

Interagency Collaboration Veterans Justice Outreach– HTWC Navajo Nation

2016 Tribal Healing to Wellness Court
Enhancement Training
September 28, 2016

Returning Combat Veterans

- ▶ Large number of combat veterans (17%) developing PTSD and other mental illnesses that go untreated, placing them at higher risk for involvement in the Justice System



Target Population: Veterans

- Service Connected Veterans – receive services through VA for wide range of programming including supportive housing, loans, medical, dental
 - These veterans must first be designated as “service connected”
 - Administrative process may take years, and assistance from legal advocate or Veteran Service Officers (in NM: New Mexico Department of Veterans services in Gallup and Farmington)
 - Served by VA and their contractors
- Non-service connected Veterans:
 - Veterans who have not yet applied for VA benefits, still going through administrative processes
 - Veterans who do not have any injuries that were service connected
 - Served by Indian Health Services or other providers

Service Connected Veterans

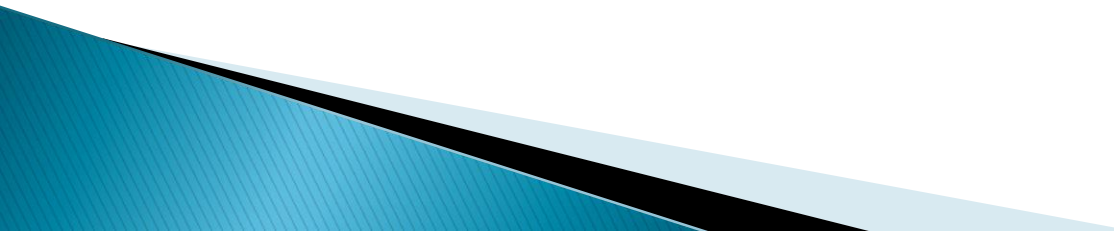
- ▶ “Service-connected” means the disability was a result of disease or injury incurred or aggravated during active military service. These disabilities are evaluated according to the Department of Veterans Affairs’ (VA) Schedule for Rating Disabilities in Title 38, U.S. Code of Federal Regulations, Part 4. Ratings are graduated according to the degree of the veteran’s disability on a scale from 0 to 100 percent, in increments of 10 percent. Zero percent is a valid rating and is different than having no rating at all. According to the VA, a zero-percent rating means a disability exists and is related to the veteran’s service, however it is not so disabling that it entitles the veteran to compensation payments.
- ▶ *2009 Evaluation of New Content on the 1008 American Community Survey, Service-Connected Disability Status and ratings, Kelly Ann Holder, Industry and Occupation Statistics Branch, Housing and Household Economic Statistics Division, U.S. Census.

