



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** Subcommittee on Oversight and Investigations Republican Members  
**From:** Subcommittee on Oversight & Investigations Staff; Michelle Lane  
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**Date:** Wednesday, April 10, 2024  
**Subject:** Oversight Hearing on “*Biden’s Border Crisis: Examining the Impacts of International Cartels Targeting Indian Country*”

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The Subcommittee on Oversight & Investigations will hold an oversight hearing on “*Biden’s Border Crisis: Examining the Impacts of International Cartels Targeting Indian Country*” on **Wednesday, April 10, 2024, at 10:15 a.m. EDT in 1324 Longworth House Office Building.**

Member offices are requested to notify Cross Thompsen ([Cross.Thompson@mail.house.gov](mailto:Cross.Thompson@mail.house.gov)) by 4:30 p.m. on Tuesday, April 9, if their Member intends to participate in the hearing.

## **I. KEY MESSAGES**

- President Biden’s failed immigration policies have made every community a border community. International criminal cartels are taking advantage of these failed border policies to traffic massive amounts of illegal drugs, as well as people, across the United States.
- International criminal cartels actively target rural communities in Indian country. These areas often include vast expanses of rural and unpatrolled lands, ongoing jurisdictional complications with law enforcement, and a lack of sophisticated distribution networks, which creates an opportunity for higher prices for illegal drugs in rural areas, particularly those located far from the Southern Border.
- Cartels have established extensive distribution networks in communities, allowing for the trafficking of dangerous and illegal substances into Indian communities, notably fentanyl and methamphetamine (meth). This has led to an increase in violence, crime, and drug overdoses that are ravaging communities across Indian country, particularly in Montana and Wyoming.

## **II. WITNESSES**

- **Mr. Bryce Kirk**, Tribal Executive Board Member, Fort Peck Tribes, Poplar, MT
- **Mr. Jeffrey Stiffarm**, President, Fort Belknap Indian Community, Harlem, MT
- **Ms. Jessica Vaughan**, Director of Policy Studies, Center for Immigration Studies, St. Helena Island, SC

- **Mr. Verlon M. Jose**, Chairman, Tohono O’odham Nation, Sells, AZ [*Minority Witness*]

### **III. BACKGROUND**

#### ***President Biden’s Open Border Policies Benefit Cartels***

Over the past three years, President Biden’s plethora of open border policies and abandonment of the most effective immigration policies from the Trump administration have encouraged an increase in illegal immigration. Almost immediately upon taking office, President Biden heeded the far-left’s open-border platform by weakening America’s immigration laws and reducing border security through executive action. President Biden’s ongoing abuse of executive authority has caused major operational challenges along the Southern Border and has allowed international criminal cartels to thrive across our nation.<sup>1</sup> The criminal cartels exploit the crisis at our Southern Border to traffic some of the most dangerous substances, including fentanyl and meth, into the United States.<sup>2</sup>

Criminal cartels, such as the Sinaloa and the Jalisco New Generation cartels, target Indian country, particularly reservations located in Montana and Wyoming. These areas are targeted due to the higher prices for drugs in these areas compared to other areas of the U.S.,<sup>3</sup> the vast expanses of rural and often unpatrolled lands, and ongoing jurisdictional concerns that complicate law enforcement responses.<sup>4</sup> The impact of cartel activity is alarming among the Indian reservations in Montana and Wyoming and felt by every person in those communities.

According to the Migration Policy Institute, in his first 100 days in office, President Biden executed more than 94 executive actions on immigration.<sup>5</sup> President Biden’s abuse of executive authority to open the border and weaken enforcement of immigration laws include, but are not limited to:

- Stopping the construction of the border wall and selling off the construction materials;<sup>6</sup>
- Attempting to halt deportations for 100 days;<sup>7</sup>
- Suspending new enrollments in Migrant Protection Protocols (MPP, aka the “Remain in Mexico” policy);<sup>8</sup>

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<sup>1</sup> Jessica M. Vaughan, *Biden Border Policies Are Working Fine — For the Cartels*, CENTER FOR IMMIGRATION STUDIES (Feb. 5, 2024), <https://cis.org/Vaughan/Biden-Border-Policies-Are-Working-Fine-Cartels>.

<sup>2</sup> *Id.*

<sup>3</sup> Lisa Cavazuti et al., *Mexican drug cartels are targeting America’s ‘last best place’*, NBC NEWS (Feb. 10, 2024), <https://www.nbcnews.com/news/mexican-drug-cartels-are-targeting-americas-last-great-place-rcna130822>.

