



USET

SOVEREIGNTY PROTECTION FUND

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USET SPF Resolution No. 2024 SPF:007

SUPPORTING FEDERAL LEGISLATION REMOVING BARRIERS TO TRIBAL NATIONS' EXERCISE OF CRIMINAL JURISDICTION OVER NON-NATIVE OFFENDERS COMMITTING DRUG-RELATED OFFENSES IN INDIAN COUNTRY

WHEREAS, United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of thirty-three (33) federally recognized Tribal Nations; and

WHEREAS, the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and

WHEREAS, Tribal Nations are inherently sovereign governmental entities that predate the founding of the United States—a principle recognized by international law and embedded as a foundation of federal Indian law; and

WHEREAS, one critical aspect of our inherent sovereignty is jurisdiction over our lands and people, including jurisdiction over crimes, and early U.S. Supreme Court decisions recognized this broad jurisdictional authority; and

WHEREAS, over time, the United States placed barriers on Tribal Nations' exercise of our jurisdiction, including through U.S. Supreme Court decisions such as *Oliphant v. Suquamish Indian Tribe*, holding Tribal Nations lack criminal jurisdiction over non-Native people on our own lands, and through legislation, such as the Indian Civil Rights Act, limiting Tribal Nations' sentencing authority; and

WHEREAS, despite limitations that the United States has placed on our sovereign jurisdictional rights, and the United States' trust and treaty obligations stemming from the taking of our lands and resources, the federal government has long failed to allocate the resources necessary to fill the criminal jurisdiction void it created; and

WHEREAS, this void has led to perpetrators walking free in our Tribal communities, armed with the knowledge that they are impervious to the law; and

WHEREAS, USET SPF supports removal of all barriers to Tribal Nations' full exercise of jurisdiction over everyone who sets foot on our lands, in parity with other units of government, including the passage of a full *Oliphant* fix so that we may exercise criminal jurisdiction over non-Native people on our lands; and

WHEREAS, USET SPF views any removal of United States-created barriers to Tribal Nations' exercise of criminal jurisdiction as a positive step in the right direction, such as enhanced sentencing and expanded criminal jurisdiction under the Tribal Law and Order Act (TLOA) and the Tribal provisions of the Violence Against Women Act (VAWA); and

- WHEREAS,** despite USET SPF's opposition to any legal presumption under federal Indian law that states have criminal jurisdiction on Tribal Nations' lands, a view some have taken up in the aftermath of the U.S. Supreme Court's decision in *Castro-Huerta*, USET SPF also recognizes and supports the sovereign decisions of individual Tribal Nations to choose to enter into cross-deputization agreements with states; and
- WHEREAS,** USET SPF recognizes that illicit drugs, and particularly fentanyl and opioids, are harming our Tribal communities and youth, and criminal jurisdiction to prevent drug traffickers from making such drugs available in our communities is, thus, critically important to the public safety and public health of Tribal Nations; and
- WHEREAS,** USET SPF understands that a new bill, referred to as legislation "[t]o recognize Indian Tribal government authority to prosecute Drug Trafficking and Drug-related Offenses occurring in Indian Country, and for other purposes," is under consideration to remove barriers to Tribal Nations' exercise of criminal jurisdiction over non-Native offenders committing drug-related offenses on Tribal Nations' lands; and
- WHEREAS,** the legislation would amend the Indian Civil Rights Act's VAWA provision to also cover certain drug-related offenses and would authorize the Bureau of Prisons to accept, at the federal government's expense, prisoners convicted in Tribal Nation courts for such drug-related offenses; and
- WHEREAS,** USET SPF notes that some of our Tribal Nation members, as well as other Tribal Nations throughout the country, live under Restrictive Settlement Acts that could lead to states arguing they cannot exercise the enhanced criminal jurisdiction over drug-related offenses covered by this legislation; and
- WHEREAS,** USET SPF requests language be added to the legislation to provide a level of protection to RSA Tribal Nations, such as a provision stating the bill applies to all Tribal Nations notwithstanding any prior laws limiting exercise of Tribal jurisdiction or application of future federal laws; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** USET SPF calls upon Congress to pass, and the President to sign into law, legislation containing: (1) an amendment to the Indian Civil Rights Act's Violence Against Women Act provision to also cover drug-related offenses; (2) an authorization for the Bureau of Prisons to accept at the federal government's expense prisoners convicted in Tribal Nations' courts for such drug-related offenses; and (3) language making clear the legislation applies to Tribal Nations with Restrictive Settlement Acts; and be it further
- RESOLVED** this resolution shall be the policy of USET SPF until it is withdrawn or modified by a subsequent resolution.

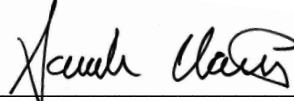
Because there is Strength in Unity

CERTIFICATION

This resolution was duly passed at the USET SPF Impact Week Meeting held in Arlington, VA at which a quorum was present on March 29, 2024.



Chief Kirk E. Francis, Sr., President
United South and Eastern Tribes
Sovereignty Protection Fund



Vice Chairwoman Sarah Harris, Secretary
United South and Eastern Tribes
Sovereignty Protection Fund

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