



**THE TOHONO O'ODHAM NATION OF ARIZONA**

**TESTIMONY OF THE HONORABLE VERLON JOSE, CHAIRMAN**

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL RESOURCES**

**SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

**ON**

**EXAMINING THE IMPACTS OF INTERNATIONAL CARTELS TARGETING INDIAN COUNTRY**

**April 10, 2024**

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**INTRODUCTION & HISTORICAL BACKGROUND**

Good morning Chairman Gosar, Ranking Member Stansbury and distinguished Members of the Subcommittee. I am Verlon Jose, the Chairman of the Tohono O'odham Nation of Arizona. It is an honor to have the opportunity to testify before you today on behalf of my Nation and our more than 36,000 enrolled Tribal members.

The O'odham have lived in what is now Arizona and northern Mexico since time immemorial. In 1854, the international boundary between the United States and Mexico was drawn through the middle of our ancestral territory. As a result, today the Tohono O'odham Nation shares a 62-mile border with Mexico – the second-longest international border of any tribe in the United States, and the longest on the southern border. Seventeen O'odham communities with approximately 2,000 members are still located in our historical homelands in Mexico. O'odham on both sides of the border share the same language, culture, religion and history, and we continue to cross the border for sacred pilgrimages and ceremonies at important religious and cultural sites.



**Map of Tohono O'odham Ancestral Territory**

The Nation has long been at the forefront on border issues. Over the years we have developed a long-standing cooperative relationship with U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and other federal law enforcement agencies. Working in concert with CBP, our own Tohono O'odham law enforcement officers are regularly involved in drug interdiction and immigrant apprehension actions, which have been made more challenging due to international criminal cartel activity. Every year, the Tohono O'odham Nation spends its own funds to help meet the federal government's border security responsibilities. We have supported CBP efforts on our Reservation by providing lands for a checkpoint, forward operating bases, and integrated fixed towers to facilitate critical electronic surveillance efforts.

### **THE NATION'S UNIQUE BORDER SECURITY AND LAW ENFORCEMENT CHALLENGES**

The Nation faces major, unique law enforcement and public safety challenges due to its shared border with Mexico and the large size of its main Reservation. The Tohono O'odham Police Department (TOPD) must police a huge geographic area with limited resources, including remote and isolated areas and land along the border. The Nation also devotes significant resources to these efforts, spending an *annual* average of **\$3 million of its own tribal funds** on border security and enforcement to help meet the United States' border security obligations. The Tohono O'odham Police Department (TOPD) responded to over 100,000 incidents in 2023, some of which are of a

general non-border criminal nature but many of which are related to drug seizures, illegal immigration, border-related criminal activity.

Further, the Nation is responsible for the recovery and disposition of immigrants who have perished on our Reservation. Since 2003, our Nation's law enforcement has spent nearly \$6 million dollars on over 1,500 *migrant death investigations and recoveries* without any federal financial assistance. The Nation's police force typically spends about half of its time on border issues, including the investigation of immigrant deaths, illegal drug seizures, and human smuggling.<sup>1</sup> In addition, the Nation has incurred hundreds of thousands of dollars and hundreds of hours of police investigative time to address the impacts of drug trafficking, including overdose investigations, criminal evidence analysis, and Narcan (Naloxone HCL) training. Criminal cartel activity has exacerbated the negative effect of drug and migrant smuggling on the Nation. As the Government Accountability Office has reported, smugglers have held tribal families hostage, damaged and stolen property, and recruited tribal youth to engage in smuggling activity.<sup>2</sup>

Despite strained resources, the Nation has initiated innovative law enforcement solutions to meet these challenges:

- **High Intensity Drug Trafficking (HIDTA) Task Force**

- Studies show that most illicit drug seizures occur at legal ports of entry (*i.e.*, outside the Nation's Reservation). Nevertheless, the Nation's is not immune from illicit drug activity and its location creates unique drug interdiction challenges. To address these challenges, in 2013, the Nation formed and now leads a multi-agency anti-drug smuggling task force staffed by Tohono O'odham Police Department detectives, ICE special agents, Border Patrol agents, and the FBI. This is the only tribally-led High Intensity Drug Trafficking (HIDTA) Task Force in the United States. In 2018, the Nation's Task Force Commander W. Rodney Irby received an award recognizing him as the National Outstanding HIDTA Task Force Commander.
- In 2020, the Nation's HIDTA Task Force partnered with two other task forces to conduct a year-long investigation into a major cell of the Sinaloa Cartel that was smuggling drugs through the Tohono O'odham Nation. That single investigation resulted in the seizure of 575,000 counterfeit Oxycodone pills, 140 pounds of heroin and 9 kilograms of pure fentanyl powder. The seized fentanyl powder had the capacity to kill every person in Arizona eight times over. As of the first quarter of

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<sup>1</sup> Government Accountability Office, GAO-24-106385, U.S. Immigration and Customs Enforcement: Improvements Needed to Workforce and Expansion Plans for Unit of Native American Law Enforcement Personnel 2 (January 30, 2024).

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

this year, the Nation's HIDTA Task Force has seized or assisted in the seizure of 727.9 pounds of methamphetamine, 97.5 kilograms of heroin, 626,303 illicit Oxycodone pills, 10 kilograms of fentanyl powder, and nearly 2 million dose units of fentanyl.<sup>3</sup>

- **Shadow Wolves, an ICE tactical patrol unit**
  - The Nation has officers that are part of the Shadow Wolves, a tactical patrol unit based on our Reservation that the Nation helped create in 1974. Thanks to recent bipartisan legislation championed by Congressman John Katko in the House and enacted in the 117<sup>th</sup> Congress, the Shadow Wolves are now reclassified as ICE Special Agents.
  - The Shadow Wolves are the only Native American tracking unit in the country, and its officers are known for their ability to track and apprehend immigrants and drug smugglers using traditional tracking methods, including “cutting for sign,” which involves identifying physical evidence left behind by smugglers, such as footprints, tire tracks, or clothing. The Shadow Wolves have apprehended countless smugglers and seized thousands of pounds of illegal drugs. To better combat cartel activity, the Shadow Wolves have increased investigative efforts in recent years, including plainclothes actions to blend in with the population.

In addition, the Nation has entered into several cooperative agreements with CBP and ICE, and pursuant to numerous Tohono O’odham Legislative Council resolutions has authorized a number of border security measures on its sovereign lands to assist CBP. Some examples include:

- **ICE office and CBP forward operating bases:** Since 1974, the Nation has authorized a long-term lease for an on-Reservation ICE office. The Nation also approved leases for two CBP forward operating bases that operate on the Nation’s lands 24 hours, 7 days a week. One of these forward operating bases (at Papago Farms) was recently renovated and upgraded with state-of-the-art improvements and technology, including an expanded perimeter fence, helipad, and new officer living quarters and administrative facilities.
- **Vehicle barriers on our lands:** CBP has constructed extensive vehicle barriers that run the entire length of the Tribal border and a patrol road that runs parallel to the border.
- **CBP checkpoint on our lands:** The Nation has authorized a CBP checkpoint on the major highway that runs through the Nation.

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<sup>3</sup> Figures provided by the Tohono O’odham Department of Public Safety, 2015-2024.

- **Integrated Fixed Towers:** The Nation approved a lease of its lands to allow CBP to build an Integrated Fixed Tower (IFT) system that includes surveillance and sensor towers with associated access roads on the Nation’s southern and eastern boundaries to detect and help interdict illegal entries.

## **ADDITIONAL FEDERAL RESOURCES ARE DESPERATELY NEEDED TO ADDRESS THESE CHALLENGES**

While the Nation is unique in the nature of its law enforcement and border security needs, it is not alone when it comes to Indian Country public safety concerns. Existing federal funding is wholly inadequate to meet the public safety and justice needs of Indian Country and to support tribal law enforcement generally. In 2018, the Bureau of Indian Affairs provided a report to Congress that estimated that \$1 billion was needed for tribal law enforcement, with another \$1 billion needed for tribal courts,<sup>4</sup> just to provide a minimum base level of service to all federally recognized tribes. The estimated need has only grown since that time as federal appropriations levels are nowhere near the amounts needed.<sup>5</sup> This failure to fund tribal justice systems undermines public safety in Indian Country.