<sup>4</sup> *Methamphetamine in Indian Country: An American Problem Uniquely Affecting Indian Country*, THE NATIONAL CONGRESS OF AMERICAN INDIANS (November, 2006), [https://www.justice.gov/archive/tribal/docs/fv\\_tjs/session\\_1/session1\\_presentations/Meth\\_Overview.pdf](https://www.justice.gov/archive/tribal/docs/fv_tjs/session_1/session1_presentations/Meth_Overview.pdf).

<sup>5</sup> Muzaffar Chishti & Jessica Bolter, *Border Challenges Dominate, But Biden’s First 100 Days Mark Notable Under-the-Radar Immigration Accomplishments*, MIGRATION POLICY INSTITUTE (Apr. 26, 2021), <https://www.migrationpolicy.org/article/biden-100-days-immigration-reform-border>.

<sup>6</sup> President Joseph R. Biden Jr., *Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction*, THE WHITE HOUSE (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

<sup>7</sup> Phil Helsel, *DHS to pause some deportations during Biden’s first 100 days to review policies*, NBC NEWS (Jan. 20, 2021), <https://www.nbcnews.com/politics/immigration/dhs-pause-some-deportations-during-biden-s-first-100-days-n1255110>.

<sup>8</sup> *President Biden’s Executive Actions on Immigration*, CENTER FOR IMMIGRATION STUDIES (Feb. 2, 2021); <https://cmsny.org/biden-immigration-executive-actions/>; Associated Press, *Biden administration ends Trump-era ‘Remain in Mexico’ policy*, PBS (Aug. 9, 2022), <https://www.pbs.org/newshour/politics/biden-administration-ends-trump-era-remain-in-mexico-policy>.

- Terminating Asylum Cooperative Agreements (ACAs) with Guatemala, Honduras, and El Salvador;<sup>9</sup> and
- Ending Prompt Asylum Case Review (PACR) for non-Mexicans, and Humanitarian Asylum Review Program (HARP), for Mexicans.<sup>10</sup>

Under the Biden administration, illegal immigration into the U.S. has reached an all-time high, embroiling the nation in an unprecedented crisis. U.S. Customs and Border Protection (CBP) reports approximately 9.1 million encounters with illegal immigrants since President Biden took office, including more than 7.5 million illegal crossings along the southern border.<sup>11</sup> Despite this staggering total, CBP data shows the migrant crisis is only worsening each year. Specifically, the agency reported a record-shattering 2.48 million southern border crossings in FY 2023, a 43 percent increase compared to just two years prior.<sup>12</sup> Early data from FY 2024 suggests the nation is on pace to experience record-breaking levels of illegal crossings once again.<sup>13</sup>

President Biden’s failed immigration policies have allowed international criminal cartels to thrive in many ways. For example, the profitability of human smuggling across the Southern Border has soared during the Biden administration, with each migrant seeking entry to the U.S. paying a cartel approximately \$8000.<sup>14</sup> In 2021, the cartel-controlled human smuggling industry raked in a shocking estimated \$13 billion in revenue.<sup>15</sup>

Human trafficking not only provides the cartels with immense resources but also is a tactic to ensure dangerous narcotics make it across the Southern Border.<sup>16</sup> Drug cartels deliberately send “thousands of migrants a day to hand themselves over to Border Patrol officers in different US border towns” in order to “tie up already overworked border agents so Mexico’s cartels can carry on their drug and human smuggling operations undisturbed in less populated areas”<sup>17</sup> This tactic has allowed the cartel to traffic in massive amounts of fentanyl across the Southern Border. CBP has seized more than “27,000 pounds [of fentanyl] from October 2022 to the end of September 2023,” representing approximately “6 billion lethal doses coming into the

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<sup>9</sup> Anthony J. Blinken, *Suspending and Terminating the Asylum Cooperative Agreements with the Governments El Salvador, Guatemala, and Honduras*, DEP’T OF STATE (Feb. 6, 2021), <https://www.state.gov/suspending-and-terminating-the-asylum-cooperative-agreements-with-the-governments-el-salvador-guatemala-and-honduras/>.

<sup>10</sup> EXEC ORDER NO. 13817, 86 F.R. 8267 (Feb. 2, 2021) <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/> (directing the Secretary of Homeland Security to cease implementing the “Prompt Asylum Case Review” program).

