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Written Testimony for
Senate Veterans and Emergency Preparedness Committee
Hearing on HCR-24
May 2, 2013

This testimony in support of HCR-24 is submitted on behalf of Oregon Department of Veterans of Foreign Wars, District 3, which is composed of five Veterans of Foreign Wars Posts located in Portland, Oregon. These VFW Posts are 907, 1325, 1442, 4053 and 4248.

Veterans of District 3 have long been interested in Veterans Courts. Background of that interest and some of the more significant actions taken by the Veterans of Foreign Wars may be of interest to this Committee. It is suggested they are in line with and supportive of HCR-24.

The Buffalo, New York, Veterans Court, the first of such courts, came to Oregon VFW's attention in 2008 via newspaper articles. Those articles were referred to the then Oregon Director of Veterans Affairs and to Governor Kulongoski's Task Force on Veterans' Services, with the recommendation that veterans courts be tried in Oregon. (Extract at encl 1, last para, pg 4) Perhaps in response to that recommendation, page 8 of the Task Force's Final Report, December 10, 2008, under what it characterized as "low hanging fruit" proposals, states, "Direct the Oregon Justice Department to assist in research and development of Veterans' Courts. (Oregon House of Representatives Interim Veterans Affairs committee working on this initiative.)"

Veterans of Foreign Wars Resolution No. 628, SUPPORT VETERANS TREATMENT COURTS, (encl 2) approved in 2012 by the 113th National Convention of the Veterans of Foreign Wars of the United States, focused District 3 attention again on the subject of veterans courts. As best as could be determined, in the approximately three years between the issuance of the aforementioned Task Force Report in December 2008 and receipt of Resolution 628 in 2012, only one veterans court recognized online by the VA had been established in Oregon. That court is in Klamath Falls Judicial District 13.

Resolution No. 628 and the absence of apparent successful efforts to harvest the so-called "low hanging fruit" of veterans' courts, prompted the December 17, 2012 letter to the Oregon Supreme Court's Chief Justice Balmer, requesting he exercise his

authority to require establishment of a veterans courts in each of the 27 Judicial Districts. (encl 3) A similar letter was sent to the Administrator of State Courts.

The Judicial Department's response to those letters, dated January 13, 2013, is attached as enclosure 4. The response clearly indicates the Judicial Department is inclined to support Veterans' Courts. As directly relevant to HCR-24, the response states, "Veterans' courts, ... have proven positive evidence-based outcomes for offenders and the community." The response indicates, however, that funding represents a challenge with respect to establishment of additional veterans' courts. With further respect to funding, the first paragraph of the response concludes, "The Legislature will consider funding for treatment courts in the upcoming session, and we hope to broaden their availability if adequately funded by the Legislature." Underscoring added (The "upcoming session" is the current session.)

Presumably the Judicial Department requested sufficient funds in the 2013-2015 budget to establish veterans courts in all 27 Districts. It is hoped when the budget works its way to Ways and Means, it will be approved. However, to ensure the funds have been requested and do not fall through the cracks, request this Committee assure they have been included in the 2013-15 budget. I suggest no money - no courts, even if HCR-24 is enacted.

Aside from the primary purpose of assisting veterans cope with serious reintegration issues as they grapple with the trauma of war, physical and psychological, there are other cogent reasons for veterans' courts.

First, are the families of veterans eligible for treatment by veterans' courts. I suspect you have heard the truism: "They who wait also serve." That is true also in the case of the veteran who serves time in prison. The family who waits for their uniformed service member serving our country waits with pride. However, the family who waits while their veteran serves time in prison, may wait not with pride but perhaps with shame. Thus if the veteran is eligible, society owes the help of a veterans' court to the family as much as to the veteran.

