

Examining the True Costs of Alcohol and Drug Abuse in Native Communities

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Chairman Barasso, Vice Chairman Tester, and members of the Committee, thank you for this opportunity to address the public health and public safety issues surrounding the costs and consequences of substance abuse on the Native population of the United States.

In this testimony, I will briefly review what is currently known about the consequences of substance abuse on Native American and Alaskan Native communities—specifically focused on costs, expressed both in public health and in dollars. I also wish to draw attention to treatment need and address proposals to expand access to marijuana in these communities.

According to a recent report from the Centers for Disease Control and Prevention (CDC) on minority health populations, there are 566 Federally-recognized tribes plus an unknown number of tribes that are not Federally-recognized, each with its own culture, beliefs, and practices.¹

As the CDC report notes, according to U.S. Census Bureau in 2013, there were roughly 5.2 million American Indians and Alaska Natives living in the U.S., representing approximately 2% of the U.S. total population.

The projected U.S. population of American Indians and Alaska Natives for July 1, 2060 is estimated to reach 11.2 million, constituting approximately 2.7% of the U.S. population by that date.

In the 2010 U.S. Census, tribal groupings with 100,000 or more responses were: Cherokee (819,105), Navajo (332,129), Choctaw (195,764), Mexican American Indian (175,494), Chippewa (170,742), Sioux (170,110), Apache (111,810), and Blackfeet (105,304).

In 2013, there were 14 states with more than 100,000 American Indian and Alaska

¹ <http://www.cdc.gov/minorityhealth/populations/REMP/aian.html>

Native residents: California, Oklahoma, Arizona, Texas, New Mexico, Washington, New York, North Carolina, Florida, Alaska, Michigan, Oregon, Colorado and Minnesota.

In 2013, the states with the highest percentage of American Indian and Alaska Native population were Alaska (14.3%), followed by Oklahoma (7.5%), New Mexico (9.1%), South Dakota (8.5%), and Montana (6.8%).

A precise accounting of the true costs of substance abuse on Natives is difficult to establish, owing in large measure to deficiencies in our data sets, which is an on-going and frankly disturbing incapacity affecting all of drug policy. Broadly, for the United States population as a whole, estimates have been provided showing approximately \$193 billion per year (measured in 2011 based on 2007 data; the figure has since been updated to \$209 billion in 2009 dollars) as the costs to society of illicit drug use. The majority of those costs are attributed to law enforcement activities, lost productivity, and public health/health care impact.²

Some proportion of those costs can be allocated to Native communities, but we must acknowledge that the true impact is almost surely far worse than one would find by simply dividing those costs by population share. Native communities are adversely situated with regards to substance abuse impact, in many instances facing vulnerabilities driven by, among other issues, poverty, geographic remoteness, and insufficient health care resources. Even in circumstances where the largest Native populations are found in urban settings, similar vulnerabilities pertain.

In addition to the economic costs, we must acknowledge the personal and social costs measured in both lives and human potential lost, as well as diminished economic opportunity and well-being.

The current human cost is staggering. As measured by the National Survey on Drug Use and Health (NSDUH), in 2013, American Indians and Alaskan Natives had the highest rate of substance abuse or dependence when compared to other racial or ethnic groups. The percentage who needed treatment for an alcohol or illicit drug use problem in the past year was nearly 88 percent higher than the national average for adults.

Such high rates of abuse/dependence are linked with a host of health problems, including premature death. Yet the Substance Abuse and Mental Health Services Administration (SAMHSA) of the Health and Human Services Department (HHS) reports that Native Americans and Alaskan Natives are not well served by the publically-funded health care system. For instance, they are three times more likely than whites to lack health insurance, with approximately 57 percent depending on the Indian Health Service for treatment care.

While the Affordable Care Act allows for enrollment in state exchanges for Natives, a 2004 study in the *American Journal of Public Health* found that less than half of low-

² <http://www.justice.gov/archive/ndic/pubs44/44731/44731p.pdf>

income uninsured Native Americans/Native Alaskan had access to Indian Health Service care.³

The *American Psychiatric Association Fact Sheet on Mental Health Disparities American Indians and Alaskan Natives* summarized what we know all too well about the struggle of Native communities. Natives are twice as likely to live in poverty than the rest of the US population, have lower life expectancy, higher infant mortality, and two and a half times the rate of violent victimization faced by whites. They face significantly higher rates of death from tuberculosis, diabetes, unintentional injury, while dying from alcohol-related causes at significantly higher rates than the national average.