<sup>11</sup> Nationwide Encounters, U.S. CUSTOMS AND BORDER PROTECTION, (Last accessed January 9, 2023), <https://www.cbp.gov/newsroom/stats/nationwide-encounters>. Southwest Land Border Encounters, U.S. CUSTOMS AND BORDER PROTECTION, (Last accessed January 9, 2023), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Vaughan, *supra* note 1.

<sup>15</sup> Miriam Jordan, *Smuggling Migrants at the Border Now a Billion-Dollar Business*, THE NEW YORK TIMES (July 25, 2022), <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

<sup>16</sup> MaryAnn Martinez, *Cartels sending migrant mobs of thousands to overwhelm the US border*, NEW YORK POST (Sep. 18, 2023), <https://nypost.com/2023/09/18/cartels-sending-migrant-mobs-to-overwhelm-the-us-border/>.

<sup>17</sup> *Id.*

U.S. during fiscal year 2023.”<sup>18</sup> Unfortunately, these numbers only reveal the “extent to which the cartels continue to flood our nation with this poison.”<sup>19</sup>

### ***Cartels Targeting Indian Country***

Criminal cartels have long targeted rural Indian country for the distribution of their dangerous and illegal drugs due to the high profit margins in these areas, general lack of law enforcement across vast expanses of rural lands, and jurisdictional concerns between tribal and local or state law enforcement agencies.<sup>20</sup>

Law enforcement is often stretched thin over vast expanses of rural land in Indian country, particularly in Western States.<sup>21</sup> For example, in Montana, the Northern Cheyenne tribe relies on “two federally funded Bureau of Indian Affairs (BIA) tribal police officers per shift to patrol more than 440,000 acres of land home to roughly 6,000 residents, according to the tribal council.”<sup>22</sup> Similarly, the adjacent Crow Reservation, the largest in Montana, has “four to six police officers per shift to patrol a swath of land the size of Rhode Island.”<sup>23</sup> The cartels know how to identify and exploit “social, economic and justice vulnerabilities that each tribal nation has,”<sup>24</sup> including the long-standing jurisdictional concerns between federal, state, local, or tribal criminal justice agencies that further complicate law enforcement efforts.<sup>25</sup>

The cartels have shifted their attention and resources to rural areas that tend to attract significantly higher prices for narcotics, making states such as Montana and Wyoming prime targets for criminal cartels. In Montana, pills can be sold for “20 times the price they get in urban centers closer to the border.”<sup>26</sup> A counterfeit fentanyl pill coming over from Mexico sells for around “\$3 to \$5 in cities like Seattle and Denver where drug markets are more established, but up to \$100 in remote parts of Montana.”<sup>27</sup> On the Fort Peck Reservation in Montana, law enforcement officers report that “an average opioid user’s daily dosage is between 10-20 pills” and the “average cost per pill is \$120.”<sup>28</sup> These high prices contribute to increased crime on Indian reservations, as opioid addicts often turn to dealing drugs themselves or committing other harmful crimes in their communities to support their expensive habit.<sup>29</sup>

Criminal cartels for decades have purposefully targeted rural Indian country to establish extensive drug distribution networks for meth.<sup>30</sup> The cartels target Indigenous people,

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<sup>18</sup> *CBP: America’s Front Line Against Fentanyl*, U.S. CUSTOMS AND BORDER PROTECTION (Last accessed Mar. 8, 2024), <https://www.cbp.gov/frontline/cbp-america-s-front-line-against-fentanyl>.

<sup>19</sup> Steffan W. Tubbs, *Year in Review: The DEA Rocky Mountain Field Division Sees Record Year in Fentanyl Seizures*, DRUG ENFORCEMENT ADMINISTRATION (Jan. 31, 2024), <https://www.dea.gov/press-releases/2024/01/31/year-review-dea-rocky-mountain-field-division-sees-record-year-fentanyl>.

<sup>20</sup> *Methamphetamine in Indian Country*, *supra* note 4.

<sup>21</sup> *Id.*

<sup>22</sup> Cavazuti, *supra* note 3.

<sup>23</sup> *Id.*

<sup>24</sup> *Addressing the Harmful Effects of Dangerous Drugs in Native Communities: Hearing before the Senate Comm. on Indian Affairs, 114<sup>th</sup> Cong.* (2015) (Statement of Darwin St. Clair, Chairman, Eastern Shoshone Tribe).

<sup>25</sup> *Methamphetamine in Indian Country*, *supra* note 4.

<sup>26</sup> Cavazuti, *supra* note 3.

