



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Oversight and Investigations Republican Members
From: Subcommittee on Oversight & Investigations Staff; Michelle Lane
(Michelle.Lane@mail.house.gov) and James Lundquist
(James.Lundquist@mail.house.gov), x6-8747
Date: Tuesday, June 4, 2024
Subject: Oversight Hearing on “*Biden’s Border Crisis: Examining Efforts to Combat International Criminal Cartels & Stop Illegal Drug Trafficking Targeting Indian Country*”

The Subcommittee on Indian and Insular Affairs will hold an oversight hearing titled “*Biden’s Border Crisis: Examining Efforts to Combat International Criminal Cartels & Stop Illegal Drug Trafficking Targeting Indian Country*” on **Tuesday, June 4, 2024, at 2:00 p.m. in 1324 Longworth House Office Building.**

Member offices are requested to notify Cross Thompsom (Cross.Thompson@mail.house.gov) by 4:30pm on Monday, June 3, 2024, if their member intends to participate in the hearing.

I. KEY MESSAGES

- Communities in Indian country often lack the necessary resources to support public safety and law enforcement, leading to a vicious cycle of dangerous activity on and near tribal lands.
- International criminal cartels actively target rural tribal communities, looking to traffic both humans and illicit drugs, primarily fentanyl and methamphetamine (meth).
- Jurisdictional complications, vast expanses of unpatrolled land, few resources for law enforcement, and high prices for illicit drugs (compared to urban areas) create a prime opportunity for cartels targeting Indian communities.
- During the Subcommittee hearing, “*Biden’s Border Crisis: Examining the Impacts of International Cartels Targeting Indian Country*,” Tribal leaders and representatives expressed their disappointment in federal law enforcement efforts to eradicate the cartel presence on Indian lands. Tribal leaders identified areas for improvement, further collaboration, and additional resources that could bolster law enforcement efforts.
- This hearing will examine both the challenges and opportunities for the Bureau of Indian Affairs (BIA), Federal Bureau of Investigation (FBI), and Department of Homeland Security (DHS) to collaborate with tribal law enforcement to investigate and prosecute cartel activities on Indian lands.

II. WITNESSES

Panel I:

- **Mr. Darryl Lacounte**, Director, Bureau of Indian Affairs, Washington, DC

Panel II:

- **Lt. John Nores Jr. (ret.)**, Special Operations, Marijuana Enforcement Team, California Department of Fish and Wildlife, Morgan Hill, CA
- **Ms. Stacy Zinn**, former Resident in Charge, Rocky Mountain Division, Drug Enforcement Administration, Billings, MT
- **Mr. Joshua Roberge**, Chief of Police, Fort Belknap Indian Community, Harlem, MT

III. BACKGROUND

Over the past three years, President Biden has embraced the far-left's open-border platform by weakening America's immigration laws and reducing border security through executive action.¹ As a result, illegal immigration has reached an all-time high, embroiling the nation in an unprecedented crisis.²

Increasingly, illegal border crossings in the Southern border translates to crimes committed across the United States, as international criminal cartels exploit the Biden Border Crisis to traffic some of the most dangerous substances, notably fentanyl and meth, into the U.S.³ These cartels target Indian country to establish extensive distribution networks for fentanyl and meth,⁴ leading to an increase in violence, crime,⁵ and drug overdoses⁶ among Indian communities. The devastation wrought by cartel activity touches every corner of these communities, "from the young to the old and without regard to gender or any other demographic."⁷

On April 16, 2024, the Subcommittee on Oversight and Investigations held a hearing titled *Biden's Border Crisis: Examining the Impacts of International Cartels Targeting Indian Country* (Hearing). Tribal leaders provided extensive testimony on the alarming extent of the cartels' presence in Indian communities, particularly the establishment of drug trafficking hubs on Indian

¹ 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>.

² 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>.

³ *Id.*

⁴ *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.

⁵ *Fentanyl in Native Communities: Native Perspective on Addressing the Growing Crisis: Hearing before the Senate Comm. on Indian Affairs, 118th Cong.* (2023) (Statement of Bryce Kirk, Councilman, Assiniboine and Sioux Tribes of the Fort Peck Reservation).