http://www.census.gov/hhes/veterans/files/scd_research_note.pdf

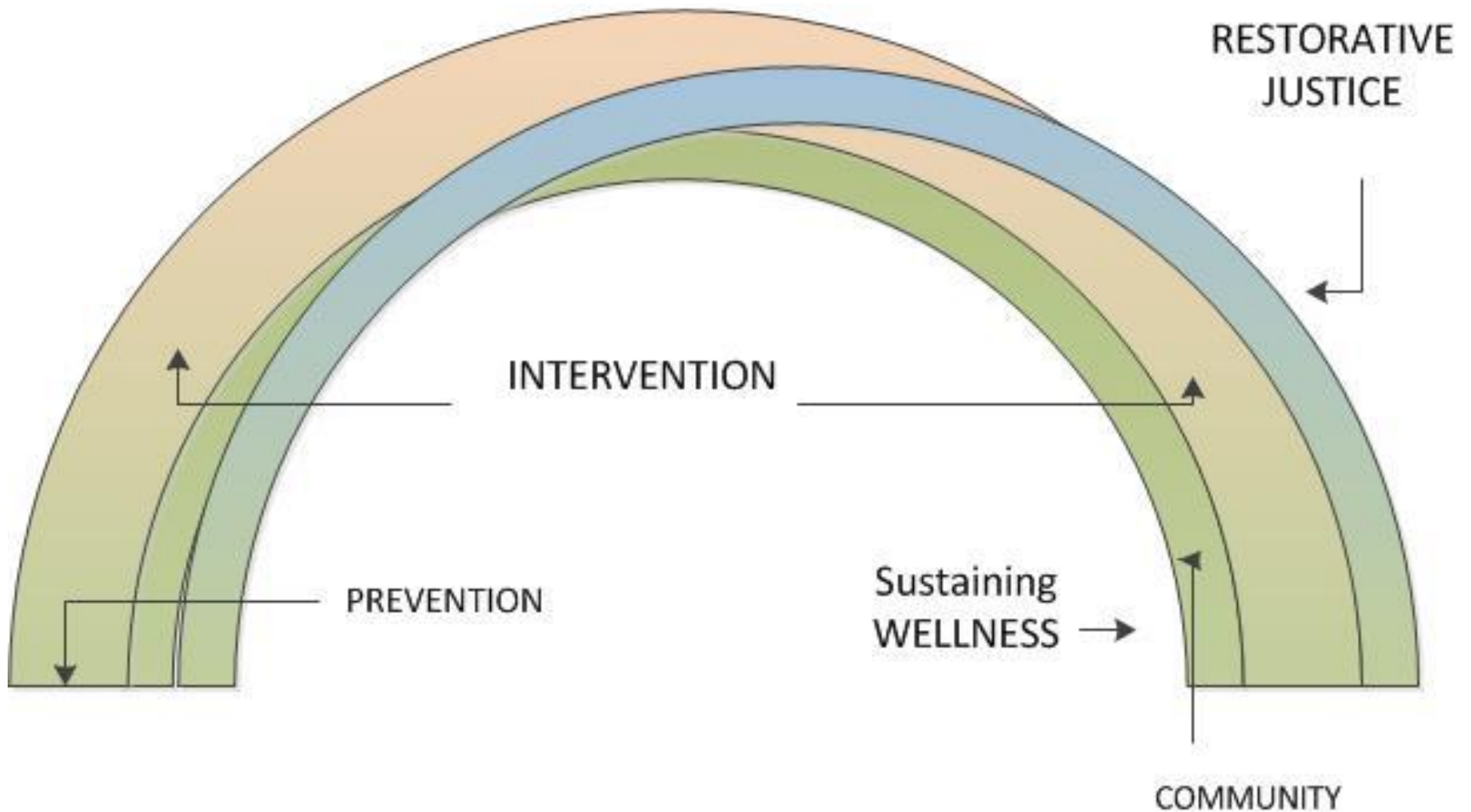
Trauma Informed Behavioral Health and substance Abuse Jail Diversion

- Not a specific “Veteran’s Court” but is a Jail Diversion project– “Outreach”
- NM: New Mexico Veteran’s First – Peer and Family Support Project (SAMHSA)
 - Will serve “non-service-connected” veterans
 - Will serve all veterans and families
 - Peer program
 - Supportive housing
- FEDS: Veteran’s Administration Justice Outreach Initiative – NM, AZ, UT
 - Will only serve service-connected veterans
 - Outreach to potential service connected veterans to apply for benefits

Veterans Justice Outreach

- Courtesy Supervision – Probation and Parole Services
 - Culture based programming – coordination of services for vets and families – Peacemaking Services
 - Data collection through Justware – District Courts
 - Outreach and Services in local communities – Invite the outreach specialists to your community for presentations. Information, referrals
 - Connect them with local veterans groups that you know of to assist them with outreaching to Navajo Vets
 - Specialty Courts like Healing To Wellness Drug Court and Community Court can assist both programs with coordination of services and technical assistance in Navajo Nation
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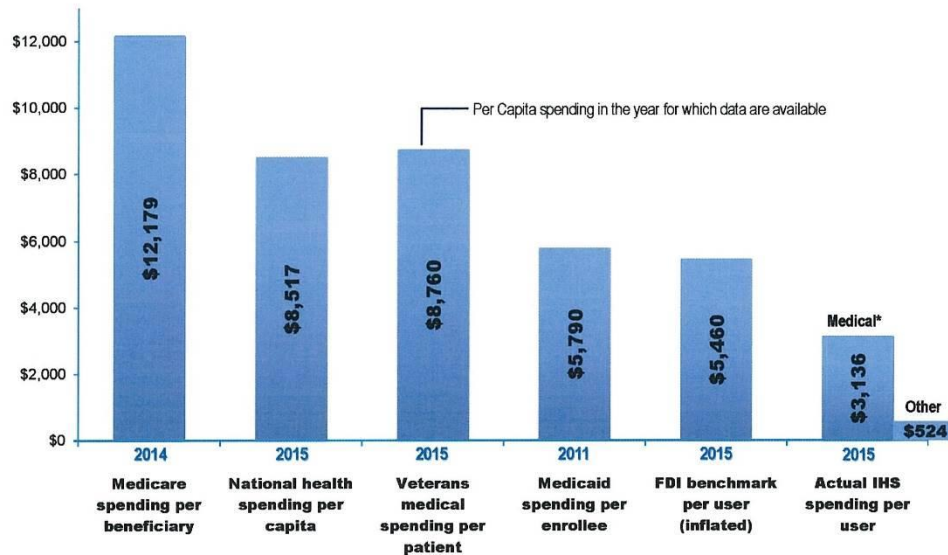
Continuum of Care-Wellness