<sup>27</sup> *Id.*

<sup>28</sup> *Fentanyl in Native Communities: Native Perspective on Addressing the Growing Crisis: Hearing before the Senate Comm. on Indian Affairs, 118<sup>th</sup> Cong.* (2023) (Statement of Bryce Kirk, Councilman, Assiniboine and Sioux Tribes of the Fort Peck Reservation).

<sup>29</sup> *Id.*

<sup>30</sup> *Methamphetamine in Indian Country*, *supra* note 1.

particularly women, luring them into “becoming dealers by giving away an initial supply of drugs and turning them into addicts indebted to the cartels.”<sup>31</sup> Now, opioids, particularly fentanyl, have replaced meth as the predominant drug in Indian country. Notably, since the emergence of fentanyl, the BIA has observed increases in overdose deaths in Indian communities, with tribes reporting “1,590 fatal overdoses in FY 2023 and 899 non-fatal overdoses” in the same year.<sup>32</sup> The BIA Division of Drug Enforcement conducts numerous undercover narcotic and highway interdiction operations focused on Indian reservations each year. During FY 2023, 22 operations lead to the seizure of 1,097,671 fentanyl pills, 1,846 lbs. of methamphetamine, 98 lbs. of fentanyl powder, 11,411 lbs. of marijuana, 23 lbs. of heroin, and 1,418 lbs. of cocaine.<sup>33</sup>

### *Jurisdictional Challenges for Local, State, Federal, and Tribal Authorities*

“Indian country” is a legal term of art that generally refers to all lands within a federal Indian reservation, all dependent Indian communities, and all tribal member allotments.<sup>34</sup> “Indian” is also a legal term of art that generally refers to an individual who is considered a member of a federally recognized tribe.<sup>35</sup> The legal definitions of “Indian country” and “Indian” assist in determining which entity – state or local, tribal, or federal – can exercise jurisdiction, either exclusively or concurrently, when a criminal offense involves tribes, tribal members, tribal lands, and non-Indians.

Jurisdiction over crimes committed in Indian country varies by the type and seriousness of the crime, whether the offender or victim is an Indian or non-Indian, and the location of the offense. Concurrent jurisdiction exercised by federal, state, local, or tribal criminal justice agencies, depending on what statutes or court decisions apply in the specific area, further complicates matters.<sup>36</sup> Indian country is usually policed by federal and tribal law enforcement. State and local law enforcement can also exercise jurisdiction depending on whether the state has jurisdiction over Indian country within its borders pursuant to Public Law 280<sup>37</sup> or a memorandum of agreement exists between a tribe and local law enforcement for cross-deputization.<sup>38</sup>

The Indian Law Enforcement Act of 1990 and its implementing regulations provide the main statutory and regulatory authority for the BIA’s Office of Justice Services (OJS) to carry out law enforcement functions in Indian country.<sup>39</sup> The BIA provides basic police and corrections services. At the same time, other federal agencies such as the Department of Justice, the Federal Bureau of Investigations, the Drug Enforcement Administration, and the Bureau of Alcohol,

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<sup>31</sup> *Id.*

<sup>32</sup> *Fentanyl in Native Communities: Federal Perspectives on Addressing the Growing Crisis: Hearing before the Senate Comm. on Indian Affairs, 118<sup>th</sup> Cong.* (2023) (Statement of Glen Melville, Deputy Bureau Director, Office of Justice Services, Bureau of Indian Affairs).

<sup>33</sup> *Id.*

<sup>34</sup> 18 U.S.C. §1151.

<sup>35</sup> *Federal Law Enforcement Training Centers “Indian Law Handbook”*, Second Edition, DEPT. OF HOMELAND SECURITY (March 2017), <https://www.fletc.gov/sites/default/files/2017%20Indian%20Law%20Handbook.pdf>.

<sup>36</sup> *Tribal Crime and Justice*, BUREAU OF JUSTICE STATISTICS (Last accessed Mar. 13, 2024), <https://bjs.ojp.gov/topics/tribal-crime-and-justice#:~:text=Crimes%20committed%20in%20Indian%20country%20among%20AIANs%20may%20be%20subject,280>.

<sup>37</sup> P.L. 83-280.

<sup>38</sup> Cooperative Agreement Database, TRIBAL LAW AND POLICY INSTITUTE (Last accessed Mar. 13, 2024), <http://walkingoncommonground.org/state.cfm?topic=12>.

<sup>39</sup> 25 U.S.C. §2801.

