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DEPARTMENT OF VETERANS AFFAIRS ADVISORY COMMITTEE ON TRIBAL AND INDIAN AFFAIRS MEETING #2

August 15–17, 2022

The Department of Veterans Affairs (VA) Advisory Committee on Tribal and Indian Affairs (the committee) convened for its second meeting on August 15–17, 2022. The meeting occurred in a hybrid format, with some participants joining virtually via Zoom and others attending in person at the VA Albuquerque Regional Office. Sessions lasted approximately 4 hours each day. In accordance with the provisions of Public Law 92-463, the hybrid meeting sessions were open for the public to participate virtually. After each meeting session, the committee conducted in-person site visits.

Committee Members in Attendance

The table below lists the committee members and indicates which days each member attended.

Member	Area Represented	Day 1	Day 2	Day 3
Chairman Jack Austin, Jr.	Oklahoma	✓	✓	✓
Adam Archuleta	Albuquerque	✓	✓	✓
Manaja Hill	Great Plains	✓	✓	✓
Reyn Kaupiko	Native Hawaiian Organization	✓	✓	✓
Nickolaus Lewis	Portland	✓	✓	✓
Admiral Kevin Meeks	Oklahoma	✓	✓	✓
Galyn Minkel	Bemidji	✓	✓	✓
Angela Pratt	Nashville	✓	✓	✓
Chief Bill Smith	Alaska	✓	✓	✓
Geno Talas	Phoenix	✓	✓	✓
Ted Tenorio	California	✓	✓	✓
Sonya Tetnowski	Urban Indian Health Organization	✓	✓	✓
Fred Urbina	Tucson	✓	✓	✓
James Zwierlein	Navajo	✓	✓	✓

Table 1. Committee Member Attendance

Day 1

Monday, August 15, 2022

Opening Remarks

Clay Ward, the committee's designated federal officer (DFO), welcomed attendees to the meeting. He noted that the VA Advisory Committee on Tribal and Indian Affairs is a statutory committee mandated under the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020. The committee operates in accordance with the Federal Advisory Committee Act (FACA), meaning all portions of the meeting, except for site visits and committee deliberations on its structure and recommendations, must be open to the public. Mr. Ward called the meeting to order and conducted roll call. Notably, the position for the Billings Area is currently vacant.

Committee Chairman Jack Austin, Jr., thanked VA for hosting the meeting and expressed his appreciation to the participants. He noted that the meeting would focus on updates from the group's subcommittees, which were tasked with discussing specific priorities and developing draft recommendations to propose to the committee for potential promulgation to VA. Each subcommittee update would include an overview of the subcommittee's proceedings, priorities, and recommendations, as well as presentations from VA on identified themes for discussion.

Chairman Austin introduced Cesar Romero, Director of the VA Albuquerque Regional Office, and Sue Fulton, Assistant Secretary for the VA Office of Public and Intergovernmental Affairs. Director Romero welcomed the attendees to the Albuquerque Regional Office and expressed his gratitude to the committee for their efforts. Assistant Secretary Fulton also thanked the committee for their work and highlighted the value of VA's partnerships with tribes and Native American communities and organizations, as well as the agency's commitment to upholding the government-to-government relationship between the federal government and tribal governments.

Chief Bill Smith offered an opening blessing.

Benefits and National Cemetery Administration Subcommittee Discussion

James Zwierlein, Subcommittee Co-Chair, led the discussion on the subcommittee's proceedings, priorities, and recommendations.

Subcommittee members include:

- Angela Pratt, Co-Chair
- James Zwierlein, Co-Chair
- Manaja Hill
- Galyn Minkel
- Chief Bill Smith
- Geno Talas
- Ted Tenorio
- Fred Urbina

The subcommittee first convened in May 2022. During this meeting, they discussed specially adapted housing, the Native American Direct Loan (NADL) program, State Veterans Home Grants, and the Tribal Representation Expansion Project (T-REP). Their key questions surrounding these programs included:

- What efforts are being made to better serve Native American Veterans living in rural areas?
- What barriers do Native American Veterans face to accessing programs and benefits?
- How do the numbers of Native American Veterans served compare with other locations or demographics?

Veterans Health Administration Homeless Programs Update

Teresa Pittman, LCSW, U.S. Department of Housing and Urban Development-VA Supportive Housing (HUD-VASH) Regional Coordinator, provided an update on VA's programs to address homelessness.

Native Americans represent 1% of all Veterans but 3% of homeless Veterans. They account for 2% of the Veterans service by Veterans Health Administration (VHA) homeless programs. During Fiscal Year 2021, these programs served 2,243 Native American Veterans.

One program that serves Native American Veterans is Tribal HUD-VASH, which partners with tribes to provide Veterans with housing assistance, case management, and other supports. Recently, HUD announced awards for a second expansion of HUD-VASH, which added White Mountain Apache Tribe to the 28 tribes already participating.

Under the standard HUD-VASH program, an upcoming voucher allocation opportunity will provide additional voucher resources to housing authorities who indicate interest and provide a letter of support from their VA partners. While not specific to tribes, this initiative will likely benefit some Native American Veterans.

Supportive Services for Veteran Families (SSVF) recently announced awards for a funding opportunity that will expand the use of rapid rehousing services for Veteran households in high-need urban areas. Through this funding, SSVF grantees will also support HUD-VASH, such as landlord and tenant incentives.

Other work to address homelessness among Native American Veterans includes collaboration with the White House Council on Native American Affairs to conduct outreach to urban Indian organizations to raise awareness of VHA homeless programs and increase referrals.

Manaja Hill emphasized that Native Veterans in rural area have different housing needs and challenges than those in urban locations. He also pointed out that the Standing Rock Sioux Tribe HUD-VASH Program often fails to serve Veterans because it does not prioritize them on the waiting list for housing. Instead, Veterans typically are more successful securing housing by renting from a private owner; however, this option is not widely advertised. Mr. Hill stated that programs such as HUD-VASH have the potential to significantly benefit Native American Veterans but must first be adjusted to fit tribal communities. He urged VA to contract with tribes and conduct government-to-government engagement to refine homeless programs to be more effective for Indian Country.