Second are the economics of the matter. The costs of operating veterans' courts are an investment. The US Dept of Veterans Affairs indicates a savings of \$3.36 for every \$1 invested in veterans' courts. The savings could be even more here in Oregon. Reportedly, it costs \$85 per day to incarcerate an individual in an Oregon state prison. Thus each veteran for which a veterans' court avoids a prison sentence, avoids a prison cost of \$31,025 per annum. The funds otherwise spent on incarceration may be spent on more productive needs, such as education of K-12 youth, our future.

Moreover, there is often a continuing cost even after the incarcerated veteran is released from prison. Such a veteran carries, possibly for life, the stigma of being a "convict". It is not unusual for a "convict" to be considered unemployable, thus unable to contribute as a productive member of the community. As an unemployable, such a veteran and family may go on the dole, or the veteran may resort to crime to gain income. Thus, could commence a cycle of crime which could have been avoided had society reached out to help via a veterans' court when help was most needed.

Recommend HCR-24 be approved by this committee.

Robert H. Thornhill
Member VFW Post 1442

Enclosures – As stated

Cc: Cdrs, VFW District 3 and VFW Post 1442

Veterans of Foreign Wars of the United States

HEADQUARTERS

DEPARTMENT OF OREGON

12440 N.E. Halsey – Portland – Oregon 97236-1927

Telephone: (503) 255-5808

SUBJECT: RECOMMENDATIONS TO GOVERNOR'S TASK FORCE ON VETERANS SERVICES,
TOWN HALL MEETING, HILLSBORO, 19 JUNE 2008

Following recommendations are not in any order of priority. For some there is a corresponding packet of material attached which provides background and details about the issue. These recommendations represent the thinking of several members of the VFW. None of the recommendations involves significant costs to the taxpayer, many would cost nothing to taxpayers. All seem doable and are of potential benefit to veterans and/or family members.

As will be noted none of the recommendations concern medical care and rehabilitative services, veterans homes, etc. Though vitally important, these matters are left to more knowledgeable and competent authorities. Also, they don't involve special license plates or memorials.

If after reviewing the recommendations and attached material, members of the Task Force have questions or require additional information, please let me know at phone number or e-mail address at end of paper. I would be pleased to try to respond.

OREGON TUITION WAIVER PROGRAM. Recommend amendment of Senate Bill 1066, 2008, to delete the restrictive clause, "in the war on terrorism" and the date "September 11, 2001". Thus, the program would be expanded to include eligible family members of service members whose service connected death or disability occurred before the so-called war on terrorism and before September 11, 2001. This cost-free investment in the education of the intended recipients warrants expanding to include children and widows and family of 100% disabled from earlier campaigns and wars. Though numbers are not known, it is suggested number of additional potential beneficiaries are not such as to overwhelm the university system. While basically a cost-free investment to the taxpayer, a waiver of tuition and fees can be of enormous benefit to the recipient.

TUITION WAIVER PROGRAMS OF COMMUNITY COLLEGES. Subsequent to the enactment of Senate Bill 1066, several community colleges have adopted policies permitting the waiver of tuition for orphans and widows of service members killed in the line of duty. Most policies do not, repeat, do not provide for waivers for spouses and children of 100% disabled veterans. Waivers are voluntary on the part of each college, though Senate Bill 1066 contains an incentive to waive by requiring the colleges to report to the Senate in February 2009 number of waivers granted. Copies of some policies are attached.

When amending the program as recommended above, recommend community colleges be included in the amendment to require waivers for spouses and children of 100% disabled, as well as for orphans and widows/widowers, as is required of the universities and OHSU.

Encourage ODVA to publicize the waiver programs of the community colleges in its publication, VETS NEWS and by any other means available. A program is not of any value if intended recipients are not aware of it. Some months ago ODVA publicized the program of Chemeteka Community College, implying thereby that only that college had a waiver program. Many other colleges now have waiver programs and these need to be publicized in the military/veteran communities.