Tobacco, Firearms and Explosives also have responsibilities to investigate crimes in Indian country.<sup>40</sup>

The BIA can either provide “direct” service with federally employed law enforcement officers, or it can contract or compact with a tribe to carry out the functions the BIA would otherwise provide, pursuant to the Indian Self Determination and Education Assistance Act (ISDEAA).<sup>41</sup> Tribally operated law enforcement agencies in the U.S. increased from 178 in 2008 to 234 in 2018, increasing by 32 percent in 10 years, indicating that tribes seek more involvement in policing their lands and populations.<sup>42</sup> However, Special Law Enforcement Commission (SLEC) agreements from BIA are required for tribal or local law enforcement officers to enforce federal criminal laws in Indian country.<sup>43</sup> For Indian tribes in some regions of the country, obtaining SLEC agreements and renewing those agreements has proven administratively difficult and rendered tribal officers unable to respond in certain instances.<sup>44</sup>

Jurisdictional ambiguity can impact law enforcement officers' ability to respond to calls in and near Indian country. Officers must ask questions about who can make an arrest and under what governmental authority, who should collect evidence, and how the chain of custody will be maintained, particularly if the prosecuting jurisdiction is determined to be different from the responding or investigating law enforcement entity.<sup>45</sup> The jurisdictional ambiguity also hurts the sharing of information between tribal and local or state law enforcement agencies.<sup>46</sup> By contrast, when jurisdictional issues are clarified, and intergovernmental recognition of authority has occurred, the rates of arrests, confidence in public safety, and interdiction of crime have increased.<sup>47</sup> Additionally, in areas where intergovernmental recognition of authority has ended or deteriorated, tribal lands were seen as a “safe harbor” for illegal drug activities, as seen by the Mille Lacs Band of Ojibwe after a cooperative law enforcement agreement between the tribe and county ended in 2016, before being reinstated in 2018.<sup>48</sup> During the time without a cooperative agreement, the Tribe observed an increase in illegal drug use and drug trafficking within their community that still remains today.<sup>49</sup>

### *Recruitment and Retention of Law Enforcement Officers*

Both tribes and the BIA have consistently faced challenges in recruiting and retaining law enforcement officers and other public safety personnel. While this has been a long-standing issue

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<sup>40</sup> *Federal Declinations to Prosecute in Indian Country: Hearing before the Senate Comm. on Indian Affairs, 110<sup>th</sup> Cong.* (2008) (Statement of Director, Office of Justice Services, Bureau of Indian Affairs, William Patrick Ragsdale).

<sup>41</sup> 25 USC 5301 et seq.

<sup>42</sup> *Tribal Crime Data Collection Activities*, BUREAU OF JUSTICE STATISTICS (July 2023), <https://bjs.ojp.gov/document/tcdca23.pdf>

<sup>43</sup> *Training Fulfills Key Requirement of Tribal Law and Order Act, Makes Tribal Police Eligible to Enforce Federal Laws*, DEP'T OF THE INTERIOR (Mar. 21, 2011), <https://www.bia.gov/as-ia/opa/online-press-release/justice-and-interior-departments-launch-national-criminal-justice>.

<sup>44</sup> *Tribal Law and Order Reauthorization Act of 2017: Hearing before the Senate Comm. on Indian Affairs, 115<sup>th</sup> Cong.* (2017) (Statement of Bryan Rice, Director, Bureau of Indian Affairs).

<sup>45</sup> *A Roadmap for Making Native America Safer: Report to the President and Congress of the United States*, INDIAN LAW AND ORDER COMMISSION (Nov. 7, 2023), [https://www.aisc.ucla.edu/iloc/report/files/A\\_Roadmap\\_For\\_Making\\_Native\\_America\\_Safer-Full.pdf](https://www.aisc.ucla.edu/iloc/report/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf).

<sup>46</sup> *Separation of Powers: State-Tribal Relations and Interstate Compacts*, NATIONAL CONFERENCE OF STATE LEGISLATORS (Nov. 17, 2022), <https://www.ncsl.org/about-state-legislatures/separation-of-powers-state-tribal-relations-and-interstate-compacts>.

<sup>47</sup> *A Roadmap*, *supra* note 45.

<sup>48</sup> Kirsti Marohn, *Lack of agreement between Mille Lacs Band county leaves tribal offices without policing power*, MPR NEWS (Oct. 10, 2017), <https://www.mprnews.org/story/2017/10/10/lack-of-agreement-between-mille-lacs-band-county-leaves-tribal-officers-without-policing>; Conversation with HNR Staff and Mille Lacs Chairwoman Melanie Benjamin (Nov. 6, 2023).