⁶ *Fentanyl in Native Communities: Federal Perspectives on Addressing the Growing Crisis: Hearing before the Senate Comm. on Indian Affairs, 118th Cong.* (2023) (Statement of Glen Melville, Deputy Bureau Director, Office of Justice Services, Bureau of Indian Affairs).

⁷ Kirk, *supra* note 27.

reservations.⁸ The witnesses described ongoing challenges, including the overall lack of federal law enforcement presence and resources deployed on Indian reservations to address cartel activities and related crimes.⁹

The President of Fort Belknap Indian Community, Jeffrey Stiffarm, described federal law enforcement in his community, stating “we don’t have help from the FBI, the Border Patrol, the DEA [Drug Enforcement Administration] that has jurisdiction on Federal land, which are reservations.” He described how the FBI only “come[s] there when the serious crime happens. They take their pictures ... write their reports, and they are gone. That is about it.”¹⁰ President Stiffarm cited an instance during the annual meeting between the FBI and Fort Belknap Indian Community, where he asked the agents for Fort Belknap Reservation and Rocky Boy's Reservation, “What Tribes are you serving here?”¹¹ The agents reportedly could not identify the Tribes they serve – President Stiffarm stated that “tells me they don't care.”¹²

The situation in Indian country described by witnesses and in media reports is dire. Tribes are under constant threat by the dangerous cartels residing and distributing illegal drugs within their communities.¹³ Fentanyl and meth threatens entire Indian communities, causing rampant addiction and overdoses,¹⁴ along with violent crimes including homicide, sexual assault, aggravated assault, and robbery.¹⁵

President Stiffarm described the urgency of the situation, noting that there is a lack of assistance from the federal agencies and that “we are fighting a losing battle ... the cartels are winning, the drug dealers are winning, and they are overrunning our reservations.”¹⁶

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.¹⁷ “Indian” is a legal term of art that generally refers to an individual who is considered a member of a federally recognized tribe.¹⁸ The legal definitions of “Indian country” and “Indian” assist in determining which entity – state, local, tribal, or federal – can exercise jurisdiction, either exclusively or

⁸ *Examining the Impacts of International Cartels Targeting Indian Country: Hearing before the Subcommittee on Oversight and Investigations of the H. Comm. on Natural Resources*, 118th Cong. (2024) (statement of Bryce Kirk, Tribal Executive Board Member, Fort Peck Tribes; statement of Jeffrey Stiffarm, President, Fort Belknap Indian Community).

⁹ *Id.*

¹⁰ *Examining the Impacts of International Cartels Targeting Indian Country: Hearing before the Subcommittee on Oversight and Investigations of the H. Comm. on Natural Resources*, 118th Cong. (2024) (statement of Jeffrey Stiffarm, President, Fort Belknap Indian Community).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ 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>.

¹⁵ *Fentanyl in Native Communities: Federal Perspectives on Addressing the Growing Crisis: Hearing before the Senate Comm. on Indian Affairs*, 118th Cong. (2023) (Statement of Glen Melville, Deputy Bureau Director, Office of Justice Services, Bureau of Indian Affairs).

¹⁶ Stiffarm, *supra* note 6.

¹⁷ 18 U.S.C. §1151.

¹⁸ *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>.

concurrently, when a criminal offense involves tribes, tribal members, tribal lands, or non-Indians.

Jurisdiction over crimes committed in Indian country varies by 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 law enforcement agencies further complicates matters.¹⁹ Indian country is typically policed by federal and tribal law enforcement. State and local law enforcement may also exercise jurisdiction. However, this is dependent upon local factors, including whether the state has jurisdiction over Indian country within its borders pursuant to Public Law 280²⁰ or if a memorandum of agreement exists between a tribe and local law enforcement for cross-deputization.²¹

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.²² The lack of jurisdictional clarity reduces data and information sharing between tribal and local or state law enforcement agencies.²³ By contrast, when jurisdictional issues are clarified, and intergovernmental recognition of authority occurs, the rates of arrests, confidence in public safety, and interdiction of crime have increased.²⁴ In areas where intergovernmental recognition of authority has ended or deteriorated, tribal lands were seen as a “safe harbor” for illegal drug activities.²⁵

There remain opportunities to improve collaboration and coordination of cross-jurisdictional investigation resources and information sharing between law enforcement agencies, as detailed in a report by the Not Invisible Act Commission.²⁶ This past year, tribes in Washington State held their first Tribal Opioid/Fentanyl Summit bringing together tribal, state, and local

¹⁹ *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>.

