National Indian Health Board

Submitted via email to director@cdc.gov

August 28, 2020

Dr. Robert R. Redfield
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, Georgia 30333

Re: Changing of CDC Testing Recommendations

Dear Director Redfield:

On behalf of the National Indian Health Board (NIHB),[1] we write to express concern about the recent changes in the Centers for Disease Control and Prevention's (CDC) testing guidance for COVID-19. Earlier this week, the agency revised the testing recommendations on the CDC website and now that guidance no longer recommends testing for anyone who has come into contact with someone who is COVID-19 positive and asymptomatic.[2] This change is deeply concerning for us. This change will make it more difficult for Tribes to combat this disease because it will limit access to one of the most vital components of combating any infectious disease outbreak-- information about its spread.

While the guidance does direct people to defer to the recommendations of state and local officials, Tribal members routinely cross jurisdictional boundaries, often going into nearby towns and cities for essential tasks and services. Tribes have been disproportionately impacted by the pandemic, especially in terms of infection and hospitalization rates. The inability to fully trace the origin of an exposure will exacerbate this impact. Further, Tribes are served by a health system that is underfunded and under resourced and as a result, ill-equipped to handle a surge in cases that may result if the disease spreads unchecked**.** We urge the agency to reverse this change and restore guidance that encourages testing of everyone who has had contact with a confirmed COVID-19 case.

[1] Established in 1972, the National Indian Health Board (NIHB) is an inter-Tribal organization that advocates on behalf of Tribal governments for the provision of quality health care to all American Indians and Alaska Natives (AI/ANs). The NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service (IHS) Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with the NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), or continue to also rely on IHS for delivery of some, or even most, of their health care, the NIHB is their advocate.

[2] Centers for Disease Control and Prevention, "Overview of Testing for SARS-CoV-2 (COVID-19)," (Aug. 24, 2020) https://www.cdc.gov/coronavirus/2019-ncov/hcp/testing-overview.html

Tribal Impact and Importance of Contact Tracing

The COVID-19 pandemic has been a perfect storm for the inequities impacting American Indian and Alaska Native (AI/AN) people and Indian health care providers. AI/AN populations have disproportionately higher rates of heart disease, diabetes, and other underlying medical conditions that exacerbate the impact of this disease. The effects of this are already visible. AI/ANs have the highest rate of COVID-19 hospitalization at 316.5 per 100,000.[3] They also have the second highest COVID-19 death rate, at 72.3 deaths per 100,000.[4] The ability to trace and pinpoint sources of outbreaks is essential to containing the disease. If we test only those who are symptomatic then we only have a piece of the puzzle – and science indicates that this is relatively small piece, as well. This disease is often transmitted by those who are asymptomatic so it is especially important that everyone who has come into contact with a person with a confirmed COVID-19 diagnosis be tested so measures can be taken to disrupt the chain of transmission. If we reduce the number of asymptomatic carriers who are tested, it will reduce our knowledge of who has come into contact with a person with COVID-19.

Contract tracing and disease investigation are cornerstones of public health practice and services – and have played significant roles in combatting historical and contemporary outbreaks, including cholera, small pox, measles, and Ebola. The importance of contact tracing to pinpoint the source of an infection's spread is immeasurable. We know that contact tracing leads to a quicker response to this disease. According to a study conducted in China, cases identified through symptom-based surveillance were isolated 4.6 days after symptom onset, whereas those identified via contact tracing were isolated 2.7 days after symptoms began.[5] For example, in Maine, outbreaks in jails and nursing homes have been traced back to a wedding reception hundreds of miles away from where many of the outbreaks are occurring.[6] Tribes are embracing testing in their response efforts and contact tracing is an essential element in that effort. Without contact tracing, the ability of public health officials to combat this disease is diminished.

All steps that are taken in regards to this pandemic should be in consideration of our most vulnerable populations and the capacity of the health systems who serve those populations. We believe that this guidance takes neither into account. There are concerns about the capacity of the Indian health system to handle a surge in cases that may result if the capacity to contain the spread of SAR-CoV-2 is reduced. As outlined in the United States Commission on Civil Rights' *Broken Promises* report, the federal government has chronically underfunded the Indian health system.[7] Because of the lack of funding provided by the federal government, many IHS and Tribal providers are increasingly reliant on third party revenue and money from Tribal businesses, both of which

[3] Centers for Disease Control and Prevention. COVID-19 Data Visualization. https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html
[4] APM Research Lab. The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S. https://www.apmresearchlab.org/covid/deaths-by-race
[5] Qifang Bi, Yongsheng Wu, Shujing Mei…et al, The Lancet Infectious Diseases "Epidemiology and Transmission of COVID-19 in Shenzhen China: Analysis of 391 cases and 1,286 of their close contacts" (Apr. 2020)
[6] Amanda Jackson, CNN, "Outbreak at Maine nursing home and jail linked back to wedding reception" (Aug 25, 2020) https://www.cnn.com/2020/08/25/us/maine-wedding-outbreak-spreads-nursing-home-trnd/index.html
[7] U.S Commission on Civil Rights. The Broken Promises Report: Continuing Federal Funding Shortfall for Native Americans (2018).

have suffered as a result of the pandemic. The Indian health system is ill equipped to handle a surge in COVID-19 cases and many providers are fighting this pandemic by stretching resources far beyond their capacity. We believe that this guidance could result in a surge of cases, further complicating matters for health systems that are providing care to a highly vulnerable population.