<sup>49</sup> *Id.*

for Indian nations, it is similar to the recent recruitment and retention challenges faced by other law enforcement agencies across the United States.<sup>50</sup> The overall population of the U.S. has increased at a rate far exceeding the increase in law enforcement jobs, contributing to the overall decline in the police officer to citizen ratio.<sup>51</sup> There is also a shortage of individuals who are willing and qualified to pursue law enforcement work, with the International Association of Chiefs of Police finding that 78 percent of agencies reported difficulties in hiring qualified individuals, 65 percent of agencies reported a lack of overall applicants, and 75 percent reported that recruiting is far more difficult now than it was even five years ago.<sup>52</sup>

The BIA's OJS currently has a vacancy rate of 30 percent for all positions, with many positions located in remote areas generally having a higher vacancy rate.<sup>53</sup> OJS has also cited that lack of applicant pools, shortage of available housing, and length of background investigations further contribute to the high vacancy rate.<sup>54</sup> In recent years, OJS has focused its efforts on increasing recruiting for law enforcement positions and plans to continue leveraging recruitment and retention incentives based on the assessed difficulty of hiring for difficult-to-fill positions and duty locations.<sup>55</sup> OJS cited that improved pay parity between BIA law enforcement and other federal law enforcement has resulted in improved retention of officers.<sup>56</sup>

OJS also instituted a system to keep in continuous contact with applicants as they go through background check investigations through the Defense Counterintelligence and Security Agency, ensuring applicants can effectively complete their background check application and be informed on the investigation process and timeline. For OJS applicants, the average completion time is 58 days for low-risk to moderate-risk investigations and 106 days for Security Clearance positions.<sup>57</sup> For those applicants who passed the background investigation but ultimately declined a job offer, the length of time for a background check was generally a factor. Some applicants chose to accept a state or local law enforcement position in part because of the shorter wait time prior to employment.<sup>58</sup>

For tribal law enforcement agencies, similar challenges arise, particularly with matching benefits and pay that public safety personnel would receive at either federal, state, or local law enforcement agencies.<sup>59</sup> There were 3,834 full-time sworn officers in tribally operated law enforcement agencies in 2018.<sup>60</sup> Those tribal law enforcement agencies operating under an ISDEAA compact or contract receive funds that BIA would spend if the agency provided

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<sup>50</sup> *Recruitment and Retention for the Modern Law Enforcement Agency*, BUREAU OF JUSTICE ASSISTANCE & OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (Oct. 18, 2023), <https://bja.ojp.gov/doc/recruitment-retention-modern-le-agency.pdf>.

<sup>51</sup> Shelley Hyland, BUREAU OF JUSTICE STATISTICS, NCJ 251762, *Full-Time Employees in Law Enforcement Agencies, 1997-2016* (August 2018), <https://www.bjs.gov/content/pub/pdf/ftelea9716.pdf>.

<sup>52</sup> *A Crisis for Law Enforcement*, THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE (2019), [https://www.theiacp.org/sites/default/files/239416\\_IACP\\_RecruitmentBR\\_HR\\_0.pdf](https://www.theiacp.org/sites/default/files/239416_IACP_RecruitmentBR_HR_0.pdf).

<sup>53</sup> BIA-OJS briefing to HNR Staff. November 2, 2023.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> Tracy Abiaka, *Tribal police agencies struggle to attract, maintain officers, panel told*, CRONKITE NEWS (May 19, 2022), <https://cronkitenews.azpbs.org/2022/05/19/tribal-police-agencies-struggle-to-attract-maintain-officers-panel-told/>.

<sup>60</sup> Steven W. Perry & Michael B. Field, BUREAU OF JUSTICE STATISTICS, NCJ 306022, *Tribal Law Enforcement in the United States, 2018* (July 2023), <https://bjs.ojp.gov/library/publications/tribal-law-enforcement-united-states-2018>.

federally employed public safety personnel.<sup>61</sup> Tribes then use those funds for tribal law enforcement agencies, including, if they can, providing retirement and other non-salary benefits.<sup>62</sup> That funding can be supplemented by non-BIA funds, but for many tribes, additional funding is not available due to fewer economic opportunities and a general lack of funding for tribal governments.<sup>63</sup>