In 2008, the Centers for Disease Control and Prevention (CDC) released a report finding nearly 12 percent of deaths, between 2001 and 2005, among Native Americans/Alaskan Natives to be alcohol related, compared to 3.3 percent nationally.⁴ Finally, suicide is the second leading cause of death for those between ten and thirty-four years of age.

According to the *White House 2014 Native Youth Report*, more than one in three Native youth live in poverty, while their rate of high school graduation (67 percent) is the lowest of any racial/ethnic group across all schools, falling to 53 percent for Bureau of Indian Education schools, compared to a nationwide rate of 80 percent graduation.

The lessons are painfully clear. In regards to the substance abuse of Native Americans, there is one thing that we must do, and one thing that we must not do.

Finding ways to increase resources for substance abuse treatment is the critical one thing that we need to advance. Targeted, culturally-competent, and tailored specialty treatment drug and alcohol programs, especially for youth, are urgently needed.

Even with expanded potential health care access offered under the Affordable Care Act, substance abuse treatment parity will be difficult to obtain in reality. Regardless of insurance coverage, insufficient access to treatment providers, both physicians and treatment facilities, will hinder the actual delivery of services.

And now the thing that we must not do: either willfully or inadvertently increase the burden in their lives by making things worse. For instance, allowing the cultivation, production, and sale of marijuana on Native lands, either through programs of so-called medical marijuana dispensing or by outright commercial legalization, would be perversely the wrong thing to do, and would actively foster harm.

³ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1449826/>

⁴ <http://www.nbcnews.com/id/26439767/ns/health-addictions/t/native-american-deaths-alcohol-related/#.VbOpcVy76fR>

This preventable harm would begin with increased drug availability, use, and addiction and all the related threats they pose to public health. It will also create greater threats to public safety by increasing the risk of enhanced drug smuggling and black market activities by criminal organizations. Additionally, there is a serious risk of corruption and loss of integrity for banking and governance through the presence of a cash business illegal at the federal level.

These threats would affect Native peoples, as well as neighboring non-Native communities.

Some have argued that Native communities might benefit economically from being allowed to operate commercial operations involving marijuana, the cultivation and sale of which might generate jobs and tax revenue for those on Reservations. It is my judgment that such benefits are illusory, and that whatever economic benefit is promised will be overwhelmed by the accompanying criminal justice and public health costs that will accrue to communities that pursue such paths.

Experience has shown us that in the presence of legalized marijuana markets, price declines, availability increases, prevalence rates rise, and one still finds the operation of a criminal black market. Potential financial savings from legalization and taxation fail to account for the economic and social costs of drug use. As a RAND Corporation study argued, legal marijuana places a dual burden on tribal governments of regulating the new legal market while continuing to pay for the negative effects associated with the underground market, which likely will be enhanced in the legalized environment.⁵

There is a basis for my doubts concerning net benefits found in studies of alcohol markets. Some studies⁶ have estimated, for 2009 dollars, that federal and state revenues from alcohol sales total no more than six percent of the \$237.8 billion in alcohol-related costs from health care, treatment services, lost productivity and criminal justice imposed by alcohol use.

Similar ratios can be expected for any commercial marijuana market. We have learned already from our experience in Colorado that users will evade regulated taxation schemes, and whatever revenue is attained will be swamped by the accompanying costs associated with drug use. In circumstances where treatment resources are already inadequate, and facing a population already at great risk for negative consequences, the promise of revenue and benefit for these communities is a misguided hope.

Simply put, offering more drugs is a bad bargain, especially for communities already struggling under the weight of history, oppression, marginalization, and impoverishment.

⁵ http://www.rand.org/content/dam/rand/pubs/testimonies/2009/RAND_CT334.pdf

⁶ [http://www.ajpmonline.org/article/S0749-3797\(11\)00538-1/fulltext](http://www.ajpmonline.org/article/S0749-3797(11)00538-1/fulltext)

Further, Native communities that might chose to engage in marijuana cultivation and production will face additional negative impact on their already stressed environment. Marijuana cultivation results in chemical contamination, degraded water supplies, elimination of native vegetation, wildlife alteration, toxic wastes and garbage, food chain contamination, and wildfire risks, according to studies by the National Park Service of the Department of the Interior.⁷

These negative effects and costs would come in addition to current degradation of Native lands associated with the operations of criminal organizations, which currently traffic marijuana and other drugs through Native territory, often with legal impunity because of jurisdictional complexities.