Jurisdictional Boundaries

Tribes are sovereign nations, a fact which has been recognized by the United States Supreme Court and is foundational to the relationship between Tribes and the federal government. [8] However, while the Tribes may exist as legally separate sovereigns from the states within whose borders they inhabit, they are not physically separated. In fact, Tribal members routinely leave Tribal lands to go to a neighboring city or town to engage in essential activities such as grocery shopping. According to a study by the United States Department of Agriculture, AI/ANs who live on Tribal lands face the longest trips to grocery store and there are even entire Tribal communities without a single place to buy food, thus necessitating a trip outside of the Tribal community for this purpose. [9,10] While a Tribe can mandate anyone who comes into contact with an individual with COVID-19 get tested, they cannot do the same for a person who lives outside of the Tribal community. If a person comes into Tribal land who may have come into contact with a COVID-19 positive person but were not tested because of their state's guidelines, they pose a threat to the Tribal community at large. On the other hand, if a Tribal member goes into a neighboring town, they may come into contact with a person with COVID-19, whose status may have been known if not for this guidance, thus also endangering their Tribal community. Both of these scenarios represent common occurrences in Indian Country and their danger is amplified by this guidance.

It is also possible that the direction to defer to state and local officials will create a checkerboard of localized guidance, much as we have seen in other aspects of the response to this disease. Some states have acted swiftly, creating quarantine requirements and keeping businesses closed for a longer period of time. However, other states have had more lax restrictions around this disease, allowing people to choose whether or not to accept certain risks. Tribes have also exercised their own powers to enact their own sets of restrictions, which are often more strict than their surrounding state. We believe that the same would happen with this guidance. We have seen the impacts of travel on the spread of this disease. For example, travel to Myrtle Beach, South Carolina has been cited as a cause for a rise of cases in West Virginia.[11] As people travel between jurisdictions with different standards, their likelihood of being tested or being able to trace their own infection back to a source will be lessened. When it comes to COVID-19 testing, we believe that there should be a national standard and that it should include everyone who has come into

[8] In Worcester v. Georgia, 31 U.S. 515 (1832), the Supreme Court explicitly outlined that the relationship between the federal government and the Tribes is a relationship between sovereign nations.
[9] Michelle Saksena and Phillip Kaufman, United States Department of Agriculture, "Native Americans Living in Tribal Areas Face Longer Trips to the Grocery Store" (Apr. 6, 2015)
[10] *See* Meghan O'Connell, Dedra S. Buchwald, Glen E. Duncan, Journal of the Academy of Nutrition and Dietetics, "Food access and cost in American Indian communities in Washington State" (Sept. 2011)
[11] Myrtle Beach Online, "Terrible killer' from the South. WV governor blames Myrtle Beach for COVID-19 spread" (Aug. 3, 2020)
https://www.myrtlebeachonline.com/news/coronavirus/article244691752.html

contact with a COVID-19 positive person. The ease of which this disease is transmitted makes relying solely on state and local guidance inadequate.

Conclusion

One of the greatest lessons learned from this pandemic to date is that testing is a key strategy to halt spread of this virus. The barriers to testing, including eligibility requirements, availability, and accessibility, were decried by community members, governments, and health/public health systems alike. Now that some of these barriers have been addressed, we must not erect new hurdles to testing.

We are deeply concerned about the new guidance issued by the CDC. We believe that it further endangers Tribal members, who are already experiencing outsized impacts from the pandemic. It lessens the ability for Tribes to engage in contact tracing, thus reducing their ability to pinpoint the source of an infection and prevent its spread. Because of the lessened ability of Tribes to trace this disease, infections may increase, which will place an increased burden on the Indian health system, which is also struggling with the effects of the pandemic. We are also concerned about the impact of this across jurisdictions, especially when jurisdictions adopt different standards for what necessitates a test. Tribal members routinely cross jurisdictional boundaries and, while a Tribe may require anyone who comes into contact with a person with COVID-19 to be tested, their surrounding state may not. We urge the CDC to reverse this change and recommend that everyone coming into contact with a person with COVID-19 get tested.

Sincerely,

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