EXPAND TUITION WAIVER PROGRAM NATION-WIDE. Recommend the Governor and the legislature, by memorial, urge the Oregon Congressional delegation jointly sponsor legislation requiring that all public post-secondary educational institutions, and such private institutions receiving federal funds, waive tuition and mandatory fees for orphans and widows of service members killed in the line of duty, and for the spouses and children of veterans 100% disabled in the line of duty.

10-POINT DERIVED PREFERENCE FOR WIDOWS FOR OREGON CIVIL SERVICE POSITIONS. In 2007 the Oregon legislature enacted Senate Bill 822 which gives eligible veterans meaningful preference for Oregon civil service positions. This long overdue system of preference is patterned after the Veterans Preference Act of 1944, as amended, which requires preference be given eligible veterans for federal civil service positions. The federal law requires certain spouses, widows and mothers be given a so-called 10-point derived preference. The federal program is explained in material attached.

A derived preference is recommended for unremarried widows and widowers of service members who died while on active duty that included service described in ORS 408.225, and under conditions that would not have been the cause for other than an honorable or general discharge.

A derived preference is also recommended for spouses of 100% disabled veterans as described in ORS 408.225

And that the foregoing preferences be granted in the same manner as preference is granted to eligible veterans per ORS 402.225 et seq.

Do not recommend preference for mothers, as generally mothers do not have same economic connection to veteran as exists with the spouse.

REPORT ON VETERANS EMPLOYMENT BY OREGON STATE GOVERNMENT. The US Congress requires annual reports from federal executive departments and agencies on employment of veterans, such as, total number employed, number of disabled employed, number appointed in preceding report period, etc. A copy of a consolidated report compiled by the US Office of

Personnel Management is attached. These reports give Congress and OPM a feel for how well executive heads are targeting veterans for recruitment, and how strictly and effectively veterans' preference is being applied in particular agencies. The reports provide an incentive to agency and department head to do well and to look well. Veterans Affairs Committees and individual legislators use these reports to jack up agencies appearing to lag. A recent example is Senator Grassley (R – Iowa) was all over the IRS for its poor showing in veteran employment.

Recommend such a report be required of all Oregon executive departments and agencies, such report to be made to the legislature and be made available to the public.

RESOLUTION ENCOURAGING EMPLOYMENT OF VETERANS BY PRIVATE SECTOR AND ALL LEVELS OF GOVERNMENT. As indicated above, both the federal and Oregon state governments have laws requiring veterans to be given preference in hiring. However, no matter how diligently applied, government does not have enough job matches for all veterans needing and wanting work. All employers benefit from the service of veterans, therefore, all employers have an obligation to help in the reintegration of veterans into civilian life.

A civilian job is fundamental to reintegration; indeed, the foundation for all services, medical and otherwise, provided the veteran. Senator Gordon Smith, in collaboration with Senators Akaka and Coleman, in November 2007 obtained Senate Resolution 373. (Copy attached.) This Resolution encourages all employers across this nation to target veterans for recruitment and to provide preference in hiring to qualified veterans. Veterans and veterans organizations such as the VFW and the DAV have used this Resolution to remind employers of their obligation. It has made a difference. Efforts have been made, without success, to obtain such a resolution and official encouragement of private sector and local governmental entities here in Oregon.

Recommend the Oregon legislature be encouraged to pass a Resolution similar to US Senate Resolution 373. (Proposed Resolution attached.) In addition, recommend the Governor and the Director of ODVA, and other high government bureaucrats be encouraged to use the prestige of their offices, their bully pulpit, so to speak, to talk up the employment of veterans, to encourage the targeting of veterans and the granting of preference to qualified veterans by local government and the private sector. In the private sector I am speaking of employers such as Nike and Intel. The legislature passed and the Governor signed a law exempting Nike for 30 years from annexation by Beaverton. Ask for a bit in return

A SUGGESTION. To get employers really engaged in the effort to employ veterans, perhaps the Governor could form a Task Force of talented Human Resources Managers from across a spectrum of employers to develop a program for the employment of veterans for local government entities and the private sector.