²⁰ P.L. 83-280.

²¹ Cooperative Agreement Database, TRIBAL LAW AND POLICY INSTITUTE (Last accessed Mar. 13, 2024), <http://walkingoncommonground.org/state.cfm?topic=12>.

²² *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.

²³ *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>.

²⁴ *A Roadmap*, *supra* note 45.

²⁵ 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).

²⁶ “Not One More: Findings and Recommendations of the Not Invisible Act Commission” at 15-16. https://www.justice.gov/d9/2023-11/34%20NIAC%20Final%20Report_version%2011.1.23_FINAL.pdf.

governments and stakeholders to discuss the issues.²⁷ Tulalip Tribes hosted the 2023 National Tribal Opioid Summit for tribes from across the U.S. to do the same.²⁸

Bureau of Indian Affairs: Recruitment and Retention of Law Enforcement Officers

The Indian Law Enforcement Act of 1990 and its implementing regulations provide the primary statutory and regulatory authority for the BIA's Office of Justice Services (OJS) to carry out law enforcement functions in Indian country, including providing basic police and corrections services.²⁹ The BIA also conducts highly technical investigations to “disrupt narcotics sales and to disrupt criminal organizations who operate on Indian Lands and prey upon Indian communities” through their Division of Drug Enforcement.³⁰ Additional federal agencies, including the FBI, DEA, and DHS have responsibilities to investigate crimes in Indian country.³¹

The BIA can either provide “direct” service with federally employed law enforcement officers, or contract or compact with a tribe, pursuant to the Indian Self Determination and Education Assistance Act (ISDEAA),³² to carry out functions that BIA would otherwise provide.³³ The number of 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. This indicates that tribes seek more involvement in policing their lands and populations.³⁴ However, the Special Law Enforcement Commission agreements required by BIA for tribal or local law enforcement officers to enforce federal criminal laws in Indian country³⁵ have proven administratively difficult to obtain and renew, rendering tribal officers unable to respond to crimes in certain instances.³⁶

Tribes and BIA face long-standing challenges in recruiting and retaining law enforcement officers and other public safety personnel.³⁷ OJS currently has a vacancy rate of 30 percent for all positions.³⁸ A number of the positions located in remote areas report even higher vacancy rates.³⁹ Factors contributing to the high levels of vacancy rates include a reported lack of

²⁷ 2023 Washington State Tribal Opioid/Fentanyl Summit, WASHINGTON STATE HEALTH CARE AUTHORITY (Last accessed May 22, 2024), <https://www.hca.wa.gov/about-hca/who-we-are/tribal-relations/2023-washington-state-tribal-opioid/fentanyl-summit>.

²⁸ 2023 National Tribal Opioid Summit, UNITED SOUTH AND EASTERN TRIBES, INC. (Last accessed May 22, 2024), <https://www.usetinc.org/about/>.

²⁹ 25 U.S.C. §2801.

³⁰ <https://www.bia.gov/bia/ojs/dde>.

³¹ *Federal Declinations to Prosecute in Indian Country: Hearing before the Senate Comm. on Indian Affairs, 110th Cong.* (2008) (Statement of Director, Office of Justice Services, Bureau of Indian Affairs, William Patrick Ragsdale).

³² 25 USC 5301 et seq.

³³ 25 USC 5301 et seq.

³⁴ *Tribal Crime Data Collection Activities*, BUREAU OF JUSTICE STATISTICS (July 2023), <https://bjs.ojp.gov/document/tcdca23.pdf>.