Ms. Pittman acknowledged that the limited housing stock and subsequent waitlist issues are a primary challenge to serving homeless Veterans, especially on tribal lands.

Nickolaus Lewis described housing barriers related to HUD building codes. In particular, these codes restrict access to tiny homes. Under the Native American Housing Assistance and Self-Determination Act (NAHASDA), tribes have the flexibility to house the homeless in tiny homes. However, for Native American Veterans not located on tribal lands, HUD requirements preclude most tiny homes. Mr. Lewis said this challenge could be resolved by adjusting the requirements to allow for one door instead of two, account for appropriately sized egress windows, permit sleeping lofts, and adjust the U-factor for insulation. He requested VA's support in encouraging HUD to change these requirements, thus enabling more housing stock to become available. He indicated he will forward more information on this issue to Ms. Pittman, who noted that she will share the information with HUD.

Reyn Kaupiko stated that for Veterans in Hawaii, it is difficult to know who to contact regarding the HUD-VASH Program. He highlighted a need to educate Veterans on the program requirements. Further, he noted that Veterans who do not have homes of their own and are staying in an overcrowded household do not qualify as homeless and thus are not eligible for the program.

Ms. Pittman said that for the standard HUD-VASH Program, VA is required to follow the definition of homelessness contained in the McKinney-Vento Homeless Assistance Act. The Tribal HUD-VASH

Program can assist Veterans who are at risk of homelessness, but the standard program cannot serve these individuals unless the legislation changes.

Sonya Tetnowski suggested that the subcommittee facilitate a joint conversation with VA and HUD on housing challenges that are prevalent in Indian Country. For example, multi-generational households are common in Native American communities, but these settings can pose a challenge for returning Veterans, who may need more privacy and space to support their transition.

Ms. Pittman responded that she will propose inviting HUD to participate in the next committee meeting.

Eugene Talas said that Hopi Tribe participates in the Tribal HUD-VASH Program but is maxed out at 10 vouchers. He asked whether there is a way to continue providing housing assistance under the program or to obtain more vouchers.

Ms. Pittman responded that Hopi Tribe is supposed to have 15 vouchers. She said she will look into this issue and follow up with Mr. Talas. She further noted that if the tribe applied for the HUD-VASH voucher allocation opportunity, they have a chance to be awarded additional vouchers.

Native American Direct Loan Program

VA Loan Guaranty Officers Bryant Lacey and Kimberly Girard presented updates on the NADL Program.

To date in FY2022, the NADL Program has conducted 24 outreach events, closed 12 loans, and signed a memorandum of understanding (MOU) with Ho-Chunk Nation. The interest rate has risen to 5.25%, which may be contributing to the lower number of loans compared to the previous fiscal year.

In April 2022, the U.S. Government Accountability Office (GAO) issued a report on ways to improve the NADL Program. The ten GAO recommendations pertain to data collection, performance measurement, planning, and the application of expertise to mitigate barriers to NADL use. In response to these recommendations and as a way to continue expanding use of the NADL Program, VA created a team dedicated to NADL. This team has created a toll-free phone number and a central inbox for Veterans to contact program staff. Currently, the team is updating outreach materials and conducting focus groups and interviews to learn more about barriers Veterans face to using the program. In early August, the team attended a housing conference in Alaska to better understand some of the unique challenges rural Alaskans face, including a difference in how lands are held compared to other states. Most NADL-eligible lands in Alaska are held by Alaska Native regional and village corporations, rather than held in trust. The team is continuing to conduct research on this issue and collaborate with the Alaska Native corporations to understand jurisdictional issues.

The draft Native American Direct Loan Improvement Act would help mitigate some of the identified barriers by expanding the program to enable Native American Veterans to use NADL to refinance existing mortgage loans from other lenders. This legislation would also require VA to provide funds to local service providers for conducting outreach, offering homebuyer education, and providing technical assistance to aid Veterans seeking to qualify for financing. Finally, it would initiate a pilot relending program under which Native Community Development Financial Institutions would relend funds to eligible homebuyers. VA is in support of this bill and has proposed several amendments, including the addition of home improvements as an allowable expense under NADL financing.

Chief Smith reiterated that the difference in Native American land holdings is a barrier for Native Veterans in Alaska. There is only one reservation in Alaska that is made up of trust land, with all other tribal lands held by 13 Alaska Native corporations that allot the land to individuals in their names rather than putting the allotments in trust.

Ms. Girard said that the NADL team is working with points of contact in Alaska to explore the options for NADL use there.

Mr. Lewis asked if the MOUs for the NADL Program are separate from or connected to what is in place with IHS. Ms. Girard responded that the MOUs for the NADL Program are between the tribe and VA and thus are separate from any tribal or VA MOU with IHS. Currently, VA has 110 MOUs in place with tribes. Tribes who are interested in establishing an MOU with VA can contact the VA NADL team.

Stephanie Birdwell, Director of the VA Office of Tribal Government Relations (OTGR), clarified that the NADL MOUs are under the authority of the Veterans Benefits Administration and pertain specifically to housing for Veterans on tribal lands, while the VHA-IHS MOU is a broad policy document of which reimbursement agreements are a chapter.

Angela Pratt noted that the online list of tribes with NADL MOUs needs updating. She described another barrier that results from requiring that land be in trust to be included under that program. When a tribe or a tribal citizen purchases land, the process of putting land in trust takes several years. She urged VA to work with DOI to help improve this process and thus provide more housing options under NADL.

Ms. Girard indicated that she will follow up on a previously submitted request to update the list of NADL MOUs. She also noted that the NADL team has been discussing with other federal agencies and will continue to explore other options for NADL use for home ownership.

Reyn Kaupiko said that in the January committee meeting, the committee raised several barriers related to the NADL Program, and the NADL team resolved those concerns within several months. He thanked the team for their efforts. He also expressed support for the pilot relending program and requested that VA keep the committee updated on what happens with the Native American Direct Loan Improvement Act.

