

Invited testimony of Brigadier General David “Mac” MacEwen  
Director, Veterans Justice Commission, Council on Criminal Justice  
Before the Senate Veterans Affairs Committee  
April 15, 2026

Thank you Chairman Moran, Ranking Member Blumenthal, and members of the committee for inviting me to speak today.

I am Brigadier General David “Mac” MacEwen. I am the grandson of a WWI veteran, the son of a WWII veteran, the husband of a Cold War veteran, the father-in-law of a veteran of the war in Afghanistan and I served in the Army for 33 years. I retired 11 years ago as the Adjutant General of the United States Army. Veterans and their needs are in my DNA.

I am here today representing the Council on Criminal Justice where I serve as Director of the Veterans Justice Commission. The Council is an independent, nonpartisan think tank and invitational membership organization. Our mission is to advance understanding of the nation's criminal justice policy choices and build consensus for solutions that enhance both safety and justice. Our work is rooted in facts, evidence, and fundamental principles of justice.

In 2022, the Council assembled the Commission to examine the extent and nature of veterans' involvement in the criminal justice system and build consensus for strategies that can improve outcomes from veterans and their families and communities. The Commission assessed the risk factors that drive veterans' justice-system involvement, the adequacy of transitional assistance for military service members as they reenter civilian life, and the effectiveness of the justice system response when veterans break the law. With 15 leaders representing veterans, the military, the Veterans Administration, community advocates, and various sectors of the justice system, the Commission issued three reports that included eleven findings and recommendations, all of which are detailed in this testimony. A summary of reports and recommendations are as follows. Each report and recommendation, with implementation steps, is detailed following the summary.

1. [From Duty to Dignity: Supporting Service Members in Their Transition to Civilian Life](#).<sup>1</sup> (Attached; see pages 8-39.) This report outlines the Commission's findings and three recommendations to ensure more service members transition successfully and avoid contact with the criminal justice system:
  - a. **Recommendation 1:** Make transition a core mission of the Department of Defense

- b. **Recommendation 2:** Integrate evidence-based practices into management of performance issues and specified military justice cases
  - c. **Recommendation 3:** Expand VA eligibility as directed by the GI Bill of 1944 and improve veterans services during transition
- 2. [Honoring Service, Advancing Safety: Supporting Veterans From Arrest Through Sentencing.](#)<sup>2</sup> (Attached; see pages 40-57.) This report provides three recommendations focused on the “front end” of the justice system, from arrest through sentencing, to improve and expand support for veterans in the early stages of the criminal justice process.
  - a. **Recommendation 1:** Improve definition and identification of veterans involved in the criminal justice system
  - b. **Recommendation 2:** Create a continuum of alternatives to prosecution and incarceration for justice-involved veterans
  - c. **Recommendation 3:** Establish a national center on veterans justice to improve justice-involved veterans programs through research and coordination
- 3. [From Confinement to Community: Supporting Successful Veteran Reentry and Employment.](#)<sup>3</sup> (Attached; see pages 58-82.) To close out the third phase of its work, the Commission issued five recommendations to strengthen resources for veterans during incarceration, reentry, and community supervision.
  - a. **Recommendation 1:** Prioritize the recruiting and hiring of justice-involved veterans
  - b. **Recommendation 2:** Identify and provide VA healthcare to incarcerated veterans
  - c. **Recommendation 3:** Eliminate administrative barriers to housing eligibility and prevent benefit arrearages
  - d. **Recommendation 4:** Evaluate and develop best practices for veterans housing units
  - e. **Recommendation 5:** Create “Second Look” review processes that recognize military service

## Research Publications

The Commission also produced several research reports to inform its recommendations and fill critical gaps in understanding of the unique challenges veterans face. These publications include:

- 1. [From Service Through Reentry: A Preliminary Assessment of Veterans in the Criminal Justice System](#)<sup>4</sup> (August 2022)

2. [Who's a Veteran? Challenges in Defining and Identifying Veteran Status](#)<sup>5</sup> (February 2023)
3. [Suicide Among Justice-Involved Veterans: Understanding Risk and Meeting Needs](#)<sup>6</sup> (September 2023)
4. [From Service to Sentencing: Unraveling Risk Factors for Criminal Justice Involvement Among U.S. Veterans](#)<sup>7</sup> (October 2023)
5. [Unwavering Intent: Congress' Enduring Commitment to Veterans Benefits](#)<sup>8</sup> (January 2024)
6. [Racial Disparities Among Veterans](#)<sup>9</sup>
7. [Healing on the Inside: A History of Healthcare for Incarcerated Veterans](#)<sup>10</sup> (July 2024)
8. [Reflections: A Conversation With Veterans About Transition and Their Experiences in the Criminal Justice System](#)<sup>11</sup> (August 2024)
9. [Exploring Biomarker Technology to Enhance the Diagnosis and Treatment of PTSD in Justice-Involved Veterans](#)<sup>12</sup> (August 2024)
10. [Can Suicide be Predicted for Justice-Involved Veterans? Evaluating the REACH VET Suicide Prediction Model](#)<sup>13</sup> (December 2024)
11. [Invisible Warriors: Veterans in State Prisons](#)<sup>14</sup> (August 2025)
12. [Falling Through the Cracks: Gaps in Identifying Veterans on Community Supervision](#)<sup>15</sup> (April 2025)
13. [Outcomes from a Jail-Based Veterans Housing Unit](#)<sup>16</sup> (August 2025)

### **The Commander's Dilemma: The Paradox of Operational Readiness and Transition Support**

Each year, about 200,000 service members leave the military. Most transition successfully, but some face challenges. Veterans are more likely than non-veterans to be arrested, and tens of thousands are incarcerated. This involvement is often driven by combat-related trauma, traumatic brain injury, loss of benefits, and gaps in identification and intervention. The way we currently manage struggling veterans undermines recruitment, jeopardizes the health and safety of our veterans, their families, their communities, and ultimately national security.

A critical element of the Commission's plan addresses what the group refers to as the "commander's dilemma," the tension commanders face between maintaining unit readiness versus supporting underperforming service members or supporting transition.

To prioritize operational readiness, commanders look for the fastest way to replace service members who are not available to the unit for transition, disciplinary, or medical reasons. A commander may not have the flexibility to allow an individual to participate in

Congressionally mandated TAP or receive evidence-based support for the kinds of minor disciplinary infractions seen in the civilian justice system. Instead, the system defaults to granting administrative discharges. An other-than-honorable discharge is an administrative death sentence, locking service members out of benefits that support a smooth transition.

In recent years, innovations such as veterans treatment courts (VTCs) and veteran-only housing units in jails and prisons have emerged, seeking to improve support for former service members through specialized approaches. The Veterans Administration (VA), whose mission is to provide care and support for veterans and their families, has launched efforts to help justice agencies better identify veterans and to facilitate their access to programming. But many challenges—and opportunities—remain.

When veterans enter the civilian criminal justice system, they confront a patchwork of interventions. These programs vary substantially across jurisdictions, and many fall through the cracks. VTC's have been a pioneering, life-saving intervention for thousands of veterans, yet despite their expansion, the 600 such courts currently operating across the country vary widely in their approaches to legal incentives (e.g., allowing an individual to avoid a record of conviction) and eligibility.<sup>17</sup> For example, a national survey of VTCs found that nearly 60% exclude veterans with at least one type of violent felony charge, while 35% do not permit veterans with “bad paper.”<sup>18</sup>

The Commission developed a complementary policy framework for those without access to a VTC.<sup>19</sup> The American Legislative Exchange Council has adopted it, and it is under consideration in several states.

The Commission also proposed a National Center on Veterans Justice. Congress authorized \$4 million for the Center in January. The Center should act as a hub for improving the success of justice-involved veterans by identifying and replicating best practices across the country and establishing proper program evaluation to invest in what works. If implemented properly, the Center can greatly improve how the justice system treats the unique cases of the nation's veterans.

The Commission's chair, Vietnam veteran and former senator and U.S. Secretary of Defense Charles Hagel, summarized the issue well:

“Too many veterans are ending up in our criminal justice system, and while they must be held accountable for their behavior, our nation has a responsibility to honor their service and help them address the factors that often drive them to break the law.”

So, too, did Commission member Leon Panetta, who is a U.S. army veteran and former congressman and U.S. Secretary of Defense:

“We can and must do better for the men and women who put their lives at risk to serve our nation.”

Most veterans return stronger from their service, but too many still need our help. It is nothing short of tragic that those who once wore the cloth of our nation now wear the cloth of incarceration. We sent them. We used them. Now we must do better and stand by them, ensuring they have the support to return their families, communities, and country.

Thank you.

---

<sup>1</sup> Council on Criminal Justice. (2024). From Duty to Dignity: Supporting Service Members in Their Transition to Civilian Life. Council on Criminal Justice.

<https://vjc.counciloncj.org/vjc-reports/transition>

<sup>2</sup> Council on Criminal Justice. (2023). Honoring Service, Advancing Safety: Supporting Veterans From Arrest Through Sentencing. Council on Criminal Justice.

<https://vjc.counciloncj.org/vjc-reports/arrest-through-sentencing>

<sup>3</sup> Council on Criminal Justice (2022). From Service Through Reentry: A Preliminary Assessment of Veterans in the Criminal Justice System. Council on Criminal Justice.

<https://secure.counciloncj.org/np/viewDocument?orgId=counciloncj&id=2c918082829f83c70182b7c346ea0177>

<sup>4</sup> Council on Criminal Justice (2022). From Service Through Reentry: A Preliminary Assessment of Veterans in the Criminal Justice System. Council on Criminal Justice.

<https://secure.counciloncj.org/np/viewDocument?orgId=counciloncj&id=2c918082829f83c70182b7c346ea0177>

<sup>5</sup> Seamone, E. R. (2023). Who’s a veteran? Challenges in defining and identifying veteran status. Council on Criminal Justice. [https://counciloncj.org/wp-content/uploads/2023/02/Whos\\_A\\_Veteran\\_Final.pdf](https://counciloncj.org/wp-content/uploads/2023/02/Whos_A_Veteran_Final.pdf)

<sup>6</sup> Holliday, R. (2023). Suicide Among Justice-Involved Veterans: Understanding Risk and Meeting Needs. Council on Criminal Justice. <https://counciloncj.org/suicide-among-justice-involved-veterans-understanding-risk-and-meeting-needs/>

- <sup>7</sup> Orak, U. (2023). From Service to Sentencing: Unraveling Risk Factors for Criminal Justice Involvement Among U.S. Veterans. Council on Criminal Justice. <https://counciloncj.org/from-service-to-sentencing-unraveling-risk-factors-for-criminal-justice-involvement-among-u-s-veterans/>
- <sup>8</sup> Mulligan, L. (2024). Unwavering Intent: Congress' Enduring Commitment to Veterans Benefits. Council on Criminal Justice. <https://counciloncj.org/unwavering-intent-congress-enduring-commitment-to-veterans-benefits/>
- <sup>9</sup> Council on Criminal Justice (n.d.). Racial Disparities Among Veterans. Council on Criminal Justice. <https://counciloncj.org/racial-disparities-among-veterans/>
- <sup>10</sup> Seamone, E. (2024). Healing on the Inside: A History of Healthcare for Incarcerated Veterans. Council on Criminal Justice. <https://counciloncj.org/healing-on-the-inside-a-history-of-healthcare-for-incarcerated-veterans/>
- <sup>11</sup> Howley, S., Diba Rouzbahani and Stephanie Kennedy. (2024). Reflections: A Conversation With Veterans About Transition and Their Experiences in the Criminal Justice System. Council on Criminal Justice. Council on Criminal Justice. <https://vjc.counciloncj.org/reflections/>
- <sup>12</sup> Hwang, S. (2024). Exploring Biomarker Technology to Enhance the Diagnosis and Treatment of PTSD in Justice-Involved Veterans. Council on Criminal Justice. <https://counciloncj.org/exploring-biomarker-technology-to-enhance-the-diagnosis-and-treatment-of-ptsd-in-justice-involved-veterans/>
- <sup>13</sup> Harris, A. H. S., Andrea K. Finlay, and Esther L. Meerwijk. (2024). Can Suicide be Predicted for Justice-Involved Veterans? Evaluating the REACH VET Suicide Prediction Model. Council on Criminal Justice. <https://counciloncj.org/can-suicide-be-predicted-for-justice-involved-veterans/>
- <sup>14</sup> Hawken, A., Sandy Felkey Mullins, Lina Cook, and Elena Pereira. (2025). Invisible Warriors: Veterans in State Prisons. Council on Criminal Justice. <https://counciloncj.org/invisible-warriors-veterans-in-state-prisons/>
- <sup>15</sup> Mullins, S. F., Lina Cook, and Angela Hawken. (2025). Falling Through the Cracks: Gaps in Identifying Veterans on Community Supervision. Council on Criminal Justice. <https://counciloncj.org/falling-through-the-cracks/>
- <sup>16</sup> Cook, L., Sandy Felkey Mullins, Josh Doerner, Marlee Sherrod, and Angela Hawken. (2025). Outcomes from a Jail-Based Veterans Housing Unit. Council on Criminal Justice. <https://counciloncj.org/outcomes-from-a-jail-based-veterans-housing-unit/>

<sup>17</sup> Note that the VA's method of counting differs from that of the National Drug Court Resource Center, which reported 495 VTCs nationwide as of 12/31/2021. See: National Drug Court Resource Center. (2022). *Treatment court maps*.

<https://ndcrc.org/interactive-maps/>

<sup>18</sup> Bad paper discharges refer to individuals who receive either an administrative "other than honorable" discharge or a punitive bad-conduct discharge. For statistics on exclusions within VTCs, see: Baldwin, J. (2015). Investigating the programmatic attack: A national survey of veterans treatment courts. *Journal of Criminal Law & Criminology*, 105(3), 705-751.

<https://scholarlycommons.law.northwestern.edu/jclc/vol105/iss3/4/>

<sup>19</sup> Council on Criminal Justice (n.d.). Alternatives to Prosecution and Incarceration for Justice-Involved Veterans: A Model Policy Framework. Council on Criminal Justice.

<https://vjc.counciloncj.org/vjc-reports/model-policy-framework>

---

# Report 1 – From Duty to Dignity: Supporting Service Members in Their Transition to Civilian Life

## Introduction

Research shows that the challenges veterans face during their transition from military to civilian life can lead to contact with the criminal justice system. The military has made important changes in support of more successful reintegration, including the creation of the Transition Assistance Program (TAP). Despite these efforts, transition is still not treated as a priority by the Department of Defense. The result is a fragmented and under-resourced system that leaves too many service members ill-prepared for civilian life. This lack of preparation increases their vulnerability to involvement in the criminal justice system. Consider the experiences of veterans who have moved through the military in recent years. Many joined the armed forces following the 9/11 terrorist attacks, a period when our country experienced the biggest jump in military recruitment since Pearl Harbor.<sup>4</sup> These men and women comprise a new generation of veterans, a group that is younger, more racially diverse, and more likely to have experienced trauma prior to their military enlistment,<sup>5</sup> all factors associated with an increased likelihood of encountering the criminal justice system.

During their service, this generation of veterans underwent historically high rates of multiple deployments and combat exposure,<sup>6</sup> experiences that have been consistently linked to the development of post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI).<sup>7</sup> As many struggled with the effects of these conditions, the military increasingly turned to prescription drug treatment, as evidenced by the fourfold increase in the prescription of drugs for service members between 2001 and 2009.<sup>8</sup> That reliance reflects the military's shortage of mental health workers, which requires service members to endure long waits for cognitive behavioral therapy and other care. One recent report found that 43% of behavioral healthcare jobs in the Defense Health Agency were vacant as of January 2023. The shift to heavier use of prescription drugs came in tandem with the documented culture of excessive alcohol use within the military.<sup>9</sup> Each of these factors—PTSD, TBI, and Substance Use Disorder (SUD)—are linked to poor performance during service and criminal justice involvement after it.<sup>10</sup> In recent years, commanders have increasingly relied on other than honorable discharges<sup>11</sup> to deal with performance issues, using these discharges to quickly remove service members whom they believe may jeopardize mission readiness.<sup>12</sup> Just 1% of World War II veterans received an other than honorable discharge, but 5.8% of post-9/11 service

members received the designation, representing more than 100,000 veterans discharged between 2003 and 2013.<sup>13</sup>

As a result of the rising use of this discharge characterization, a much larger share of post-9/11 veterans start their transition to civilian life without access to health care and other services from the Department of Veterans Affairs (VA). This denial is in direct conflict with legislation passed by Congress that codified the receipt of VA services for veterans with other than honorable discharges.<sup>14</sup> Lacking benefits and care, post-9/11 veterans who received an other than honorable discharge have been found to be at increased risk of homelessness, suicide, and criminal justice system involvement.<sup>15</sup> For example, while other than honorable discharges comprise approximately 6% of all discharges, they make up 18% of the discharges held by incarcerated veterans.

While other than honorable discharges are disproportionately represented among justice-involved veterans, those not assigned such a discharge still face a variety of other challenges in their transition out of the military. One reason may be that 70% of recent service members<sup>16</sup> start their transition process less than a year before their separation from the armed forces, a timeline deemed too short under the military's own guidelines.<sup>17</sup> In addition, many service members do not attend a class the military offers to ease their return to civilian life. In identifying service members' readiness for transition, the military classified 41% of all service members who transitioned between April 2021 and March 2022 as not fully prepared.<sup>18</sup> Though a classification of "not fully prepared" is supposed to mandate attendance at a two-day class as part of the Transition Assistance Program (TAP), 22% of those identified as the least prepared to transition do not attend this required course.<sup>19</sup> Even if they do attend, it is not clear that the program is effective, as TAP lacks a robust evaluation.

Given that many post-9/11 veterans lack VA services and did not receive much formal transitional support, it is not surprising that they are more likely than previous generations to report difficulties with their reentry to civilian life.<sup>20</sup> They are also more likely than non-veterans to end up in prison. This sets them apart from previous generations of veterans, who were less likely than their civilian counterparts to become incarcerated.<sup>21</sup> In response to these troubling findings, the Council on Criminal Justice Veterans Justice Commission has developed three recommendations designed to improve the transition from military to civilian life, ensure more service members transition successfully, and reduce the number of veterans who land in the criminal justice system.<sup>22</sup> Each recommendation is accompanied by a summary of findings as well as a list of detailed actions to guide implementation. To be clear: The Commission understands that there is a cost associated with adopting these changes, but we also

recognize the high cost of failing to do so. One estimate puts the cost of violent crime stemming from post-9/11 combat exposure at \$26.4 billion.<sup>23</sup> Combined with public expenditures associated with veterans' additional mental and physical health conditions, this figure represents just a sliver of the total costs incurred by federal, state, and local jurisdictions as they contend with the legacy of the military's insufficient support for the transition phase. As a Commission, we believe Congress and the executive branch must end the failed status quo, codify these recommendations, and engage in strong oversight to ensure these changes serve all future veterans. We stand ready and willing to provide technical assistance to aid this endeavor.