³⁵ *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>.

³⁶ *Tribal Law and Order Reauthorization Act of 2017: Hearing before the Senate Comm. on Indian Affairs, 115th Cong.* (2017) (Statement of Bryan Rice, Director, Bureau of Indian Affairs).

³⁷ *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>.

³⁸ BIA-OJS briefing to HNR Staff. November 2, 2023.

³⁹ *Id.*

applicant pools, shortage of available housing, and length of time to complete background investigations.⁴⁰ Recently, OJS focused its internal recruitment efforts on increasing recruitment for law enforcement and developing plans to continue leveraging recruitment and retention incentives based on the difficulty of hiring for difficult-to-fill positions and duty locations.⁴¹ OJS noted improved pay parity between BIA law enforcement and other federal law enforcement resulted in improved retention of officers.⁴² OJS instituted a system to ensure applicants can effectively complete their background check application and be informed on the investigation process and timeline, as OJS applicants have accepted state or local law enforcement positions because of a shorter wait time before employment.⁴³

Similar challenges arise for tribal law enforcement agencies when matching the benefits and pay that public safety personnel would receive at federal, state, or local law enforcement agencies.⁴⁴ Tribal law enforcement agencies operating under an ISDEAA compact or contract receive funds equivalent to what BIA would spend if the agency provided federally employed public safety personnel.⁴⁵ Tribes then use those funds for tribal law enforcement agencies, including, if available, providing retirement and other non-salary benefits.⁴⁶ That funding can be supplemented by non-BIA funds. However, many tribes lack the necessary additional resources to augment BIA funds.⁴⁷

Federal Bureau of Investigation

The FBI derives its investigative jurisdiction in Indian country from “28 U.S.C. 533, pursuant to which the FBI was given investigative responsibility by the Attorney General”⁴⁸ and has jurisdiction over violations of 18 U.S.C. §§ 1152 and 1153⁴⁹ including “major crimes committed by Indians against the persons or property of Indians and non-Indians, all offenses committed by Indians against the persons or property of non-Indians and all offenses committed by non-Indians against the persons [or] property of Indians.”⁵⁰ The FBI has several programs dedicated to investigating and prosecuting cartel activities on Indian lands and the surrounding areas, and for

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ 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/>.

⁴⁵ 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>.

⁴⁶ *Id.*

⁴⁷ Stewart Wakeling et al., *Policing on American Indian Reservations*, BUREAU OF JUSTICE (July 2001), <https://www.ojp.gov/pdffiles1/nij/188095.pdf>

⁴⁸ U.S. Department of Justice, Criminal Resources Manual, CRM 500-999: 676. *MOU re Indian Law Enforcement Reform Act* (Last accessed May 17, 2024).

⁴⁹ U.S. Department of Justice, Criminal Resources Manual, CRM 500-999: 675. *Investigative Jurisdiction* (Last accessed May 17, 2024).

⁵⁰ U.S. Department of Justice, Criminal Resources Manual, CRM 500-999: 676. *MOU re Indian Law Enforcement Reform Act* (Last accessed May 17, 2024).

law enforcement training services and victim services.⁵¹ More than 150 FBI agents currently work as the primary law enforcement body on reservations.⁵²

The Criminal Enterprises/Federal Crimes (CEFC) Decision Unit oversees the headquarters and field programs involved with criminal investigative missions,⁵³ primarily managed by the Criminal Investigative Division, which addresses criminal threats, including “violent crimes, violent gangs, transnational organized crime, violent crimes against children, Indian country crimes, human trafficking,” among other crimes.⁵⁴ This includes both the transnational organized crime program, which aims to “disrupt and dismantle transnational criminal organizations posing the greatest threat to the economic and national security of the United States,” and the violent crime program, which combats “violent crimes occurring domestically, violent crimes committed against U.S. citizens overseas, violent gangs, major crimes within the FBI’s jurisdiction on Tribal lands, crimes against children, and human trafficking.”⁵⁵