Mr. Hill emphasized the importance of having a process in place for Native American Veterans to share their voices and for their experiences to be considered when VA enters into MOUs. He shared an instance in which a home was being built for a Veteran under the HUD-VASH program. That Veteran passed away during construction, and there was no clear direction on how to proceed. He urged VA to account for various outcomes such as this one in its MOUs with HUD and other federal agencies.

Ms. Girard agreed with the importance of incorporating the experiences and needs of individual Veterans and noted that the NADL team has centralized efforts for this reason. For example, they are currently developing standardized correspondence for implementation across loan centers.

Mr. Zwierlein observed that the greatest usage of NADL occurs in island communities and asked why usage is higher in these areas than in the continental United States. Mr. Lacey responded that most of the land on American Samoa and the Northern Mariana Islands is held in trust, making NADL one of the only available loan options in these locations. In Hawaii, tracts of traditional lands are interspersed

within major metropolitan areas, providing Veterans with greater access to employment compared to Native American Veterans in the continental United States.

Mr. Talas raised the issue of whether NADL funds can be used to renovate homes that already belong to a Veteran's family. Mr. Lacey clarified that the current provisions cover rehabilitation of a home located on tribal lands, if there is no lien on the home.

Mr. Kaupiko asked whether there are updates regarding the proposed expansion of the value Veterans can access for loans so that the amount they receive is more realistic for a home renovation. He pointed out that when homes are appraised, the value of the land is not considered, making the appraisal amount lower than the outside market value. Mr. Lacey said that VA has clarified that rehabilitation loans do not have a limit but that the home must appraise for the amount requested. For situations in which the appraisal amount is lower than the outside market value, appraisers would use a cost approach to understand the home's true value.

Adam Archuleta pointed out that HUD Section 184 loans are considered liens, meaning that if a Veteran has this loan and their tribe enters into an MOU for the NADL Program, VA will not approve funds for that Veteran to build or renovate a home. Mr. Lacey said the pending legislation would resolve this issue. Mr. Archuleta noted that in the event that legislation authorizes Veterans to transition from HUD loans to VA loans, a streamlined process will need to be developed for this transition. He recommended that VA establish an MOU with HUD to help simplify the process.

Mr. Lewis remarked that loans for tiny homes are classified under the RV park model, making these loans more difficult to obtain than home loans for much higher amounts. Mr. Lacey said NADL requires that a home be permanently affixed to a foundation, a minimum of 400 square feet, and considered safe, sound, and sanitary.

Mr. Hill asked if jobs are the only source of income considered for the income aspect of NADL, noting that jobs on tribal lands are often scarce. Mr. Lacey clarified that payments from VA disability, social security, and pension benefits qualify as income.

Chief Smith asks if a Veteran's spouse can take over the NADL loan if the Veteran passes away. Mr. Lacey responded that if the spouse is a tribal citizen, they can assume the loan. The tribe's NADL MOU specifies how the transfer of ownership works in the event of the Veteran's death. In some cases, a spouse who is not a tribal citizen may be able to assume the loan.

Ted Tenorio shared that California contains more than 110 federally recognized reservations, many of which are rancherias established by Spanish land grants. Many rural tribal citizens marry according to their traditional ways but do not file the accompanying paperwork. In these cases, when a Veteran passes away and their spouse reapplies for a loan, the federal government denies them because it does not recognize their marriage.

Ms. Girard said that what constitutes trust land and who can use the NADL Program are statutorily defined.

Tribal Representation Expansion Project Update

Shekeba Morrad, Staff Attorney for the VA Office of General Counsel (OGC), provided an update regarding T-REP. This OGC initiative, which aims to promote access to representation for Native American Veterans, began in the summer of 2021.

The initial intent of the initiative was to seek special authority to allow individuals to prepare, present, and prosecute VA benefits claims on behalf of Native American Veterans. The project has evolved as VA learns more from the tribes about existing resources and challenges. These insights include the following.

- Some states have Veterans Service Organizations (VSOs) that are already doing the work outlined under the T-REP project.
- Some tribes also have programs in place for addressing VA benefits claims and simply need to learn more about becoming accredited to represent Veterans. In some cases, tribes have access to a VSO that can represent their tribal Veterans, but often the representatives visit the tribe only once or twice per month.
- Funding for employing representatives is the greatest challenge tribes face regarding representation for claims.

VA is currently finalizing a memorandum of agreement with Vietnam Veterans of America (VVA), a national VSO, to provide training for T-REP. Seven tribes have requested training through VVA, and individuals from two tribes have completed the training.

In May 2022, the Navajo Nation Veterans Administration (NNVA) became the first VA-recognized tribal VSO. Several other tribes are in line to attain VA recognition, and VA anticipates recognizing at least two more tribal VSOs next year. Since their recognition, the NNVA has already filed 308 claims on behalf of Veterans.

T-REP outreach primarily consists of meeting with tribes individually to discuss representation. To date, OGC has engaged 16 to 17 tribes in discussion on T-REP. OGC plans to attend the upcoming NCAI and AFN events to further build relationships and conduct outreach and welcomes additional suggestions on how to conduct outreach.

Fred Urbina asked if the NNVA was established through a 638 contract. Mr. Zwierlein responded that Navajo Nation provides all funding for the program.

Mr. Archuleta said that tribes may be reluctant to become VSOs due to liability issues. He asked if there are assurances in place in the event that a Veteran is not satisfied with the outcome of their claim. He also pointed out that many tribes do not have the financial resources to seek accreditation as VSOs.

Ms. Morrad responded that while OGC is responsible for addressing any complaints against an accredited VSO, it does not handle private lawsuits that may ensue. She said that for tribes with fewer resources, accrediting a single tribal employee is a good avenue.

Chief Smith shared that he is having difficulty accessing the system to complete his tribal Veteran service officer (TVSO) training. Ms. Morrad said she will connect him with Terry Bentley, the OTRG specialist for his area.

Mr. Hill noted that Standing Rock Sioux Tribe TVSOs submit their paperwork to the state VSO, which forwards the information to VA. They have never encountered liability issues. He encouraged partnering with state VSOs or leveraging other systems that are already in place to simplify the process of submitting claims.

