

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

## Testimony of Jonathan Nez President of the Navajo Nation

Before the  
United States COMMISSION ON CIVIL RIGHTS

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Yá'át'ééh Members of the Commission. My name is Jonathan Nez. I am the elected President of the Navajo Nation. Thank you for this opportunity to provide testimony addressing the impact of the COVID-19 pandemic on the Navajo Nation.

### Introduction

I can sum up the answers to the Commission's questions by telling you about Mabel Charley, a Community Health Worker with the Navajo Department of Health in Kayenta, Arizona. Mabel does a wide variety of work – she provides education on COVID-19 prevention to community members, she conducts wellness checks on those who tested positive or who may have been exposed to COVID-19, and she delivers supplies including food, PPEs, and isolation kits to Navajo community members who are COVID positive or at high risk of severe symptoms if exposed.

Recently, Mabel and a colleague delivered supplies to a Navajo family in Dennehotso, Arizona. Six members of the family tested positive for COVID-19, one member from each generation living under the same roof – of the six, a father, his daughter, and the daughter's six-year-old child were infected. The father had been taken to a Phoenix hospital for treatment, a hospital that is five hours away. When Mabel delivered the family supplies, they received a call that their father/grandfather passed away. Mabel, recalling the heartbreaking home visit says, *"My colleague and I had to take a break for 10 to 15 minutes and regroup after that visit. Until that moment, I was in denial about my younger brother's death a couple of months ago, and we just laid my nephew to rest two weeks ago (both were 46 years old and passed away from COVID-19). We are all from this same community, but I have a job to do. I pray for strength and spiritual growth every day because what we are doing is so important."*

### BACKGROUND

The Navajo Nation includes 27,425 square miles of land that extends into New Mexico, Arizona, and Utah, and borders Colorado, which makes Navajo the largest geographic land base Native American reservation in the United States. Navajo Nation claims over 300,000 enrolled tribal members. According to 2010 U.S. Census, there were a total of 332,129 individuals living in the U.S. who claimed to have Navajo ancestry. The Navajo Nation has five Navajo agencies that are geographically and politically divided into chapters; for a total of 110 chapters. The chapters are

sub-governmental entities within the Navajo Nation delegated to address local issues pertaining to the land and health status of their respective chapter population.<sup>1</sup>

As early as January 26, 2020, the Navajo Nation began informing our residents of the deadly novel coronavirus. On March 13, 2020 I issued the first of several Executive Orders to close government offices and recommended the closing of schools on the Navajo Nation. This first Executive Order was based on the Navajo Emergency Management Commission's declaration of a public health state of emergency due to the spread of COVID-19 in every State surrounding the Navajo Nation. On March 17, the Navajo Nation confirmed its first positive case on the Navajo Nation. On July 5, the Navajo Department of Health, in coordination with the Navajo Epidemiology Center and the Navajo Area Indian Health Service, reported 38 new COVID-19 positive cases for the Navajo Nation and one more death. The total number of deaths has reached 378. Reports from all 12 health care facilities on and near the Navajo Nation indicate that approximately 5,581 individuals have recovered from COVID-19. 58,769 people have been tested for COVID-19. The total number of COVID-19 positive cases for the Navajo Nation is 7,840.

### **Health Disparities**

We are all aware that federal funding for Indian health care has been inadequate and has not kept pace with rising costs of health care, such as increased costs of prescription drugs, specialized health care and competitive salaries to attract health professionals.

The Navajo Nation experiences a heavy disease burden. Life expectancy for the Navajo people is 72.3 years as compared to the U.S. rate of 76.5 years. The mortality rate was over 31% higher than the U.S. rate. The leading cause of death is unintentional injury; heart disease is the second leading cause of death for Navajo. The Navajo people are at high risk for alcohol/substance abuse problems; according to IHS, the alcohol-related illness and death among tribes was 5.6 times higher than among the U.S. population. Obesity and diabetes have become major health threats to the Navajo people in a brief period of time.<sup>2</sup> These pre-existing conditions are present due to the failure to adequately deliver on the trust responsibility of health care and is now a conduit for coronavirus.