## **Recommendation 1. Make Transition a Core Mission of the Department of Defense**

**Summary of Findings:** The nation's defense and veterans agencies are not identifying and adequately supporting vulnerable service members as they transition from military to civilian life, leaving many with untreated conditions that increase their risk of criminal behavior and other negative outcomes,

**Recommendation:** The Department of Defense should make successful transition a core priority mission and ensure this mission is conducted in coordination with the Department of Veterans Affairs, the Department of Labor, the Office of Personnel Management, the Small Business Administration, the Department of Education, and state and local public and private veterans agencies and Veteran Service Organizations/Non-Governmental Organizations

### **Detailed Findings:**

#### ***The Commander's Dilemma***

The military's insufficient emphasis on transition is manifested in its most crucial form among commanders, or those individuals tasked with leading military operations, organizations, and personnel. In short, supporting transition conflicts with these commanders' primary and most essential responsibility—maintaining mission readiness. When service members are valuable contributors to their units, the need to keep them on duty can seem of greater importance to a commander than the service member's post-military future. One example of this dilemma relates to service members' participation in a Department of Defense (DoD) program such as SkillBridge, which provides participants with work experience through job training, internships, or apprenticeships.<sup>25</sup> Participation in SkillBridge often requires a service member to spend

180 days away from the unit without a replacement. Some service members report<sup>26</sup> that commanders deny SkillBridge requests because of the importance of maintaining mission readiness, although data documenting reasons for such denials has not been systematically collected. A recent report from the Government Accountability Office (GAO)<sup>27</sup> found that service members face similar barriers when seeking access to the Transition Assistance Program (TAP), which may explain why so few complete this required program on time.

### ***Low Prioritization***

The federal government's current allocation of resources exemplifies the lack of emphasis placed on transition. While the DoD has budgeted more than \$2 billion for recruitment for 2024, just \$160 million was dedicated to TAP,<sup>28</sup> the DoD's program to help service members reenter civilian life. This imbalance underscores a problematic "recruit and replace" model<sup>29</sup> that has persisted in the military for decades, and the repercussions ripple across the country. Specifically, states and cities bear the costs associated with poorly managed transitions, such as untreated mental health issues, substance abuse, and criminal behavior. One study estimates a \$26.4-billion cumulative price tag just for violent crime resulting from post-9/11 combat exposure.<sup>30</sup>

### ***Jeopardizing Recruitment and National Security***

The inadequate support for transition has immediate consequences for individual service members, such as high rates of suicide in the first year following transition.<sup>31</sup> It also poses a long-term threat to the military's recruitment strategy. This is no small matter given the nation's current recruitment struggles, which have led to the smallest U.S. military force in more than 80 years.<sup>32</sup> Over the last three years, the total number of service members has dropped by 64,000, down to 1,284,500, and lawmakers have blamed the reduction not on decreasing threats to national security, but on the growing difficulty of persuading young people to enlist. This decline in the size of the military makes a robust transition support system a strategic and national security necessity as well as an imperative for service members and their families and communities. When service members experience a seamless transition into civilian life, they are more likely to speak positively about their military experience,<sup>33</sup> becoming hometown recruiters for the armed forces and influential advocates for service. By contrast, the current dearth of effective transition programs helps perpetuate a disheartening trend, with veterans increasingly less inclined to encourage others within their networks to enlist.<sup>34</sup> A survey

conducted in 2021 documented this waning enthusiasm, finding that 63% of service members, veterans, retirees, and dependents would recommend military life to someone considering it, down from 75% in 2019.<sup>35</sup> By investing in and prioritizing transition support, the military can reverse this negative trajectory and foster a culture that makes veterans eager to actively promote military service as a viable and fulfilling career option. Such a reversal is essential to boost military recruitment numbers and ensure the reliable defense of our national security.

### ***Disciplinary Issues Stemming from Service-Related Injuries***

Since World War II, the fivefold increase in those receiving other than honorable discharges suggests that commanders are increasingly using these discharges to handle troops who are not performing to standard or who have disciplinary issues. Research has shown<sup>36</sup> that a disproportionate share of service members with other than honorable discharges have experienced military sexual trauma (MST) and/or suffer from PTSD or other mental health conditions,<sup>37</sup> traumatic brain injury (TBI), and substance use disorder (SUD), which may explain their poor performance. For example, one study of 443,000 veterans who deployed to Iraq or Afghanistan found that 45% of those discharged for misconduct were diagnosed with at least one mental health condition or SUD, compared to 20% of those discharged under routine conditions.<sup>38</sup>

While the evidence clearly shows that commanders are increasingly turning to these discharges, it is not clear that they understand the consequences of doing so. Most importantly, these discharges result in a lifetime denial of essential VA care and benefits. Of the 122,000 service members separated for misconduct between 2001 and 2013, 117,000 were not recognized by the VA (and thus, were excluded from VA care and other benefits) because of their discharge characterization.<sup>39</sup> While this denial of benefits is likely intended to deter misbehavior, it also creates a paradox, wherein many of the veterans who are suffering from the invisible wounds of war and are most in need of targeted assistance are those least likely to receive it. Exemplifying this issue, recent evidence has found that service members are experiencing brain injuries due to exposure to blasts from their own weapons,<sup>40</sup> and then are frequently denied health benefits due to substance use, aggression, or other behavior stemming from these injuries. The results are alarming. Research shows that veterans with other than honorable discharges are three times more likely to be at risk of suicide<sup>41</sup> than veterans who receive honorable

discharges. Similarly, veterans with other than honorable discharges face elevated rates of homelessness and incarceration.<sup>42</sup>

### ***Fragmented Leadership***

There is no single primary entity or person accountable for the effectiveness of transition efforts. Several federal agencies have responsibilities for transition, including the DoD, VA, Department of Labor, Small Business Administration, Department of Homeland Security, and the Department of Education. However, the absence of a sole responsible entity to coordinate transition creates problems. While recent efforts have improved communication between agencies, those tasked with transition often fail to collaborate; as a result, some transitioning service members fail to receive mental health treatment and suicide prevention resources.<sup>43</sup> Executive Order 13822, issued in 2018,<sup>44</sup> called on the DoD, VA, and Department of Homeland Security to create a joint action plan to provide seamless access to treatment and services to address this issue. But an evaluation<sup>45</sup> of this plan in 2021 revealed ongoing challenges. These are perhaps best illustrated by the persistently high suicide rate among veterans, with an estimated 17<sup>46</sup> to 24<sup>47</sup> dying by suicide each day, a value that varies based on how service members are defined.

### ***TAP Issues and the Lack of a Proper Risk Assessment Model***

The decentralized approach to transition is also reflected in TAP, the DoD's primary program to help service members reenter civilian life. In a recent change to TAP, all service members are now evaluated for their level of preparedness for transition at the beginning of the program.<sup>48</sup> While this move to identify service members at greatest risk of failing in transition is commendable, the large number of entities responsible for managing the transition process remains a problem. In particular, each service branch is responsible for assessing transition preparedness, which has resulted in varying procedures<sup>49</sup> and the inconsistent identification<sup>49</sup> of those most at risk. In addition, the military's response for those service members identified as being at the greatest risk is to require attendance at a two-day course to address their needs. Even if that requirement were a sufficient response, data indicate that more than one in five at-risk service members do not complete the course, and the military provides no additional interventions or services. This process deviates substantially from the principles underlying evidence-based risk assessments,<sup>50</sup> which emphasize the consistent identification of those most at risk. Moreover, the different identification methods

across the branches do not appear to draw on known risk factors for poor outcomes in civilian life, such as PTSD, TBI, MST, SUD, and other behavioral health conditions.<sup>51</sup> Notably, information on the presence of such factors is collected by the DoD, meaning that the department has the necessary data to create and validate a risk-need assessment tool capable of identifying the service members most at risk of facing challenges in transition (e.g., suicide, criminal justice involvement). In short, the DoD has the tools and data to implement an evidence-based risk assessment among transitioning service members to identify those most at-risk and connect those individuals to services designed to effectively meet their needs, but is not doing so.

### ***Failure to Coordinate with On-the-Ground Entities***

Non-governmental organizations and state and local governments attempt to fill gaps in transition services but generally lack the necessary resources, expertise, and data to evaluate their effectiveness. State Departments of Veterans Affairs and local government offices offer transition assistance, but these efforts vary widely in services provided and whether those services are based on evidence or even evaluated. Similarly, because of a lack of coordination between federal agencies and these state and local entities, communities are unable to identify transitioning veterans and provide needed programs and services.<sup>52</sup> Local non-profit organizations that assist in transition face similar challenges. These organizations tailor programs and services to the needs of the veterans in their communities. While this work has led to the development of promising and innovative smaller-scale programs, these programs may not be relevant to transitioning veterans in other communities. Additionally, many organizations lack the funding to conduct pilot programs, feasibility studies, or rigorous evaluations to identify the core program components that are effective and could be replicated in other communities.

### **Implementation Steps:**

- 1. Congress and the President should establish an Under Secretary of Defense for Transition, mitigating the issue of fragmented delivery of services and creating accountability in one office.**
  - a.** Enhancing the coordination of information, data, and best practices between and among programs serving justice-involved veterans.
  - b.** Identifying research gaps in veterans' programs.

- c. Funding original research and technical assistance to fill those gaps and encouraging programmatic innovation to expand evidence-based practice for justice-involved veteran interventions.
  2. ***Congress should mandate that the DoD, through this new Under Secretary, create, validate, and implement a validated risk-needs assessment that identifies service members at highest risk for post-transition problems associated with criminal justice system involvement (e.g., the risk of suicide, homelessness, SUD, or mental health disorders).***
    - a. This risk-needs assessment should be based on standardized data and processes and follow established evidence-based practices for the development, validation, and implementation of risk-need assessments.<sup>53</sup>
      - i. Where possible, these assessments should rely on automated processes and objective data, ensuring greater consistency and efficiency in the identification of at-risk service members.<sup>54</sup>
    - b. These risk-needs assessments should be completed for all service members voluntarily leaving military service 180 days prior to their scheduled transition date. (See (3)(j) for the transition process needed for service members undergoing an involuntary separation.)
  3. ***Congress should mandate that the DoD establish regional Joint Transition Centers in the contiguous United States to ensure adequate time and resources are provided to transitioning service members.<sup>55</sup> These residential centers should employ highly trained personnel, preferably located near VA resources. This will alleviate the inconsistencies in programming and delivery of service and provide efficiencies in scale and distribution of resources. Further, Joint Transition Centers should make use of the best-known online tools for programming and telehealth, along with support for housing and employment.***
    - a. Senior officials from DoD, VA, and DOL should be on the staff of each Joint Transition Center, ensuring significant effort and support from each department.<sup>56</sup>
    - b. The utilization of the Joint Transition Centers by service members should be based on the results of their risk-needs assessment described above. At 90 days before transition:

- i. Those identified as low risk should remain in their current station, complete an online transition course through the Joint Transition Centers, and be connected to evidence-based Veterans Service Organizations/Non-Governmental Organizations, such as Onward Ops, VECTR or the REBOOT Workshop, to help prepare them for transition.<sup>57</sup>
    - ii. Those identified as medium risk should be transferred to a Joint Transition Center or complete transition in their assigned unit with individualized assistance, care, and coordination through the Joint Transition Center.
    - iii. Those identified as high risk should be transferred to a Joint Transition Center to complete their transition.
  - c. Service members who are transferred to a Joint Transition Center should be moved to a temporary status in accordance with the rules of their military branch and placed in the temporary roster of their branch.<sup>58</sup>
    - i. This personnel reform is intended to ensure the mitigation of the commander's dilemma and must be implemented in this manner, for that purpose.
  - d. Service members facing general or special court-martial proceedings should remain under the command and authority of the convening authority and not be transferred to a Joint Transition Center. If there is a conviction, any transition programming following the court-martial proceeding should be provided only when appropriate under circumstances determined at the discretion of the military judge. If there is no conviction but there is a subsequent administrative separation, the appropriate commander should retain discretion.
    - i. Prior to the referral of charges to a general or special court-martial, each service member should be evaluated by a mental health professional to determine if evidence-based practices, as listed below in Recommendation 2, could result in treatment and retraining, unless it is waived in writing by the service member after consultation with defense counsel.

- e. When service members are transferred to a Joint Transition Center, sole authority to determine the daily duties of the service members should be assumed by Joint Transition Center officials, rather than remaining with the service member's prior commander. (This removes the conflict involving commander's dual responsibilities for maintaining mission-readiness and supporting transition.)
  - i. Responsibility for discharge status should similarly move to Joint Transition Center officials, though input from the prior commander should be considered.
  - ii. Responsibility for SkillBridge and similar transition programs and requests should similarly be moved to Joint Transition Center officials, though input from the sending commander should be considered.
- f. Joint Transition Centers should coordinate specialized diagnostics and evidence-based cognitive behavioral therapy, medical treatment, mental health care, and substance use disorder treatment with other facilities.
  - i. When possible, Joint Transition Centers should be located near existing entities that provide evidence-based healthcare for veterans, such as Cohen Veteran Network clinics<sup>59</sup> or VA hospitals.
  - ii. The scope of the VA should be revised to allow the VA to assist in the transition care plan for these service members.
  - iii. Joint Transition Centers should have the authority to extend a service member's time at the center to allow for appropriate programs (e.g., SkillBridge) and treatment.
  - iv. When health professionals deem it appropriate for a service member's care, family members should be involved in the treatment, including through mechanisms such as telehealth.
- g. Joint Transition Centers should develop an individualized case plan for each service member based on the results of the member's risk-needs assessment and should offer evidence-based programs designed to address their specific risks and needs.
  - i. The goal of a service member's time at the Joint Transition Center should be the completion of this individualized case plan.

- ii. Joint Transition Centers should develop public-private partnerships with NGOs offering transition services, such as Onward Ops, VECTR, or the REBOOT Workshop, to develop the case plans and provide evidence-based programming.
  - (1) Such partnerships should rely on evidence-based programs with a record of effectiveness; alternatively, the NGO should permit evaluation of the programs' effectiveness.
- h. Joint Transition Centers should validate the location where the service member intends to live after discharge and ensure electronic transfer of information to state and local public VSOs.
  - i. Joint Transition Centers should work with state and local public VSOs to create appropriate memorandums of understanding to allow for this electronic transfer of information.
    - (1) Service members should be allowed to opt out of this electronic transfer of their information to state and local VSOs.
  - ii. When possible, transitioning service members should be placed in a Joint Transition Center that is as close as possible to where they intend to live after discharge, reducing the number of distant relocations.
- i. DoD should target service members at Joint Transition Centers for intra-branch, cross-branch, Reserve, and National Guard retention, as some individuals may wish to continue serving the nation and the services may favor their reenlistment.
- j. All service members given an involuntary separation (e.g., medical, misconduct, or administrative) should transfer to a Joint Transition Center 90 days before their separation date.
  - i. At the Joint Transition Center, these service members should undergo evidence-based medical and mental health screening and treatment, as well as evidence-based programming, with the goal of potentially continuing their service following program completion.
- k. When possible, Joint Transition Centers should repurpose existing facilities, including the use of closed public and private facilities.

- l.* Congress should provide funds to promote Joint Transition Center success:
  - i.* This should include grants for NGOs working with Joint Transition Centers to promote the use of evidence-based practices, innovation, and evaluation.
  - ii.* Funding should also be provided to evaluate and improve the effectiveness of the Joint Transition Center process.
  - iii.* Relevant federal agencies should collaborate with the Joint Transition Centers to identify appropriate programs and evaluation criteria.
- m.* To ensure the reforms identified above become part of federal policy and withstand agency leadership changes:
  - i.* Congress should include these reforms in the United States Code.
  - ii.* Congress should give DoD broad statutory authority to implement these reforms and ensure accountability for cooperation and performance by all associated federal agencies.
- n.* Congress should employ oversight powers to ensure that the DoD complies with these new provisions.

## **Recommendation 2. Integrate Evidence-Based Practices Into Management of Performance Issues and Specified Military Justice Cases**

**Summary of Findings:** The military’s punitive approach to performance issues and certain military justice cases stands in stark contrast to best practices in the civilian criminal justice field, where emphasis is placed on providing evidence-based rehabilitative services to individuals with the highest risk and need.

**Recommendation:** The Department of Defense should integrate evidence-based practices into its management of performance issues and specified military justice cases to promote the retention, treatment, and healing of active-duty and National Guard/Reserve service members.<sup>79</sup>

**Detailed Findings:**

When service members fall short of performance standards, commanders find themselves with limited options to address problematic behavior; many resolve this dilemma by turning to the military justice system or administrative separations. While commanders must be able to maintain order and discipline to accomplish their assigned missions, this approach emphasizes punishment and swift removal and leaves little room for rehabilitation and retention. Indeed, one result of the military justice and administrative separation processes is that veterans can be denied care for an injury that was sustained in service of their country and caused the misconduct that led to their removal. These dynamics potentially endanger the life of the service member, put the service member's family and community at risk, and increase the likelihood of criminal justice system contact. This use of punitive measures is particularly problematic because individuals failing to meet performance standards are disproportionately more likely to be suffering from the invisible wounds of war, including conditions such as PTSD, TBI, SUD, MST, and mental health challenges.<sup>60</sup> As noted earlier, this issue has been highlighted recently by evidence of service members experiencing brain injuries due to exposure to blasts from their own weapons,<sup>61</sup> and subsequently being denied health benefits due to behavior stemming from these injuries, such as increased levels of violence and aggression. While direct causal evidence linking a lack of VA care and benefits to justice system engagement has not been established, compelling reasons suggest a correlation. Research indicates that veterans without VA care tend to experience poorer health outcomes, particularly in the treatment of conditions that disproportionately affect veterans, such as PTSD, TBI, and MST.<sup>62</sup> Given the heightened likelihood of multiple deployments, combat exposure, and associated injuries like PTSD, TBI, and MST in the post-9/11 generation of veterans, the absence of robust care increases the risk of insufficient treatment for these conditions,<sup>63</sup> leading, in turn, to an increased risk of violent and criminal behavior.<sup>64</sup> Veterans lacking VA care and benefits also are more likely to face financial insecurity,<sup>65</sup> a factor that has been linked to a greater propensity for criminal behavior.<sup>66</sup>

Compounding these challenges are cultural issues within the military, such as a prevalent culture of excessive alcohol use<sup>67</sup> and an increasing reliance on prescription medication in the absence of sufficient behavioral health care resources.<sup>68</sup> These factors contribute to a complex web of challenges that affect the mental and physical well-being of service members and may lead to performance issues that are currently handled through the military justice system or administrative separations. In addition, evidence suggests that the military justice system and administrative separations<sup>69</sup> disproportionately affect lesbian, gay, bisexual, transgender, and queer service members, as well as service members of color, leading to the lifetime denial of VA benefits and services to these

veterans.<sup>70</sup> The use of punitive measures can lead to multiple poor outcomes. Evidence shows that veterans who receive other than honorable discharges are three times more likely than those without such a discharge designation to be at risk of suicide.<sup>71</sup> Moreover, while only 6% of all veterans receive an other than honorable discharge, roughly 18% of incarcerated veterans are assigned this discharge characterization.<sup>72</sup> Similarly, veterans with less than honorable discharges are more likely to experience homelessness and a range of behavioral and mental health challenges, issues of particular concern today given the 7% rise in the number of homeless veterans seen in the U.S. from 2022 to 2023.<sup>73</sup> A recent book on the invisible wounds of war<sup>74</sup> describes one impact of these challenges as a “military misconduct Catch-22”, wherein “it is simply too late to obtain treatment for military offenders with ongoing mental health needs because military offenders are too far along the pathway to punitive or administrative separation.” Furthermore, the application of punitive measures means the military is discharging thousands of service members annually at a time when maintaining adequate force levels is a significant challenge, with the total number of service members recently dropping to its lowest level in 80 years.<sup>75</sup>

The military’s current punitive approach stands in stark contrast to best practices in the civilian criminal justice field, where emphasis is placed on providing evidence-based rehabilitative services to individuals with the highest risk and need.<sup>76</sup> These evidence-based practices recognize that such an approach provides the greatest economic and public safety benefits, preventing individuals from cycling in and out of the criminal justice system due to unaddressed issues that drive criminal behavior, and reducing the costs associated with this behavior.<sup>77</sup> For example, the current 4,000 treatment courts in operation serve more than 150,000 people each year, leading to a 58% reduction while saving taxpayers \$6,000 per treatment court participant.<sup>78</sup> By integrating evidence-based practices into its management of service members with behavior and performance issues, the military can support the well-being of individuals who have served their country, reduce the number of veterans who land in the criminal justice system, increase retention, and improve the strength and readiness of its overall force.