Ms. Birdwell clarified that 638 authority does not apply to VA. However, one option may be for the committee to recommend that BIA provide funding for tribes to use at their discretion to serve Native American Veterans. She pointed out that leveraging BIA’s existing funding mechanisms may be easier than requesting funds from VA, as VA does not offer programmatic funding—only reimbursements and direct payments to Veterans.

Chief Smith noted that medical providers charge Veterans to conduct examinations for nexus statements and pointed out that the expansion of T-REP will provide an avenue for free nexus statements. Ms. Morrad indicated she will follow up with Chief Smith about this issue, as there is a possibility that these charges are not permissible. She added that VA offers free examinations for nexus statements.

Fred Urbina remarked that contracting with tribes is a promising option for providing funding to tribes without needing to establish programmatic funding authority. He highlighted the U.S. Department of Agriculture as an example of a federal agency that has done so successfully.

Specially Adapted Housing

Terry Rouch, Assistant Director, Loan Policy and Valuation, and Jason Latona, Chief, Specially Adapted Housing, presented an overview of the VA specially adapted housing grants.

Though this funding is under the purview of the VA Loan Guaranty Service, it is grant funding rather than loans. These grants are designed to help disabled Veterans or service members purchase an adapted home or adapt their current home so they can live more safely and independently. There are five types of specially adapted housing grants, as follows.

Grant	Eligible Population	Maximum Funding Amount (as of FY2021)
Specially Adapted Housing (SAH)	Severely disabled Veterans who are experiencing any of these conditions connected to their service: <ul style="list-style-type: none"> • Loss of or loss of use of two or more limbs • Blindness in both eyes • Loss of or loss of use of one lower leg together with residuals of organic disease or injury • Certain severe burns Additionally, Veterans who have amyotrophic lateral sclerosis are eligible without needing to prove that their condition is connected to their service.	\$101,754

Special Housing Adaptation (SHA)	Disabled Veterans who are experiencing any of these conditions connected to their service: <ul style="list-style-type: none"> • Loss of or loss of use of both hands • Certain severe burn injuries • Certain severe respiratory injuries 	\$20,387
Temporary Residence Adaptation	Veterans who meet the disability criteria for SAH or SHA but reside temporarily with a family member and do not own their own home	\$40,983 (if SAH eligible) \$7,318 (if SHA eligible)
Veteran Readiness and Employment Independent Living Adaptation	Veterans who cannot work due to service-connected disabilities	\$93,356
Home Improvements and Structural Alterations	Veterans who have a medical need for home improvements and structural alterations	\$6,800

Veterans may use housing adaptation grants up to six times as long as the total amount awarded remains within the maximum funding amount for which they are eligible.

VA awards \$120 in funding each year across these grant programs. Since the inception of housing adaptation grants, VA has awarded more than 46,000 grants.

Often, finding available contractors with experience in accessible housing adaptations can be challenging for those living on tribal lands. Once a contractor is located, they must be issued a VA builder ID to participate in housing adaptation construction.

State Veterans Home Grants

Anna Gaug, National Program Manager, State Home Construction Grants Program, delivered a presentation on the State Veterans Home Grants Program.

The program provides grants for the construction and renovation of State Veterans Homes, which are owned and operated by states or tribes but subsidized by VA. The program is regulated by Title 38 Code of Federal Regulations (C.F.R.) Part 59. The authorizing legislation defines states as including tribal governments. Only states and federally recognized tribes are eligible to apply.

The State Veterans Home Grants Program is a cost-sharing program. VA provides awardees 65% of the full project cost, and the state or tribe must provide the remaining 35%. The minimum total cost for both shares is \$400,00. VA provides design guidance and facilitates compliance.

To determine which applications to fund, VA compiles a list of applicants and prioritizes them by project type and availability of state or tribal matching funds. Priority Group 1 includes applications for which matching funds are available. Priority Groups 2 through 8 comprise those with no matching funds. Within each priority group, applications are ranked by subgroups. The highest-ranking subgroup includes applications for addressing safety issues in existing facilities. The second subgroup contains applications for new construction in states that do not have existing State Veterans Homes. The subsequent

subgroups are ordered by level of bed need. If matching funds become available for an application in Priority Groups 2-8, the application moves to Priority Group 1 but remains in the parallel subgroup.

VA offers funding by ranking until the available funds are depleted. Unfunded applications roll over to the next year's list of applications. States and tribes must apply by April 15 to be considered for the following fiscal year.

Applicants are encouraged to use the VA Small House Design guide when constructing a new home. Unlike more traditional nursing homes, VA Small Homes are designed to look and feel residential and emphasize community. Research shows that this model of care increases residents' quality of life and generates better long-term outcomes for Veterans.

Ms. Birdwell noted that for tribal applicants, it will be important to first determine the number of State Veterans Homes operating within their state. The National Association of State Veterans Homes is a good resource for such information.

Angela Pratt asked if there are opportunities for a state and tribe to partner on a State Veterans Home application. Ms. Gaug responded that they could do so informally, but one entity would need to be the facility owner, and only that entity would receive the funding. The owner will be responsible for daily operational costs, since VA only funds construction and setup.

Mr. Kaupiko asked whether applicants would be responsible for funding the connection of utilities to facility property, such as the cost to run electricity to the property, and Ms. Gaug confirmed that the applicant would need to cover these costs.

Mr. Hill pointed out that tribes were consulted on the legislative change that included them in the definition of state for this program. He asked who VA contacted about cultural and traditional rooms and areas in these facilities.

Ms. Gaug responded that the legislative change originated from a Congressional mandate to consider tribes in the same manner as states, since they were not historically included in this program. Subsequently, VA conducted a tribal consultation period to gather input.

Mr. Lewis inquired about the average timeline for a proposed facility to come online. Ms. Gaug said the application process takes 1 to 3 years or longer if matching funds are not readily available. Altogether, the process spans approximately 5 years from application to the completion of construction.