Underfunded I.H.S. System



2015 IHS Expenditures Per Capita and Other Federal Health Care Expenditures Per Capita





Tribal Courts

Prevention

Veterans Benefits Fairs & Gourd Dance

- March, 2016 – Navajo Technical College
- June, 2016 – Operation Veterans Wellness with Gourd Dance
- Collaborations – “Military Support Group”
- Non Profit organization, veterans, families, MCOs, Judicial Branch, NM Veterans Rural Health coordination project, Navajo Behavioral Health, City of Gallup, NM Human Services Department,

2016 Gourd Dance Gallup -500 in attendance



Military Support Group



New Mexico Dignataries



Building Peer Support in Rural Areas

- Veterans Benefits Fairs – building a contact list of veterans
- Navajo Area Indian Health Services Behavioral Health and Navajo Nation DBHS- working with veterans (I.H.S. – VA MOU) - Veterans Breakfast
- Self Care Guide – due to lack of rural mental health professionals and large distances to “local” VA
- Navajo Veterans Organizations in 110 chapters
- Navajo Veterans Act of 2016

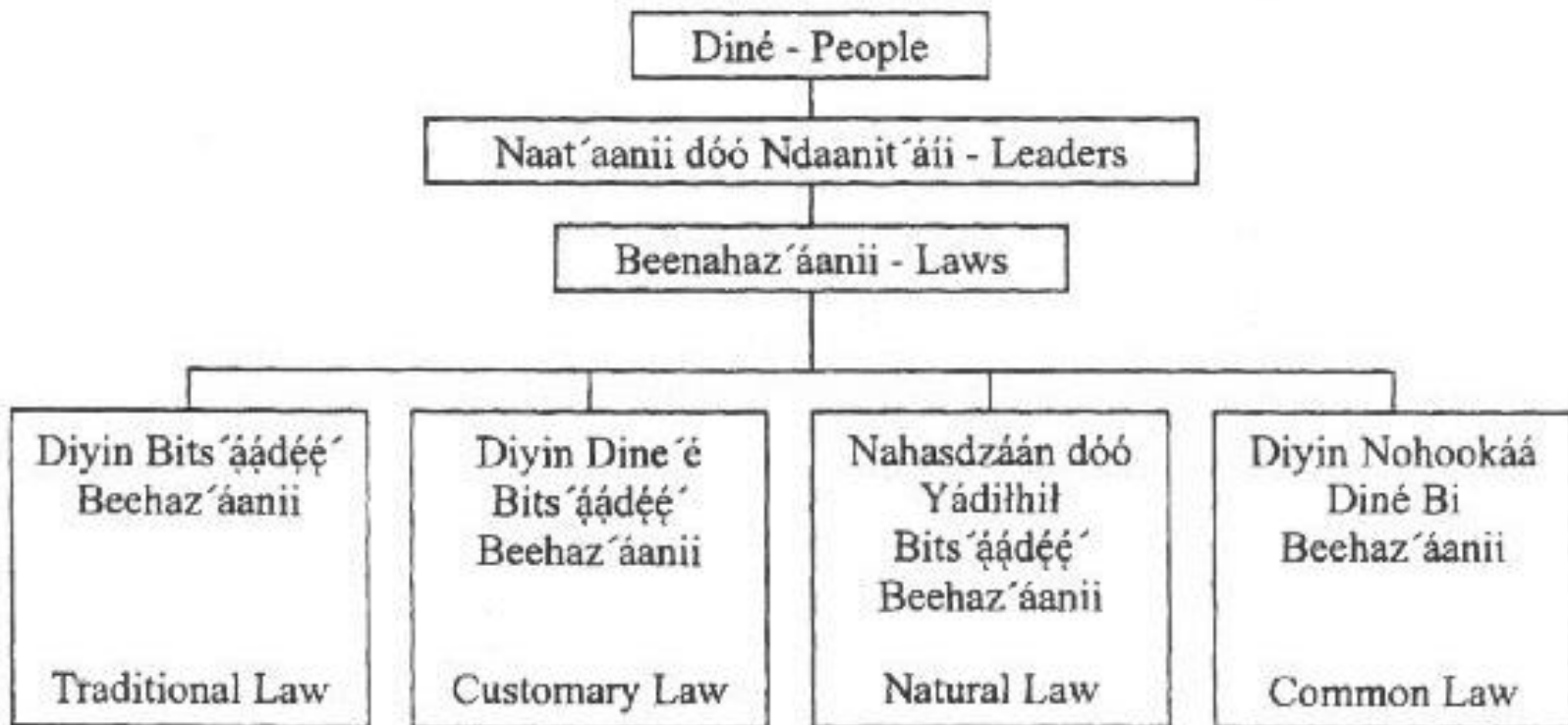
Consultation with VA

- Including Tribes in the federal policies to process claims (just as states are allowed to do)
- Trauma informed care
- Culturally appropriate care
- Working with tribal courts to develop culturally appropriate care for justice involved veterans both in on and off reservation jurisdictions (military culture and Native culture)
