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Testimony of United South and Eastern Tribes Sovereignty Protection Fund Submitted to the House Committee on Energy and Commerce Subcommittee on Health for the Record of the February 28, 2018 Hearing, *Combating the Opioid Crisis: Helping Communities Balance Enforcement and Patient Safety*

March 14, 2018

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we are pleased to provide the House Committee on Energy and Commerce Subcommittee on Health with testimony for the record of the hearing, “Combating the Opioid Crisis: Helping Communities Balance Enforcement and Patient Safety,” held on February 28, 2018.

USET SPF is a non-profit, inter-tribal organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine¹. Both individually, as well as collectively through USET SPF, our member Tribal Nations work to improve health care services for American Indians. Our member Tribal Nations operate in the Nashville Area of the Indian Health Service (IHS), which contains 36 IHS and Tribal health care facilities. Our citizens receive health care services both directly at IHS facilities, as well as in Tribally-operated facilities under contracts with IHS pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638.

The opioid epidemic has had a devastating effect on USET SPF Tribal Nations and Tribal Nations across the country, who continue to experience the destructive effects of opioid addiction--often at higher rates than non-Indian communities. According to data from IHS, American Indians and Alaska Natives (AI/ANs) are more likely than any other race/ethnicity to have an illicit drug use disorder in the past year. In addition, according to the Centers for Disease Control and Prevention (CDC), AI/ANs are at the greatest risk for prescription opioid overdose confronting an opioid overdose rate of 8.4 per 100,000. Despite the disproportionate impact opioid addiction has had in Indian Country, Tribal Nations often do not have access to sufficient vital resources to address the damaging effects of opioid abuse and are frequently excluded from collaborative efforts, including state and local, when determining solutions to eradicate opioid abuse.

In addition, Tribal Nations continue to be overlooked during important Congressional hearings seeking to address the opioid epidemic, including the February 28th hearing within the Subcommittee on Health. In future hearings, USET SPF urges the Committee to ensure Tribal leaders and representatives are included as witnesses, as well as ensure the opioid issues facing Indian Country are brought to the forefront of every hearing. Further, USET SPF provides the below recommendations to the Committee to include Tribal

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Nations as full partners in the fight to end the opioid epidemic and to underscore Congress's federal trust responsibility to ensure Tribal Nations are adequately equipped with necessary resources.

Opioid Crisis in the USET SPF Region

Opioid abuse, deaths, and trafficking have reached epidemic levels in Indian Country. Based on reports from Tribal/IHS health facilities within the USET SPF region, our Tribal Epidemiology Center (TEC), and law enforcement agencies, USET SPF suspects that rates of AI/AN opioid overdose and addiction among our member Tribal Nations are likely much higher than national statistics and current data reveal. For the last 12 years, USET's TEC has been conducting a mortality analysis, and now has a limited amount of data that speaks to opioid abuse among our member Tribal Nations. From that data, we have learned that 9% of all deaths among USET SPF Tribal Nations were somehow related to substance abuse between 2002 and 2012. Almost one in five substance use deaths were attributable to opioids, including heroin, with the vast majority of opioid deaths, 93%, prescription drug related.

However, USET SPF has learned that available data does not paint a complete picture of the problem within our region, as data is limited to information that is currently accessible through the Indian Health System. USET SPF Tribal Nations, as well as Tribal Nations across the country, have a distinct lack of complete data regarding substance abuse. An overall lack of data within the Indian Health System has not only impeded Tribal Nations prevention and treatment efforts, but also efforts to advocate for increased federal funding. Improvements in data collection, expanded reporting, and unidirectional data sharing will help Congress and Tribal Nations get a clearer picture of the extent of opioid epidemic in Indian Country. USET SPF strongly recommends the Committee work in consultation with Tribal Nations on initiatives that would address challenges in acquiring comprehensive data within Indian Country through subsequent legislation.

Direct Opioid Funding for Tribal Nations

The federal government has a trust responsibility to ensure Tribal Nations have access to resources, financial and otherwise, to combat the opioid epidemic. Among these vital resources is access to direct federal funding for Tribal Nations. Though our data on this issue is incomplete, that which is available shows Indian Country, including USET SPF Tribal Nations, is among the communities affected most by this crisis. And yet, we remain without critical resources, including federal dollars. USET SPF urges the Committee to prioritize addressing this shortfall by working to ensure Tribal governments have access to direct funding.