Mr. Talas asked whether tribes are required to follow certain entrance criteria for tribally owned facilities. Ms. Gaug indicated that tribes can set their own criteria for who can reside there but would not be reimbursed for non-Veteran residents. Additionally, there is an overarching rule they must follow that requires at least 75% of residents to be Veterans.

Wrap-Up and Closing

Chairman Austin thanked Mr. Zwierlein and the subcommittee members.

Chairman Austin asked if the committee was amenable to setting a goal of finalizing six to eight recommendations by the end of the November committee meeting.

RADM Meeks suggested instead having the subcommittees submit draft recommendations during the November meeting and preparing several recommendations for submittal to VA by January.

Ms. Tetnowski expressed concerns about finalizing recommendations in November. She recommended finalizing them in the spring to provide ample time for refining draft recommendations. Chief Smith agreed with this recommendation.

Mr. Lewis noted that some committee recommendations will be longer-term than others. He recommended solidifying a few short-term recommendations during the November meeting and then moving on to refining the long-term recommendations.

Mr. Hill described outreach to Veterans as an overarching issue, noting that many Veterans—especially those in rural areas—are unaware of the resources and services available to them.

Chief Smith suggested that the committee develop a recommendation on preparing for the influx of claims that will result from the recently passed PACT Act.

Mr. Ward recessed the meeting.

Day 2

Tuesday, August 16, 2022

Opening Remarks

Mr. Ward welcomed the participants to the second day of the meeting. He called the meeting to order and conducted roll call.

Chairman Austin welcomed the attendees back to the meeting.

Mr. Hill provided an opening blessing.

Administrative Subcommittee Discussion

Rear Admiral Kevin Meeks facilitated the discussion on the Administrative Subcommittee. Members of the subcommittee include:

- Chairman Jack Austin
- RADM Kevin Meeks, Subcommittee Chair
- Manaja Hill
- Reyn Kaupiko
- Angela Pratt
- Ted Tenorio
- James Zwierlein

To date, the subcommittee has met three times: on April 19, May 17, and June 23, 2022. The Administrative Subcommittee is tasked with reviewing draft recommendations to ensure consistency and proper formatting, examining the VA tribal consultation policy, and reviewing current and future legislative and executive initiatives affecting Native American Veterans. The subcommittee's primary priority thus far has been reviewing the tribal consultation policy. They will present key discussion points on the revision of the policy at the next committee meeting.

RADM Meeks suggested that the committee aim to develop at least a few recommendations by the end of the November committee meeting to convey a sense of urgency to VA.

White House Council on Native American Affairs

Daron Carreiro, Senior Policy Advisor for Native Affairs, Domestic Policy Council, offered updates regarding the White House Council on Native American Affairs. Established through Executive Order by President Obama in 2013, the council comprises Cabinet Secretaries and other heads of federal agencies and offices. Day-to-day work is carried out by staff across federal departments and agencies. The council meets three times per year. One of these meetings is an annual tribal nation summit, during which the council presents on its deliverables. This year, the council anticipates holding an in-person summit in November in Washington, DC. A key function of the summit is to keep federal agencies accountable to tribes regarding goals they previously committed to. During the summit, the council conducts virtual tribal engagement sessions at the national level. These sessions are a forum for open-ended conversations about federal policy between federal and tribal leaders.

Last year, several Executive Orders and Memos affecting tribes were announced at the summit, including the Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships; Executive Order on Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People; and Executive Order on the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities. This year, the council is focusing on implementing these directives. For example, they have conducted more than 100 hours of tribal consultation regarding strengthening government-to-government engagement.

Chief Smith motioned to add a section to the committee charter enabling technical advisors to join the committee proceedings. He noted that technical advisors provide valuable advice and guidance to the tribal representatives. Mr. Lewis seconded the motion.

Jeffrey Moragne, Committee Management Officer, said that this committee is a statutory committee established by Congress and signed into law by the president. Amending the charter would require congressional and presidential approval. He clarified that the committee already has the capability to include technical advisors in subcommittee activities, as permitted under FACA.

Ms. Birdwell pointed out that while technical advisors are welcome to participate, the committee would need to discuss how to fund their travel to in-person meetings. VA cannot fund the technical advisors' travel, nor can the agency compensate paid consultants for their time.

Mr. Lewis said he would like to assess the committee charter to determine if it aligns with what tribes requested. He asked if VA had conducted tribal consultation on the committee charter, and Ms. Birdwell responded that the agency did not. She said VA can conduct tribal consultation on this issue if desired but would not be able to adopt any feedback that conflicts with FACA.

Ms. Birdwell remarked that aligning the committee's recommendations with the council's policy deliverables would be an impactful approach. Mr. Carreiro agreed and noted that the committee should drive the VA priorities, which the council will then be charged with delivering.

Mr. Hill said that in rural areas, it is difficult for Veterans to find a provider to conduct their compensation and pension evaluations. He asked if IHS can perform those evaluations and be reimbursed by VA. He stated that the overlap created by the VA-IHS MOU often fails to benefit Veterans, pointing to Native American Veterans needing to pay IHS for these evaluations as an example.

He emphasized the importance of discussing items, such as the MOU, in person to ensure tribal and Veteran voices are heard and incorporated.

Office of General Counsel

Richard Hipolit, Principal Deputy General Counsel, presented updates on behalf of the Office of General Counsel (OGC). The general counsel is a political appointee with three deputy general counsels. OGC comprises 16 law groups, an ethics specialty team, and a management analysis group. Oversight of these groups is divided among the deputy general counsels.

Mr. Hipolit said he will share with the benefits law group Mr. Hill's suggestion to conduct compensation and pension exams through IHS.

Mr. Hipolit reported that OGC aims to continue accrediting tribal organizations and individuals to increase representation for Native American Veterans. In support of expanding NADL, the OGC team has been working to establish communication with legal experts who are familiar with lending issues and legal obstacles in Indian Country. Other current efforts include reviewing the VA tribal consultation policy alongside OTGR.