PRO BONO LEGAL SERVICES FOR VETERANS FOR EMPLOYMENT RELATED ISSUES. Recommend efforts be made to obtain pro bono legal services for needy veterans encountering what appears to be illegal discrimination in connection with employment.

Accounts are frequently heard of veterans, primarily Guardsmen and Reservists, not being restored to the job which they left for active duty (and to which they are entitled), of Guardsman and Reservists being discriminated against in hiring because of potential of being called to active duty at anytime, and of veterans being discriminated against just because of apparent reluctance of some to hire a veteran. Such discriminatory practices are prohibited by the Uniformed Services Employment and Reemployment Act (USERRA). Avenues by which to seek recourse are spelled out in the Act.

The US Department of Labor's Veterans Employment and Training Service (VETS) works to resolve these cases. An organization called ESGR (Employer Support to Guard and Reserve) works to prevent such cases. Not all are prevented and not all are resolved by VETS.

If a veteran wishes to pursue an unresolved case beyond VETS, it's the courts, or in the case of a federal agency, the Merit Systems Protection Board. Neither are user friendly to one not knowledgeable of the law and skilled in litigation.

The Military Assistance Panel (MAP), which operates under auspices of the Oregon Bar, provides free legal services to active military personnel and their families. These lawyers are trained on USERRA, which has limited application to active military and none to their families. USERRA applies to the veteran and his or her employment problems. (Legal Aid Society will provide free legal help to veterans on consumer/domestic kind of issues, but I was advised will not touch USERRA or veterans benefits kinds of problems.)

It is suggested there are not many of these cases in Oregon, but just one veteran being denied his or her rights because of insufficient funds to prosecute case is one too many.

COURTS PROVIDE SPECIAL TREATMENT FOR VETERANS. Attached are USA Today and New York Times articles discussing the success of a special court for veterans in Buffalo, New York. Also attached is copy of an exchange of e-mails with Jim Willis, ODVA, on the subject. Recommend consider requiring Oregon courts adopt the practices of the Buffalo court. Rather than stigmatizing a non-violent veteran as a criminal, a shot at treatment and rehab under court supervision would be less expensive than jail and would be more effective in restoring the veteran. Seems worth further investigation and a try here in Oregon.

Robert H. Thornhill
Chairman, Employment and
Civil Service Committee
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503 848-8349, rhtkaze1@aol.com

Cc: Commander, Department of Oregon VFW and VFW Members (less encls)

Resolution No. 628

SUPPORT VETERANS TREATMENT COURTS

WHEREAS, the first Veterans Treatment Court was created in Buffalo, N.Y., in January 2008 by Judge Robert Russell, who saw firsthand the transformative power of military camaraderie when veterans on his staff assisted another veteran who had appeared before one of his drug treatment courts; and

WHEREAS, recognizing that more could be done judicially, he asked his local VA Medical Center and volunteer veterans to join in creating a new program that would focus exclusively on ensuring veterans who appeared in his court for nonviolent offenses were connected to their earned VA services and benefits, and with mentors who understood military service and the difficulties some might have adjusting to civilian society; and

WHEREAS, a Veterans Treatment Court judge handles numerous veterans' cases and is supported by a strong, interdisciplinary team. This judge is in a much better position to exercise discretion and effectively respond than someone who only occasionally hears a case involving a veteran. A Veterans Treatment Court judge better understands the issues that a veteran may be struggling with, such as substance addiction, Post-Traumatic Stress, Traumatic Brain Injury or Military Sexual Trauma. A Veterans Treatment Court judge is also more familiar with the U.S. Department of Veterans Affairs, their respective state public and private support agencies, and local Veterans Service Organizations, who are the strength behind the mentorship programs; and

WHEREAS, a Veterans Treatment Court eliminates the "no one understands me" excuse and replaces it with peer pressure from fellow veterans to successfully complete the court mandated treatment programs; and

WHEREAS, there are now 96 Veterans Treatment Courts in 24 states—with hundreds more being planned—because the concept works; now, therefore

BE IT RESOLVED, the Veterans of Foreign Wars of the United States strongly supports ongoing judicial initiatives to create Veterans Treatment Courts in all 2,500 of the nation's drug courts; and

BE IT FURTHER RESOLVED, that we encourage VFW members to volunteer as mentors to their local Veterans Treatment Courts.