**Drug Treatment Funding Deficits Exacerbate Public Safety Funding Deficits.** The epidemic of drug trafficking facing the Nation and the rest of the country is just that – an epidemic, and one that requires a sustained public health response. Unfortunately, this public health response has been subject to the same chronic underfunding as Indian Country public safety services. Most notoriously, the federal government has repeatedly failed to adequately fund the Indian Health Service (IHS), including behavioral health, mental health, and substance abuse services. Alongside the increase in drug trafficking over the past decade, the Nation has witnessed a steady rise in addiction, and in drug-related deaths. Unfortunately, the same rural environment that imposes significant challenges for drug interdiction efforts also imposes barriers to tribal members seeking treatment. Due to a lack of funding, there is no dedicated facility to address addiction recovery on the Nation, and while the Nation contracts for these services off-Reservation, a lack of public transportation infrastructure means that Tribal members must drive several hours (sometimes 100 miles or more) to obtain these services. Moreover, as in any culture, Tribal members are most comfortable (a threshold behavioral health requirement for treatment) seeking recovery in their own communities, with access to traditional healing and other culturally appropriate methods.

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<sup>4</sup> See Bureau of Indian Affairs, Office of Justice Services, Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2018 at 1 (July 2020).

<sup>5</sup> See National Congress of American Indians, U.S. Senate Committee on Indian Affairs, Oversight Hearing on the President’s FY 2020 Budget Request at 4 (May 8, 2019).

At the same time, aging IHS infrastructure is inadequate to meet these needs. The Nation's 50-year-old hospital in Sells, Arizona is one of the oldest IHS facilities. Due to its age and lack of updated equipment and facilities, the Nation's Sells Hospital can only address minor medical issues and is entirely inadequate to serve the healthcare needs of the Nation's members. The Sells Replacement Hospital has been on the IHS facilities construction priority list for over thirty years, since 1993. Although the Nation, beginning in FY 2018, has begun to receive funding for the Sells Replacement Hospital, construction has not yet begun, and it will be several years before construction of the new facility will be complete (assuming it continues to receive the funding that is projected in the IHS budget).

**Border Security Goals Are Better Met With Public Health And Safety Funding Than Border Barrier Construction.** As we know, border wall construction came at great cost to the American taxpayer. Thanks to the no-bid contracts, diversion of badly needed drug interdiction and defense resources, and the massive environmental mitigation efforts required to address construction, we may never know the true cost. The Government Accountability Office found that by the end of 2020, the Army Corps of Engineers had obligated more than \$10 billion to border wall construction alone.<sup>6</sup> Billions more have and will continue to be needed to mitigate the environmental and cultural harms caused by construction.

As the Nation and others have warned for years, the border wall is particularly ineffective in remote geographic areas like our homelands, where it can easily be circumvented by climbing over, tunneling under, or sawing through it. And that is precisely what has taken place. As noted by the Cato Institute:

Immigrants used cheap ladders to climb over it, or they free climb it. They used cheap power tools to cut through it. They cut through small pieces and squeezed through, and they cut through big sections and drove through. In one small section in 2020, they sawed through at least 18 times that Border Patrol knew about in a month. They also made tunnels. Some tunnels were long, including the longest one ever discovered, but some were short enough just to get past the barrier.<sup>7</sup>

CBP records have revealed that the border wall is breached with staggering (but unsurprising) regularity – between more than 2,000 times and more than 4,000 times per year between 2017 and