Criminal Enterprises/Federal Crimes Decision Unit Total	Direct Pos.	Estimate FTE	Amount (\$000s)
2023 Enacted	13,577	13,175	\$3,716,318
2024 Continuing Resolution	13,346	13,003	\$3,712,800
Adjustments to Base and Technical Adjustments	156	156	\$199,576
2025 Current Services	13,502	13,159	\$3,912,376
2025 Program Increases	65	61	\$26,585
2025 Request	13,567	13,220	\$3,938,961
Total Change 2024-2025	221	217	\$226,161

CEFC Budget Request FY 2025⁵⁶

Additionally, the Indian Country and International Violent Crime Unit (ICIVCU) is tasked with developing and implementing strategies to address serious crimes in Indian country including “death investigations, child sexual assault and physical abuse, assault resulting in serious bodily injury, gang/criminal enterprise investigations, and financial crimes.”⁵⁷ The ICIVCU also supports joint investigations with BIA and Tribal law enforcement agencies, in addition to managing and conducting investigative training for “150 full-time FBI agents and 510 law enforcement partners focused on Indian country crimes.”⁵⁸

The Indian Country Onboarding Program provides training for agents stationed in Indian country to develop the skills to operate in environments often requiring “more autonomy and survivability and a more comprehensive investigative technique.”⁵⁹ The Program provides training on a series of subjects, including conducting homicide interviews, identifying witnesses,

⁵¹ *Indian Country Crime*, FEDERAL BUREAU OF INVESTIGATION (Last accessed May 22, 2024), <https://www.fbi.gov/investigate/violent-crime/indian-country-crime>.

⁵² *Indian Country Onboarding Program*, FEDERAL BUREAU OF INVESTIGATION (SEP. 29, 2023), <https://www.fbi.gov/news/stories/indian-country-onboarding-program>.

⁵³ Federal Bureau of Investigation, *FY 2025 President’s Budget Request*, U.S. DEPARTMENT OF JUSTICE (March 2024), https://www.justice.gov/d9/2024-03/fbi_fy_2025_presidents_budget_narrative_3-5-24_final_1.pdf.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Indian Country Onboarding Program*, *supra* note 44.

defensive tactics, and remote medical care, and, most importantly, learning about the cultural differences between agents and the “Native Americans living on this land and how to communicate better with and assist the communities in seeking justice.”⁶⁰

However, the amount of funding dedicated to each of these programs, specifically to combat the cartels, is unclear due to the limited public information available regarding the FBI’s budget.⁶¹ Committee staff met with Congressional Resource Services (CRS) on April 18, 2024, to better understand the FBI’s budget allocations for combatting transnational criminal organizations, including cartels. CRS did not have additional information and urged the Committee to seek information on the budget from the FBI.⁶² The Committee is currently working with the FBI to obtain additional information on this matter.

During the April 2024 Subcommittee Hearing, Fort Peck Tribal Executive Board Councilman Bryce Kirk referred to the Spring Tribal Interior Budget Council of 2024, where OJS reported that the number of criminal incidents involving violent offenses on Indian lands has decreased nationwide by 50 percent, according to the National Incident-Based Reporting System (NIBRS).⁶³ This reporting sharply contrasts reported increases in crime among Fort Peck Tribes, where, according to Councilman Kirk: “We know on our Reservation there is a rise in crime. We know it from the reports of our law enforcement agencies, and we know it by what our tribal members tell us they are experiencing.”⁶⁴ The Tribes are concerned that the reported nationwide decrease in crime under NIBRS could disincentivize the allocation of federal resources to Tribes to address violent crimes.⁶⁵ As the Committee works with the FBI, through this hearing or in the process of a briefing, it will seek further clarity on this issue.

Department of Homeland Security

Immigration and Customs Enforcement

The U.S. Immigration and Customs Enforcement (ICE) has the authority to investigate cross-border crimes and dismantle illegal operations on Indian reservations.⁶⁶ Homeland Security Investigations (HSI) under ICE conducts “federal criminal investigations into the illegal movement of people, goods, money, contraband, weapons and sensitive technology into, out of and through the United States” including drugs and weapons smuggling, human trafficking, and cyber and financial crime among others.⁶⁷

⁶⁰ *Indian Country Onboarding Program*, *supra* note 44.