- Reduce suicides. Fund Peer Support projects in Indian Country



Dine Bi Beenahaz'aanii:

Diné Original Law Structure



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Tribal Courts - Jurisprudence

- “Resiliency is based on Fundamental law”, former Chief Justice Herb Yazzie. “All of you have a responsibility under that fundamental law to think of the next generation and the next generation down the line. Its your job to learn what fundamental law is and pass it on. Compare that to the other value systems where most of the statutory law is based on in other societies.”
- “There is another system of dispute resolution. The Navajo system utilizing Navajo law, utilizing Ke, Harmony. We need to change our current system. We will be subjected to this destructive system on our way of life if we continue to utilize this western system of justice”. Chief Justice Yazzie.
- Choice of law for tribal courts: Navajo Nation provisions have left overs from the CFR courts and are not rooted in Navajo culture, former Associate Justice Raymond D. Austin, author of “ Navajo Courts and Navajo Common law”
- “The goal of customary law and Navajo law is to go back to the foundational doctrines that Navajo society had in their culture and religion,” Justice Austin.

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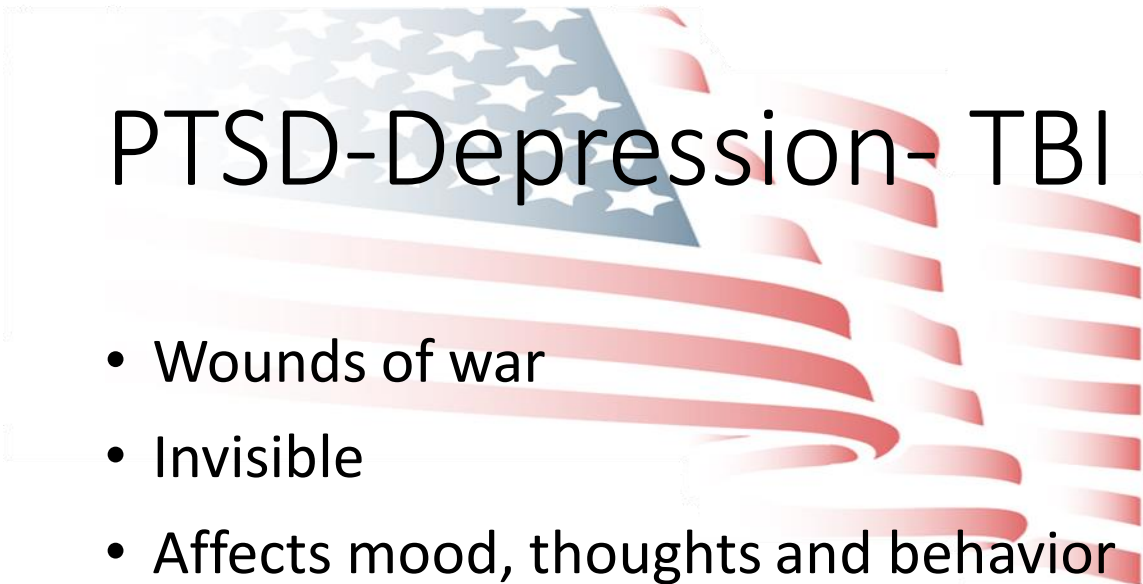
Tribal Courts - Jurisprudence