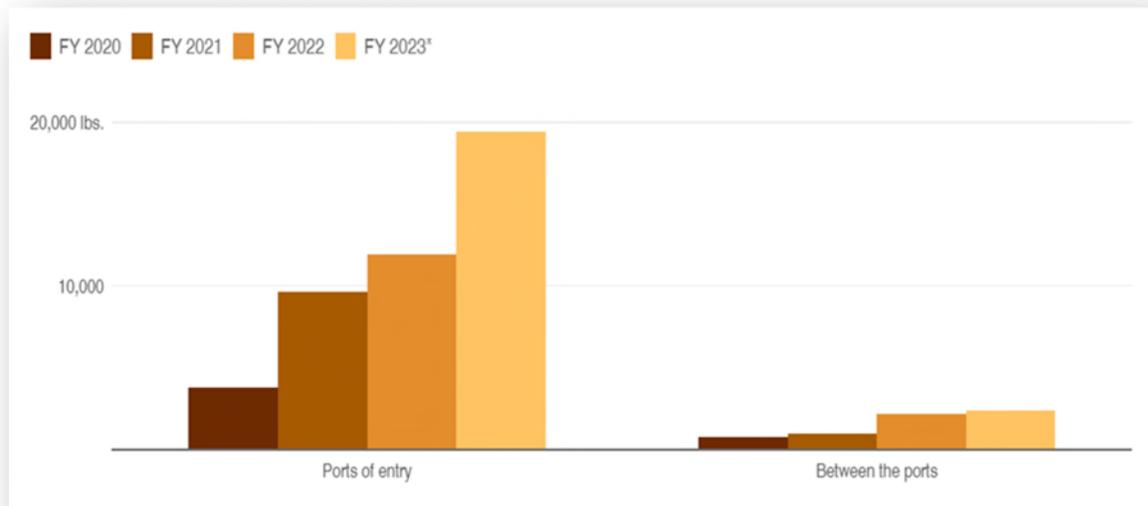
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<sup>6</sup> Government Accountability Office, Southwest Border: Award and Management of Border Barrier Construction Contracts, GAO-23-106893, at 6 (July 23, 2023).

<sup>7</sup> Id.

2022.<sup>8</sup> These breaches typically are performed with “inexpensive power tools widely available at retail hardware stores,”<sup>9</sup> or with five dollar ladders.<sup>10</sup>

Unsurprisingly, the border wall does not effectively deter illegal immigration and drug trafficking. CBP data shows that most illegal drugs (including the vast majority – 90% – of illegal fentanyl) are smuggled through ports of entry rather than in between them.<sup>11</sup> Moreover, the drug couriers (known as mules) who ferry these drugs through ports of entry are predominantly U.S. citizens, not migrants.<sup>12</sup>



Source: NPR analysis of U.S. Customs and Border Protection data, October 2022- June 2023.

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<sup>8</sup> David J. Bier, “Border Wall Was Breached 11 Times Per Day in 2022,” Cato Institute (December 30, 2022), available at <https://www.cato.org/blog/border-wall-was-breached-11-times-day-2022-2>.

<sup>9</sup> Nick Miroff, “Trump’s border wall has been breached more than 3,000 times by smugglers, CBP records show,” The Washington Post (March 2, 2022), available at <https://www.washingtonpost.com/national-security/2022/03/02/trump-border-wall-breached/>.

<sup>10</sup> Jenna Romaine, “Trump’s \$15 billion border wall is being easily defeated by \$5 ladders,” The Hill, April 22, 2021), available at <https://thehill.com/changing-america/resilience/refugees/549758-trumps-15-billion-border-wall-is-being-easily-defeated/>.

<sup>11</sup> See, e.g., Joel Rose, “Who is sneaking fentanyl across the southern border? Hint: it's not the migrants,” NPR (August 9, 2023), <https://www.npr.org/2023/08/09/1191638114/fentanyl-smuggling-migrants-mexico-border-drugs>; Christian Penichet-Paul, “Illicit Fentanyl and Drug Smuggling at the U.S.-Mexico Border: An Overview,” National Immigration Forum (October 25, 2023) <https://immigrationforum.org/article/illicit-fentanyl-and-drug-smuggling-at-the-u-s-mexico-border-an-overview/>.

<sup>12</sup> NPR, *supra* n.11.

Rather than constructing ineffective barriers, the data clearly shows that federal funds would be put to much better use supporting tribal and federal law enforcement and border security services and public health services.

## **CONCLUSION**

The Nation genuinely appreciates the Subcommittee's interest in the impact of cartels in Indian Country. We welcome a continued dialogue with you on these issues.