#### **Implementation Steps:**

- 1. In eligible military justice cases, prior to the referral of charges to a general or special court-martial, each service member should be evaluated by healthcare professionals to determine whether evidence-based interventions could result in treatment and retraining, unless it is waived in writing by the service member after consultation with defense counsel.***

- a. Commanders or prosecutors should retain discretion over referral to a court-martial, but consideration should be given to amenability to treatment and the availability of evidence-based resources.
  - b. Eligible military justice cases should involve offenses that would normally be probation eligible in the civilian sector.
2. ***Congress should require the Department of Defense to identify and enable the use of evidence-based practices for eligible disciplinary and performance issues, allowing operational force commanders to rehabilitate and retain service members who are on active-duty or in National Guard/Reserve units.***
  - a. These practices should be consistent with evidence-based civilian accountability court practices (e.g. drug courts), such as the use of case planning, treatment, and supervision.<sup>80</sup>
    - i. Eligibility criteria for this intervention should similarly be established in accordance with evidence-based civilian accountability court practices.<sup>81</sup>
    - ii. The military should create these court systems and/or should allow for partnerships with existing civilian accountability courts to operate these programs.
  - b. When a service member successfully completes a program, they should be allowed to return to service.<sup>82</sup>
3. ***Congress should fund a study to explore whether administrative separations and military justice are used disproportionately across the dimensions of race, ethnicity, gender, and sexual orientation.***
4. ***Congress should employ oversight powers to ensure that the DoD complies with these new provisions.***

### **Recommendation 3. Expand VA Eligibility as Directed by the GI Bill of 1944 and Improve Veterans Services During Transition**

**Summary of Findings:** Many service members transitioning out of the military fail to access VA healthcare and other vital services post-discharge, with some declared ineligible due to discharge status or incarceration and others deterred by a complex benefit enrollment process. While there is no direct evidence connecting a lack of VA benefits to justice system involvement, research suggests that veterans without VA care tend to experience poorer health outcomes, particularly those involving PTSD and

traumatic brain injuries. Such conditions, if untreated, have been linked to a greater propensity for criminal behavior.

**Recommendation:** The Department of Veterans Affairs (VA) should adopt regulations that follow the plain text of the 1944 GI Bill by providing VA eligibility to all former service members not discharged under dishonorable conditions, and Congress should mandate automated, nationwide enrollment in VA health care for all eligible transitioning service members.

**Detailed Findings:**

Many service members undergoing transition face significant challenges in accessing vital VA services post-discharge. Statistics show that just 44% of veterans are enrolled in health care provided by the VA,<sup>83</sup> indicating a substantial gap in service utilization. Multiple factors may explain this gap, from ineligibility for care because of discharge characterization or incarceration to a personal preference for another source of care (e.g., private health insurance). One key barrier to VA services is the absence of automated and immediate enrollment into care and benefits following transition, forcing service members to engage in a complex process to obtain care. The lack of a streamlined enrollment process creates a gap in care for service members as they leave active duty and reenter civilian life. While discontinuity of care undermines outcomes across populations,<sup>84</sup> it is of particular concern for service members during the initial year post-transition, when they are at a uniquely high risk for suicide.<sup>85</sup> Addressing this gap in enrollment is imperative to ensure transitioning veterans receive uninterrupted support during this vulnerable period.

***Incomplete Electronic Health Modernization***

The discontinuity of care during transition has been exacerbated by difficulties in updating the systems for veterans' health records. The National Defense Authorization Act, passed by Congress and implemented in 2008, directed the DoD and VA to jointly develop and roll out a common electronic health record system to connect VA medical facilities with the DoD, the U.S. Coast Guard, and participating community care providers. The goal was to allow clinicians to easily access a veteran's full medical history in one location, recognizing that the accuracy and portability of service members' health records from DoD to VA facilities is critical to facilitating consistent, quality health care and support throughout a veteran's transition to civilian life.<sup>86</sup> Unfortunately, this effort, known as the Electronic Health Record Modernization,<sup>87</sup> has been unsuccessful, with the

VA announcing in April 2023 that it was halting additional rollouts of its electronic health records.<sup>88</sup> As a result, VA providers may still face difficulties in accessing the full health history of veterans, making continuity of care a challenge.

### ***Lack of Alignment With 1944 GI Bill of Rights***

Another impediment to support is the denial of VA services based on discharge status, a practice at odds with the legislative framework governing VA eligibility.<sup>89</sup> In the 1944 G.I. Bill of Rights, Congress explicitly wrote that individuals who were not discharged under dishonorable conditions<sup>90</sup> should be eligible for VA care and benefits. However, the VA's implementation has not aligned with this plain text, resulting in the unlawful denial of services to hundreds of thousands of veterans with other than honorable discharges. As noted above, individuals receiving other than honorable discharges are disproportionately represented among justice-involved veterans, making up 6% of all discharges but 18% of all incarcerated veterans.<sup>91</sup>

In 2015, a group of legal experts petitioned the VA to align its eligibility requirements with the GI Bill's language.<sup>92</sup> Despite pointing out the urgency of the issue by noting that the VA's interpretation of the law meant it was excluding more veterans from VA benefits than at any time in U.S. history, the petitioners have yet to receive a final rule in response. While the VA has taken some actions, such as seeking more public comments on the rule, the petition remains without a final response more than eight years after it was submitted. As noted earlier, while direct causal evidence linking a lack of VA care and benefits to justice system engagement is not established, research indicates that veterans without such care tend to experience poorer health outcomes,<sup>93</sup> particularly those involving conditions that disproportionately affect veterans (e.g., PTSD, TBI, and MST). Given the heightened likelihood of multiple deployments, combat exposure, and associated injuries like PTSD, TBI, and MST in the post-9/11 generation of veterans, the absence of robust care increases the risk that these conditions will not be sufficiently treated,<sup>94</sup> therefore leading to an elevated likelihood of violent and criminal behavior.<sup>95</sup> Additionally, veterans lacking VA care and benefits are more likely to face financial insecurity,<sup>96</sup> a factor that has been linked to a greater propensity for criminal behavior.<sup>97</sup> These findings underscore the urgent need to address the barriers preventing transitioning service members from accessing essential VA services. Failure to do so undermines the well-being of veterans and poses risks to public safety.

### **Implementation Steps**

1. ***The President should direct the VA to revise existing regulations and extend benefits eligibility to all the veterans that Congress intended the VA to serve, which includes all former service members with administrative separations (including with an other than honorable discharge) and those separated with a bad conduct discharge from a special court-martial.<sup>98</sup>***
  - a. Congress and the President should provide oversight to ensure that the VA complies with these new regulations in a manner consistent with the congressional language in the 1944 GI Bill.
2. ***Congress should mandate automated, nationwide enrollment in VA health care for all transitioning service members. This process should begin prior to discharge, allowing for continuity of care once a transitioning service member exits the force.***
  - a. VA health care should be automatically provided to all veterans during the first two years following their discharge, ensuring continuity of care during this particularly vulnerable time in a veteran's life. Veterans should be permitted to opt out of this enrollment.
3. ***Congress should continue to oversee the Electronic Health Record Modernization process and hold leaders accountable at the Federal Electronic Health Record Modernization Program Office, VA, and DoD to ensure expeditious completion.***
  - a. Service members should be allowed to opt out of having their DoD medical records shared with the VA at the time of their discharge.
  - b. Congress should fund longitudinal research that draws on this new electronic data sharing to track service members through the transition process and evaluate the effectiveness of transition services in preventing criminal justice system involvement.
4. ***The Congressional Budget Office or Government Accountability Office should prepare a report on congressional appropriations and actual expenditures for research on PTSD in the military from 2000 to the present, along with any results obtained from this research.***

## Conclusion

The Commission's findings and recommendations reflect the urgent need for the Department of Defense to prioritize a targeted set of measures that address the transition of service members to civilian life. The challenges facing transitioning service members—ranging from financial insecurity to PTSD, SUD, and an array of mental health

issues—highlight the inadequacies of the current fragmented and under-resourced system and the resulting risks to the health and safety of veterans, their families, and their communities.

The establishment of an Undersecretary of Defense dedicated to transition, coupled with evidence-based risk assessments and Joint Transition Centers, offers a strategic framework that would allow the military to address these challenges comprehensively. Additionally, adopting evidence-based practices that prioritize rehabilitation and retention would help the military reduce the number of justice-involved veterans and enhance overall force readiness. Lastly, ensuring automated, nationwide enrollment in VA care for transitioning service members, and aligning benefit eligibility with the language of the 1944 GI Bill, can reduce disruptions in care and mitigate the heightened risks of suicide, homelessness, and criminal behavior among newly discharged veterans.

Taken together, these recommendations create a more proactive and coordinated effort that honors the commitment of those who have served our country and contributes to a safer society. These actions also will save lives and economic resources in communities across the country, as service members avoid the health complications and criminal behavior associated with failed transitions. Upon request, we stand by to assist Congress in putting these proposals into action.

## **Cost Estimates**

The following is an estimate for costs related to various aspects of the Veterans Justice Commission's transition recommendations. Two important caveats should be considered along with these estimates. First, the figures below are designed to reflect a rough estimate of possible costs and should not be seen as exact projections. The estimates were developed through conversations with military and criminal justice experts and generally involved the identification of expenses that are analogous to the recommendations offered by the Commission. Second, these costs should be weighed against the benefits that might come from reducing the challenges faced by service members in their transition to civilian life. For example, studies investigating post-9/11 veterans suggest that violent crime among this generation of former service members has led to tens of billions of dollars in costs. The estimates below do not provide any estimated savings that would result from the implementation of the recommendations, but such benefits should be kept in mind when evaluating the cost of the Commission proposals.

## Recommendation One

A. Congress and the President should establish an Under Secretary of Defense with leading responsibility for transition.

**Estimated cost:** \$7.9 million

**Source:** According to a memo to the Deputy Secretary of Defense, the 2024 projected cost for the Office of the Assistant Secretary of Defense for Legislative Affairs is \$7.9 million. This office serves a similar role to the one outlined for an Under Secretary of Defense in charge of transition.

B. Congress should mandate that the DoD, through this new Under Secretary, create, validate, and implement an objective risk-needs assessment that identifies service members at the highest risk for post-transition problems associated with criminal justice system involvement

**Estimated cost:** \$200,000 to \$500,000

**Source:** This estimate is based on testimony from Dr. Zachary Hamilton about risk assessment tools built in criminal justice settings. Dr. Hamilton is an expert on innovation in risk and needs assessments. He serves as the Associate Director of the Nebraska Center for Justice Research at the University of Nebraska Omaha.

C. Congress should mandate that the DoD establish regional Joint Transition Centers (JTCs) in the contiguous United States to ensure adequate time and resources are provided to transitioning service members.

**Estimated cost:** Unknown

**Source:** While the cost of the JTCs is unknown, we assume that these would operate in a manner similar to the Army's Recovery Care Programs<sup>100</sup> (formerly known as Warrior Care and Transition Programs). The budget for those programs is unknown, but if discovered, we believe that budget would serve as a useful starting point for estimating the cost of the JTCs.

## Recommendation Two

A. Enable the use of evidence-based practices for disciplinary and performance issues, allowing for operational force commanders to rehabilitate and retain service members who are on active duty or in National Guard/Reserve units.

**Estimated cost: Unknown**

**Source:** The only analogous practice currently in operation is run by Judge Jeffrey Manske at Fort Cavazos.<sup>101</sup> According to testimony delivered to the Commission by Judge Manske, that operation does not incur any cost to the Department of Defense, but instead is supported by funding outside of the military. Similar coordination with local entities could be replicated in establishing the programs and procedures outlined in this recommendation, but at this point, the prospects for doing so are unclear. Thus, providing a cost estimate is not possible at this point.

B. Congress should fund a study to identify the potentially disproportionate use of administrative separations and military justice across the dimensions of race, ethnicity, gender, and sexual orientation.

**Estimated cost:** \$300,000 to \$600,000

**Source:** This projection reflects testimony from Dr. Andrea Finlay, an expert on justice-involved veterans and the recipient of multiple large research grants. Dr. Finlay pointed to the costs of similar government-funded studies<sup>102</sup> that have been aimed at understanding and reducing disparities.

**Recommendation Three**

A. The President should direct the VA to revise existing regulations to extend benefits eligibility to all the veterans that Congress intended the VA to serve, a group that includes all former service members with administrative separations (including with an other than honorable discharge) and those separated with a bad conduct discharge from a special court-martial.

**Estimated cost:** \$45.5 million annually

**Source:** A VA Waiver Request on Executive Order 13893 that called for administrative separations to generally be considered honorable estimated that such a change would cost approximately \$455.6 million over 10 years.

B. Congress should mandate automated, nationwide enrollment in VA health care for all transitioning service members during the first two years following their discharge.

**Estimated cost:** \$4.04 billion annually

**Source:** According to the Congressional Budget Office, the VA spends an average of \$14,750 per patient.<sup>103</sup> With 245,000 service members transitioning each year, the VA costs for each cohort would total \$3.6 billion. However, approximately 44% of those service members would enroll in VA care without this provision, suggesting the additional cost would actually be \$2.02 billion per cohort. With this recommendation mandating two years of care (i.e., two cohorts), the annual cost estimate totals \$4.04 billion.

C. Congress should fund longitudinal research that draws on this new data-sharing to track service members through the transition process in order to evaluate the effectiveness of transition services in preventing criminal justice system involvement.

**Estimated cost:** \$450,000 to \$1.5 million

**Source:** This projection is based on testimony from Dr. Andrea Finlay, an expert on justice-involved veterans and the recipient of multiple large research grants. Dr. Finlay pointed to the costs of similar government-funded longitudinal studies focused on veterans.<sup>104</sup>

---

<sup>1</sup> Wilkie, R. (2018). *Joint action plan for supporting veterans during their transition from uniformed service to civilian life*. U.S. Department of Veterans Affairs. <https://www.va.gov/opa/docs/joint-action-plan-05-03-18.pdf>

<sup>2</sup> Morin, R. (2011). *The difficult transition from military to civilian life*. Pew Research Center. <https://www.pewresearch.org/social-trends/2011/12/08/the-difficult-transition-from-military-to-civilian-life/>

<sup>3</sup> Morin, 2011, *supra* note 2.

<sup>4</sup> Aitken, P. (2021, September 7). 9/11 had the biggest effect on military recruiting since Pearl Harbor. *Fox News*. <https://www.foxnews.com/us/9-11-military-recruiting>

<sup>5</sup> Orak, U. (2023). *From service to sentencing: Unraveling risk factors for criminal justice involvement among U.S. veterans*. Council on Criminal Justice. <https://counciloncj.org/from-service-to-sentencing-unraveling-risk-factors-for-criminal-justice-involvement-among-u-s-veterans/>

<sup>6</sup> Parker, K., Igielnik, R., Barroso, A., & Cilluffo, A. (2019). *The American veteran experience and the post-9/11 generation*. Pew Research Center.

<https://www.pewresearch.org/social-trends/2019/09/10/deployment-combat-and-their-consequences/>

<sup>7</sup> Kline, A., Falca-Dodson, M., Sussner, B., Ciccone, D. S., Chandler, H., Callahan, L., & Losonczy, M. (2010). Effects of repeated deployment to Iraq and Afghanistan on the health of New Jersey Army National Guard troops: Implications for military readiness. *American Journal of Public Health, 100*(2), 276-283.

<https://doi.org/10.2105/AJPH.2009.162925>

<sup>8</sup> National Institute on Drug Abuse. (2019). *Substance use and military life drugfacts: General risk of substance use disorders*.

<https://nida.nih.gov/publications/drugfacts/substance-use-military-life>

<sup>9</sup> Meadows, S. O., Beckman, R., Engel, C. C., & Jeffery, D. D. (2023). The culture of alcohol in the U.S. military: Correlations with problematic drinking behaviors and negative consequences of alcohol use. *Armed Forces & Society, 49*(2), 531-555.

<https://doi.org/10.1177/0095327X211069162>

<sup>10</sup> U.S. Government Accountability Office. (2017). *DOD Health: Actions needed to ensure post-traumatic stress disorder and traumatic brain injury are considered in misconduct separations*. <https://www.gao.gov/products/gao-17-260>

<sup>11</sup> Swords to Plowshares and National Veteran Services Program. (2022). *Underserved: How the VA wrongly excludes veterans with bad paper*. <https://www.swords-to-plowshares.org/research-publications/underserved>

<sup>12</sup> Throughout this document, we refer to "less than honorable" discharges as well as "other than honorable" discharges. A service member is issued one of six discharge statuses: honorable, general, other than honorable, bad conduct, dishonorable, and uncharacterized. For the purposes of this document, a "less than honorable" discharge is an umbrella term used to refer to all discharge statuses except a fully honorable discharge. The term "other than honorable" refers to that specific discharge status.