Access to basic health service presents challenges for majority of the Navajo people, due to isolation and remoteness of rural areas where families live. Lack of family transportation or cost of fuel are often factors restricting access to needed health care services for families living in remote areas. Transportation is an essential health service. The American Indian and Alaska Native people have long experienced lower health status when compared with other Americans. Lower life expectancy and the disproportionate disease burden exist perhaps because of inadequate education, disproportionate poverty, discrimination in the delivery of health services, and cultural differences. These are broad quality of life issues rooted in economic adversity and poor social conditions.<sup>3</sup>

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<sup>1</sup> Navajo Population Profile, 2010 U.S. Census Report, Navajo Epidemiology Center, Navajo Department of Health, December 2013.

<sup>2</sup> Navajo Nation – Initial Response to the National Health Care Reform Initiative

<sup>3</sup> <https://www.ihs.gov/newsroom/factsheets/disparities/>

With many reports and studies on health disparities for Native Americans the simple truth of the matter is my People are at risk for higher a higher death rate. It is a sad picture of the health treatment of Navajo People when six family members in one household cannot get the treatment they deserve and lose their father and grandfather who died 300 miles from his loved ones. What COVID-19 has shown us is that we do not have the capacity in our health care facilities to take care of the rising cases on the Navajo Nation. We do not have sufficient medical personnel to staff the few health case facilities on the Navajo Nation. We do not have the medical supplies to support our People when they need hospitalization. Navajo Nation has been asking for increased funding for water and sanitation in addition to new or replacement of hospitals. The lack of water and hospital now exacerbates the impact of Covid-19. The data point that matters to me to explain the health disparity is 378 deaths on the Navajo Nation.

### **Housing**

Several issues to impact the housing crisis facing the Navajo Nation including the lack of basic infrastructure, land status, multiple environmental reviews, and remoteness of Navajo communities. Most are well documented but there are no answers to these continuing questions. Two areas my Administration is working to resolve are the rebuilding of homes in the area once known as the Bennett Freeze in western Navajo and homes for homeless Veterans.

A Housing Assistance Council analysis of 2010 U.S. Census and 2005- 2009 American Community Survey data found that 5.3 percent of homes on Native American lands lacked complete plumbing and 4.8 percent lacked complete kitchens. The comparable nationwide figures were 0.5 and 0.7 percent, respectively.<sup>7</sup> The Housing Assistance Council also noted that household crowding in rural areas, such as most Native American communities, tended to be invisible, with households moving in with relatives or friends in reaction to adverse economic or social conditions or to escape substandard housing conditions. HUD officials noted that such “doubling up” and subsequent overcrowding in Native American communities was often tied to a tradition of extended family dwellings and made it difficult to quantify homelessness in Native American communities.<sup>4</sup>

Just as the family I spoke of earlier, we cannot continue to have multiple generations under one roof; however, the federal funding provided to the Navajo Nation is not enough to address this serious issue. We are preparing to combat COVID-19 but we do not have the resources to address the problems created decades ago by the federal government’s neglect of our housing needs and basic infrastructure needs.

### **Telecommunication infrastructure**

The Navajo Nation is a desert in terms of telecommunications network but our desert is ready to blossom. Recently the Navajo Land Department reported over 1,400 cell towers on the Navajo Nation but many of the towers are unregistered with the Navajo Nation. We have several issues to resolve before improving telecommunications across the Nation. One such issue is an inventory of communications towers located on the Navajo Nation and which companies are

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<sup>4</sup> GAO Report to Congress, Native American Housing, Additional Actions Needed to Better Support Tribal Efforts, March 2014.

providing service on the Nation. The pandemic has exposed the fact that our Nation does not have sufficient coverage on all parts of the Navajo Nation to give continuous service to those who rely on constant service – police officers, emergency medical services, social workers, health care workers, school bus drivers, and students from elementary school to college.