⁶¹ *FY 2025*, *supra* note 52.

⁶² Cong. Research Services Meeting with H. Natural Resource Comm., Subcommittee for Oversight and Investigations staff (Apr. 18, 2024).

⁶³ *Examining the Impacts of International Cartels Targeting Indian Country: Hearing before the Subcommittee on Oversight and Investigations of the H. Comm. on Natural Resources*, 118th Cong. (2024) (statement of Bryce Kirk, Tribal Executive Board Member, Fort Peck Tribes).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ U.S. Gov’t Accountability Off., GAO-13-352, *Border Security: Partnership Agreements and Enhanced Oversight Could Strengthen Coordination of Efforts on Indian Reservations* (2013).

⁶⁷ Who We Are, HOMELAND SECURITY INVESTIGATIONS (Last accessed May 22, 2024), <https://www.dhs.gov/hsi/who-we-are>.

On September 7, 2023, the House Committee on Homeland Security issued a report, *DHS Secretary Alejandro Mayorkas has Emboldened Cartels, Criminals, and America's Enemies*, which, among other topics, examined the Biden administration's irresponsible use of federal law enforcement personnel, particularly the diversion of skilled and trained HSI agents away from critical federal investigations to instead assist with the humanitarian crisis unfolding on the Southern Border.⁶⁸ In August 2023, the Biden administration announced 140 additional HSI agents to be sent to the Southwest border to assist with administrative functions such as "hospital watch," "transportation," and "welfare checks."⁶⁹ The announcement prompted an anonymous source inside HSI to speak to the press on this matter, stating:

*So, when you pull an agent from an active investigation, and you put them somewhere else for 30 days, that affects that agent's ability to continue working in that case. And for HSI a lot of times, we have just one agent in that case. We don't have multiple agents assigned to it. So, someone else can't pick up that slack once somebody has to go down there. So, your case just gets put on standstill, put on pause, but the criminal activity doesn't. That continues.*⁷⁰

The anonymous source continued:

*So, you're not able to continue with the activity going on in that investigation, which includes terrorism cases, human trafficking cases, violent organized crime cases and child exploitation cases. We're already understaffed as an agency and pulling us down to the border — it makes us almost a critical level of understaffed.*⁷¹

Additionally, ICE operates the Shadow Wolves, a Native American tactical patrol unit located on the Tohono O'odham Nation that "specialize in the interdiction of human and drug smugglers who conduct their illegal operations through the rugged terrain of the Sonoran Desert."⁷² The Shadow Wolves use modern technology and Native American tracking techniques to track smugglers operating on the Southern Border. Between 2010 and 2020, the Shadow Wolves investigations resulted in the seizure of 117,264 pounds of drugs, 45 weapons, 251 vehicles, and \$847,928.⁷³

Customs and Border Protection: Border Patrol

The Border Patrol is responsible for guarding our nation's borders from the entry of terrorists and their weapons of terrorism, and "interdicting persons and contraband crossing the border

⁶⁸ *DHS Secretary Alejandro Mayorkas Has Emboldened the Cartels, Criminals, and America's Enemies*, H. COMM. ON HOMELAND SECURITY (Sep. 7, 2023), <https://homeland.house.gov/wp-content/uploads/2023/09/09.07-Phase-2-Final.pdf>.

⁶⁹ Memorandum of Agreement between U.S. Customs & Border Protection and U.S. Immigration and Customs Enforcement to Provide Assistance to U.S. Border Patrol on the Southwest Border (April 2023), provided to the H. Comm. on Homeland Security.

⁷⁰ Adam Shaw, *Biden administration sending surge of ICE special agents to border amid increase in migrant numbers*, FOX NEWS (Aug. 3, 2023), <https://www.foxnews.com/politics/biden-admin-surg-ing-ice-special-agents-border-amid-increase-migrant-numbers>.