RADM Meeks remarked that the VHA-IHS MOU should promote staff sharing between and carry the authority for local VA offices or facilities to assign an individual to represent Veterans regarding their claims. Chief Smith agreed that the agencies need to continue to work toward removing siloes and collaborating more effectively.

Mr. Hipolit noted that the MOU is a policy document, not a transactional one. It provides a framework for partnership but does not operationalize nor articulate the details of partnership activities. Additional agreements may be needed for such an arrangement.

Ms. Birdwell added that VA and IHS are developing an operational plan, which will implement certain partnership activities. RADM Meeks asked if the committee can join the conversation regarding the operational plan, and Ms. Birdwell confirmed that they are welcome to participate.

Chief Smith observed that VA frequently relies on listening sessions to obtain tribal feedback on policy. He urged VA to rely more on government-to-government tribal consultation instead and to coordinate with the committee on revising the tribal consultation policy.

Ms. Birdwell noted that establishing regional MOU workgroups to define issues affecting Veterans could inform potential MOUs between VA and tribes to further define how to serve Veterans at the local level. Mr. Hipolit agreed and stated that he would like to discuss this idea further with OTGR. Chief Smith shared that the Alaska Native Health Consortium entered into an MOU with VA that helped area Veterans tremendously. Many Veterans can now receive care closer to home from their usual providers and avoid costly and time-consuming travel.

VA Tribal Consultation Policy

Ms. Birdwell presented information on VA's current efforts to update the tribal consultation policy.

VA first adopted a tribal consultation policy in 2011. In 2020, the committee was established, and the authorizing statute states that the committee will carry some responsibility for tribal consultation. Around the same time, President Biden issued a memo requiring federal agencies to consult with tribes

making their tribal consultation processes more effective. VA conducted this tribal consultation in 2021 and subsequently submitted a plan to OMB for strengthening the VA tribal consultation approach.

On an ongoing basis, OTGR works to raise awareness within VA about the importance of appropriate tribal consultation. The office also communicates relevant information to tribes and Native American Veterans according to VA's strategic communications plan.

Mr. Zwierlein asked how OTGR determines to whom they address Dear Tribal Leader letters. Ms. Birdwell responded that OTGR addresses the letter to the elected or appointed tribal leader reflected on the BIA list of tribal leaders. In addition, the team posts information on the VA website and leverages partners such as NCAI to spread the information.

Mr. Hill said copies of the letter should also be addressed to the appropriate points of contact who handle tribal Veterans' affairs. He recommended also sending these letters to intertribal health boards, such as the Great Plains Tribal Chairmen's Health Board.

Mr. Ward responded that VA would like the committee's assistance in identifying appropriate points of contact for outreach as well as other organizations who should be included.

Ms. Birdwell shared several further updates from OTGR. As the co-chair of the White House Council on Native American Affairs Health Subcommittee, Secretary of Veterans Affairs Denis McDonough offered remarks during the council's tribal nations summit, at a nation-to-nation dialogue regarding VA's efforts to fight COVID-19, and during the NCAI annual conference. In addition, he engaged in listening sessions and town hall meetings with White Earth Nation and Navajo Nation in accordance with requests from tribal leaders and Veterans. Ms. Birdwell highlighted that while government-to-government engagement is essential, informal engagement through listening sessions offers individual Veterans an opportunity to share their concerns and challenges. Recent policy deliverables achieved by VA through the council include implementation of the new VA Office of Tribal Health and the addition of urban Indian organizations as entities eligible to receive reimbursement from VA. For this year's summit, OTGR is suggesting a policy deliverable in the form of a mandate that VA work more closely with urban Indian organizations to address homelessness among Veterans.

In response to a comment from Mr. Urbina, Ms. Birdwell said she will work with Mr. Carreiro to align the next committee meeting with the upcoming summit to the greatest extent possible.

Ms. Birdwell indicated that VA will need to identify a deliverable related to Indigenous languages, per a presidential focus on language revitalization. Chief Smith said that culture and language are inextricably linked. Mr. Urbina emphasized that it is important to employ frontline health care workers who can speak Veterans' Indigenous languages. He also suggested including the history of code talkers from various tribes when determining the VA policy deliverable regarding Indigenous languages. Ms. Birdwell added that displaying signage at VA facilities in both English and the local tribe's Indigenous language demonstrates respect for culture.

Mr. Hill highlighted the importance of culture in serving Native American Veterans. He shared that Standing Rock Sioux Tribe previously operated an equine therapy program that shut down due to VA's concerns about liability. He urged VA to prioritize establishing homeless shelters on tribal lands as a first step to providing culturally competent supports.

Office of Congressional and Legislative Affairs

Tommy Elms, Congressional Relations Officer, Office of Congressional and Legislative Affairs (OCLA), provided a brief overview of the office's purpose. OCLA is responsible for facilitating VA's interactions with Congress and serves as the point of contact for any issues regarding congressional oversight. In addition, OCLA guides and coordinates the development of VA legislative priorities.

Chief Smith noted that Congress direct VA to submit a congressional report on the activities of the committee 2 years after the inaugural committee meeting. He inquired about the progress of the report and when the committee will have the opportunity to review it. Mr. Elms responded that OTGR is responsible for drafting the report, and OCLA will review it. He said they will work with the committee to facilitate a review once the draft is ready. Ms. Birdwell said that the report has not yet been drafted yet because the committee has not yet issued any recommendations.

Ms. Tetnowski asked whether the committee will have a chance to review the annual reports submitted to GAO and provide input. Mr. Elms said that the committee should share any recommendations with Ms. Birdwell, who will forward them to OCLA.

Public Comment Session

Mr. Ward indicated that VA did not receive any requests for the presentation of public comments.

Upcoming Committee Meeting

The committee discussed and agreed upon November 9 to 11, 2022 as the dates for the next committee meeting. They will convene in person in Washington, DC. The meeting will take place during the first 2 days, and on the third day, the committee will participate in the procession for the National Native American Veterans Memorial dedication ceremony.

Mr. Talas and Mr. Archuleta remarked that it would be helpful for all three VA administrations to be present to hear the committee's input.