### **Response to Commission Questions**

- What do data trends suggest about the health impact of COVID-19 on Native American communities? To what extent has existing data identified health disparities in the severity of impact of COVID-19 on Native Americans as compared to other racial or ethnic groups?
  - Based on CDC findings from June 25<sup>th</sup>, 2020, “long-standing systemic health and social inequities have put some members of racial and ethnic minority groups at increased risk of getting COVID-19 or experiencing severe illness, regardless of age.”
  - “As of June 12, 2020, age adjusted hospitalization rates are highest among non-Hispanic American Indian or Alaska Native and non-Hispanic Black persons.
  - Non-Hispanic American Indian or Alaska Native persons have a rate approximately 5 times that of non-Hispanic white persons
  - As of May, the infection in the Navajo Nation was at roughly 2,500 per 100,000 residents and surpassed that of New York, which was considered the epicenter of the disease at that time. More people per capita tested positive for COVID-19 in the Navajo Nation than anywhere else in the United States.
  - As of July 6<sup>th</sup>, the virus has killed 378 people, giving the Navajo Nation a higher death rate per 100,000 people than any state in the U.S.
  - Source: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>
- Broken Promises found that Native Americans experience distinct health disparities as compared to other Americans which is compounded by Native American healthcare programs being chronically underfunded. How has the outbreak of COVID-19 impacted these health disparities?
  - According to the report, funding for IHS has been “chronically underfunded” (<https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf> page 66)
  - Native Americans as a group suffer from the highest rate of diagnosed diabetes in the nation, giving them a higher risk of contracting COVID-19 (page 84)
  - The report found that Health Care and Sanitation Facilities are in a “significant need for expansion or replacement.” “With an average age of 47 years, many existing health- and sanitation-related facilities have ‘surpassed their useful lives’ and are ‘grossly undersized’ for their user populations, often resulting in ‘crowded, even unsafe conditions’ for patients and staff” (page 86)
  - Conditions were terrible even before the outbreak occurred, and now the limitations and failures are impossible to ignore. Due to severe underfunding, Native populations are at a higher risk of contracting COVID-19, and the IHS does not have adequate facilities to help those who contract the virus.

- Broken Promises found that there is a severe lack of affordable housing and adequate physical infrastructure in Indian Country. Due to a lack of federal investment in affordable housing and infrastructure such as roads, water, sewer, and other basic utilities, Native Americans often find themselves living in overcrowded housing with inadequate conditions, cut off from basic utilities and infrastructure. What have been the consequences of these disparities in housing conditions and access to infrastructure during the outbreak of COVID-19?
  - Because of severe lack of funding in housing, 40% homes in the Navajo Nation lack running water. As a result, practices that have been shown to reduce the risk of contracting COVID-19, such as handwashing, are more difficult to perform for many tribal residents.
  - Over-crowding is another issue, as many homes contain multiple generations of families, with many sharing rooms. It is impossible to practice social distancing and quarantining under these conditions, resulting in entire households being infected.
  - Jean Stowell, the head of Doctors Without Borders's response to COVID-19 in the US stated that "the lack of running water complicates things. Water sanitation and infection control go hand-in-hand."
  - Indian Health Services states that it will cost more than \$700 million to get everyone in the reservation hooked up with safe tap water and basic sanitation.
  - Source: <https://www.pbs.org/newshour/nation/how-covid-19-is-impacting-indigenous-peoples-in-the-u-s>; <https://www.nytimes.com/2020/05/30/opinion/sunday/coronavirus-native-americans.html>; <https://www.theverge.com/2020/7/6/21311211/navajo-nation-covid-19-running-water-access>
  
- Broken Promises found that telecommunications infrastructure, especially wireless and broadband internet services, is often inaccessible to many Native Americans in more remote areas in Indian Country. These services are necessary to keep the community connected to telehealth services, remote education, and public safety. What have been the consequences of this lack of connectivity for Native Americans during the outbreak of COVID-19?
  - Cellphone service and wifi are limited, so it's difficult to keep in touch with loved ones during the pandemic and it is difficult to get updates and information about COVID-19.
  - It is difficult to students to attend online classes, if schools are offering them, because of lack of internet and the necessary equipment needed to attend.
  
- In what ways have the problems identified in Broken Promises made it more difficult for Native Americans to cope and react to the pandemic?
  - As mentioned above, many do not have the means to stay safe, as they lack access to running water in their homes, experience overcrowding in their homes, do not have access to electricity or the internet so they cannot receive information about the virus, if they get sick the IHS does not have the means to take care of them, many are out of work so they cannot afford basic supplies such as food.