And now let us turn in greater detail to the specifically human cost, especially to youth. Marijuana is the most widely-used illegal drug in the United States, and the health impairments associated with this drug, especially in newer high potency forms, are well known.

Yet the Department of Justice (DOJ) has issued a determination that Native American reservations may become centers for “legal” marijuana sales and use, notwithstanding that this policy stands in stark violation of the federal Controlled Substances Act.⁸

The Attorney General’s subcommittee on Native American issues has proposed to allow growing or selling marijuana on “sovereign” lands, even if encompassing state law, as well as federal law, prohibit the practice. Moreover, DOJ has expressed that there will be no federal law enforcement on their lands if a tribe does express opposition.

This new push for expanding marijuana use is legally suspect on many grounds. Prior DOJ memoranda suspending enforcement of federal law, such as in Colorado, were contingent on the alignment of marijuana sales and use with prevailing state laws or regulatory regimes. But Native reservations are not legally equivalent to states; rather, they are “dependent domestic sovereigns,” broadly subject to federal law. Hence, the proposal appears contradictory on the face of it.

But there is worse in store. The impact on both Native Americans and upon the broader principles of political and economic integrity is deeply damaging.

Native history teaches that they have suffered as much from well intentioned but devastating policies offered by “friends” as they have from the malign attacks from those who sought to destroy their cultures.

⁷ <https://www.whitehouse.gov/ondcp/frequently-asked-questions-and-facts-about-marijuana>

⁸ <http://www.latimes.com/business/la-fi-marijuana-indians-20141211-story.html>

In addition to the damage from addiction, there is damage to the wider community. Internationally, “legal” drug markets are known to be accompanied by organized crime,⁹ prostitution, theft, violent coercion, neighborhood degradation, and economic loss, as documented by the Netherlands’¹⁰ “cannabis cafes.” Meanwhile, Colorado is already experiencing law suits¹¹ filed by businesses claiming harm from marijuana sales operations, based on racketeering and organized crime statutes.

There is the threat to Native lives from ongoing substance abuse, which shows a history of degradation, violence, and pathology for First Americans. As we have seen, alcohol and marijuana abuse is pronounced, while heroin and methamphetamine are established criminal threats, especially for tribes adjacent to Southwest Border smuggling routes, which exploit the interstitial nature of Reservation boundaries and competing jurisdictions.

Let me conclude with a brief review of recent studies of marijuana use in association with negative health and criminal justice outcomes, associations that are of particular pertinence to Native populations.

As reported by the *Washington Post*,¹² last year Congress approved a law¹³ that for the first time will allow Indian tribes to prosecute certain crimes of domestic violence committed by non-Indians in Indian country. The Justice Department announced it had chosen three tribes for a pilot project to assert the new authority.¹⁴

In 1978, in a case widely know in Indian country as “Oliphant,”¹⁵ the Supreme Court held that Indian tribes had no legal jurisdiction to prosecute non-Indians who committed

⁹ <http://www.dutchamsterdam.nl/686-amsterdam-coffeeshops-organized-crime>

¹⁰ https://www.washingtonpost.com/world/europe/new-law-threatens-amsterdams-cannabis-culture/2012/05/03/gIQAvQ570T_story.html

¹¹ <http://www.washingtonpost.com/blogs/govbeat/wp/2015/02/18/group-opposed-to-legal-marijuana-plans-to-sue-colorado-and-industry-participants/>

¹² https://www.washingtonpost.com/world/national-security/new-law-offers-a-sliver-of-protection-to-abused-native-american-women/2014/02/08/0466d1ae-8f73-11e3-84e1-27626c5ef5fb_story.html

¹³ <http://www.justice.gov/tribal/violence-against-women-act-vawa-reauthorization-2013-0>

¹⁴ https://www.washingtonpost.com/world/national-security/3-tribes-authorized-to-prosecute-non-native-american-men-in-domestic-violence-cases/2014/02/06/27bc1044-8f58-11e3-b46a-5a3d0d2130da_story.html

¹⁵ <https://supreme.justia.com/cases/federal/us/435/191/case.html>

crimes on reservations. Even a violent crime committed by a non-Indian husband against his Indian wife in their home on the reservation could not be prosecuted by the tribe.

While it is laudable to have domestic violence addressed, there is a striking irony when seen in relation to the proposed marijuana measure. A recent study of factors driving domestic violence found that consistent use of marijuana in adolescence was the single most predictive factor examined.¹⁶

How could it possibly help the tragedy of domestic partner violence to increase access and use of marijuana?