- UNM Law Professor: Dr. Christine Zuni Cruz:
- Navajo Nation legislature, judiciary and the Navajo Nation Bar Association have done notable work to create a body of common law, for indigenous legal tradition, emphasizing the importance of indigenous people. Tribes vs. “state” status.
- “Legal imperialism” – when the federal government offers full jurisdiction if tribes give up their indigenous framework of justice or their indigenous legal tradition
- Tribes as “mini states” vs. indigenous sovereign courts

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Sovereign to Sovereign Relationship

Tribal Governments and
Federal Agencies

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PTSD-Depression- TBI

- Wounds of war
- Invisible
- Affects mood, thoughts and behavior
- Unrecognized and unacknowledged
- These wounds require a system of care that fully addresses the needs of the Veteran
- Native American Veterans, post deployment, have their health related needs primarily provided by the Indian Health Services
- Source "Invisible Wounds of War", Rand report, 2008.
<http://justiceforvets.org/sites/default/files/files/RAND%20invisible%20wounds%20of%20war.pdf>

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Indian Self-Determination and Education Assistance Act (1975)

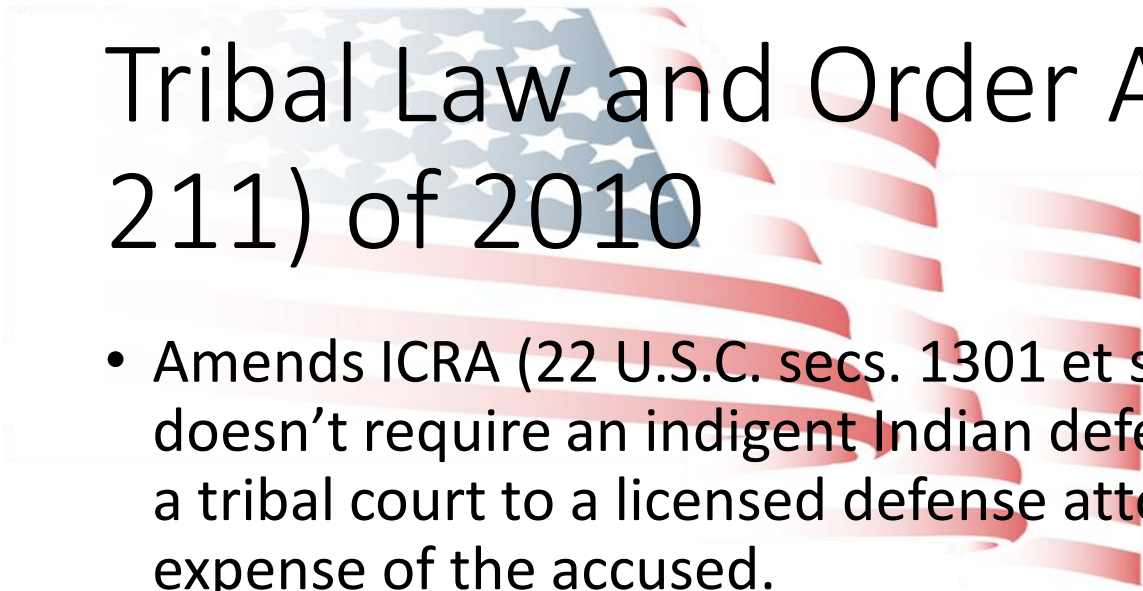
- Nation to Nation relationship between the U.S. and Tribes was recognized
- Self determination and self governance
- Amended in 1992, to authorize a Tribal self governance Demonstration Project within the I.H.S. giving federally recognized Tribes the option of entering into self-governance compacts to gain more autonomy in the management and delivery of their health care programs.
- 2000- was permanently authorized by the I.H.S. Tribal Self-Governance Program by creating Title V of the ISDEAA through P.L. 106-206
- Jan. 2015- the I.H.S. and Tribes have negotiated 85 self governance compacts that are funded through 111 funding agreements for 350 of 566 federally recognized tribes. \$1.8 billion of the I.H.S Budget (40%).
- Source: <https://www.ihs.gov/aboutihs/legislation/>