<sup>13</sup> Swords to Plowshares and National Veteran Services Program, 2022, *supra* note 11.

<sup>14</sup> Department of Veterans Affairs. (n.d.). *Requirement for service "under conditions other than dishonorable."* [https://assets-global.website-files.com/5ddda3d7ad8b1151b5d16cff/5efed0ac6dc9fc718786414b\\_Petition%20to%2](https://assets-global.website-files.com/5ddda3d7ad8b1151b5d16cff/5efed0ac6dc9fc718786414b_Petition%20to%2)

---

[Oamend%20regulations%20implementing%2038%20USC%20101\(2\).pdf](#); Mulligan, L. (2024). *Unwavering intent: Congress' enduring commitment to veterans' benefits*. Council on Criminal Justice. <https://counciloncj.org/unwavering-intent-congress-enduring-commitment-to-veterans-benefits/>

<sup>15</sup> Holliday, R. (2023). *Suicide among justice-involved veterans: Understanding risk and meeting needs*. Council on Criminal Justice. <https://counciloncj.org/suicide-among-justice-involved-veterans-understanding-risk-and-meeting-needs/>

<sup>16</sup> U.S. Government Accountability Office. (2022). *Servicemembers transitioning to civilian life: DOD can better leverage performance information to improve participation in counseling pathways*. <https://www.gao.gov/products/gao-23-104538>

<sup>17</sup> Office of the Under Secretary of Defense for Personnel and Readiness. (2019). *Transition assistance program (TAP) for military personnel*. <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133235p.pdf>

<sup>18</sup> U.S. Government Accountability Office, 2022, *supra* note 16.

<sup>19</sup> *Ibid.*

<sup>20</sup> Morin, 2011, *supra* note 2.

<sup>21</sup> Culp, R., Youstin, T. J., Englander, K., & Lynch, J. (2013). From war to prison: Examining the relationship between military service and criminal activity. *Justice Quarterly*, 30(4), 651-680. <https://doi.org/10.1080/07418825.2011.615755>

<sup>22</sup> As defined by the Department of Defense, a successful transition is understood as one in which “[s]ervice members transitioning from active duty are prepared for their next step in life, whether pursuing additional education, a vocational trade, finding a job in the public or private sector, or starting a business.” For more detail, see: <https://www.dodtap.mil/dodtap/app/about/DoDTAP>

<sup>23</sup> Cesur, R., Sabia, J. J., & Tekin, E. (2022). Post-September 11 war deployments and crime among veterans. *The Journal of Law & Economics*, 65(2), 279-310. <https://doi.org/10.1086/718352>

<sup>24</sup> See, for example: Pew. (2017). *How states engage in evidence-based policymaking*. <https://www.pewtrusts.org/en/research-and-analysis/reports/2017/01/how-states-engage-in-evidence-based-policymaking>; Washington State Institute for Public Policy. (2006). *Evidence-based public policy options to reduce future prison construction, criminal*

*justice costs, and crime rates.*

[https://www.wsipp.wa.gov/ReportFile/952/Wsipp\\_Evidence-Based-Public-Policy-Options-to-Reduce-Future-Prison-Construction-Criminal-Justice-Costs-and-Crime-Rates\\_Full-Report.pdf](https://www.wsipp.wa.gov/ReportFile/952/Wsipp_Evidence-Based-Public-Policy-Options-to-Reduce-Future-Prison-Construction-Criminal-Justice-Costs-and-Crime-Rates_Full-Report.pdf)

<sup>25</sup> For details, see: DODSkillBridge. (2023). *Program overview.*

<https://skillbridge.osd.mil/program-overview.htm>

<sup>26</sup> Quinn, M. (2022, November 7). *Commanders considering service member's SkillBridge request.* LinkedIn. <https://www.linkedin.com/pulse/commanders-considering-service-members-skillbridge-request->

<sup>27</sup> U.S. Government Accountability Office, 2022, *supra* note 16.

<sup>28</sup> Under Secretary of Defense (Comptroller). DoD budget request.

<https://comptroller.defense.gov/Budget-Materials/Budget2024/>; U.S. Government Accountability Office. (2023). *Military and veteran support: Programs to help service members and new veterans transition to civilian life could be enhanced.* [https://www.armed-services.senate.gov/imo/media/doc/sawyer\\_statement.pdf](https://www.armed-services.senate.gov/imo/media/doc/sawyer_statement.pdf)

<sup>29</sup> Toropin, K. (2021, November 3). The corps' new plan aims to treat marines "like human beings instead of inventory." *Military.com.* <https://www.military.com/daily-news/2021/11/03/corps-new-plan-aims-treat-marines-human-beings-instead-of-inventory.html>

<sup>30</sup> Cesur *et al.*, 2022, *supra* note 23.

<sup>31</sup> U.S. Department of Veterans Affairs. (2022). *National veterans suicide prevention annual report.* <https://www.mentalhealth.va.gov/docs/data-sheets/2022/2022-National-Veteran-Suicide-Prevention-Annual-Report-FINAL-508.pdf>

<sup>32</sup> Shane, L. (2023, December 14). Amid recruiting woes, active duty end strength to drop again in 2024. *Military Times.* <https://www.militarytimes.com/news/pentagon-congress/2023/12/14/amid-recruiting-woes-active-duty-end-strength-to-drop-again-in-2024/>

<sup>33</sup> Military Family Advisory Network. (2022). *Military family support programming survey: 2021 results.* <https://www.mfan.org/wp-content/uploads/2022/07/MFAN-Programming-Survey-Results.pdf>

<sup>34</sup> Kime, P. (2022, July 14). Military families less likely to recommend joining up, survey finds. *Military.com*. <https://www.military.com/daily-news/2022/07/14/military-families-less-likely-recommend-joining-survey-finds.html>

<sup>35</sup> Kime, 2022, *supra* note 34.

<sup>36</sup> U.S. Government Accountability Office, 2017, *supra* note 10.

<sup>37</sup> An additional challenge is the lack of a definitive biological diagnosis for PTSD. Given that common PTSD symptoms mirror issues expressed by servicemembers with discipline challenges, administrative separations often fail to identify the cause of perceived misconduct as PTSD. PTSD research should focus on reliable diagnostics.

<sup>38</sup> Brignone, E., Fargo, J. D., Blais, R. K., Carter, M. E., Samore, M. H., & Gundlapalli, A. V. (2017). Non-routine discharge from military service: Mental illness, substance use disorders, and suicidality. *American Journal of Preventive Medicine*, 52(5), 557-565. <https://doi.org/10.1016/j.amepre.2016.11.015>

<sup>39</sup> McDaniel, J. T., Seamone, E. R., & Xenakis, S. N. (Eds.). (2023). *Preventing and treating the invisible wounds of war: Combat trauma, moral injury, and psychological health*. Oxford University Press.

<sup>40</sup> Philipps, D. (2023, December 14). Pentagon starts veteran outreach program on blast risks from weapons use. *The New York Times*. <https://www.nytimes.com/2023/12/13/us/veterans-weapons-blast-exposure.html?se>

<sup>41</sup> Barr, N., Kintzle, S., Alday, E., & Castro, C. (2019). How does discharge status impact suicide risk in military veterans? *Social Work in Mental Health*, 17(1), 48-58. <https://www.tandfonline.com/doi/full/10.1080/15332985.2018.1503214>

<sup>42</sup> Orak, 2023, *supra* note 5.

<sup>43</sup> Department of Defense Office of Inspector General. (2021). *Evaluation of the Department of Defense's implementation of suicide prevention resources for transitioning uniformed service members* (DODIG-2022-030). <https://www.dodig.mil/reports.html/article/2841764/evaluation-of-the-department-of-defenses-implementation-of-suicide-prevention-r/>

<sup>44</sup> Wilkie, 2018, *supra* note 1.

<sup>45</sup> Department of Defense Office of Inspector General, 2021, *supra* note 43.

<sup>46</sup> U.S. Department of Veterans Affairs, 2022, *supra* note 31.

<sup>47</sup> America's Warrior Partnership. (n.d.). *Operation Deep Dive summary of interim report*. [https://e55c5558-502f-457d-8a07-a49806f5ff14.usrfiles.com/ugd/e55c55\\_1cd5b99bea734bb295762263a003e767.pdf](https://e55c5558-502f-457d-8a07-a49806f5ff14.usrfiles.com/ugd/e55c55_1cd5b99bea734bb295762263a003e767.pdf)

<sup>48</sup> U.S. Government Accountability Office, 2022, *supra* note 16.

<sup>49</sup> *Ibid.*

<sup>50</sup> Bureau of Justice Assistance. (n.d.). *What is risk assessment*. <https://bjao.gov/program/psrac/basics/what-is-risk-assessment>

<sup>51</sup> For example, the self-assessment that transitioning service members complete does not include questions about mental health conditions. See the *Transition Assistance Initial Self-Assessment Worksheet* at <https://5thforcesupport.com/wp-content/uploads/2022/01/TAP-IP-Questionnaire-and-SOU.pdf>

<sup>52</sup> Testimony from General Mike Eastman, Executive Director of Onward Ops, provided to the VJC's Transition Advisory Committee validated this lack of coordination with state and local entities. The Department of Defense is also piloting new ways to coordinate with local governments, demonstrating a desire to improve this issue.

<sup>53</sup> Guidance for creating a risk assessment tool for veterans can be found at: VETERANetwork. (n.d.). *Veteran-transition assessment tool*. <https://veteranetwork.psu.edu/projects/veteran-transition-assessment-tool/> and at: The Veterans Metrics Initiative. (n.d.). *Identifying the needs of transitioning veterans*. <https://veteranetwork.psu.edu/wp-content/uploads/2021/02/tvmi-study-final-report-20201104.pdf>. Guidance on how to use artificial intelligence to identify suicide risk can be found at: Booz Allen Hamilton. (n.d.). *Analyzing suicide risk with artificial intelligence*. <https://www.boozallen.com/c/insight/blog/analyzing-suicide-risk-with-artificial-intelligence.html>. Information on private-sector collaborative software solutions being used in the United Kingdom for transitioning service members can be found at: Productive Project Solutions. (n.d.). *Smartsheet for armed forces leavers programme*. <https://www.productive.co.uk/forces-leavers>

<sup>54</sup> See, for example, the Bureau of Prison's development, validation, and annual re-validation of the PATTERN risk assessment tool: Federal Bureau of Prisons. (n.d.). *PATTERN risk assessment*. <https://www.bop.gov/inmates/fsa/pattern.jsp>

<sup>55</sup> Joint Transition Centers refers serve people from multiple military branches. See: Joint Chiefs of Staff. (n.d.). *Origin of joint concepts*. <https://www.jcs.mil/About/Origin-of-Joint-Concepts/>

<sup>56</sup> Officials should coordinate with the Department of Homeland Security to ensure that transitioning veterans who are interested in becoming U.S. citizens via the Naturalization Through Military Service process are given the assistance they need in their application. For details, see: U.S. Citizenship and Immigration Services. (2023). *Naturalization through military service*. <https://www.uscis.gov/military/naturalization-through-military-service>

<sup>57</sup> For information on Onward Ops, see: <https://onwardops.org/>; for information on VECTR, see <https://gavectr.org/>; for information on REBOOT, see <https://www.nvtsi.org/workshop/>

<sup>58</sup> For information on temporary status and accounts, see: Department of Defense. (2015). Instruction (Number 1120.11). <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/112011p.pdf>

<sup>59</sup> Cohen Veterans Network. (n.d.). Post-9/11 veterans. <https://www.ojp.gov/pdffiles1/nij/248701.pdf>

<sup>60</sup> U.S. Government Accountability Office, 2017, *supra* note 10.

<sup>61</sup> Philipps, 2023, *supra* note 40.

<sup>62</sup> O'Hanlon, C., Huang, C., Sloss, E., Anhang Price, R., Hussey, P., Farmer, C., & Gidengil, C. (2017). Comparing VA and non-VA quality of care: A systematic review. *Journal of General Internal Medicine*, 32, 105-121. <https://doi.org/10.1007/s11606-016-3775-2>

<sup>63</sup> Smith, B. A. (2018). Impact of veteran status and timing of PTSD diagnosis on criminal justice outcomes. *Healthcare*, 6(3), 80. <https://doi.org/10.3390/healthcare6030080>

<sup>64</sup> Taylor, E. N., Timko, C., Nash, A., Owens, M. D., Harris, H. S., & Finlay, A. K. (2020). Posttraumatic stress disorder and justice involvement among military veterans: A systematic review and meta-analysis. *Journal of Traumatic Stress*, 33(5), 804-812. <https://doi.org/10.1002/jts.22526>

<sup>65</sup> Cohen, R. A. & Boersma, P. (2023). *Financial burden of medical care among veterans aged 25–64, by health insurance coverage: United States, 2019–2021* (Number 182). <https://www.cdc.gov/nchs/data/nhsr/nhsr182.pdf>

- 
- <sup>66</sup> Western, B. (2019). Poverty, criminal justice, and social justice. *Institute for Research on Poverty: Focus*, 35(3), 3-13. <https://www.irp.wisc.edu/wp/wp-content/uploads/2019/11/Focus-35-3b.pdf>
- <sup>67</sup> Meadows, S. O., Beckman, R., Engel, C. C., & Jeffery, D. D. (2022). The culture of alcohol in the U.S. military: Correlations with problematic drinking behaviors and negative consequences of alcohol use. *Armed Forces & Society*, 49(2), 531-555. <https://doi.org/10.1177/0095327X211069162>
- <sup>68</sup> Jeffery, D. D., Babeu, L. A., Nelson, L. E., Kloc, M., & Klette, K. (2013). Prescription drug misuse among U.S. active duty military personnel: A secondary analysis of the 2008 DoD survey of health related behaviors. *Military Medicine*, 178(2), 180-195. <https://doi.org/10.7205/MILMED-D-12-00192>
- <sup>69</sup> Department of Veterans Affairs, n.d., *supra* note 14.
- <sup>70</sup> Protect Our Defenders. (n.d.). *Racial disparity in military justice*. <https://www.protectourdefenders.com/wp-content/uploads/2017/05/Disparity-Report-One-Pager-2.pdf>
- <sup>71</sup> Barr *et al.*, 2019, *supra* note 41.
- <sup>72</sup> Bronson, J., Carson, E. A., Noonan, M., & Berzofsky, M. (2015). *Veterans in prison and jail, 2011-12* (NCJ 249144). Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/vpj1112.pdf>
- <sup>73</sup> Brennan, M., & Graham, E. (2023). *Serving those who served: Renegotiating support and benefits for veterans with less than honorable discharges* (Issue Brief #64). <https://surface.syr.edu/cgi/viewcontent.cgi?article=1231&context=lerner>
- <sup>74</sup> McDaniel *et al.*, 2023, *supra* note 39.
- <sup>75</sup> Rogin, A., & Corkery, A. (2023, August 14). Why recruiting and confidence in America's armed forces is so low right now. *PBS NewsHour*. <https://www.pbs.org/newshour/show/why-recruiting-and-confidence-in-americas-armed-forces-is-so-low-right-now>
- <sup>76</sup> For examples of evidence-based practices, see note 24.
- <sup>77</sup> Washington State Institute for Public Policy. (2023). *Benefit-cost results*. <https://www.wsipp.wa.gov/BenefitCost?topicId=2>

<sup>78</sup> All Rise. (n.d.). *About treatment courts*. <https://allrise.org/about/treatment-courts/>

<sup>79</sup> “Certain misconduct” refers to eligible offenses, as detailed in Implementation Step 1(b).

<sup>80</sup> Many best practices from adult drug courts have been found to apply to other adult treatment court models, such as co-occurring disorders courts, DWI courts, mental health courts, reentry drug courts, tribal healing to wellness courts, veterans treatment courts, and family treatment courts. See: All Rise. (n.d.). *Adult treatment court best practice standards*. <https://allrise.org/publications/standards/>

<sup>81</sup> For an example of evidence-based practices, see eligibility criteria provided by All Rise (formerly known as the National Association for Drug Court Professionals). All Rise. (2023). *Adult treatment court best practice standards: Definitive guide for treatment court practitioners*. [https://allrise.org/wp-content/uploads/2023/12/All-Rise-Adult-Treatment-Court-Best-Practice-Standards-2nd-Ed.-I-VI\\_final.pdf](https://allrise.org/wp-content/uploads/2023/12/All-Rise-Adult-Treatment-Court-Best-Practice-Standards-2nd-Ed.-I-VI_final.pdf) They note how accountability courts “are most effective and cost-efficient when they serve high-risk and high-need persons who require an intensive combination of treatment and supervision... Treatment courts are also discouraged from imposing unwarranted admissions requirements that do not improve outcomes or protect public safety and disproportionately exclude members of some sociodemographic or sociocultural groups,” such as the utilization of blanket criminal history disqualifications or resource requirements that burden low income individuals.

<sup>82</sup> For examples of this arrangement, see: Patrick Robinson. (2017, July 11). *Fort Hood veterans treatment court: Veterans endeavor for treatment and support* [Video]. YouTube. [https://youtu.be/CX5OK6\\_J9M?si=QwzU4r8YiqR9-xGg](https://youtu.be/CX5OK6_J9M?si=QwzU4r8YiqR9-xGg) which describes an existing process being run by Judge Jeffrey Manske at Fort Cavazos; see also: Seamone, E. (2022). Addendum: Intercept O-M for active duty military. In S. Vanek, R. M. Brown, H. Busby, & G. Crawford (Eds.), *Veteran intercepts in the criminal justice system* (pp. 91-108). National Institute of Corrections. report from the National Institute of Corrections. <https://s3.amazonaws.com/static.nicic.gov/Library/033665.pdf>

<sup>83</sup> Cohen & Boersma, 2023, *supra* note 65.

<sup>84</sup> Beadles, C. A., Voils, C. I., Crowley, M. J., Farley, J. F., & Maciejewski, M. L. (2014). Continuity of medication management and continuity of care: Conceptual and operational considerations. *SAGE Open Medicine*, 2, 2050312114559261. <https://doi.org/10.1177/2050312114559261>

<sup>85</sup> U.S. Department of Veterans Affairs. (n.d.). *Help with readjustment and social support needed for veterans transitioning from military service.*

[https://www.mentalhealth.va.gov/suicide\\_prevention/docs/Literature\\_Review\\_Military\\_Separation\\_508\\_FINAL\\_05-24-2019.pdf](https://www.mentalhealth.va.gov/suicide_prevention/docs/Literature_Review_Military_Separation_508_FINAL_05-24-2019.pdf)

<sup>86</sup> Congress first directed Electronic Health Records Modernization in the FY2008 National Defense Authorization Act (NDAA) and re-addressed this process in the FY2014 and FY2020 NDAA. In 2021, Congress mandated that the VA submit quarterly reports on progress and costs: Congress.gov. (2021). *H.R. 4691–VA electronic health record transparency act of 2021.* [https://www.congress.gov/bill/117th-](https://www.congress.gov/bill/117th-congress/house-bill/4591#:~:text=This%20bill%20requires%20the%20Department,and%20outcomes%20of%20the%20program)

[congress/house-](https://www.congress.gov/bill/117th-congress/house-bill/4591#:~:text=This%20bill%20requires%20the%20Department,and%20outcomes%20of%20the%20program)

[bill/4591#:~:text=This%20bill%20requires%20the%20Department,and%20outcomes%20of%20the%20program](https://www.congress.gov/bill/117th-congress/house-bill/4591#:~:text=This%20bill%20requires%20the%20Department,and%20outcomes%20of%20the%20program). Historical background can be found at: Inspector General.