Sadly, very similar questions can be asked regarding the association of marijuana use explicitly with the social and public health threats faced by Native communities. Alcohol and drunk driving are already threats faced on many Reservations. Yet a recent study¹⁷ found that concurrent marijuana use worsened these risks, approximately doubling the odds of drunk driving, social consequences, and harms to self.

Native youth are at particular risk of suicide. Yet perversely, an increase in suicidal ideation is associated with all levels of marijuana use, regardless of duration.¹⁸

Faced with sexual abuse and unintended pregnancy, tribes should know that in a study of African American girls, use of marijuana at last episode of sex is associated, for youth, with non-use of condoms, acquisition of sexually transmitted diseases (STD), and unintended pregnancy.¹⁹

And in the context of the unemployment challenges faced by many tribes, according to recent research, chronic use of marijuana increases the risk of unemployment.²⁰

These are just a few of the recent findings, supplementing a well-established host of research results showing marijuana use, particularly in adolescence, associated with serious psychological problems, such as schizophrenia, depression, and psychosis, including findings that marijuana use is associated with a greater than 60 percent increase in school drop out risk.²¹

¹⁶ <http://jiv.sagepub.com/content/27/8/1562.abstract>

¹⁷ <http://onlinelibrary.wiley.com/doi/10.1111/acer.12698/abstract>

¹⁸ <http://www.ncbi.nlm.nih.gov/pubmed/25772435>

¹⁹ <http://www.ncbi.nlm.nih.gov/pubmed/25929200>

²⁰ <http://www.ncbi.nlm.nih.gov/pubmed/25955962>

²¹ <http://www.hudson.org/research/11298-marijuana-and-school-failure>

How conceivably could adding increased supply (and acceptability) of an addictive drug associated with psychosis, IQ and learning loss, increased susceptibility to suicide, school failure and greater need for drug treatment, be anything other than a needless disaster?²²

But there is another threat emerging, one that portends to affect all Americans. Consider that Southern California alone is home to nearly 30 recognized Indian tribes, with a total population of nearly 200,000. Were they to become purveyors of marijuana, by the experience of Colorado, they could quickly become “smuggling centers” for black market marijuana distribution to surrounding communities and states.

Reservation boundaries could turn into “domestic borders” comparable to international borders, where drug operations by criminal organizations thrive in driving illegal cultivation and trafficking.

This also presents an obvious course for fueling corruption in reservation politics, and equally worrying, U.S. financial affairs, for the emerging market in illicit drugs threatens our economic integrity nationwide. Not only has the DOJ set about dismantling, in states that have legalized, basic banking and money-laundering protections against criminal organizations penetrating the financial system²³, there is further risk from another center of illicit finance and money-laundering: The cash business of casinos.

There are nearly 500 Indian “gaming” operations found in nearly 30 states,²⁴ and while the revenues are great (estimated at \$27 billion annually), many are in serious debt.²⁵ What would another cash business, dealing in addiction and in violation of federal law, presumably paying no federal taxes, do to tribal integrity? What could this contribute to the power of transnational criminal cartels?

Already, marijuana-related law firms from Colorado are guiding those tribes with casinos in setting up high-potency marijuana operations.²⁶ The potential for public corruption is high, as is the certainty of increased suffering within America’s Native communities.

²² <http://www.hudson.org/research/10777-why-we-believe-marijuana-is-dangerous>

²³ http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-G001.pdf

²⁴ <http://www.nigc.gov/LinkClick.aspx?fileticket=0J7Yk1QNgX0%3D&tabid=943>

²⁵ http://www.huffingtonpost.com/2012/01/22/indian-casinos-debt_n_1222121.html

²⁶ http://www.denverpost.com/business/ci_27284773/united-cannabis-denver-help-calif-indian-tribes-grow

In conclusion, it is clear that we need an integrated substance abuse strategy for responding to the current health crisis faced by Native Americans, and that response must include greater support for prevention and treatment programs.

In addition to the traditional threat of alcohol, Native communities today are at risk from rising heroin and methamphetamine use and the presence of criminal operations within their borders. These are extremely tough challenges. But one thing that is directly in our hands is to refuse to do greater harm.

It should be painfully clear that greater harm is precisely the most likely outcome from increased access and availability of high-potency marijuana in Native communities. It would be irresponsible of us to allow this to happen.

Thank you.