Navajo Nation Justice System

- Navajo Nation Bar Association, allows for tribal court advocates and law trained attorneys to practice before the tribal courts
- Relevant laws – Restorative Justice model. Western – Traditional courts:
 - Dine Bi Binahazaani – Fundamental law –codified in Navajo and English Title 1
 - Navajo Nation Bill of Rights
 - Navajo Nation Alchini Bi Beehazaani Act of 2011
 - Navajo Violence Against Family Act
 - Navajo Vulnerable Adult Protection Act
 - Amendments to Title 17 (2014) (rehabilitation, recoupment of costs, some mandatory jail time, nalyeeh, restoration of harmony, electronic monitoring) existing provisions still stand for exclusion
 - Domestic Abuse Protection Act (Pro se filings)
- Public Defender systems
- Rules of court- evidence, criminal procedure, children's cases, etc.
- Sources: <http://navajolaw.org/> <http://www.navajocourts.org/indexdistct.htm> <http://www.navajocourts.org/indexdistct.htm>
- <http://www.navajocourts.org/Resolutions/CN-52-14.pdf>

Tribal Law and Order Act (P.L. 111-211) of 2010

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- Amends ICRA (22 U.S.C. secs. 1301 et seq) – federal law doesn't require an indigent Indian defendant prosecuted in a tribal court to a licensed defense attorney. Its at the expense of the accused.
 - Allows for felony sentencing for certain crimes, enhanced sentencing authority, new minimum standards for protecting defendants' rights in tribal court, and encourages tribes to consider the use of alternatives to incarceration or correctional options .
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- Source: <https://www.ihs.gov/ihsia/>
 - <http://www.gao.gov/products/GAO-12-658R>

Tribal Law and Order Act (P.L. 111-211) of 2010 Continued

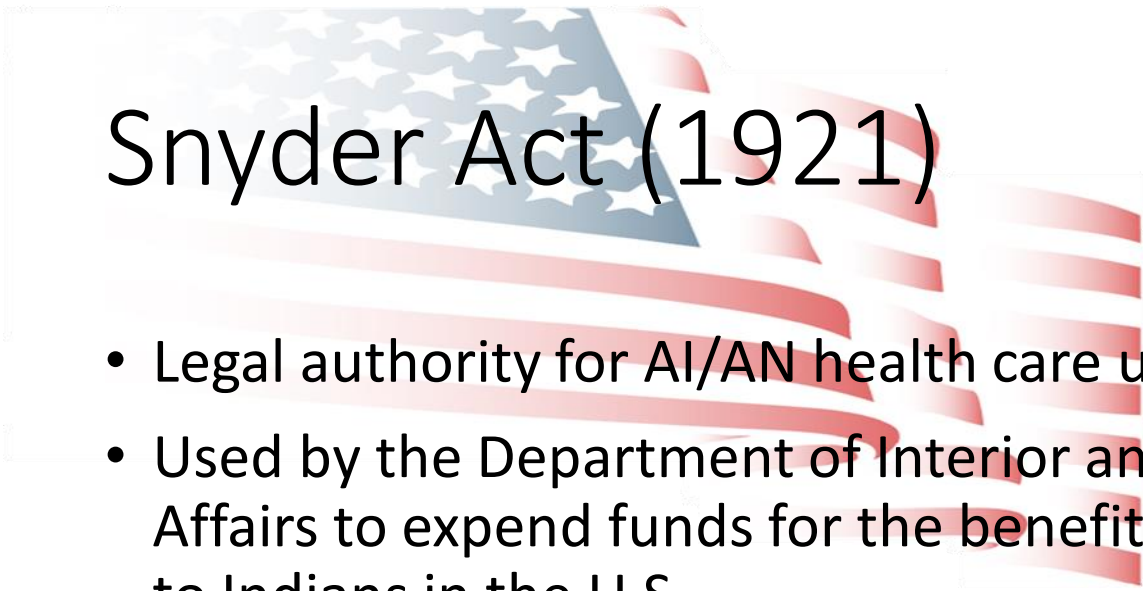
- Expand the number of federal agencies that are required to coordinate efforts on alcohol and substance abuse issues.
- CTAS- TAP-
- Expands Jurisdiction to tribes that “opt in”...at a price. Navajo has not exercised the “new authority”. ..to deter criminal activity
- “..provided that certain rights are afforded” – changes the structure of traditional courts to Mini State courts – “western models” aka “Treatment courts”

