke-ke-nation-75-million-settlement-opioid-drug-distributors>.

⁵⁸ *Id.*

⁵⁹ James Doubek, *Native American Tribes Reach a Tentative Opioid Settlement with J&J and Distributors*, NPR, Feb. 1, 2022, <https://www.npr.org/2022/02/01/1077348290/native-american-opioid-settlement-johnson-and-johnson>.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Geoff Mulvihill & Felicia Fonseca, *Native American Tribes Reach \$590 Million Opioid Settlement*, U.S. NEWS, Feb. 1, 2022, <https://www.usnews.com/news/business/articles/2022-02-01/native-american-tribes-reach-590m-settlement-over-opioids>.

payouts, Democrats may advocate for increases in funding for these programs, which include culturally based healing practices.

Republican Response: Pharmaceutical opioids played a role in the ongoing opioid crisis, and the courts are addressing the lawsuits brought by state attorneys general and tribes.⁶³ The opioid crisis, however, is ongoing and is now being fueled by illicit substances.⁶⁴ Mexican drug cartels are known suppliers of illicit drugs to our communities, and increased efforts must be made to prohibit their ability to traffic drugs across the border. Access to treatment facilities is a key factor in combatting the opioid crisis. To effectively counter opioid addictions and drug overdoses, treatment options must be coupled with the reduction or elimination of access to illicit opioid substances. Without an interruption to the illicit drug supply chain, these dangerous substances will continue to wreak havoc on tribal communities.

⁶³ *Id.*

⁶⁴ *Supra* note 4.