Unfortunately, within Indian Country, many federal grant programs require funding to pass through the states before it can be delivered to Tribal Nations. Because of this, many Tribal communities have difficulty accessing federal funds, with many completely unable to access them in this manner. Further, when applying for these grants, states will often include Tribal population numbers in the overall state population used to determine each state's award. Yet, Tribal Nations are not provided with outreach for these programs and are left with minimal resources to address the opioid crisis in their communities. In order to ensure Tribal Nations are fully accessing these federal funds in the future, USET SPF recommends the Committee and Congress:

1. Consider implementing a funding model utilized by the Centers for Disease Control and Prevention's Good Health and Wellness in Indian Country which allows for a direct, separate funding mechanism specifically for both Tribal Nations and TECs. This model has proven to be successful.
2. Expand language within grant funding programs to specifically include Tribal Nations so that states cannot exclude them in grant funding disbursements.

Tribal Addiction and Recovery Act

As discussed above, despite Tribal advocacy, Tribal Nations are ineligible for a majority of funding delivered to state and local governments under the 21st Century Cures Act. Where Tribal Nations are eligible for funding, they are forced to compete with state and other entities for limited dollars. On March 1, 2018, Congressman Markwayne Mullin introduced H.R. 5140, the Tribal Addiction and Recovery (TARA) Act of 2018. The TARA Act would make Tribal Nations eligible to be direct grantees of federal opioid funding under the 21st Century Cures Act in their efforts to combat opioid abuse in their communities. In addition, H.R. 5140 would provide an increase in grant funding of \$25 million to state and Tribal Nations under the State Response to the Opioid Abuse Crisis within the 21st Century Cures Act. USET SPF supports this legislation² and requests the House Energy and Commerce Committee ensure this bill receive an immediate hearing on this bill.

Tribal Engagement at all Levels of Government

USET SPF reminds the Committee that Tribal Nations are sovereign governments to which each member of Congress has a trust responsibility. This trust responsibility is carried out not just through funding, but through meaningful government-to-government consultation and coordination. Tribal Nations have also been experiencing the destructive effects of opioid abuse within our communities, and we must be included as full partners in the fight to end the epidemic at all levels of government.

As the federal, state, and local governments are working together to ensure a coordinated, comprehensive response, Tribal Nations are frequently excluded from these efforts. Failure to include Tribal Nations when seeking solutions to the opioid epidemic will result in major gaps in the ability of the United States to eradicate opioid addiction in this country. These gaps in coordination are detrimental not just from a healthcare and treatment perspective, but from a law enforcement perspective, as well. As the trustee to Tribal Nations and in pursuit of a more comprehensive response to this crisis, the federal government must facilitate and require collaboration between Tribal governments and other units of government. Outreach from the Committee, as well as future legislation, should promote and require this necessary intergovernmental collaboration.

Culturally Competent Treatment

The incorporation of traditional healing practices and a holistic approach to health care are fundamental to successful opioid treatment and aftercare programs in Indian Country. Culturally appropriate care has had positive, measurable success within Tribal communities, and the incorporation of traditional healing practices and holistic approaches to healthcare has become central to many Tribal treatment programs. Tribal communities have unique treatment needs when it comes to substance abuse disorders, as AI/ANs experience high levels of substance abuse disorders, with a strong link to historical trauma. Opioid addiction treatment in Indian Country, then, must be cognizant of this trauma, respectful of community factors, and utilize traditional health care practices. Additionally, opioid addiction treatment within Tribal communities must include adequate culturally appropriate aftercare programs to help prevent substance abuse relapse. These services must be accessible through the Indian Health Care Delivery System.

Even though culturally competent care has had success across Indian Country, treatment options that incorporate cultural healing aspects are oftentimes not available within or near Tribal communities due to a lack of resources. However, some USET SPF member Tribal Nations are engaging in innovative practices that have the potential to be replicated across Indian Country. For example, one Tribal Nation's treatment program incorporates a culturally-based recovery model that has had great success, including in preventing early relapse following treatment. Other best practices within USET SPF Tribal Nations include:

² USET SPF Board of Directors supporting resolution attached.

- Extended, culturally-based recovery support in a sober living environment; and
- Trauma informed care training for health and behavioral health staff.

Other notable best practices and culturally healing modalities not currently being employed by USET SPF Tribal Nations include:

- Rapid entry into an acute care facility (detox/inpatient care); and
- Prevention and control interventions developed utilizing the Community Based Participatory Action model.