Mr. Talas asked about the procedures for the committee to vote on draft recommendations. Mr. Moragne said the committee has a high degree of flexibility in how they conduct voting. He suggested having subcommittee chairs present their draft recommendations in writing and discussing, deliberating on, and voting on those draft recommendations during committee meetings. Consensus is preferred, but a recommendation can be forwarded if the majority of the committee votes in favor of it.

Chairman Austin indicated that he would like for the committee to finalize a few recommendations in November and put forward some additional, longer-term recommendations in the spring. Mr. Moragne encouraged the subcommittees to refine the draft recommendations as much as possible to ensure a smooth deliberation process.

Closing

Chairman Austin recessed the meeting.

Day 3

Wednesday, August 17, 2022

Opening Remarks

Clay Ward welcomed attendees to the final day of the meeting and called the meeting to order. He then conducted roll call.

Chairman Austin welcomed the participants to the third day of the meeting.

RADM Meeks provided an opening prayer.

Susan Jurica, Associate Director for Patient Care Services, VA New Mexico Health Care, greeted the participants and thanked them for their involvement. Terry Obago, Program Manager for the VA Albuquerque Region, also provided opening remarks.

Health Subcommittee Discussion

Ms. Tetnowski led the discussion regarding the subcommittee's priorities and draft recommendations.

The committee has met on three occasions: April 20, May 19, and July 13, 2022. Initially, they identified 12 priority areas and have since narrowed these items to five priorities. These include the following.

1. Addressing homelessness as a health disparity
 - Interim recommendation 1: Request VA data about current Stand Down efforts and pre-Covid19 numbers of Stand Downs and projections for future Stand Downs, to include identifying what outreach was provided at these Stand Downs.
 - Interim recommendation 2: Joint meeting and recommendations with the VA Homeless Advisory Committee.
 - Interim recommendation 3: Include in the SP an increase in Stand Downs by 5 % in Tribal and Urban areas.
 - Interim recommendation 4: Provide transportation and funding to Stand Down locations.
2. Behavioral health and suicide prevention
 - Interim recommendation 1: Request VA data about steps taken to gather data on Veteran Suicides that occur on tribal lands and in Urban communities.
 - Interim recommendation 2: Create a trending chart with in the GAO VA High Risk List Action Plan: Managing risks and Improving VA Health Care.
3. Access to cultural healers and natural helpers
 - Interim recommendation 1: Make Spiritual Healers a billable service
 - Interim recommendation 2: Include Spiritual Healers in the reimbursement agreements
 - Interim recommendation 3: Treat AI/AN spiritual leaders with the same level of respect and professionalism as the Chaplin Program
4. Reimbursement Agreement Program
 - Interim recommendation 1: Increase the number of tribes, tribal programs, and Urban Indian Health Program's into the VA Reimbursement agreements by 5% each year.
 - Interim recommendation 2: Establish a trending chart to improve claim dispute resolution.
 - Interim recommendation 3: Create Trending Chart to monitor claims sent to collections.

5. Referrals from tribal or urban programs

- Interim recommendation 1: Establish secure portal to transfer tests, notes, and images to eliminate duplication by Q2 2023.
- Interim recommendation 2: Establish an annual evaluation of PRC, Referral, and reimbursement agreements by Q3 2023.
- Interim recommendation 3: Establish advancement and/or reimbursement for Veterans who cannot travel same day to appointments – establish a clearing house by Q4 2023.

Additional interim recommendations that did not fit under the above categories are as follows.

- FY 2022 Annual Performance Plan and Report (APP & R) Goal 1 Veterans receive reliable integrated care Objective 1 – VA Enhances Veterans wellbeing and Independence.
- Interim recommendation: Expand the Whole Health training program to establish a pilot program that includes tribal and urban Community Outreach and wellness workers. Goal of 40 participants in the 3-week program.
- GAO – VA High Risk List Action Plan Update May 2021: Managing Risks and Improving VA Health Care. Oversight and Accountability 4 & 5.
- Recommendation: Leadership and oversight objective to be included in all SES Performance Plans and waterfall to the VISN Leadership and Medical Center Directors to have Cultural Competency training goals and operational awareness of G2G requirements.

Members of the subcommittee include:

- Sonya Tetnowski, Chair
- Adam Archuleta
- Reyn Kaupiko
- Nickolaus Lewis
- Admiral Kevin Meeks
- Galyn Minkel
- Chief Bill Smith
- Ted Tenorio

VA Homeless Programs Community Engagement

Anthony Love, Senior Advisor and Director of Community Engagement, VA Homeless Program Office, provided an overview of VA homeless programs, which applies evidence-based practices and partners with other government entities to provide access to permanent supportive housing for Veterans. Wrap-around supports that promote housing stability and improve Veterans' quality of life are a key component of keeping Veterans housed.

Between 2010 and 2020, the number of Veterans experiencing homelessness decreased by approximately 50%. That decrease has slowed, with a slight uptick in homelessness during 2020. Thus, Secretary McDonough has prioritized a renewed focus on ending Veteran homelessness. In 2020—the most recent year for which data is available—there were more than 37,000 homeless Veterans,

representing 8% of all homeless adults. Native American and Black Veterans were overrepresented within the population of homeless Veterans.

Homelessness is a health disparity that correlates to shorter life expectancy, higher morbidity, and greater usage of acute hospital services. Long-term homelessness further exacerbates poor health, since recovery and healing are difficult without housing. Stable housing that provides privacy, safety, and a place to recuperate from surgery and illness is a social determinant of health that directly affects health outcomes. Inpatient hospitalization does not have lasting benefits for those who return to homelessness after hospitalization.

Programs available to provide housing services for Native American Veterans include NADL, SSVF, and Tribal HUD-VASH, which has nearly 30 participating tribes. VA has also funded projects for Oglala Sioux Tribe and Fort Peck Assiniboine & Sioux Tribes to construct or improve upon homeless Veteran shelters.

Mr. Hill asked what kinds of evidence-based practices have been developed for tribal lands. Mr. Love indicated he will gather information on specific practices that have been developed.