Submitted by Commander-in-Chief
To Committee on VETERANS SERVICE

APPROVED by the 113th National Convention of the Veterans of Foreign Wars of the United States.

Robert H. Thornhill
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503-848-8349, rhtkaze1@aol.com

December 17, 2012

Chief Justice Thomas A. Balmer
Oregon Supreme Court
1163 State Street
Salem, Oregon 97301-2563

Dear Chief Justice Balmer:

I write to request you exercise the authority of your office to issue rules requiring each of Oregon's 27 Judicial Districts to establish a Veterans Court. This request is in line with Veterans of Foreign Wars Resolution 628 adopted at the recent 113th National Convention. (encl 1) Veterans Courts in Oregon are not without precedent as Judicial District 13, Klamath Falls, currently administers a Veterans Court, presumably with approval of a Chief Justice.

I suspect you are familiar with Veterans Courts and their effectiveness, probably more so than I, but just in case not, I provide the following as justification of this request.

Following the establishment of the first Veterans Court in Buffalo, New York, in January, 2008, over one hundred Veterans Courts have sprung up across the nation. Over one hundred more are said to be planned. One of the best discussions of the effectiveness of Veterans Courts is at the US Department of Veterans Affairs website at www.va.gov, enter Veterans Courts in Search space and click on Special Courts Give Veterans a Second Chance/VAantage Court. Another good discussion is at google: Justice for Veterans. The Bloomberg news item at this site is especially informative. In addition, I have attached a copy of the article, Veterans: Coming Home, which discusses the difficulty of a veteran coming home from war and that veteran's positive experience with a Veterans Court. (encl 2)

The December 2008 Final Report of Governor Kulongoski's Task Force on Veterans' Services identified what it called "Low hanging fruit" proposals. One of those was, "Direct the Oregon Justice Department to assist in the research and development of Veterans Courts (Oregon House of Representatives Interim Veterans Affairs Committee is working on this initiative)." (page 8 of report) This Task Force consisted of a representative cross-section of citizens ranging from President Peter Courtney of the Oregon Senate; Dr. Jim Tuchs Schmidt, then CEO of the Portland VA Medical Center; and a former Marine, State Representative Jeff Barker; to Kevin O'Reilly, a disabled veteran. (Page 5 of the final report) The "low hanging fruit" language implies that the Task Force believed the establishment of Veterans Courts would be accomplished easily. Perhaps it is easy to do, but the fact is it hasn't been done.

As indicated by the VA and Justice for Veterans websites, much research and analyses of the effectiveness of Veterans Courts have been conducted since the first court was established in 2008. Their effectiveness has been confirmed. However, not much harvesting of "low hanging fruit" has been accomplished here in Oregon. Only one Veterans Court has been established. The success of that one court, in the Klamath Falls Judicial District 13, is discussed by the VA at google: Klamath Falls Veterans Court.

In its discussion of the Klamath Falls Veterans Court, the VA asserts that for every \$1 invested in Veterans Courts, the public saves an average of \$3.36, by reducing the costs of incarceration and repeat offending. The VA further asserts the troubled veteran benefits by gaining wellness and regaining honor. And as indicated by the VA, the community benefits through increased public safety.