- Source: <https://www.ihs.gov/ihcia/>
- <http://www.gao.gov/products/GAO-12-658R>



SYSTEMS OF CARE

Native American Veterans

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Snyder Act (1921)

- Legal authority for AI/AN health care up to 1955
 - Used by the Department of Interior and Bureau of Indian Affairs to expend funds for the benefit, care and assistance to Indians in the U.S.
 - Broadly for health, education, etc.
 - (See also Indian Health Care Improvement Act – PL 94-437 “that expanded Snyder Authority, 1996)
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- Source: <https://www.ihs.gov/aboutihs/legislation/>

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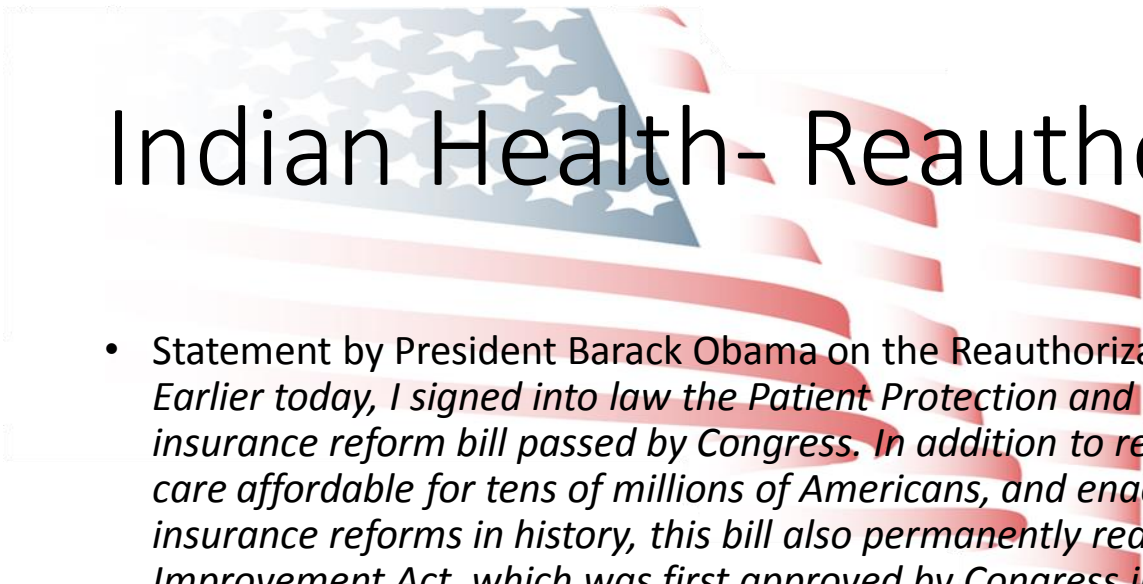
IHCIA – Indian Health Care Improvement Act (2010)

- Legal authority for AI/AN health care
- Made permanent 3/23/10 when President Barack Obama signed the Patient Protection and Affordable care Act.
- Previous to this, the appropriations for the sole system of care on reservation, including some Urban Indian Health clinics, was discretionary. (IHCIA expired in 2000).
- When President Obama signed it in 2010, there is NO EXPIRATION DATE, which is a huge victory for Indian Country.
- Source: <https://www.ihs.gov/ihcia/>

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IHCIA – Indian Health Care Improvement Act (2010)- Cont