- Double or triple taxation on Navajo lands prevent the attraction of revenue to build infrastructures needed to alleviate the impacts of Covid-19 pandemic.
- Has the Congressional response to the pandemic, including the CARES Act and any similar stimulus packages, been sufficient to meet the needs of the Native American community in responding to and coping with the challenges posed by COVID-19? If not, what more would be necessary to meet those needs?
  - It has not been sufficient, the CARES Act only provided tribes with \$8 billion that has been difficult to allocate, as there is confusion on how to allocate funds and how much each tribe receives. The process of receiving these funds has also been slow, taking weeks at a time and the manner in which it was divided pitted tribes against each other.
  - \$8 billion is not enough to provide all that is needed to be done to help tribes. The Navajo Nation only receives \$600 million of that. We all need more money.
  - Additionally, the CARES Act has limitations, as the funds can only be used to cover expenses that are “incurred due to public health emergency,” but the public health emergency was created by infrastructure problems that need to be solved in order to ensure this does not happen again. The CARES Act should have allowed more freedom to tribes to use the funds to combat the pandemic as they see fit.
  - The money from the CARES Act needs to be spent by the end of the year, but the paying for infrastructure takes time. This is nearly impossible. Just trying to expend the CARES Act fund that was delivered late now takes up the time of tribal leaders.
  - Source: <https://www.nytimes.com/2020/06/19/us/politics/tribes-coronavirus-stimulus.html>; <https://www.npr.org/2020/06/05/869949418/navajo-nation-stymied-by-cares-act-restrictions>
- Have the Executive Branch’s responses to the pandemic, including its statutory interpretation and administrative implementation of laws passed by Congress, been adequate to help Native Americans cope with the challenges posed by COVID-19? If not, in what ways has the response been inadequate?
  - They have not been adequate. Everything is moving too slowly and there is just not enough money in the CARES Act for all tribes.
  - While President Trump spoke about the CARES Act and how it will help Tribes, the \$8 billion allocated for tribes is woefully inadequate, and it took months for the Treasury Department to disperse the funds.
  - \$4.8 billion was dispersed on May 5<sup>th</sup> from the Coronavirus relief fund, and President Trump said the remaining \$3.2 billion would go out starting June 4<sup>th</sup>, but that deadline was not met.
  - Source: <https://www.azcentral.com/story/news/local/arizona-health/2020/05/05/trump-says-navajo-nation-get-more-than-600-million-fight-covid-19/5170583002/>; <https://www.indianz.com/News/2020/06/12/no-can-of-worms-judge-wont-let-trump-adm.asp>
- What can the Commission add or change to the findings and recommendations reached in Broken Promises, as a result of the COVID-19 outbreak? What tailored recommendations

are appropriate for Congress and the federal government to ensure that the Native American community can address the coronavirus pandemic?

- Conditions have only gotten worse since Broken Promises was published because of the COVID-19 outbreak.
- Extend the deadline for when the funds need to be spent, as it takes time to spend money on the infrastructure changes needed to ensure that the Navajo are protected from future dangers of the pandemic.
- Tribes need more funds. New York, the considered by many to be the epicenter of the virus in the United States, received a \$150 billion Coronavirus Relief Fund. The Navajo Nation has a higher per capita death rate than New York and should be considered the new epicenter. Even the smallest states received a minimum of \$1.25 billion, while the Navajo Nation only has access to \$600 million, and over 500 nationally recognized tribes need to share the \$8 billion.
- Do away with double taxation so the Navajo Nation can work to attract capital for infrastructure and socio-human developments to get ready for future pandemics.
- As in the CARES Act, allow for carve-out of funds to be used by tribes with conditions based on tribal needs and the fulfillment of trust responsibility of the federal government.
- Sources: <https://www.empirecenter.org/publications/how-the-stimulus-bill-treats-ny/> ; <https://www.indianz.com/News/2020/06/12/no-can-of-worms-judge-wont-let-trump-adm.asp>