(2022). *Joint audit of the Department of Defense and the Department of Veterans Affairs efforts to achieve electronic health record system interoperability*

(DODIG-2022-089). [https://media.defense.gov/2022/May/17/2002999634/-1/-1/1/DODIG-2022-089\\_508.PDF](https://media.defense.gov/2022/May/17/2002999634/-1/-1/1/DODIG-2022-089_508.PDF)

<sup>87</sup> U.S. Department of Veterans Affairs. (2023). *Transforming health care for all veterans, revolutionizing health care for all.* <https://digital.va.gov/ehr-modernization/>

<sup>88</sup> Electronic Health Record Modernization was halted in 2023 until the system could be improved. See: U.S. Department of Veterans Affairs. (2023). *EHR deployment schedule.*

<https://digital.va.gov/ehr-modernization/resources/ehr-deployment-schedule/>.

Implementation challenges are described in: U.S. Government Accountability Office. (2023). *Electronic health records: Challenges with VA's new system call for management improvements* (GAO-23-106785).

<https://www.gao.gov/products/gao-23-106785> and Inspector General, 2022, *supra* note 86.

<sup>89</sup> Mulligan, 2024, *supra* note 14.

<sup>90</sup> Department of Veterans Affairs, n.d., *supra* note 14.

<sup>91</sup> Bronson *et al.*, 2015, *supra* note 72.

<sup>92</sup> Swords to Plowshares. (2021). *VA rulemaking petition to amend regulations interpreting 38 USC 101(2).* <https://www.swords-to-plowshares.org/research-publications/va-rulemaking-petition>

<sup>93</sup> O'Hanlon *et al.*, 2017, *supra* note 62.

<sup>94</sup> Smith, 2018, *supra* note 63.

<sup>95</sup> Taylor *et al.*, 2020, *supra* note 64.

<sup>96</sup> Cohen & Boersma, 2023, *supra* note 65.

<sup>97</sup> Western, 2019, *supra* note 66.

<sup>98</sup> Mulligan, 2024, *supra* note 14.

<sup>99</sup> Council on Criminal Justice. (2023). *Honoring service, advancing safety: Supporting veterans from arrest through sentencing*. <https://counciloncj.foleon.com/veterans-commission/report-1/>

<sup>100</sup> U.S. Army. (2023). *Army recovery care program (ARCP) (formerly known as warrior care and transition program): Benefit fact sheet*. [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Army-Recovery-Care-Program-\(ARCP\)-\(formerly-known-as-Warrior-Care-and-Transition-Program\)?serv=128](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Army-Recovery-Care-Program-(ARCP)-(formerly-known-as-Warrior-Care-and-Transition-Program)?serv=128)

<sup>101</sup> See: Robinson, 2017, *supra* note 82.

<sup>102</sup> See, for example: National Institute of Justice. (2023). *Building equity in objective prison classification: A model for reducing racial and ethnic disparities – award Information*. <https://nij.ojp.gov/funding/awards/15pnij-23-gg-01363-nijb>

<sup>103</sup> Congressional Budget Office. (2021). *The veterans community care program: Background and early effects*. <https://www.cbo.gov/publication/57583#:~:text=VHA%20projects%20that%20spending%20will,expected%20to%20surpass%20new%20enrollment.>

<sup>104</sup> NIH RePorter. (n.d.). *Integrating signals of suicide risk from DoD and VHA data to improve upon suicide risk prevention strategies for combat veterans: Project details*. <https://reporter.nih.gov/search/XUALO1sYUWzKh-mwj3GPA/project-details/10437762>

---

## Report 2 – Honoring Service, Advancing Safety: Supporting Veterans From Arrest Through Sentencing

Veterans returning home face multiple challenges as they leave the structure of military life and attempt to reintegrate with civilian society. Most weather that transition admirably, but many struggle with addiction, mental health challenges, traumatic brain injuries, or PTSD. Studies show that deployment-related trauma exposure, combined with increased incidence of mental health and substance use disorders, elevate veterans' risk of contact with the justice system. One in three of the nation's 19 million veterans report having been arrested and booked in their lifetime, and more than 181,000 are behind bars. Once ensnared by the system, veterans often present a complex set of needs and risk factors that are distinctive from those characteristic of civilians without a military background. But multiple barriers prevent many veterans from receiving the targeted interventions they need.

The Veterans Justice Commission is assessing the extent and nature of veterans' justice-system involvement, the adequacy of transitional assistance for service members as they return home, and the effectiveness of the justice system response when veterans break the law. Chaired by former U.S. Defense Secretary and U.S. Senator Chuck Hagel, the Commission includes former U.S. Defense Secretary and White House Chief of Staff Leon Panetta and 13 other leaders in science, the judiciary, the recovery field, healthcare, corrections, law enforcement, veterans' affairs, and the military. This report provides recommendations focused on the "front end" of the justice system, covering everything from arrest through criminal sentencing. These early stages of the criminal justice process are critical, as they provide a key opportunity to identify the challenges facing veterans and to connect them to services and benefits tailored to help them address those challenges.

While mechanisms targeting justice-involved veterans on the system's front end exist, the Commission's careful consideration of current federal, state, and local policy suggests that they are relatively scarce, disconnected, and localized. Moreover, where existing initiatives have shown promise in early assessments, there is a lack of rigorous evaluation to guide the development and proliferation of best practices. Finally, data on justice-involved veterans is limited, making it difficult to identify the full scope of the problem.

---

## Recommendation 1: Improve Definition and Identification of Veterans Involved in the Criminal Justice System

**Summary of Findings:** There are no reliable estimates of how many veterans are incarcerated, or have come in contact with the justice system more generally, and data-based tools designed to help law enforcement, correctional facilities, and courts verify veteran status are rarely used. Additionally, federal and state statutory frameworks and regulations use different definitions of veteran, which complicates the task of identifying them.

**Recommendation:** Federal, state, and local criminal justice agencies and courts should improve processes for identifying veterans in the criminal justice system and adopt a uniform definition of “military veteran” for use in those processes.

### Detailed Findings:

Forty-five years ago, President Jimmy Carter issued a Presidential Review Memorandum on Vietnam Era Veterans. The President noted that “we lack comprehensive information about imprisoned veterans” and subsequently directed federal agencies to collect accurate data on this population.<sup>1</sup> Sixteen years later, Congress began requiring that states have a policy for identifying the veteran status of incarcerated people in order to be eligible for certain correctional grants.<sup>2</sup> Despite these and other actions through the years, reliable estimates of how many veterans are currently incarcerated-or have come into contact with the criminal justice system more generally-do not exist.

This lack of knowledge is the product of several interrelated complications. First, criminal justice agencies and courts tend to rely on individuals to self-report their veteran status. Studies show that when asked about their status by law enforcement, many former service members are hesitant to identify as veterans. Some worry about losing benefits, while others report feeling a sense of shame or fear being viewed as a threat.<sup>3</sup> Research in California found that two out of three incarcerated veterans failed to self-identify as a veteran when asked.<sup>4</sup>

The Department of Veterans Affairs (VA) has created tools that allow law enforcement, jails, and courts to independently verify the veteran status of individuals, but usage of these systems is extremely low. The Veterans Reentry Search Service (VRSS), designed for correctional facilities and courts, has been adopted by only 11% of the 3,100 local jails nationwide.<sup>5</sup> Among law enforcement, the Status Query and Response Exchange System (SQUARES) similarly can be utilized for veteran status identification, but is currently used in just 9 of the country’s 18,000 police agencies.<sup>6</sup> Little is known about

why adoption of these systems is low, but outreach by the Commission to those working in the criminal justice system has identified lack of awareness and the absence of incentives to use the systems as key factors.<sup>7</sup>

Further complicating the identification challenge is an inconsistent definition of the term *veteran*. Federal and state statutory frameworks and regulations use different definitions. For example, being defined as a veteran for federal hiring preference requires 180 days of continuous, active-duty service, but it's 90 days for state hiring preference in Idaho and 30 days in Rhode Island.

Among those frequently excluded from eligibility for veteran benefits are individuals who received an administrative “other than honorable” discharge or a punitive bad-conduct discharge, often grouped together under the characterization “bad paper” discharges.<sup>8</sup> This exclusion presents a challenge for an increasingly large portion of America’s veterans. Since World War II, the share of service members receiving an other than honorable discharge has increased fivefold. More than 6% of post-9/11 veterans receive such discharges annually,<sup>9</sup> with 10% of Marines being discharged under other than honorable conditions in 2011.<sup>10</sup> Overall, more than 548,000 service members, representing roughly 7% of all characterized discharges, have received some type of bad paper discharge since 1980.<sup>11</sup>

### **Implementation Steps**

- 1. Congress and state legislatures should codify the following definition of a military veteran for the purposes of criminal justice system identification: A military “veteran” is defined as a person who:**
  - a.** Swore an oath and entered any branch of the Armed Forces, including the National Guard or Reserve; and is either
    - i.** Currently serving in such branch and has not been discharged; or
    - ii.** Was discharged or released from such service under any characterization of discharge that was not a dishonorable discharge, unless the individual receiving the dishonorable discharge has been diagnosed with Substance Use Disorder, Military Sexual Trauma, Traumatic Brain Injury, Post-Traumatic Stress Disorder, or a mental health condition.<sup>18</sup>
- 2. Congress should authorize and appropriate funding for a comprehensive study of SQUARES and VRSS. The study should focus on a wide range of questions, including:**

- a. *Can SQUARES and VRSS serve as databases that can be used effectively by law enforcement agencies, jails, and courts to accurately determine whether a person they encounter is a veteran, as defined in implementation step one?*
  - b. *What changes or improvements must be made to ensure these databases are effective for this purpose? For example:*
    - i. *Why have so few agencies adopted these systems (particularly SQUARES)? What incentives and/or resources could be offered to increase the number of agencies using these systems effectively?*
    - ii. *What difficulties exist for agencies that have adopted the systems?*
    - iii. *What resources are required to make these systems work effectively and efficiently?*
    - iv. *Instead of a contract with individual law enforcement agencies, could access and a requirement to use these systems be part of 911 and 988 system requirements?*
    - v. *How accurately do the databases capture veteran status? What types of service members are being missed by the current databases? What needs to change to make the databases accurate and capable of identifying veterans (as defined in implementation step one) for criminal justice system purposes? What needs to change to allow linkages to persistent individual identification tracking numbers at the federal and state level?*
  - c. *Who should have access to SQUARES and VRSS data?*
3. ***Upon completion of the study, Congress should require the Departments of Defense and Veterans Affairs to use the findings to improve SQUARES and VRSS.***
  4. ***Congress should incentivize the use of these improved systems by state and local law enforcement officers, jail staff, and court personnel (including non-criminal courts),<sup>19</sup> by requiring the adoption and implementation of the systems before certain federal funds and other resources (such as federal justice grants or the use of VA personnel in Veterans Treatment Courts) can be accessed.***

## **Recommendation 2: Create a Continuum of Alternatives to Prosecution and Incarceration for Justice-Involved Veterans**

**Summary of Findings:** Research demonstrates an association between combat exposure and negative behavioral outcomes. The nation has a responsibility to manage all veterans

in a fashion that honors their service and helps them address the challenges their military service can create, including involvement in the justice system.

**Recommendation:** Federal and state governments should adopt statutory frameworks that incentivize and improve veterans' diversion, deferred adjudication, participation in treatment courts, sentencing mitigation, and record clearance.

### Detailed Findings

Veterans who commit offenses as a result of a service-related condition represent a unique class of defendant in our criminal justice system. Put simply, the conditions of their underlying criminality are partially created by the government that prosecutes them.<sup>20</sup> Research demonstrating an association between combat exposure and negative behavioral outcomes suggests that America sends its men and women to war with an understanding that some will bring the war home with them in the form of criminal conduct against the fellow citizens they once fought to protect.<sup>21</sup> America, in turn, has a responsibility to manage all veterans in a fashion that honors their service and helps them address the multiple challenges that service can create.

Combat training advancements by the U.S. military have produced soldiers and other service members who are more effective than ever at winning the nation's wars.<sup>22</sup> For most veterans, such training translates into a professionalism and resourcefulness that can be significant assets in the civilian world. However, for veterans who transition to a civilian life that includes criminal justice involvement, these skills can pose a significant public safety risk, highlighting the importance of therapeutic interventions and accountability to minimize this threat.

Research on the sentencing and supervision of veterans in the justice system is sparse. The few studies that have compared state prison sentences for veterans with non-veterans indicate that veterans are 22% more likely to be sentenced for violent crimes. That finding may explain why veterans are also 11% more likely than non-veterans to receive sentences of ten years or more, and 78% more likely to receive life sentences or the death penalty.<sup>23</sup>

Veterans Treatment Courts (VTCs) have become a popular approach to diverting veterans from incarceration, but the 600 such courts currently operating across the country vary widely in their approaches to legal incentives (e.g., allowing an individual to avoid a record of conviction) and eligibility.<sup>24</sup> For example, a national survey of VTCs found that nearly 60% exclude veterans with at least one type of violent felony charge, while 35% do not permit veterans with "bad paper."<sup>25</sup>

Twelve states have created post-conviction statutory schemes, separate from VTCs, that recognize veteran status as a mitigating factor in sentencing. Many of these statutes, however, are now antiquated, in that they do not take sufficient account of mental health considerations and do not allow veterans the opportunity to avoid conviction records.<sup>26</sup> While the Commission knows of no research that has been done on these veteran statutes specifically, a study of expungement among the general population in Michigan highlights the importance of laws allowing veterans to avoid a conviction record. This study found that people receiving criminal record expungement had five-year rearrest rates of 7.1%,<sup>27</sup> indicating a relatively low public safety impact. In addition, those receiving criminal record expungement in Michigan saw their wages increase by 22%.<sup>28</sup>

More broadly, some states have codified rehabilitative best practices for justice-involved veterans in statutes that cast a wider net. Such laws ensure that all veterans have access to rehabilitative interventions, sentencing mitigation, probation, or parole considerations, when appropriate. California and Minnesota have adopted two of the most comprehensive and well-developed veterans sentencing statutes.<sup>29</sup> Notably, both provide veterans with significant legal incentives to address conditions underlying their criminal behavior. The California law does so by allowing a conviction to be expunged upon a showing of rehabilitation. The Minnesota statute accomplishes this by permitting veterans to avoid a record of conviction on non-prison cases and to avoid prison on some more serious offenses.

The Commission finds that these two state laws provide useful frameworks and common elements that should inform statutory efforts to better support the nation's justice-involved veterans.

### **Implementation Steps**

**1. State and federal statutes should create or expand judicial diversion<sup>30</sup> and deferred adjudication programs that incentivize veterans to take responsibility for their actions and help them resolve the issues underlying their criminal behavior.<sup>31</sup> These programs should:**

- a. Permit participation using a broad definition of “veteran” (e.g., the definition provided in Commission Recommendation One<sup>32</sup>) and include veterans charged with felonies and most violent crimes (except those that would require predatory offender registration), as well as veterans who are not eligible for a VTC.

- b. Ensure judges retain discretion to decide eligibility in individual cases.<sup>33</sup>
  - c. Clearly define the individualized behavioral goals that veterans must meet to successfully complete the programs, including restoration of victims/survivors.
  - d. Offer strong legal incentives, such as early termination of supervision and case dismissal, to encourage veterans to complete their individualized case plans and avoid the collateral consequences of a criminal conviction.
  - e. Allow veterans to transfer supervision to their county of residence.
  - f. Ensure opportunities for victims/survivors and family members to be involved in the supervision and treatment process, including the opportunity to be heard at final case dismissal hearings.<sup>34</sup>
- 2. *States should establish statutory authorization for VTCs that specifies eligibility criteria, best-practice standards, evaluation requirements, and other parameters.***<sup>35</sup>
- a. The U.S. Department of Justice should give federal funding priority to state, local, and tribal VTCs that work with individuals who would be diverted from prison, including diverting those under threat of revocation for violating the terms of their probation, parole, or other supervised release.<sup>36</sup>
  - b. Congress should eliminate the prohibition on treatment-court participation by people who have committed violent offenses and allow states to set eligibility based on their criminal codes and public safety needs.<sup>37</sup>
  - c. The federal judiciary should create a VTC in each U.S. Magistrate Court that has a military installation within its jurisdiction and permit the participation of active-duty service members.
- 3. *State and federal statutes should permit courts to take veterans' national service and military experiences into account at sentencing.***
- a. Courts (and corrections agencies) should consider whether and how military service, including combat exposure, is connected to the criminal offense in determining appropriate case dispositions and establishing individualized case plans.
  - b. Veteran status should be considered as a potential mitigating factor in sentencing decisions, including enumerating veteran status as a mitigating factor in systems with sentencing guidelines.<sup>38</sup>

4. *State and federal statutes should establish or expand record clearance (“clean slate”) policies for veterans.*
5. *Law enforcement, court (judges, prosecutors, and public defenders), and corrections personnel should receive special training in the handling of cases involving veterans, including their exposure to violence, trauma, and PTSD/TBI.*
6. *The federal government should encourage states to adopt the state statutory frameworks described above through incentives for states receiving Department of Justice, VA, and other related federal grants.*

### **Recommendation 3: Establish a National Center on Veterans Justice to Improve Justice-Involved Veterans Programs Through Research and Coordination**

**Summary of Findings:** A lack of coordination among programs for justice-involved veterans results in the duplication of efforts, a lack of proper program evaluation, and an inability to disseminate best practices. As a result, justice-involved veterans seeking assistance often confront a confusing and disjointed network of untested interventions.

**Recommendation:** The federal government should create a National Center for Veterans Justice to lead a coordinated effort to improve outcomes for veterans in the criminal justice system.

#### **Detailed Findings**

Assessing how well our nation is managing justice-involved veterans requires determining the size of the affected populations. Unfortunately, we have few clues. Approximately one third of veterans indicate that they have been arrested at least once in their lifetime, but that statistic relies on self-reported data.<sup>39</sup> In addition, the most recent estimate of incarcerated veterans comes from 2011; it identified 181,500 veterans in state and federal prisons and local jails.<sup>40</sup> These two findings underscore an unfortunate truth: reliable data on justice-involved veterans and the circumstances surrounding their criminal offending is sorely lacking.