- Key provisions include:
- CHR programs for URBAN Indian Health services
- Authorizes I.H.S. to enter into agreements with Department of Veterans Affairs and Defense to share medical facilities and services
- Recover costs from 3rd parties to “Tribally operated” facilities
- Updates the reimbursements from Medicaid, Medicare and CHIP
- Source: <https://www.ihs.gov/ihcia/>

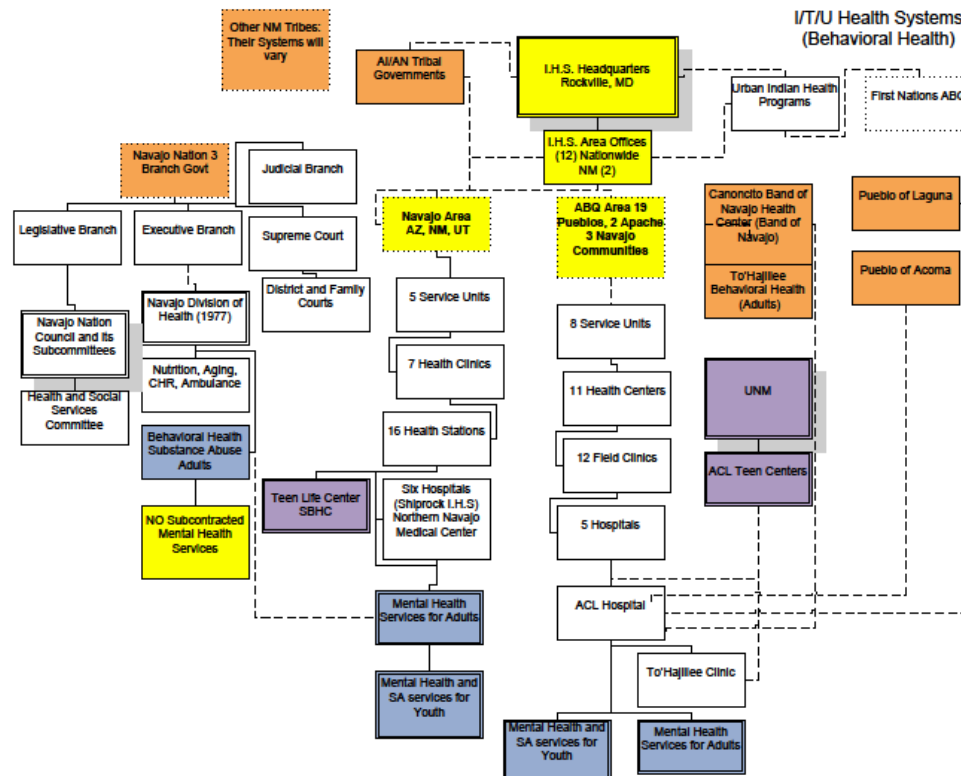


Indian Health- Reauthorization

- Statement by President Barack Obama on the Reauthorization of the IHCIA:
Earlier today, I signed into law the Patient Protection and Affordable Care Act, the health insurance reform bill passed by Congress. In addition to reducing our deficit, making health care affordable for tens of millions of Americans, and enacting some of the toughest insurance reforms in history, this bill also permanently reauthorizes the Indian Health Care Improvement Act, which was first approved by Congress in 1976. As a Senator, I co-sponsored this Act back in 2007 because I believe it is unacceptable that Native American communities still face gaping health care disparities. Our responsibility to provide health services to American Indians and Alaska Natives derives from the nation-to-nation relationship between the federal and tribal governments. And today, with this bill, we have taken a critical step in fulfilling that responsibility by modernizing the Indian health care system and improving access to health care for American Indians and Alaska Natives.

This statement is available at <http://www.whitehouse.gov/the-press-office/statement-president-reauthorization-indian-health-care-improvement-act>.

Navigating the I.H.S. Behavioral health systems of care Navajo:



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Indian Health Services- Challenges

- Not fully funded
- Tribal 638 behavioral health services for substance abuse
- Indian Health Services mental health – lack of psychologists, psychiatrists
- Navigation can be difficult for a Veteran, family, or AI/AN
- High rates of suicide, alcohol death, domestic violence in impoverished communities that have high rates of unemployment

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