I do not know how the VA arrived at the above savings figure; however, the savings might be even greater in Oregon. I suggest that possibility on the bases that it should not cost a lot to expand the jurisdiction of an already operating Drug or other problem solving court, and that it costs \$85 per day to hold a prisoner in the Oregon state prison system. A veteran rehabilitated, so to speak, and not sent to prison is a minimum of \$85 per day saved. I believe costs of incarcerating the veteran, rather than rehabilitating, does not count the possible monetary costs of the public's monetary support of the family while the veteran languishes in prison.

(Perhaps some of the savings could be allocated to the Judicial Department. I have read recent Chief Justice reports on the state of Oregon courts. Each report asserts the need for additional funding borders on the critical.)

The above cited websites speak to the benefits accorded veterans themselves by Veterans Courts. Rarely mentioned are the family members of veterans. However, the family may also benefit, perhaps as much or more than the veteran. I am sure you have heard it said: those who wait [for their soldier at war] also serve. The family also serves when their veteran suffering the after-effects of war serves time in prison. The family, especially children, needs their veteran at home contributing to the health, well-being and stability of the family. Rather than sentencing to prison for a non-violent crime, society owes the opportunities provided by Veterans Courts not only to the veteran who answered our country's call to arms, but also to the veteran's family.

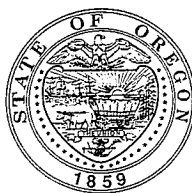
Chief Justice Balmer, based on the foregoing, it is requested you issue rules requiring the immediate establishment of Veterans Courts in each of the 27 Judicial Districts of Oregon.

Respectfully yours,

Robert H. Thornhill
Member VFW Post 1442

2 Enclosures
As stated

Cc: VFW Comrades & select Legislators (less encl)



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

January 31, 2013

Mr. Robert H. Thornhill
7191 SW 161st Place
Beaverton, OR 97007

Re: Letter Regarding Veterans' Courts

Dear Mr. Thornhill:

Thank you for writing to us about veterans' courts. Your letter was referred to me so I could respond regarding the issues. Veterans' courts, along with other treatment courts, have proven positive evidence-based outcomes for offenders and the community. This is a popular concept that courts are exploring when the court and the community have the necessary resources. Unfortunately in our current economic climate, treatment courts of any kind – including veterans' courts – face funding challenges. Our circuit courts have lost many treatment courts in the budget crisis of the last several biennium. The Legislature will consider funding for treatment courts in the upcoming session, and we hope to broaden their availability if adequately funded by the Legislature.

Despite funding challenges, there has been much progress made over the past several years to improve how veterans are treated in the criminal justice system. In addition to Klamath County, Lane County Circuit Court established a veterans' court as a special division of their drug court in May 2012. Additionally, some courts, such as Marion County Circuit Court, have a dedicated time on their docket to hear criminal cases involving veterans. Marion County is currently pursuing federal grant funding that would allow them to significantly expand the number of veterans that they can serve. Implementing a successful treatment court requires the active assistance of other agencies and elected officials, such as district attorneys. As such, we are not always able to address these issues through a Chief Justice order without additional work being done at the local level.

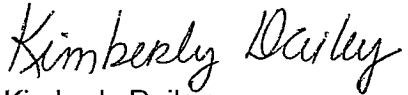
Because of the growing number of veterans entering the court system in a broad variety of cases, such as criminal, domestic relations, and juvenile dependency, the Judicial Department has worked to educate judges about veterans' issues. State court judges received training last October on veterans' issues and services, with a focus on challenges that veterans face when returning from a deployment and strategies judges can use when interacting with veterans.

Mr. Robert H. Thornhill
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Additionally, our staff has actively engaged in recent legislative efforts to improve services to veterans, including using the judicial process in those efforts.

Thank you again for taking the time to write to the judicial branch about this important issue.

Sincerely,



Kimberly Dailey
Staff Counsel, Oregon Judicial Department

KD:ma/13eKD001ma

ec: Senator Peter Courtney
Chief Justice Thomas A. Balmer
Kingsley Click, State Court Administrator
Phillip Lemman
David Factor
Nori Cross