**STATEMENT OF THE VETERANS LAW SECTION**
**OF THE FEDERAL BAR ASSOCIATION**

**U.S. SENATE COMMITTEE ON VETERANS' AFFAIRS**

**HEARING ON**
**VA AND INDIAN HEALTH SERVICE COOPERATION**

**NOVEMBER 5, 2009**

The National Congress of the American Indian estimates that 22% of the Native American/Hawaiian and Alaskan Native population are either members oF the Armed Services or veterans. This represents the highest level of participation of any identifiable group in our population in the defense of this country. The service rendered to this nation is freely given by sovereign peoples among us chiefly out of patriotism and the warrior tradition.

All veterans, including Native American veterans, are entitled to a wide range of benefits and services as a result of their military service. Native American/Hawaiian and Alaskan Native veterans have less access to and thus receive far fewer VA benefits and services than does the veteran population as a whole. Native American veterans who live west of the Mississippi and in Alaska live in great part on reservations. They do not have access to VA health care or meaningful access to the Veterans Benefits system through which they may seek the health care to which they are entitled. Accordingly, there are far fewer appeals taken from denial of pension and compensation.

The estimates of the incidence of PTSD in the population of Vietnam and Southwest Asia veterans as a whole range around 50%. For many reasons grounded in cultural and economic circumstances, this may be a low estimate in Native American veterans. Neither VA nor IHS provides effective treatment modalities for these veterans. With very few exceptions, there is no culturally compliant therapy available to Native American veterans and their families, particularly in dealing with the secondary effects of PTSD presenting as self-medication, domestic violence and suicide. Native American women veterans particularly receive nowhere near the mental health care they need for Military Sexual Trauma (MST). Nor do they receive the other medical care they need for service related trauma and illnesses from either VA or IHS. Despite the existence of the MOU of 2003 between DVA and IHS there is insufficient effective interface between IHS and VA health care systems.

Traditionally, Veterans Centers, in urban and suburban settings have provided counseling and treatment for PTSD and other mental health issues. There is currently legislation pending to expand the number of these centers. The creation of "Traditional Tribal Veterans Centers" (Centers) on the reservations, conjoined with and complementing existing IHS facilities, would address a wider range of issues for the Native American veterans than those in urban and suburban settings.

These Centers would be a cooperative enterprise between DVA, IHS and the Tribal governments, fully implementing the MOU of 2003 between IHS and DVA. Through the Centers Native American veterans would receive mental health services from Western and Traditional Healing practitioners. The availability and presence of both modalities would provide documentation for benefits purposes. In addition to the mental health services, the VA/IHS cooperation would provide readily available attention for medical issues arising from such matters as TBI, wound care, damaged prostheses as well as medication. Such issues, once identified would then be referred into the clinic/VAMC system. Native American women veterans would particularly benefit from the availability of mental health and medical care in this setting. Family counseling and training for family care givers for severely wounded veterans should also be available through these Centers.

The availability of adequate medical care is dependent on the grant of service connection for injuries, illness and diseases incurred in or the result of military service. Not only must the grant of compensation be appropriate, but the rating must be adequate. The presence of trained representatives designated as such by the Tribal Councils, and most importantly, accredited and certified to the Agency on the same footing as state and county employees is critical to the adequate utilization of the Centers. This status is not provided for in the current regulatory scheme, and would require modification of 38 C.F.R. Sect. 629.14(2), which currently provides only for state and county employees, thus by definition excluding Tribal Veterans Representatives (TVRs) as designees or employees of a sovereign entity.

The innovative concept of "TVRs" was designed and implemented by James R. Floyd, currently Network Director of VISN 15 in Kansas City, MO. This was an effort to provide Native American veterans with a trustworthy emissary to assist in seeking benefits and dealing with the VA benefits and health care bureaucracy. The drawback is that the TVRs lack accreditation and all training is done by VA, which gives rise to inherent conflict of interest issues. There is a wholly unintended contribution to the inadequacy of representation because the TVRs function largely as intermediaries rather than accredited representatives. Provided with a training program independent of VA, culminating in accreditation to the Agency, the TVRs would make a tremendous contribution to the meaningful availability of compensation and benefits to Native American/Hawaiian and Alaskan Native Veterans.

An important issue relating to the needs of Native American veterans is trust, or lack of it. There is a profound reluctance to discuss matters related to combat with anyone, including members of the same tribe. A long history of racism, distrust of governmental entities, and an unwillingness to approach representatives of governmental entities exacerbate the situation. Intergovernmental cooperation in establishing Traditional Tribal Native American Veterans Centers would provide at least some solutions. The establishment of an Office of Native American Affairs within the Department of Veterans Affairs would further considerably the development of programs and services for Native American/Hawaiian and Alaskan Native veterans.

The Veterans Law Section of the Federal Bar Association urges your recognition of the profound needs of these veterans, and consideration and adoption of the measures discussed herein. The views and proposals discussed herein are those of the Veterans Law Section and not necessarily those of the Federal Bar Association as a whole.

Respectfully submitted,

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Veterans Law Section