Despite that fact, there has been tremendous growth in the number of organizations dedicated to the problem, and to veterans generally. Estimates place the number of veteran support organizations in the U.S. between 20,000 and 60,000. Many are doing commendable work, but duplication of effort, and a lack of structured connectivity, hamper their potential broad-scale impacts. While there have been initiatives to coordinate the efforts of these groups at a local level, the Commission knows of no

national organization with the mission or capacity to facilitate coordination on a broader scale, or between veterans' organizations and federal and state agencies.<sup>41</sup>

Within this criminal justice system, some police, prosecutors, courts, and corrections agencies have modified their policies and programs to address military veterans' criminogenic risks and needs. Still, veteran-specific interventions are rare, and program approaches vary substantially. For example, in a 2021 national scan of more than 2,300 prosecutors' offices, only 36 reported operating veteran-specific diversion programs.<sup>42</sup> Similarly, of the 3,100 local jails nationwide, only 46 operate special veteran housing units.<sup>43</sup>

While veteran-specific interventions are few, some that do exist have been widely replicated without the benefit of rigorous program evaluation. Law enforcement Veteran Response Teams, Veteran Treatment Courts (now numbering more than 600),<sup>44</sup> and VA Veterans Justice Outreach (with nearly 400 Veteran Justice Outreach specialists)<sup>45</sup> are examples of veteran-specific programs that have spread across the U.S. over the last decade but lack proper study. Champions of each of these interventions share powerful stories highlighting the success of individual participants, and many contend that the programs are based on analogous best practices established among a general justice-involved population (e.g., drug treatment courts as a basis for Veterans Treatment Courts). The Commission does not dispute that many positive outcomes appear to flow from such initiatives. But while it makes sense to gradually expand veteran access to these programs, the Commission cannot unequivocally endorse their rapid spread absent validation by research.

The Commission finds that the lack of coordination between programs for justice-involved veterans results in the duplication of efforts, a lack of proper program evaluation, and an inability to disseminate best practices. As a result, justice-involved veterans seeking assistance often confront a confusing and disjointed network of untested interventions.

## **Conclusion**

With these recommendations, the Commission has provided a roadmap to help policymakers and other leaders strengthen and expand support for veterans as they encounter and move through the first phase of the justice system. As detailed above, identification of veterans is the crucial foundation for this work. Improving systems that allow local, state, and federal agencies to identify individuals who have served in the military will enable a larger number of veterans to benefit from interventions that have been tailored to address their unique challenges. As more veterans access these

interventions, a greater number of jurisdictions should adopt frameworks that provide veterans with an alternative to prosecution and incarceration. Finally, the creation of a National Center for Veterans Justice is needed to provide rigorous evaluations of these interventions, accelerate the proliferation of those that are effective, and coordinate the vast array of resources committed to aiding justice-involved veterans.

### **Implementation Steps**

- 1. *The National Center for Veterans Justice should be responsible for:***
  - a. Enhancing the coordination of information, data, and best practices between and among programs serving justice-involved veterans.
  - b. Identifying research gaps in veterans' programs.
  - c. Funding original research and technical assistance to fill those gaps and encouraging programmatic innovation to expand evidence-based practice for justice-involved veteran interventions.
  
- 2. *The U.S. Department of Justice's Office of Justice Programs, in collaboration with the Department of Veterans Affairs (VA), Department of Defense (DOD), Department of Justice (DOJ), Social Security Administration (SSA), Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and law enforcement agencies, should issue a Request for Proposal to support the creation of a National Center for Veterans Justice. Proposals should be assessed based on how effectively they address the center's ability to:***
  - a. Hold, organize, and maintain for review current information about governmental and nongovernmental programs serving justice-involved veterans. This information should be made easily accessible, allowing justice-involved veterans to identify practitioners and organizations listed by specialty and geographic region.
  - b. Maintain systems used to identify justice-involved veterans (per Recommendation One) and permit review by anyone entitled to that information.
  - c. Establish practices to allow veteran service programs to coordinate with each other, including greater sharing of data and best practices identified through program evaluation.
  - d. Establish data sharing arrangements with the VA, DOD, DOJ, SSA, DHS, ICE, law enforcement agencies, prosecutors, jails, and courts.
    - i. Explain how this data sharing will be utilized to identify how many veterans are encountering the criminal justice system.

- ii. Explain how the National Center will analyze the disparities and outcomes among these veterans and address those disparities and outcomes.
- e. Establish sources of funding for the National Center's ongoing operations, including support from the VA, DOD, DOJ, SSA, DHS, and ICE.
- f. Provide technical assistance grants to support the innovation, expansion, and evaluation of new and existing interventions for justice-involved veterans.
- g. Conduct, support, and oversee research on current levels of justice involvement among veterans, as well as evaluations of existing interventions designed to aid this population. Initial research and evaluation should cover the following topics related to the front end of the criminal justice system:
  - i. The number of veterans experiencing different contact points at the front end of the criminal justice system (e.g., arrest, pretrial detention, jail) overall and by race, ethnicity, gender, benefit eligibility, employment and housing status, and other demographic characteristics.
  - ii. The pathways to criminal justice involvement by veterans overall and by veterans with specific demographic characteristics, such as race, ethnicity, and gender.
  - iii. The pathways to criminal justice involvement by veterans' employment and housing status, benefit eligibility, character of discharge, and non-criminal court involvement (such as child custody, family law, and domestic violence matters).
  - iv. The number of veterans reached by, and the effectiveness of, interventions at different stages of the front end of the criminal justice system (diversion, arrest, detention, prosecution, sentencing).<sup>46</sup>

<sup>1</sup>Carter, J. (1979). *Presidential review memorandum on Vietnam era veterans, October 10, 1978*. Washington, DC: United States Government Printing Office.

<https://babel.hathitrust.org/cgi/pt?id=uc1.31210006071078&view=1up&seq=1>

<sup>2</sup> Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 13701(b)(7) (1994). <https://www.govinfo.gov/app/details/USCODE-2015-title42/USCODE-2015-title42-chap136-subchapI-partA-sec13701>

- <sup>3</sup> Ahlin, E. M., & Douds, A. S. (2020). If you build it, will vets come? An identity theory approach to expanding veterans' treatment court participation. *Criminal Justice Review*, 45(3), 319-336. <https://doi.org/10.1177/0734016820914075>; Brown, W. B., Stanulis, R., Theis, B., Farnsworth, J., & Daniels, D. (2013). The perfect storm: Veterans, culture and the criminal justice system. *Justice Policy Journal*, 10(2), 1-44. [http://www.cjcj.org/uploads/cjcj/documents/brown\\_et\\_al\\_fall\\_2013.pdf](http://www.cjcj.org/uploads/cjcj/documents/brown_et_al_fall_2013.pdf); Gideon, L. (Ed.). (2012). *Special needs offenders in correctional institutions*. Thousand Oaks, CA: SAGE. <https://dx.doi.org/10.4135/9781452275444>
- <sup>4</sup> Pelletier, D. (2022). *Identifying the veteran population within the criminal justice system*. Justice for Vets: Dispatch from the Front Lines. <https://justiceforvets.org/wp-content/uploads/2022/05/Identifying-the-Veteran-Population-Within-the-CJS-2022.pdf>
- <sup>5</sup> Pelletier, D. (2022). *Identifying the veteran population within the criminal justice system*. Justice for Vets: Dispatch from the Front Lines. <https://justiceforvets.org/wp-content/uploads/2022/05/Identifying-the-Veteran-Population-Within-the-CJS-2022.pdf>
- <sup>6</sup> S.C. Clark, National Director, Veterans Justice Programs, U.S. Department of Veterans Affairs, personal communication, January 6, 2023.
- <sup>7</sup> D. Stephens, Co-Director of Policing, Security Technology, and Private Security Research and Policy Institute, Former Chief of Police Charlotte Mecklenburg Police Department, personal communication, December 20, 2022.
- <sup>8</sup> The Veterans Legal Clinic at the Legal Services Center of Harvard Law School. (2020). *Turned away: How VA unlawfully denies health care to veterans with bad paper discharges*. OUTVETS, Legal Services Center of Harvard Law School, and Veterans Legal Services. <https://www.legalservicescenter.org/wp-content/uploads/Turn-Away-Report.pdf>
- <sup>9</sup> The Veterans Legal Clinic at the Legal Services Center of Harvard Law School. (2020). *Turned away: How VA unlawfully denies health care to veterans with bad paper discharges*. OUTVETS, Legal Services Center of Harvard Law School, and Veterans Legal Services. <https://www.legalservicescenter.org/wp-content/uploads/Turn-Away-Report.pdf>
- <sup>10</sup> Swords to Plowshares and National Veteran Services Program. (2022). *Underserved: How the VA wrongly excludes veterans with bad paper*. <https://www.swords-to-plowshares.org/research-publications/underserved>

- <sup>11</sup> The Veterans Legal Clinic at the Legal Services Center of Harvard Law School. (2020). *Turned away: How VA unlawfully denies health care to veterans with bad paper discharges*. OUTVETS, Legal Services Center of Harvard Law School, and Veterans Legal Services. <https://www.legalservicescenter.org/wp-content/uploads/Turn-Away-Report.pdf>
- <sup>12</sup> U.S. Government Accountability Office. (2017). *DOD health: Actions needed to ensure post-traumatic stress disorder and traumatic brain injury are considered in misconduct separations* (Report no. GAO-17-260). Washington, DC: U.S. Government Printing Office. <https://www.gao.gov/products/gao-17-260>
- <sup>13</sup> Brignone, E., Fargo, J. D., Blais, R. K., Carter, M. E., Samore, M. H., & Gundlapalli, A. V. (2017). Non-routine discharge from military service: Mental illness, substance use disorders, and suicidality. *American Journal of Preventive Medicine*, 52(5), 557-565. <https://doi.org/10.1016/j.amepre.2016.11.015>
- <sup>14</sup> Bronson, J., Carson, A., Noonan, M., & Berzofsky, M. (2015). *Veterans in prison and jail, 2011-12* (NCJ 249144). Washington, DC: Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/vpj1112.pdf>
- <sup>15</sup> Comprehensive Addiction and Recovery Act of 2016, Public Law 114-198 § 502 (Jul. 22, 2016). <https://www.congress.gov/bill/114th-congress/senate-bill/524/text>; Codified in: Adult and Juvenile Collaboration Programs – Assisting Veterans - Definitions, 34 U.S.C. § 10651(i)(1)(B)(i)-(ii) (2022). <https://www.law.cornell.edu/uscode/text/34/10651>
- <sup>16</sup> Comprehensive Addiction and Recovery Act of 2016, Public Law 114-198 § 502 (Jul. 22, 2016). <https://www.congress.gov/bill/114th-congress/senate-bill/524/text>; Codified in: Adult and Juvenile Collaboration Programs – Assisting Veterans - Definitions, 34 U.S.C. § 10651(i)(1)(B)(i)-(ii) (2022). <https://www.law.cornell.edu/uscode/text/34/10651>
- <sup>17</sup> American Bar Association Criminal Justice Standards for Diversion define “diversion” as “any opportunity for a person to avoid arrest, to decline or reduce charges, to avoid a conviction, or to reduce a sentence, by fulfilling a prescribed set of conditions, by agreeing to a referral to services, or by receiving assistance or release with no further criminal consequences. ‘Diversion’ also refers to efforts to bring a public health approach to incidents traditionally addressed by the criminal legal system, or formalized efforts to identify circumstances in which further criminal legal system intervention is outweighed by concerns regarding over-incarceration and other harms.” For a full explanation of the

diversion standards, see: American Bar Association. (2022). *Diversion*.

[https://www.americanbar.org/groups/criminal\\_justice/standards/diversion-standards/](https://www.americanbar.org/groups/criminal_justice/standards/diversion-standards/)

<sup>18</sup> This definition of a veteran does not impact the definition of a veteran for any other purpose and does not create any rights or benefits.

<sup>19</sup> Veteran status identification and consideration in non-criminal courts, such as family courts, may be important given findings showing that veterans with PTSD have been found to perpetrate intimate partner violence at much higher rates than the national average. See: Sherman, M. D., Sautter, F., Jackson, H. M., Lyons, J. A., & Han, X. (2006). Domestic violence in veterans with posttraumatic stress disorder who seek couples therapy. *Journal of Marital and Family Therapy*, 32, 479–490.

<https://doi.org/10.1111/j.1752-0606.2006.tb01622>

<sup>20</sup> Lee, Y. (2013). Military veterans, culpability, and blame. *Criminal Law & Philosophy*, 7, 285-307. <https://www.doi.org/10.1007/s11572-013-9207-z>

<sup>21</sup> U.S. Army Center for Health Promotion and Preventive Medicine. (2009). *Epidemiologic consultation no. 14-HK-OB1U-09: Investigation of homicides at Fort Carson, Colorado November 2008-May 2009*. <https://apps.dtic.mil/sti/pdfs/ADA515975.pdf>

<sup>22</sup> Brown, W. B. (2008). Another emerging “storm”: Iraq and Afghanistan veterans with PTSD in the criminal justice system. *Justice Policy Journal*, 5(2), 1–37.

<https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=21f0a0d88fec3bfe03ab31e1a620e1f41394949a>; Grossman, D. & Siddle, B. (2008). Psychological effects of combat. In L. Kurtz (Eds.), *Encyclopedia of Violence, Peace, and Conflict* (2nd ed., pp. 1796-1805). Academic Press. <https://doi.org/10.1016/B978-012373985-8.00148-3>;

Grossman, D. (1996). *On Killing: The psychological cost of learning to kill in war and society* (Revised ed.). Little, Brown and Co. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/killing-psychological-cost-learning-kill-war-and-society>

<sup>23</sup> Maruschak, L.M., Bronson, J., & Alper, M. (2021). *Survey of prison inmates, 2016: Veterans in prison* (NCJ 252646). Washington, DC: Bureau of Justice Statistics.

<https://bjs.ojp.gov/content/pub/pdf/vpspi16st.pdf>

<sup>24</sup> Note that the VA’s method of counting differs from that of the National Drug Court Resource Center, which reported 495 VTCs nationwide as of 12/31/2021. See: National Drug Court Resource Center. (2022). *Treatment court maps*.

<https://ndcrc.org/interactive-maps/>

<sup>25</sup> Bad paper discharges refer to individuals who receive either an administrative “other than honorable” discharge or a punitive bad-conduct discharge. For statistics on exclusions within VTCs, see: Baldwin, J. (2015). Investigating the programmatic attack: A national survey of veterans treatment courts. *Journal of Criminal Law & Criminology*, 105(3), 705-751. <https://scholarlycommons.law.northwestern.edu/jcllc/vol105/iss3/4/>

<sup>26</sup> The following 12 states consider veteran status in some way after conviction and separate from VTC participation: Alaska, Alabama, California, Kansas, Minnesota, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, and Rhode Island. See: Seamone, E. R. (2021). *Memorandum: Summary of state sentencing statutes considering veteran status as a mitigating factor*. Available upon request from the author.

<sup>27</sup> Prescott, J. J., & Starr, S. B. (2020). Expungement of criminal convictions: An empirical study. *Harvard Law Review*, 133(8), 2460–2555. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3353620](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620)

<sup>28</sup> Prescott, J. J., & Starr, S. B. (2020). Expungement of criminal convictions: An empirical study. *Harvard Law Review*, 133(8), 2460–2555. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3353620](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620)

<sup>29</sup> California Penal Code § 1170.9 (2020). [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1170.9.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1170.9.&lawCode=PEN); Veterans Restorative Justice Act, Mn. Statutes § 609.1056 (2021). <https://www.revisor.mn.gov/statutes/cite/609.1056>

<sup>30</sup> As discussed in note 17, the American Bar Association Criminal Justice Standards for Diversion define “diversion” as “any opportunity for a person to avoid arrest, to decline or reduce charges, to avoid a conviction, or to reduce a sentence, by fulfilling a prescribed set of conditions, by agreeing to a referral to services, or by receiving assistance or release with no further criminal consequences. ‘Diversion’ also refers to efforts to bring a public health approach to incidents traditionally addressed by the criminal legal system, or formalized efforts to identify circumstances in which further criminal legal system intervention is outweighed by concerns regarding over-incarceration and other harms.” For a full explanation of the diversion standards, see: American Bar Association. (2022). *Diversion*.

[https://www.americanbar.org/groups/criminal\\_justice/standards/diversion-standards/](https://www.americanbar.org/groups/criminal_justice/standards/diversion-standards/)

<sup>31</sup> Use of the term “states” in Recommendation Two is meant to be inclusive of the District of Columbia, tribal jurisdictions, and the five U.S. territories, meaning that it is

recommended that these jurisdictions also adopt the statutory frameworks, with such adoption encouraged through Department of Justice and other federal justice grants.

These statutory enactments are not designed to replace veterans treatment courts or the rules that govern them. The enactments addressed herein will provide veterans another alternative in cases where a veterans treatment court restricts access to the court based on the offense level or the discharge type, provides insufficient legal benefit to promote full veteran participation, or in one of the vast majority of U.S. jurisdictions where no veterans treatment court exists currently.

<sup>32</sup> As seen in Recommendation One, the proposed definition of a military “veteran” is a person who: Swore an oath and entered any branch of the Armed Forces, including the National Guard or Reserve; and is either (i) Currently serving in such branch and has not been discharged; or (ii) Was discharged or released from such service under any characterization of discharge that was not a dishonorable discharge, unless the individual receiving the dishonorable discharge has been diagnosed with Substance Use Disorder, Military Sexual Trauma, Traumatic Brain Injury, Post-Traumatic Stress Disorder, or a mental health condition.