Ms. Birdwell noted that the U.S. Department of Labor has a reintegration program for homeless Veterans. Mr. Love said he will gather information on the tribal grantees of this program.

Mr. Lewis proposed holding a committee meeting in August in the Portland area with a special focus on homelessness.

Cultural Healers and Natural Helpers

Dr. Ben Kligler, Executive Director, Office of Patient Centered Care and Cultural Transformation, and Chaplain Chad Maxey, National VA Chaplain Service, delivered a presentation on cultural and spiritual components of care.

Dr. Kligler described VA's focus on prioritizing whole health, which is an approach to health care that empowers and equips people to take charge of their health and well-being. This approach acknowledges variation among individuals, prioritizes what is important to each Veteran, and places the patient at the center of their own care.

Chaplain Maxey shared that the primary purpose of the National VA Chaplain Service is to provide spiritual and religious care for Veterans and protect their rights to practice their spirituality. VA employs approximately 750 chaplains, most of whom are based in VAMCs. Spiritual care screenings, which any VA staff member can administer, consist of a single question designed to identify if a Veteran has spiritual concerns that affect their health, desires spiritual care, or needs accommodations to freely exercise their spirituality or religion. If the Veteran responds affirmatively, a chaplain conducts a spiritual assessment and then guides the Veteran in developing a spiritual care plan. The National VA Chaplain Service maintains a list of community-based faith providers who can provide services for faith groups not represented by VA chaplains.

Mr. Zwierlein asked if VA chaplains are connected to active duty and reserve chaplains, and Chaplain Maxey responded that they are not formally linked.

Mr. Zwierlein said that in many cases, service members who receive spiritual care while during their service are more likely to overcome adverse effects of service and tend to require less treatment after service. He further noted that in the Navajo area, many faith providers require compensation and are

reluctant to enter into contracts. He asked if a mechanism is in place for compensating faith providers in such instances. Chaplain Maxey said that contracting is currently the only mechanism for compensating these providers.

Mr. Hill asked if documentation from the spiritual assessment becomes part of the Veteran's health record, and Chaplain Maxey confirmed that it does. Ms. Tetnowski remarked that some Veterans may be apprehensive about having their spiritual services documented within their medical records. She suggested that the subcommittee consider proposing a recommendation around this issue. Chaplain Maxey said that to continue demonstrating the need for spiritual services, there must be documentation of requests for these services. However, the recorded information is typically kept brief.

Mr. Hill inquired about the qualifications for becoming a VA chaplain. Chaplain Maxey listed the requirements as including a Master of Divinity degree with a specialization in theology, completion of four units of clinical pastoral education, and board certification through a chaplaincy organization. However, Veterans are still encouraged to access other spiritual leaders who are not chaplains.

Mr. Hill also noted that many Native Americans have been traumatized by Christianity. Chaplain Maxey clarified that spiritual care does not reflect the beliefs of the chaplains, but rather, focuses on the Veterans' stated needs.

Mr. Lewis pointed out that religious views vary across regions and even individual tribes. He encouraged VA to engage in outreach to better understand different spiritual and religious practices in Indian Country.

Ms. Birdwell noted that VA has provisions for reimbursing traditional healing under the reimbursement agreement program.

Mr. Kaupiko reported a lack of awareness among VA chaplains about their responsibility to provide services in the Pacific Islands. He urged VA to raise awareness among chaplains about the areas they are expected to serve.

Discussion with Dr. Leonard Thomas

Dr. Leonard Thomas, Area Director for the Albuquerque Area Indian Health Service, engaged in an open-ended conversation with the committee.

Questions and issues raised by committee members during the discussion included the following.

- Prohibitive travel distances for Veterans to receive care and low travel reimbursement rates
- How IHS uses the reimbursements it receives from VA
- IHS' approach to traditional healing

Chief Smith said that VA is responsible for training clinics on how to properly file reimbursement claims. A mandate is in place stating that Native Americans do not have to provide a copay, but this exemption has not been fully implemented; IHS is still covering those copays.

Reimbursement Agreement Program

Kara Hawthorne, Program Manager, Office of Integrated Veteran Care, provided an update regarding the Reimbursement Agreement Program.

The VA Reimbursement Agreement Program (RAP) with the Indian Health Service/Tribal Health Programs/ Urban Indian Organizations (I/T/Us) provides a means for I/T/U health care facilities to receive reimbursement from VA for direct care services provided to eligible Native American Veterans. In 2022, the RAP expanded to include urban Indian organizations, and efforts are underway to include purchased referred care as well.

Chairman Austin asked if there is a timeline for sharing the agreement template with the committee for review. Ms. Hawthorne said she will share the template with the committee within the next week. VA is also planning to conduct tribal consultation on the document and would like to hold a subsequent virtual call with the committee.

Mr. Hill asked if compensation and pension exams are considered direct care. Ms. Hawthorne said that these exams are outside the scope of the RAP. VBA initiates the process and refers the Veteran to VHA to receive care.

Chief Smith recommended that VA increase dispensary fees to make them adequate for tribal pharmacies.

Committee Recommendation Process

Mr. Moragne explained the process VA uses to forward committee recommendations to the VA Secretary. Once the committee has finished drafting the recommendations, they send them to the DFO, who then shares the document with teams across VA for review. VA will provide an accompanying response for each recommendation that indicates whether they concur, non-concur, or concur in principle. Concurrence should be the goal. Concurrence in principle means that similar efforts are already in place. Reasons for VA's stance will be explained within the responses, including anticipated timelines for the completion of efforts that are already in place and which prompted a response of concurrence in principle. VA aims to complete their review in 120 days and will then forward the recommendations to the VA Secretary. After reviewing, the Secretary releases the document back to the committee with an action plan included for each item with which VA concurs. Congress also receives this response.

Mr. Moragne recommended that the committee explain the significance of each recommendation and use stories to make them memorable. He said he will provide the committee with examples of previous, well-written advisory committee reports.

Closing

Chairman Austin reminded the committee of the upcoming committee meeting dates: November 9 to 11.

Chief Smith provided a closing blessing.

Mr. Ward adjourned the meeting.