### ***Cartels Thrive on Indian Reservations in the Western United States***

A plague of overdoses, deaths, and crime has struck Indian country across the Western United States due to extensive cartel drug distribution networks established amongst Indian communities. Fentanyl is now raining down on the region – the DEA Rocky Mountain Field Division (RMFD), which includes Colorado, Montana, Wyoming, and Utah, announced a shocking 78% increase in drug seizures of fentanyl from 319 kilograms in 2022 to 567 kilograms, or approximately 3.4 million pills, in 2023.<sup>64</sup> RMFD seized more fentanyl in 2023 than in any other previous year.<sup>65</sup>

#### ***Examples on Montana Indian Reservations***

Montana is home to seven Indian reservations and one tribal capital, encompassing numerous tribes in the region.<sup>66</sup> Every one of these tribes has experienced the terrible impacts of cartel activity, touching every corner of their communities, “from the young to the old and without regard to gender or any other demographic.”<sup>67</sup> The greatest impact, though, is undoubtedly amongst the youth – tribal leaders fear that fentanyl and other dangerous drugs are “robbing us of an entire generation: our very future.”<sup>68</sup> In September 2023, the Fort Peck Reservation Tribal Executive Board issued a state of emergency to combat the severe rise in juvenile crimes, covering everything from property crimes to violent crimes, including sexual assaults, kidnapping, and murders. Nearly every one of these crimes is connected to fentanyl in one way or another.<sup>69</sup>

Blackfeet Nation has also been hit hard by increased crime and overdose deaths centered around fentanyl as the cartels continue to attempt to transform this community into one of the largest northern drug trafficking stations.<sup>70</sup> In 2022, Blackfeet Nation declared a state of

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<sup>61</sup> Tana Fitzpatrick, CONG. RESEARCH SERV., IF11877, *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs* (July 15, 2021), <https://crsreports.congress.gov/product/pdf/IF/IF11877/2>.

<sup>62</sup> *Id.*

<sup>63</sup> Stewart Wakeling et al., *Policing on American Indian Reservations*, BUREAU OF JUSTICE (July 2001), <https://www.ojp.gov/pdffiles1/nij/188095.pdf>

<sup>64</sup> David Jay, *DEA seizes record amount of fentanyl nationwide and in Montana*, KTVQ (Feb. 1, 2024), <https://www.ktvq.com/news/local-news/dea-seizes-record-amount-of-fentanyl-nationwide-and-in-montana#:~:text=The%20DEA%20Rocky%20Mountain%20Field,or%201%2C250%20pounds%20in%202023.>

<sup>65</sup> Tubbs, *supra* note 19.

<sup>66</sup> *Tribal Territories in Montana*, MONTANA STATE UNIVERSITY (Last accessed Mar. 22, 2024), <https://www.montana.edu/iefa/introductiontomtribalnations/tribalterritories.html>

<sup>67</sup> Kirk, *supra* note 27.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Aaron Bolton, *Tribal leaders sound the alarm after fentanyl overdoses spike at Blackfeet Nation*, NATIONAL PUBLIC RADIO (June 1, 2022), <https://www.npr.org/sections/health-shots/2022/06/01/1101799174/tribal-leaders-sound-the-alarm-after-fentanyl-overdoses-spike-at-blackfeet-natio#:~:text=Hourly%20News-.Fentanyl%20overdoses%20at%20Blackfeet%20Nation%20serve%20as%20a%20wake%20call,provide%20more%20treatment%20and%20care.>



emergency after seventeen people overdosed on fentanyl in one week, killing four.<sup>71</sup> The impact of the loss of these people, and the many others lost to drugs over the years, on the community of less than 10,000 people in Blackfeet Nation is immense and leaves no member untouched.<sup>72</sup>

Blackfeet Nation encounters comparable challenges when responding to this terrible crisis as most other Indian communities face in the region.<sup>73</sup> Currently, there are only eighteen tribal police officers responsible for patrolling the 1.5 million acres of the Blackfeet Reservation, causing major operational challenges in attempting to combat the fentanyl crisis in their community. Blackfeet Nation, like many other tribes in the region, has engaged in community-driven initiatives to supplement their limited law enforcement and treatment options for addiction, including creating a task force to identify both the short and long-term needs to respond to this crisis, hosting events to train people to administer naloxone, a medicine that reverses opioid overdoses, and reorganizing the tribal health department, among numerous other initiatives.<sup>74</sup>

