

How drug policy, laws affect our workforce



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Illegal drug use and the damage it inflicts on individuals, their families and the entire community is epidemic across the nation, but more so in our rural tribal communities. It goes hand in hand with poverty, lack of economic opportunity and hopelessness. In my second term as a board member, I've been around long enough to witness up close the human tragedy of domestic neglect and abuse; crime and imprisonment; overdose and death. Bottom line: within our

tribe, illegal drug use (as well as alcohol and prescription drug abuse) is epidemic.

It's a social and human health issue that can't be legislated away. It requires community support and resources and a top priority commitment from the governing body of the tribe. We are currently into the third year of a Department of Justice grant to formulate a Tribal Action Plan (TAP) to deal with substance abuse in our communities. I do not sit on the TAP committee but I appreciate the work and effort demonstrated. My concern is whether a viable initiative will materialize before the grant funding runs out. Given the root causes of this epidemic, I'm concerned that the court system and a penal code will be the ultimate direction—rather than health, social services, education and economic opportunity solutions.

Our tribe is 40,000 strong, but tribal laws have jurisdiction over a minimal number of tribal individuals. With some exceptions, tribal laws basically affect only those who live on tribal lands (tribal housing) and our work-

force. I would like to address in this report drug policy and laws that impact our workforce and then cover housing policy in next month's report.

On the agenda at the June 2 tribal board meeting in Escanaba, we considered "Eliminating Random Drug Testing" as an employment condition. The consideration failed on an 8-4 vote.

I voted "no" because I have concerns about how it will impact compliance with the National Indian Gaming Regulatory Act (NIGRA). What we absolutely need to assure and enforce is a drug-free casino operation. I am in full support of a zero tolerance drug policy in our gaming establishments. Possession, use, and sale of drugs on Kewadin property cannot be tolerated. It should be grounds for automatic termination.

My concern however, is that enforcement of our current laws and policies are not effective in keeping our enterprise drug free. Currently, the tribe has three drug deterrent policies: a pre-employment drug test, random drug testing protocol, and "reasonable

suspicion" testing. The pre-employment drug test serves its purpose. But the "random drug testing protocol" raises serious issues about how "random" it really is and whether there are functional problems about how it is administered. But, my biggest concern is how our policy comports with state of Michigan law where medical marijuana is now legal. We have employees (both tribal and non-tribal), who do not live on tribal land. They are citizens of the state of Michigan. They exercise their civil rights to seek legal medical care (which is a decision that belongs to themselves and their health care provider). They are great employees, who give an honest day's work for an honest day's pay. They do NOT come to work under the influence of any substance. These employees get netted in our "random drug testing protocol" and are subject to discipline including termination. Ironically, random drug testing for marijuana does NOT indicate impairment. Sooner or later, we are going to find ourselves litigating this policy as a violation of HIPPA protected

rights.

Meanwhile, management has failed to use the obvious policy tool that could better ensure a drug free workplace: namely our "reasonable suspicion" policy. With a workforce close to 1,500 employees, only 26 "reasonable suspicion" tests were conducted in 2014 (with over 60 percent positive results). The random drug testing policy and the second chance policy need to be overhauled. Instead, managers need to quit looking the other way and start managing their workforce—and zero tolerance for possession, use or impairment on tribal property needs to be enforced vigorously.

We have three powwows coming up in Unit II. Please see www.saultribe.com/membership-services/culture for dates and locations. Everyone is welcome!

Good wishes to everyone for the summer. I hope you get to pick blueberries and share the good weather with family and friends. Please call me with questions and concerns any time, at (906) 430-5551 or (906) 483-6821.