<sup>33</sup> As an example of this form of judicial discretion, Subdivision 2(C) in Minnesota’s Veterans Restorative Justice Act specifies that the court determines eligibility by making a finding of whether the veteran suffers a service-related condition and whether that condition caused the offense. See: Military Veterans; Crimes Committed because of Conditions Resulting from Service; Discharge and Dismissal - Discharge and Dismissal, Mn. Stat. § 609.1056 (2C) (2022). <https://www.revisor.mn.gov/statutes/cite/609.1056>

<sup>34</sup> For an example of what these opportunities can look like, Minnesota’s Veterans Restorative Justice Act reads: “The court shall provide notice to any identifiable victim of the offense at least 15 days before the hearing is held. Notice to victims of the offense under this subdivision must specifically inform the victim of the right to submit an oral or written statement to the court at the time of the hearing describing the harm suffered by the victim as a result of the crime and the victim's recommendation on whether dismissal should be granted or denied. The judge shall consider the victim's statement when making a decision. If a victim notifies the prosecutor of an objection to dismissal and is not present at the hearing, the prosecutor shall make the objections known to the court.” See: Military Veterans; Crimes Committed because of Conditions Resulting from Service;

Discharge and Dismissal - Discharge and Dismissal, Mn. Stat. § 609.1056 (3)(b) (2022).  
<https://www.revisor.mn.gov/statutes/cite/609.1056>

<sup>35</sup> Aspects of this recommendation are similar to the Veterans Treatment Court Act, although this recommendation goes further in addressing more than VTCs (e.g., sentencing mitigation). See: Uniform Law Commission. (2017). *Veterans treatment court act*. <https://www.uniformlaws.org/committees/community-home?CommunityKey=3c91a212-1d3d-4768-9adf-ce809a43f66b>

<sup>36</sup> For more information on this practice, see recommendation 12 from the Council on Criminal Justice's Task Force on Federal Priorities:  
<https://counciloncj.foleon.com/taskforce/federal-priorities/rec12/>

<sup>37</sup> As noted in [Recommendation 12 from the Council on Criminal Justice's Task Force on Federal Priorities](#), the 1994 Crime Bill “prohibited the use of federal funds for cases involving violent offenders, and that ban remains in force. But in the decades since the law’s passage, [research has indicated](#) that the combination of judicial oversight, drug testing, treatment, and other key components can be effective with high-risk, high-need cases, including those involving violent conduct. In addition, many courts have become far more comprehensive and sophisticated in their practices than they were a quarter century ago, enhancing their ability to effectively manage people with more serious criminal involvement.”

<sup>38</sup> For an example of sentencing guidelines that include veteran status as a mitigating factor, see Subd. 4 of Minnesota’s Veterans Restorative Justice Act. Military Veterans; Crimes Committed because of Conditions Resulting from Service; Discharge and Dismissal - Sentencing Departure; Waiver of Mandatory Sentence, Mn. Stat. § 609.1056 (4)(b)(2) (2022). <https://www.revisor.mn.gov/statutes/cite/609.1056>

<sup>39</sup> Snowden, D. L., Oh, S., Salas-Wright, C. P., Vaughn, M. G., & King, E. (2017). Military service and crime: New evidence. *Social Psychiatry & Psychiatric Epidemiology*, 52(5), 605-615. <http://doi.org/10.1007/s00127-017-1342-8>; Timko, C., Nash, A., Owens, M. D., Taylor, E., & Finlay, A. K. (2020). Systematic review of criminal and legal involvement after substance use and mental health treatment among veterans: Building toward needed research. *Substance Abuse: Research & Treatment*, 14, 1-13.  
<https://doi.org/10.1177/1178221819901281>

<sup>40</sup> Bronson, J., Carson, A., Noonan, M., & Berzofsky, M. (2015). *Veterans in prison and jail, 2011-12* (NCJ 249144). Washington, DC: Bureau of Justice Statistics.

<https://www.bjs.gov/content/pub/pdf/vpj1112.pdf>

<sup>41</sup> For examples of these efforts, see the San Diego Veterans Coalition, which works to improve the coordination of the 165 veterans organizations in San Diego County. San Diego Veterans Coalition. (2023). *Serving veterans and their families*.

<https://sdvetscoalition.org>

<sup>42</sup> Data drawn from National District Attorneys Association and Urban Institute project, Mapping prosecutor-led diversion that catalogues hundreds of prosecutor diversion programs across the country and provides thematic and case study reports available at: [www.diversion.ndaa.org](http://www.diversion.ndaa.org); Olsen, R., & Bunn, N. (2022, Aug. 9). *Prosecutor Diversion*. Presentation to the Front-End Advisory Committee of the Veterans Justice Commission.

<sup>43</sup> For a map of the location of these housing units, see: National Institute of Corrections. (2023). *Prisons and jails with dorms for veterans*. <https://info.nicic.gov/jiv/node/27>

<sup>44</sup> Note that the VA's method of counting differs from that of the National Drug Court Resource Center, which reported 495 VTCs nationwide as of 12/31/2021. See: National Drug Court Resource Center. (2022). *Treatment court maps*.

<https://ndcrc.org/interactive-maps/>

<sup>45</sup> Government Accountability Office. (2021). *Veterans justice outreach program: Further actions to identify and address barriers to participation would promote access to services* (Report no. GAO-21-564). Washington, DC. <https://www.gao.gov/products/gao-21-564>

<sup>46</sup> Evaluations here should cover the outcomes associated with reforms made by states based on the statutory changes outlined in Recommendation Two.

<sup>47</sup> Parker, K., Igielnik, R., Barroso, A., & Cilluffo, A. (2019). *The American veteran experience and the post-9/11 generation*. Pew Research Center.

<https://www.pewresearch.org/social-trends/2019/09/10/the-american-veteran-experience-and-the-post-9-11-generation/>

## Report 3 – From Confinement to Community: Supporting Successful Veteran Reentry and Employment

### Introduction

American veterans who land in the criminal justice system have a unique set of experiences and needs, and they face challenges that often differ from those of other people behind bars. For incarcerated veterans struggling with post-traumatic stress disorder (PTSD) and/or other forms of trauma, many elements of life in prison can resemble deployment to a combat zone; researchers say that incarcerated combat veterans, in particular, often adopt survival mode characteristics of those engaged in combat operations.<sup>1</sup> Studies have documented high rates of mental health and substance use disorders among incarcerated veterans.<sup>2</sup> An analysis of corrections data from Washington state found that veterans who self-reported a traumatic brain injury (TBI) had increased use of in-prison medical services, higher rates of violent in-prison misconduct, and an increased likelihood of experiencing solitary confinement.<sup>3</sup>

Other troubles surface during reentry, when veterans, like most formerly incarcerated people, face multiple barriers to success as they seek to rebuild their lives. Securing stable housing and a job are two key challenges. In a national sample of veterans connected to a VA outreach program, 30% had experienced homelessness within the past three years, a rate five times that of men in the general population.<sup>4</sup> While national rates of employment for previously incarcerated veterans are not tracked, factors such as substance use and longer incarceration episodes are correlated with a decreased likelihood of securing a job interview among veterans.<sup>5</sup> Veterans and other formerly incarcerated people also are at high risk of death from substance use disorders, homicide, suicide, and other factors during reentry. Among veterans who connected with a post-release VA outreach program, 57% were diagnosed with a mental health disorder, and nearly half (47%) were diagnosed with a substance use disorder. About one third (35%) were diagnosed with co-occurring mental health and substance use disorders.<sup>6</sup>

Beyond such data, critical gaps remain in what is known about the population of veterans who are in prison or are on post-prison supervision in the community. Most states do not track or publish current data on the number of veterans who are incarcerated or reentering society, or on their unique array of challenges. The absence of reliable, comprehensive information complicates efforts to understand and address

veterans' risks and needs and hinders the development of policies and programs to provide them with tailored interventions and other support.

### ***Some Promising Developments***

In its assessment, the Commission found pockets of encouraging progress. One is the establishment of veteran-specific housing units in correctional settings. These units aim to improve veterans' outcomes by encouraging peer support related to shared military experience. While their use has expanded rapidly in the past several years, they remain relatively rare and have not been evaluated for effectiveness. Multiple correctional leaders, however, say the specialized housing provides valuable benefits for veterans and the incarcerated population overall.<sup>7</sup> A handful of other correctional programs target the unique needs of veterans, including those that partner with the VA to help incarcerated veterans apply for benefits prior to release; focus on incarcerated women veterans; provide educational opportunities; and offer individual and group therapy for mental health and substance use disorders. Still other programs engage incarcerated veterans through peer support networks. Unfortunately, very few of these efforts have been rigorously assessed.

Another promising advancement can be seen in California, which passed legislation allowing incarcerated veterans to petition for readjudication of their cases through a process that permits consideration of their military service. While this is a fairly recent development, the approach could be a model for other states, providing a fresh chance for veterans whose service and related trauma may not have been sufficiently examined during their initial sentencing.

Building on these and other positive initiatives, the Commission's recommendations address the challenges facing justice-involved veterans to ensure they are better equipped to lead productive lives in the country they fought to protect.

## **Recommendation 1: Prioritize the Recruiting and Hiring of Justice-Involved Veterans**

**Summary of Findings:** While the cause of second chance employment is attracting growing support in the business sector, there is no large-scale collaboration among industry and government leaders focused on hiring people with criminal convictions who served in our nation's military.

**Recommendation:** The American business community, as well as government entities at all levels, should implement policies that directly promote the hiring of second chance

veterans. Small businesses and large corporations, along with non-governmental organizations, should collaborate with correctional facilities, technology platforms, and community supervision agencies to support this initiative.

*To support its recommendation, the Commission developed a model hiring policy for businesses that outlines a set of core principles and best practices for hiring second chance veterans. Model Hiring Policy is available at: <https://vjc.counciloncj.org/vjc-reports/hiring-policy>*

## **Detailed Findings**

### ***A Growing Movement***

The hiring of people with criminal records, a practice often referred to as “second chance” or “fair chance” employment, has become increasingly popular within the American business community in recent years. Organizations such as the Second Chance Business Coalition have championed the benefits of such hiring and have encouraged employers to rethink hiring requirements that may be keeping talented employees off their radar.

Under the fair chance hiring approach, employers are encouraged to lower hiring barriers, in part by removing criminal background questions from job applications. Additional fair chance hiring policies include targeted recruiting, skills-based interviews, evaluating the relevance of a conviction to the specific job role, and providing supportive onboarding. More than 50 corporations, including The Home Depot, JPMorgan Chase, Target, Walmart, and United Airlines, have adopted second chance hiring practices.<sup>8</sup> LinkedIn is another leader in this area. In 2020, the company created a fair chance filter for its search engine, which identifies employers who are open to hiring people with criminal backgrounds.

Many companies have also increased efforts to hire veterans. The Veterans Jobs Mission brings together leaders in the business community to promote the hiring of veterans and their spouses. The group, originally called the “100,000 Jobs Mission,” was started in 2011 with 11 companies. By 2024, the effort included more than 315 companies, which have hired more than 900,000 veterans and military spouses in all.<sup>9</sup> Although veterans generally experience lower unemployment rates than non-veterans, joblessness among former service members spiked between 2009 and 2014, with unemployment for Gulf War veterans peaking at 12.1% (compared to 9% for non-veterans) in 2011.<sup>10</sup> In response, the federal government and private sector began coordinated initiatives. The

Obama White House launched the “Joining Forces” initiative, which reportedly placed more than 1.2 million veterans and their family members in corporate jobs by the end of the Obama presidency.<sup>11</sup> The Bush Institute partnered with the U.S. Chamber of Commerce Foundation's Hiring Our Heroes program to put forth seven recommendations to support veterans in finding fulfilling employment.<sup>12</sup> They included greater data collection and the creation and expansion of Department of Defense programs.<sup>13</sup> Hiring Our Heroes has continued to fuel veteran employment efforts, resulting in 505,000 confirmed veteran hires as of 2021.<sup>14</sup> More recently, the Veterans Jobs Mission has committed to hiring two million veterans and 200,000 military spouses through its corporate coalition.

### ***Focusing on Justice-Involved Veterans***

While these examples show the substantial effort made to boost employment for justice-involved individuals and veterans, they reveal a gap at their intersection: the absence of a large-scale initiative to hire veterans with a criminal background. Hire Heroes USA is one group that has stepped in to address this gap. Tailoring its outreach to justice-involved veterans, the organization provides education on legal rights, prepares veterans for interview questions related to their criminal records, and connects job seekers with fair chance employers. The organization also offers mentorship through its Battle Buddies Program. As of May 2024, Hire Heroes USA had supported 688 justice-involved veterans, with nearly half (48%) securing employment.<sup>15</sup>

This laudable work is making a difference in many veterans' lives, but a broader effort is needed to match the scope of the problem. Research has consistently shown that employment, especially stable and meaningful employment, is crucial to successful reentry.<sup>16</sup> With coordination spanning government agencies, community organizations, and the business community, the nation can dramatically expand second chance hiring to more justice-involved veterans, reduce future criminal behavior, and improve health safety, and justice for veterans, their families, and communities. To help accelerate this change, the Commission developed the following recommendation.

### **Implementation Steps**

- 1. *Federal and state governments should hire more second chance veterans.***
  - a. Existing state and federal preferences for hiring veterans should be amended to directly address second chance veterans.



5. *American businesses with second chance veterans hiring policies should consider investing in correctional agencies' vocational training and work-force development programs and should collaborate on job placement efforts for justice-involved veterans, including those on parole or probation either prior to or following a period of incarceration.*
6. *Employers should take advantage of the Work Opportunity Tax Credit.*

## **Recommendation 2: Identify and Provide VA Healthcare to Incarcerated Veterans**

**Summary of Findings:** Identifying veterans in all phases of the justice system remains essential to understanding the nature and extent of veterans' justice involvement and driving development of tailored interventions for veterans in prison and on community supervision. An administrative rule formalized in 1999 prohibited incarcerated veterans from receiving care from the Veterans Administration, eliminating a longstanding benefit. As a result, incarcerated veterans are dependent on institutional care that may not fully address their unique service-related needs, particularly post-traumatic stress and traumatic brain injury.

**Recommendation:** Congress should require the use of the VA's veteran identification databases by all entities in the criminal justice system that receive federal funds. Further, Congress should approve and fund VA-provided medical and mental health care for all incarcerated veterans during their confinement.

### **Detailed Findings**

#### ***A Lack of Identification***

In its report [Honoring Service, Advancing Safety](#), the Commission noted that reliable estimates of the number of veterans in prisons and jails and on community supervision are rare.<sup>17</sup> Official incarceration figures are outdated and only available at the national level. Specifically, the most recent government estimate showed that 181,000 veterans were in U.S. prisons and jails, but this figure is from 2016—and uses 2011 data. There are no exact figures for each state prison and local jail. In addition, while there were approximately 3.7 million adults under some form of community supervision in the U.S. as of 2022, no data exist to show how many of them were veterans.<sup>18</sup> One obstacle to reliable numbers is that agencies in many states tend to rely on people to self-report their veteran status. As highlighted in previous Commission reports, this is a faulty measure because many former service members hesitate to disclose their status. Some

worry about losing benefits, while others report feeling a sense of shame or fear being viewed as a threat.<sup>19</sup> Research in California suggests that nearly two out of three incarcerated veterans do not self-identify when asked.<sup>20</sup> While prisons are able to run their populations against existing data systems—the Veterans Reentry Search Service (VRSS) to determine who has served in the military, few state prisons use them.<sup>21</sup>

To obtain a more accurate picture of the concentration of veterans in state prisons and better understand how corrections agencies identify veterans as part of their classification process, the Commission partnered with researchers at New York University (NYU). Based on state reporting, the researchers estimated that there were 52,000 veterans in state prisons in 2023, representing about 5% of the nation’s total state prison population.<sup>22</sup> This number is below the Bureau of Justice Statistics (BJS) estimate released seven years earlier, which found 98,000 veterans in state prisons, representing about 8% of that year’s total state prison population.<sup>23</sup>

One reason for the gap may be the decline in the prison population overall. Expanding efforts to divert some veterans from incarceration via treatment courts could have reduced numbers as well. But the NYU researchers also believe their 2023 estimate is an undercount, in part because many states rely on self-reporting by veterans, an approach known to be problematic because many veterans are reluctant to self-identify out of shame or fear of potential loss of benefits. In contrast, the BJS uses more rigorous, resource-intensive, nationally representative survey methods for its periodic counts.<sup>24</sup>

Whatever the explanation, this difference in population numbers underscores the need for reliable identification of incarcerated veterans and the consistent use of the VA’s identification systems. The absence of a concerted, comprehensive, and federally managed effort by correctional facilities to identify veterans means that many do not receive targeted interventions that could better address service-related conditions that can contribute to their criminal behavior. Early identification also would help with the creation of reentry plans that include links to veteran resources in the community, including housing assistance, the restoration of VA benefits, and other support.

### ***Healthcare During Incarceration***

Identifying veterans in correctional custody is particularly important to enable institutions to tailor healthcare for those who need specialized treatment for PTSD, TBIs, and other service-related trauma. Currently, veterans incarcerated in jails and prisons do

not have access to VA-specific healthcare, which means they rely on medical care provided by their institutions, like the rest of the population behind bars.

The absence of VA care can be traced back to 1999. That year brought the formalization of a federal regulation proposed by the VA that prohibited the VA from providing healthcare to veterans under the care of another government agency. This regulation terminated a significant benefit and reversed nearly 70 years of VA practice.<sup>25</sup> The change also left non-VA providers responsible for the care of incarcerated veterans. This has raised concerns because it means veterans receive care from medical staff who may lack the specialized training that VA providers receive. For example, research specifically focused on this issue, conducted in New York, shows that non-VA providers are often poorly trained in evidence-based care for veterans' issues, such as using Cognitive Processing Therapy to treat PTSD.<sup>26</sup> PTSD can elevate the risk that veterans will engage in criminal behavior, making specialized VA-provided care particularly important for those in prison and jail.<sup>27</sup>

Before the 1999 rule change, the VA could provide healthcare to incarcerated veterans, either within correctional facilities or by coordinating with correctional staff to bring patients to VA facilities. Restoring VA healthcare access for incarcerated veterans could improve their rehabilitation and ensure a smoother transition to post-incarceration life. Eligible veterans could also seamlessly continue their healthcare after release without the need to reestablish their VA connections.

The Commission was not able to find or calculate what the VA spent on care for incarcerated veterans before the 1999 regulation change. In order to benchmark what resumption of VA funding might cost, the Commission partnered again with researchers at New York University to generate an estimate of current expenditures on healthcare services for veterans in state prisons. The researchers gathered data on the average healthcare cost for imprisoned people in each of the 50 states and multiplied that figure by the estimated number of veterans in each state. They estimated that the total national expenditure on healthcare for veterans in state prisons in 2023 was \$472 million.<sup>28</sup>

Prison health costs at the state level varied widely. The average per person cost was \$9,700. California's costs were the highest, at \$28,000 per incarcerated individual, while Louisiana spent the least, \$1,200.<sup>29</sup> These figures reflect health services provided by state prisons but not other entities that might also supply or pay for care. How much a

state prison can spend on healthcare varies widely due to budget, availability of care, differences in population health needs, and various regional factors.

While these costs reflect current state spending levels, they would not necessarily mirror what the VA would need to spend if it resumed providing services to incarcerated veterans across the nation. Total VA costs could be less if the department covered only certain services, such as behavioral health. On the other hand, since prison health services are widely regarded as insufficient,<sup>30</sup> the VA might expand services and expenditures. Further exploration of the impact on the VA's budget is warranted. But in the Commission's view, the 1999 rule change should be reversed on the grounds that veterans have served the nation and in return deserve the best health services the nation can deliver.