On December 16, 2022, Montana State Rep. Bob Brown introduced a joint resolution to the Montana Legislature, SJ5, to respond to the increase in crime due to cartel activity and cover the gaps in law enforcement on reservations.<sup>75</sup> Several of the reservations in Montana, including Fort Belknap and Blackfeet Reservations, supported the resolution, which urges Congress to fully fund public safety and law enforcement programs, services, and activities within Montana's reservations and urges the Department of Justice and the Department of the Interior to improve engagement to cooperatively administer Indian Country public safety, law enforcement, and administration of justice programs and services.<sup>76</sup>

### *Examples on Wyoming Indian Reservations*

The Wind River Reservation in Wyoming is home to the Northern Arapaho Tribe and the Eastern Shoshone Tribe. Drug addiction has left its mark on the Wind River Reservation over the years, with criminal cartels repeatedly targeting their communities for the distribution of meth and fentanyl. Between 2003 and 2006, meth took a grip on the Wind River Reservation leading to drastic increases in crime, including a 163 percent increase in drug possession, 218 percent increase in spousal abuse, and 131 percent increase in child neglect.<sup>77</sup> Although the drug trafficking network at this time was dismantled, the cartels did not stop there and have continued with numerous, repeated incursions into the Wind River Reservation.<sup>78</sup> Just recently, in 2020, the

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<sup>71</sup> Aaron Bolton, *The Blackfeet Nation's plight underscores the Fentanyl crisis on reservations*, KAISER HEALTH NEWS (May 25, 2022), <https://www.risehealth.org/insights-articles/the-blackfeet-nation-s-plight-underscores-the-fentanyl-crisis-on-reservations/>.

<sup>72</sup> *Id.*

<sup>73</sup> Bolton, *supra* note 71.

<sup>74</sup> *Id.*

<sup>75</sup> *MT SJ5: Resolution urging Congress to fully fund law enforcement in Indian Country*, BILLTRACK50 (Last accessed Mar. 26, 2024), <https://www.billtrack50.com/billdetail/1503494>.

<sup>76</sup> Blair Miller, *Resolution calls on Congress to fully fund law enforcement on Montana reservations*, SOURCE NEW MEXICO (Jan. 12, 2023), <https://sourcenm.com/2023/01/12/resolution-calls-on-congress-to-fully-fund-law-enforcement-on-montana-reservations/>.

<sup>77</sup> *How meth took hold on an Indian reservation*, NBC NEWS (Apr. 30, 2007), <https://www.nbcnews.com/id/wbna18390628>.

<sup>78</sup> St. Clair, *supra* note 24.

Northern Arapaho Business Council had to declare a state of emergency due to the high rates of meth addiction in their community.<sup>79</sup>

John St. Clair, Chairman of the Eastern Shoshone Business Council, described the ongoing process taken by cartels to infiltrate Indian communities: “Their plan was very simple, introduce a drug that was highly addictive to our population, the allure of easy money, and become entrenched in a community through family and interpersonal relationships.”<sup>80</sup> The effects of fentanyl on the Wind River Reservation cannot be understated, as family units are torn apart, countless lives are lost to the drug, and private and public property is destroyed.<sup>81</sup> The health of the community is at stake as substance abuse contributes directly to the mortality of the tribal population in the community. Many accidents and other adverse health effects in Wind River Reservation are alcohol and drug-related, including “car accidents and unintended injury” as well as “cancer, heart disease, cirrhosis, and diabetes are all directly related or contributed to by substance abuse.”<sup>82</sup>

#### IV. CONCLUSION

President Biden’s failed immigration policies have made every community a border community, and international criminal cartels have seized on the opportunity to expand their drug trafficking networks deep into Indian country. The cartels take advantage of the vast expanses of largely unpatrolled lands and ongoing jurisdictional complications with law enforcement in Indian reservations in Montana and Wyoming to distribute extremely dangerous and illegal drugs such as fentanyl and methamphetamine into Indian communities. As a result, Indian reservations in Montana and Wyoming have experienced terrible violence, rising crime, and countless drug overdoses that are destroying their communities. President Biden has failed Indian country and tribal communities.

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<sup>79</sup> Savannah Maher, “It’s Going To Take All Of Us”: Northern Arapaho Tribe Declares State Of Emergency Over Meth Use, WYOMING PUBLIC RADIO (Feb. 27, 2020), <https://www.wyomingpublicmedia.org/tribal-news/2020-02-27/its-going-to-take-all-of-us-northern-arapaho-tribe-declares-state-of-emergency-over-meth-use>.

<sup>80</sup> St. Clair, *supra* note 24.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*