



# USET

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## **Testimony of United South and Eastern Tribes Sovereignty Protection Fund Submitted to the Senate Committee on Health, Education, Labor, and Pensions for the Record of the November 30, 2017 Committee Hearing, *The Frontlines of the Opioid Crisis: Perspectives from States, Communities, and Providers***

December 14, 2017

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we are pleased to provide the Senate Committee on Health, Education, Labor, and Pensions with testimony for the record of the Committee's recent hearing, *The Frontlines of the Opioid Crisis: Perspectives from States, Communities, and Providers* held on November 30, 2017. The opioid crisis has significantly impacted USET SPF Tribal Nations, who are also on the frontlines, as our Tribal communities continue to experience the deleterious effects of opioid abuse and trafficking—often at higher rates than non-Indian communities. Yet, despite the disproportionate impact the opioid crisis has had in Indian Country, the hearing had no Tribal witnesses and the experiences of Tribal Nations were largely absent from the discussion. In future hearings, as well as future Committee legislation, USET SPF urges the Committee to take the necessary steps to ensure Tribal leaders and representatives are included. USET SPF offers the following testimony with recommendations to the Committee to include Tribal Nations as full partners in the fight to end the opioid epidemic, as well as underscore Congress' trust responsibility to ensure Tribal Nations are equipped with necessary resources.

USET SPF is a non-profit, inter-tribal organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine<sup>1</sup>. 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.

### **Opioid Crisis in Indian Country and the USET SPF Region**

Opioid abuse, deaths, and trafficking have reached epidemic levels in Indian Country. 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.

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<sup>1</sup> 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).

USET SPF suspects these statistics may be much higher among our member Tribal Nations based on reports from our health clinics, Tribal Epidemiology Center (TEC), and law enforcement agencies. 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.

Unfortunately, we have also learned that these statistics do not paint a complete picture of the problem within our region. USET SPF Tribal Nations, as well as Tribal Nations across the country, have a distinct lack of complete data regarding substance abuse. Oftentimes, this lack of data is attributed to insufficient medical and mortality records, including due to opioid users not seeking treatment and improper coding. USET SPF strongly recommends the Committee consider initiatives that would address challenges in acquiring comprehensive data. This issue was also included within the President's Commission on Combating Drug Addiction and the Opioid Crisis, which recommended that there be a federal effort to strengthen data collection activities in order to enable real-time surveillance at the national, state, local, and Tribal levels. Improvements in data collection/reporting and unidirectional data sharing would help Congress and Tribal Nations get a clearer picture of the extent of opioid epidemic in Indian Country.

### **Tribal Engagement at all Levels of Government**

During the hearing, both Members of the Committee and hearing witnesses underscored the crucial need for collaboration between all levels of government, including federal, state and local, in addressing the opioid epidemic. Though Tribal Nations were not included, USET SPF reminds the Committee that Tribal Nations are sovereign governments to which each member of Congress has a trust responsibility, and each Tribal government has a responsibility to provide essential services to its citizens. 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 through engagement, coordination, and consultation. As the federal, state, and local governments are working together to ensure a coordinated, comprehensive response, Tribal Nations are frequently excluded from these efforts. For example, during a May visit to Maine as part of a national listening tour on opioid addiction, former Department of Health and Human Services (HHS) Secretary Tom Price neglected to engage any of the five Tribal Nations located in the state. Failure to include all impacted communities, including Tribal Nations, will result in major gaps, from both a health and from a law enforcement perspective, in the ability of the United States to eradicate opioid addiction in this country.

In its report to President Trump, the President's Commission on Combating Drug Addiction and the Opioid Crisis included recommendations to recognize that diverse communities experience different rates of substance abuse disorders, as well as challenges to accessing treatment. According to the report, in 2016, the rate of illicit drug use in the last 30 days among AI/ANs ages 12 and up was 15.7%, the highest among all racial demography. The Committee must acknowledge the substantial challenges within Indian Country when it comes to opioid abuse, and must work to use all the resources at its disposal to encourage collaboration with Tribal Nations at all levels of government. This includes ensuring federal agencies, as well as state and local government are working with and considering Tribal Nations as partners in this fight. Outreach from the Committee, as well as future legislation, should promote and require this necessary collaboration.

### **Opioid Funding for the Indian Health System**

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.

The importance of having access to funding for federal opioid grant programs was mentioned at several points during the hearing by both Committee Members as well as the participating witnesses. One witness Rebecca Boss, Director for the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals, stated that opioid funding from the federal government, particularly block grants under 21st Century Cures and the Comprehensive Addiction and Recovery Act, has been crucial in fighting addiction in her state.

Unfortunately, within Indian Country, many federal grant programs, including those available as part of the 21st Century Cures Act, 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 CDC 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.

Additionally, Tribal Nations are ineligible for a majority of funding available 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. Tribal Nations should not have to compete to provide their citizens with the treatment they critically need. This is contrary to the federal trust responsibility to provide healthcare to Tribal Nations, and results in few resources delivered to Tribal citizens. USET SPF urges the Committee and Congress to work to either amend the 21st Century Cures Act to provide direct funding to Tribal governments or address the issue through a Tribal set-aside in future legislation

In addition to direct funding, there are barriers to reimbursement dollars (third party reimbursement and Medicaid) for the treatment of opioid addiction and other substance abuse treatment. This issue was highlighted in the President's Commission on Combatting Drug Addiction and the Opioid Crisis report which cited, "HHS/[Centers for Medicare and Medicaid Services], the Indian Health Service, Tricare, and the [Department of Veterans Affairs] still have reimbursement barriers to substance abuse treatment, including limiting access to certain [Food and Drug Administration]-approved medication-assisted treatment, counseling, and inpatient/residential treatment." Unfortunately, although Purchased/Referred Care (PRC) could provide crucial resources when addressing the opioid crisis, the program remains chronically underfunded, with current funding already being stretched thin to cover basic health needs within the Indian Health System. This results in many IHS and Tribal facilities providing only emergency or urgent care services. In order for PRC dollars to be available for treatment services, funding for the program would need to increase dramatically. USET SPF encourages the Committee to work closely with the Senate Committee on Indian Affairs, Tribal Nations, and federal agencies providing healthcare to Tribal Nations to determine how to remove existing reimbursement and PRC barriers to opioid treatment, including those

that may limit access to critical treatment programs such as counseling, and inpatient/residential treatment. In the event the Committee moves forward to draft legislation that seeks to address the national opioid crisis Tribal Nations must not be forgotten.

### **Culturally Competent Treatment and Best Practices**

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 strongly linked to historical trauma. Opioid addiction treatment in Indian Country must be respectful of community factors and traditional health care practices, and must include adequate culturally appropriate aftercare programs. 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. 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:

- 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.

### **Conclusion**

With Indian Country facing epidemic levels of opioid mortality, it is critical that Tribal governments have access to all the resources necessary to address this crisis. We urge the Committee to remember the federal trust obligation to Tribal Nations and to make this a priority, as Congress considers further action and legislation to prevent and treat opioid addiction nationally. We thank the Committee for holding this important hearing to discuss this crucial issue and look forward to the opportunity to provide further guidance. 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](mailto:LMalerba@usetinc.org) or 202-624-3550.