With additional funding and guidance, these best practices have the potential provide higher rates of recovery for our people. USET SPF encourages the Committee to explore how it might expand and promote these models through legislative action.

Tribal Healing to Wellness Courts

In addition to traditional healing practices, USET SPF urges this Committee and Congress to support innovative, culturally-appropriate Tribal restorative justice models through sustained funding. Established as alternatives to conventional sentencing for non-violent individual offenders, Tribal Healing to Wellness Courts promote long-term recovery through treatment, community healing resources, and the Tribal justice process by using a multi-disciplinary approach to achieve the physical and spiritual healing of participants.

For example, USET SPF member, the Penobscot Nation, has operated a Healing to Wellness Court (HTWC) since 2011. Any individual Penobscot Nation citizen who is charged with a non-violent crime can petition to participate in the HTWC program. Once accepted into the program, the individual must agree to enter a guilty plea for the crime charged against him/her, but his/her sentence is “deferred” to allow the individual to go through the program. Then, a comprehensive, holistic plan is developed in collaboration between 10 Tribal government departments to address the individual’s treatment needs in four phases:

- Phase I: Introduction/Education. This phase is focused on detoxification and beginning treatment and generally lasts 180 days.
- Phase II: Personal Responsibility. This phase is focused on stabilization and treatment and generally lasts 120 days.
- Phase III: Cooperation/Accountability. This phase is focused on maintenance and treatment and generally lasts 120 days.
- Phase IV: Completion/Continuing Wellness. This phase is focused on graduation and aftercare and generally lasts 120 days.

Successful completion of the program results in a dismissal of the participant’s guilty plea. Over two dozen individuals have gone into the program since 2011. Recidivism is extremely low. The biggest problem that the Penobscot Nation has is that they do not have sufficient resources to accommodate all the individuals who are interested in participating in the program. While, the program is funded mainly through the Bureau of Indian Affairs, with supplemental funding from the Indian Health Service, the Department of Justice, and the Department of Housing and Urban Development, this is administratively burdensome and unlikely to result in additional resources for the Court. Similarly, while some grants offered by the Substance Abuse and Mental Health Services Administration (SAMHSA) could possibly be used for this purpose, SAMHSA’s application requirements and standards often serve to preclude smaller, less resourced Tribal Nations from applying. The recovery model offered by Tribal Healing to Wellness Courts should be supported by this Congress, as it seeks to incentivize long-term sobriety and reduce criminal recidivism among drug offenders. In order to accomplish this, USET SPF urges this Committee to consider dedicated, sustained funding for this infrastructure in Indian Country.

Telehealth for Opioid Treatment

As with other telehealth programs nationally, the limited number of existing telehealth programs within Indian Country are making dramatic improvements in Tribal communities when it comes to healthcare, including access to care, diagnoses, treatment, and expansion of local healthcare treatment options. As the Committee considers the benefits of telehealth to treat and prevent opioid addiction, it is imperative that the unique telehealth needs of Tribal Nations are reflected in subsequent legislation. Within the Nashville Area of IHS, there have been multiple initiatives to expand the use of telehealth. These initiatives have provided multiple telehealth services within IHS and Tribally-operated facilities. Expanding the use of telehealth for treating substance abuse would add a vital component in efforts to address the opioid epidemic in Tribal communities.

Though Tribal telehealth continues to make strides, these programs continue to fall behind when it comes to developing sustainable telehealth infrastructure or a telehealth program standard system wide due to limited, or in some cases, lack of existing infrastructure and bandwidth. It is crucial that as the Committee and Congress consider the expansion and promotion of telehealth services, that they do so keeping in mind that additional funding is needed to modernize the existing infrastructure and bandwidth capabilities. Granting funding solely for telehealth will not be beneficial if the infrastructure and bandwidth remains insufficient. Further, modernizing existing infrastructure and bandwidth capabilities must be accomplished in a manner that protects Tribal cultural property and sacred sites.

Conclusion

The destructive effects of opioid addiction continue to devastate Tribal communities. Therefore, it is critical that Tribal governments have access to all the resources necessary to address this crisis. As both the Health Subcommittee and full Energy and Commerce Committee move forward with further hearings and legislative action on combating the opioid crisis nationwide, the Committees must remember the federal trust obligation to and the sovereign status of Tribal Nations and make this a priority. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 202-624-3550.