⁷¹ *Id.*

⁷² Shadow Wolves, HOMELAND SECURITY INVESTIGATIONS (Last accessed May 22, 2024), <https://www.dhs.gov/hsi/shadow-wolves>.

⁷³ *Id.*

illegally.”⁷⁴ As part of their mission, the Border Patrol operates on Indian reservations on or near the borders.⁷⁵ However, reports from Indian country in Montana indicate that Border Patrol activity in Indian communities is deficient.⁷⁶ This can be partially attributed to a drastic reduction in the Border Patrol’s workforce since President Biden took office, losing nearly a quarter of their workforce.⁷⁷ The Border Patrol’s workforce crisis, coupled with the humanitarian crisis at the Southern Border, has stretched Border Patrol resources thin.⁷⁸ Similar to ICE, “12%-38% of Customs and Border Protection agents have at times been forced off the front lines to process, care for, and feed illegal immigrants.”⁷⁹ Former Chief Patrol Agent for Rio Grande Valley, Rodolfo Karisch, stated “[The cartels] know our resources are stretched thin in addressing the humanitarian issue, which undermines our border security operations.”⁸⁰ Anonymous employees, as well as former employees, described how the Biden administration’s immigration policies have principally contributed to the mass departure of employees, stating:

The administration is so bad for morale, I’m not trying to be political. I’m just speaking facts. It’s become so political. Catch and release is demoralizing for agents.

Under Biden, things are the worst they have ever been by far. Agents are calling in all the time. You always hear, ‘It doesn’t matter,’ or, ‘What’s the point?’ in reference to doing our job. Agents are afraid of ending up on the news for doing their job or getting in trouble for doing their job. There is no morale.

That’s what’s frustrating for agents is so many people are encountered and then ultimately released because there is just no resources for detention. The volume exceeds any practical ability for detention, and there’s a lack of any messaging or policy or action of solid deterrence.”⁸¹

IV. CONCLUSION

The prevalence of the international cartels, the fentanyl crisis, and drug-related crimes on Indian lands have intensified public safety and law enforcement concerns among Indian communities. The FBI, DHS, and BIA all have important roles in protecting Indian communities. Federal law enforcement agencies should pursue stronger relationships with Tribes and prioritize the eradication of criminal cartels from Indian lands. This hearing provides the opportunity for

⁷⁴ *Border Security*, *supra* note 66.

⁷⁵ *Id.*

⁷⁶ *Examining the Impacts of International Cartels Targeting Indian Country: Hearing before the Subcommittee on Oversight and Investigations of the H. Comm. on Natural Resources*, 118th Cong. (2024) (statement of Bryce Kirk, Tribal Executive Board Member, Fort Peck Tribes; statement of Jeffrey Stiffarm, President, Fort Belknap Indian Community).

⁷⁷ Anna Giaritelli, *The Biden effect? Border Patrol has lost a quarter of workforce since 2020 election*, THE WASHINGTON EXAMINER (May 23, 2023), <https://www.washingtonexaminer.com/policy/immigration/3011397/the-biden-effect-border-patrol-has-lost-a-quarter-of-workforce-since-2020-election/#:~:text=The%20U.S.%20Border%20Patrol%20has,Border%20Patrol%20since%20October%202020>.

⁷⁸ John Davis, *Border Crisis: CBP’s Response*, U.S. CUSTOMS AND BORDER PROTECTION (Last accessed May 24, 2024), <https://www.cbp.gov/frontline/border-crisis-cbp-s-response>.

⁷⁹ <https://www.washingtonexaminer.com/news/washington-secrets/2600555/up-to-38-of-border-patrol-shifted-from-enforcement-to-processing/>

⁸⁰ Paul Bedard, *Up to 38% of Border Patrol shifted from ‘enforcement’ to ‘processing’*, THE WASHINGTON EXAMINER (Dec. 19, 2023), <https://www.cbp.gov/frontline/border-crisis-cbp-s-response>.

⁸¹ *Border Security*, *supra* note 66.

federal agencies to work with Congress to examine the challenges and opportunities for addressing cartel activities on Indian lands to determine a better path forward that ensures the safety and well-being of Indian communities.