Beyond reverting back to a 70-year norm, it is important to consider the timing of the 1999 rule change. In particular, it occurred just before the 9/11 terrorist attacks. In the aftermath of the attacks, millions of American troops deployed, many of whom went on to serve multiple combat tours. Today's veterans experienced historically high rates of deployment and combat exposure, raising their risk of PTSD and TBI, which are linked to criminal justice involvement.<sup>31</sup> Put simply, VA coverage was taken away from incarcerated veterans at a time when veterans became more likely to experience risk factors associated with criminal behavior, making it more difficult for them to receive proper care for those factors. The Commission believes the 1999 rule change should be reversed and that the VA should resume providing care to incarcerated veterans. This is the best way to honor veterans' sacrifices to the nation and enhance their health and public safety upon release.

### **Implementation Steps**

- 1. Congress should mandate the adoption, use, and data reporting of Department of Veterans Affairs (VA) identification databases—the Veterans Reentry Search Service (VRSS) and the Status Query and Response Exchange System (SQUARES)—by all federal, state, local, and tribal criminal justice agencies that receive federal funds.**
  - a. The administrators of VRSS and SQUARES and state correctional leaders should collaborate to ensure that data systems allow them to effectively share information.
  - b. The VA should also keep its databases up to date to ensure accuracy.
- 2. Congress and the VA should make medical and mental healthcare available to all incarcerated veterans through the Veterans Health Administration (VHA). State**

***correctional facilities should coordinate with the VHA to arrange for such care, to include hosting VA specialists, redirecting transportation from correctional to health facilities, and providing telehealth options.***

- a. Congress should repeal the law that eliminated this right and pass new legislation requiring VA provided medical and mental health care for incarcerated veterans.
- b. Congress should repeal the necessary sections of the Veterans' Health Care Eligibility Reform Act of 1996, Public Law 104-262.<sup>32</sup>
- c. The VA should amend the rule 38 CFR § 17.38(c)(5) to confirm this crucial benefit is once again in effect.
- d. Funding should also be provided to the VHA to ensure necessary staffing requirements are met so that there is no degradation of care to non-incarcerated veterans.

### **Recommendation 3: Eliminate Administrative Barriers to Housing Eligibility and Prevent Benefit Arrearages**

**Summary of Findings:** Conflicting legal definitions of “homeless” and their application to veterans returning home after incarceration create barriers that can substantially complicate veterans’ efforts to secure housing during reentry. Some reentering veterans also struggle with accumulated debt caused by the VA’s erroneous payment of benefits during their confinement.

**Recommendation:** The Department of Housing and Urban Development and other federal agencies should remove administrative barriers that restrict housing opportunities for formerly incarcerated veterans. Additionally, Congress should pass legislation to prevent benefit arrearages for veterans who notify the VA or Social Security Administration of any felony incarceration lasting, or expected to last, more than 60 days.

#### **Detailed Findings**

##### ***Homeless Definitions and Housing Eligibility***

Housing is often cited as an especially daunting hurdle for formerly incarcerated veterans. Many struggle with homelessness,<sup>33</sup> and in the 1980s, data revealed that veterans were overrepresented in the nation’s homeless population.<sup>34</sup> Homeless veterans and non-veterans share many similar experiences that lead them to become homeless.<sup>35</sup> For veterans, the most consistent risk factors are substance use disorder and

mental illness, in addition to low income.<sup>36</sup> Many of these factors lead veterans to criminality as well.

Navigating government-funded housing programs presents a formidable challenge for some justice-involved veterans beginning a reentry journey. Many apply for programs offered through the Department of Housing and Urban Development (HUD), the Department of Labor, and the VA, which offer assistance for those who are homeless or at risk of homelessness. Unfortunately, conflicting definitions of homelessness among these agencies create confusion for many veterans as they seek to comply with program requirements.

The Department of Labor's Homeless Veterans' Reintegration Program (HVRP) and the HUD-VA Supportive Housing program (HUD-VASH) both use the HEARTH Act definition of homeless, which includes people "exiting an institution where they temporarily resided."<sup>37</sup> This ambiguous definition fails to clarify when a veteran is considered to be "exiting" an institution and what qualifies as "temporarily resided." The act also explicitly excludes people who are imprisoned or detained, meaning that incarcerated veterans cannot apply for housing programs before release. This puts them at risk of leaving jail or prison with nowhere to live and can unnecessarily prolong veterans' time behind bars.

The VA's Supportive Services for Veteran Families program includes a "RapidReHousing" waiver that can expedite the housing application process, but its eligibility requirement—being "literally homeless"—is narrow.<sup>38</sup> Veterans exiting institutions after long-term sentences often do not qualify. The HUD-VA Supportive Housing program uses the same homelessness definition as HVRP, further contributing to confusion and inconsistencies across programs.

The Commission finds that conflicting definitions and application of program standards can sow confusion and create unnecessary obstacles to veterans' reentry. This confusion increases the potential for veterans to become homeless upon leaving jail or prison, which, in turn, can increase the odds of reoffending, put veterans at increased risk for suicide, or, in light of a recent U.S. Supreme Court decision, expose them to rearrest for simply being homeless.<sup>39</sup> The Commission strongly urges federal agencies to consider refining the definition of "homeless" in relevant program materials to ensure that more returning veterans can apply for and obtain housing.

### ***Erroneous Benefit Payments and Associated Debt***

A second critical barrier to successful reentry for some formerly incarcerated veterans is accumulated debt related to VA benefit payments that occur during their confinement. In 1980, Congress passed the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendment, which reduced or eliminated VA compensation for veterans imprisoned for more than 60 days.<sup>40</sup> Section 5313 of the amendment says that any veteran who is entitled to VA compensation and is imprisoned for a felony for more than 60 days at a local, state, or federal correctional facility will face a reduction or elimination of compensation on the 61st day of incarceration.<sup>41</sup> For incarcerated veterans without a disability, this rule means the termination of benefit checks. For those who are rated at 20% disabled or greater, monthly payment rates are reduced to 10% of the total benefit (\$171.23 as of June 2024), and for veterans rated at 10% disabled, the payment is reduced even more (\$85.61 as of June 2024).<sup>42</sup>

The VA identifies veterans for benefit reduction or termination by matching Social Security numbers with databases from the federal Bureau of Prisons, the Department of Justice, and the Social Security Administration.<sup>43</sup> This system, however, has significant flaws. In some instances, veterans who should retain their benefits, such as those who are incarcerated for a misdemeanor and are thus not subject to benefit reduction, may be erroneously flagged. In other cases, even those veterans who notify the VA of their incarceration, continue to receive benefits.<sup>44</sup> This scenario leads to overpayments—sometimes extending for years—and, once the government becomes aware of its error, subsequent actions to recover dispersed funds.

The Commission finds that the erroneous payment of benefits to incarcerated veterans, sometimes over many years, can leave those exiting jail or prison saddled with substantial debt at a time when they are readjusting to free society and rebuilding their lives. In some cases, the government will garner the full amount of a veteran's benefit check to recover the debt. Compounding the financial stress, the process of appealing or requesting waivers for these debts is complex and time-sensitive. That challenge, coupled with the onerous task of reinstating VA benefits after release, creates considerable financial instability for many formerly incarcerated veterans as they attempt to reintegrate with families, find housing and employment, and chart a new course forward. The Commission recommends that Congress take action to ensure these erroneous payments do not continue.

## Implementation Steps

1. ***The Department of Housing and Urban Development (HUD) should revise the “homeless” definition in 24 CFR 576.2 to state that an individual who is exiting a publicly funded institution or system of care (such as a health care facility, a mental health facility, a foster care or other youth facility, or a correction program or institution) should qualify as homeless, provided that:***
  - a. The individual will be exiting within 30 days of the date of application for homeless assistance;
  - b. No subsequent residence has been identified; and
  - c. The individual or family lacks the resources or support networks (e.g., family, friends, faith-based or other social networks) needed to obtain other permanent housing.
2. ***The Department of Veterans Affairs (VA) should cease its practice of recouping monies erroneously paid to a veteran after the VA was provided actual written notice of the veteran’s incarceration, whether the source of the notice is the veteran, the correctional facility, or another government entity.***
3. ***Regarding debt waivers, the VA should adopt the following policies, to be included in its training and adjudication manuals:***
  - a. Recoupment of a debt following release from incarceration would very likely constitute “undue hardship” per 38 CFR 1.965, given the innumerable difficulties veterans face upon release; thus, adjudicators should consider this factor when adjudicating waiver requests due to incarceration.
  - b. Recoupment of debts due to incarceration shall begin no sooner than 24 months following release to help facilitate veterans’ successful reentry. The VA should provide veterans with the date upon which their benefits will be reduced and communicate clear instructions for the filing of a waiver.
  - c. The VA should create a form specifically for requesting waivers and should include the following within the form:
    - i. Sections for the veteran to provide information regarding each of the factors considered per 38 CFR 1.965.

- ii. Sections to indicate when the veteran had actual knowledge of the debt so that the VA can calculate the waiver deadline per 38 USC 5302(a)(1), which allows for the VA to start the 180-day deadline from the date of actual knowledge of the debt.
- iii. Sections to indicate the veteran's recent incarceration and their date of release, information the adjudicator can use in analyzing whether recoupment would cause "undue hardship" per 38 CFR 1.965.

**4. Further, the processes outlined in recommendation No. 2 show that it may be prudent to leverage a technology solution to ensure that the VA becomes aware of veteran incarceration in a timely manner to reduce the likelihood and impact of veterans' arrearages.<sup>45</sup>**

## **Recommendation 4: Evaluate and Develop Best Practices for Veterans Housing Units**

**Summary of Findings:** Veteran-specific housing units in prisons and jails have become increasingly popular, gaining support with correctional leaders for their perceived positive impact. Rigorous study of the units is needed to fully understand their effectiveness.

**Recommendation:** Congress should fund and direct the Department of Justice, through the proposed National Center for Veterans Justice, to coordinate research on veterans housing units and develop best practices for their use.

### **Detailed Findings**

Veteran-specific housing units have gained popularity across the country in recent years, with both federal and state correctional systems adopting variations. Sometimes called veteran pods, or HUMVs (Housing Units for Military Veterans), these units typically aim to create a supportive environment for veterans, encourage peer mentoring, and facilitate the delivery of tailored programs. The units are often staffed with officers who have special training in veterans' issues.

The first veteran housing unit was established in 1987 by the New York Department of Corrections, and the National Institute of Corrections (NIC) has identified about 100 to date.<sup>46</sup> These units vary widely in structure and operation, ranging from basic communal living spaces to units requiring extensive program participation. The NIC report Barracks

Behind Bars highlighted the diverse array of units and their management across the country.<sup>47</sup> Correctional leaders widely praise these units for improving population management, allowing for more effective program delivery, and violence reduction. Maine Corrections Commissioner Randall Liberty is a strong advocate for veterans' housing units, having introduced the first jail-level unit in Augusta and expanded the model throughout the state. In a meeting with Commission advisers, he explained his support this way: "One data point I'm most proud of is in 2017 we had 80 assaults on staff. Last year [2023], we had seven, just by providing that therapeutic environment where people can be redeemed and give back to the community."

Adding to this anecdotal support is research focused on the San Diego County Sheriff's Department Veterans Moving Forward program. A study of the program's housing unit for male veterans found that participants had fewer rule violations and were less likely to be rearrested within 12 months of release than a historical group of veterans who did not participate in the program.<sup>48</sup>

While these findings are suggestive, a non-causal analysis of one housing unit cannot be taken as conclusive evidence of the intervention's effectiveness. Moreover, such units vary widely in the scope of their entry requirements and their programming strategies, making it difficult to draw general conclusions about their effectiveness. And because of differences between veterans who join the units and veterans who do not, analyses cannot rule out the possibility that people who seek to live in the housing units are already more likely to successfully reenter the community, regardless of the unit's impact.

Notably, there are no standard practices for veterans housing units. Incarcerated veterans have diverse needs and strengths, many of which are similar to—but perhaps more pronounced than—those of the general prison population. The prison experiences of veterans also are not fundamentally different from those of non-veterans. Consequently, many veterans' housing units either offer programs similar to those available to the general population or serve as specialty housing without distinct programming. There is significant room for innovation to determine what can make these programs work for veterans' successful reentry. Along with this innovation, more rigorous evaluations across different regions are needed to gain a comprehensive understanding of how these specialized units affect participants and how removing veterans from general prison housing affects the broader population. Systematic reviews and meta-analyses of randomized controlled trials and high-quality observational studies, specifically, are needed to determine the benefits of such programming.

Cost is also an important factor to consider. In some cases, veterans housing units do not require augmenting expenditures. For example, the Middlesex Sheriff's Office funded its HUMV unit through its general operating budget and with nominal impact to the budget. The jail was able to repurpose an existing housing unit to suit the veterans' needs and partnered with local service providers for programmatic support.<sup>49</sup> In Maine, Commissioner Liberty shared a similar experience, noting that "it's about management of the population" and that costs need not be a barrier. Despite those examples, costs and budgets vary by jurisdiction, and an efficient population management solution that is workable for a small agency might not be for a larger one.

Finally, in addition to questions of their potential efficacy and cost, veterans housing units may be seen as impractical by correctional managers whose systems contain a relatively small number of incarcerated veterans. In that scenario, officials are forced to balance the benefits of dedicated veterans' units against the need for general population bedspace. This is particularly true for women's facilities, where incarcerated female veterans often lack access to veteran-specific programs and housing.

The Commission finds that veterans housing units show promising results and enjoy substantial support from correctional leaders who have implemented them in their facilities. However, before the units are adopted on a larger scale, further evaluation is needed to confirm their effectiveness.

### **Implementation Steps**

- 1. *The National Center for Veterans Justice, the creation of which was recommended in the Commission's report [Honoring Service, Advancing Safety: Supporting Veterans From Arrest Through Sentencing](#),<sup>50</sup> should review existing research on veterans housing units. It should coordinate information and data sharing as well as best practices for veterans housing units (including gender responsive care).***
  - a.** State and local corrections agencies should consult with Center and affiliated researchers to determine how to establish veterans units for rigorous evaluation.
  - b.** Once this set up is complete, veteran housing unit programs should be evaluated.
  - c.** Center and affiliated researchers should determine what processes and conditions make the units most successful for veterans' reentry.

- i. The National Center for Veterans Justice should coordinate with the National Institute of Corrections on ideal processes and conditions.

## **Recommendation 5: Create “Second Look” review processes that recognize military service**

**Summary of Findings:** “Second look” policies have been adopted in 12 states and the District of Columbia, but incarcerated veterans have few opportunities to request resentencing based on facts related to their military service.

**Recommendation:** Congress and the states should enact second look legislation that creates mitigation considerations for military service in resentencing, parole, and clemency processes.

### **Detailed Findings**

In Honoring Service, Advancing Safety: Supporting Veterans From Arrest Through Sentencing, the Commission recommended that state and federal governments adopt frameworks to divert veterans from the justice system and consider their military history in holding them accountable for their crimes.<sup>51</sup> Here, the Commission extends this approach to incarcerated veterans whose military service was not taken into account at the time of their sentencing.

“Second look” policies allow judges to review cases after a designated portion of a prison sentence has been served. These policies are slowly proliferating, with 12 states and the District of Columbia enacting laws that provide opportunities for incarcerated people—regardless of their veteran status—to petition for an opportunity to return to their communities.<sup>52</sup>

At the federal level, the U.S. Sentencing Commission voted in 2023 to allow judges to reduce sentences for eligible individuals, an action with the potential to affect as many as 18,000 people in the federal correctional system.<sup>53</sup> Also in 2023, the Council on Criminal Justice Task Force on Long Sentences recommended that state legislatures and Congress consider creating selective second look opportunities for those serving 10 or more years, with input from victims and survivors.

Within this push for second looks, little has been done to consider opportunities for incarcerated veterans to request resentencing based on facts related to their military service. California is an exception. In 2022, the legislature passed a penal code amendment that allows veterans suffering from one or more specified service-related conditions to seek resentencing.<sup>54</sup> The code now states that to be eligible for

resentencing, a person must “have served in the US military and have one or more of the following conditions or trauma related to their military service: sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, and/or mental health problems as a result of the defendant’s military service.” If one of those conditions is present, the code further states that the “the court shall consider the circumstance as a factor in mitigation when imposing a sentence.”<sup>55</sup> The amendment applies to veterans incarcerated for felonies or those who are on probation, parole, or any form of post-release community supervision. Individuals who are required to register as a sex offender, or those with certain types of felonies (including homicide or any serious or violent felony that is punishable by life imprisonment or death), are not eligible.<sup>56</sup>

Beyond resentencing, the consideration of military service might also be extended to the parole, pardon, and clemency processes, where it is often overlooked. By not fully and formally considering military service as part of release decisions, crucial context may be missed, potentially denying veterans opportunities for parole, pardon, or clemency. The Commission finds that addressing this gap is essential to ensure that a veteran’s service, and the role such service can play in driving criminal behavior, receives appropriate recognition.

### **Implementation Steps**

- 1. *Congress and the states should enact second look legislation for veterans, requiring that the veteran’s military service record and/or a condition resulting from military service must be considered in mitigation, with shorter prison/jail sentences and/or treatment and accountability in the community as options. These policies should cover the sentencing court, the parole process, and clemency proceedings or policies.***
  - a.** State legislatures, Congress, and policymakers should consider creating selective opportunities for people whose military service was not considered during adjudication to receive judicial second looks consistent with the purposes of sentencing.<sup>57</sup>
  - b.** Participation in veteran housing units should be considered a part of the second look process as it demonstrates a return to military roots and values.

- <sup>1</sup> Sigafos, C. E. (1994). A PTSD treatment program for combat (Vietnam) veterans in prison. *International Journal of Offender Therapy and Comparative Criminology*, 38(2), 117-130. <https://doi.org/10.1177/0306624X9403800204>; Wilson, J. P., & Zigelbaum, S. D. (1983). The Vietnam veteran on trial: The relation of post-traumatic stress disorder to criminal behavior. *Behavioral Sciences & the Law*, 1(3), 69–83. <https://doi.org/10.1002/bsl.2370010308>. See also: Erlinder, C. P. (1983). Paying the price for Vietnam: Post-traumatic stress disorder and criminal behavior. *Boston College Law Review*, 25, 305. <https://lira.bc.edu/files/pdf?fileid=252fdb3c-552d-495c-9175-874b366f2ed8>;
- <sup>2</sup> Barry, L. C., Steffens, D. C., Covinsky, K. E., Conwell, Y., Boscardin, J., Li, Y., & Byers, A. L. (2023). High risk of substance use disorder–related outcomes in veterans released from correctional facilities in mid to late life. *Journal of General Internal Medicine*, 38(5), 1109-1118. <https://doi.org/10.1007/s11606-023-08057-y>; Bronson, J., Carson, A., Noonan, M., & Berzofsky, M. (2015). *Veterans in prison and jail, 2011-12* (NCJ 249144). Washington, DC: Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/vpj1112.pdf>; Tsai, J., Rosenheck, R. A., J. Kaspro, W., & McGuire, J. F. (2013). Risk of incarceration and other characteristics of Iraq and Afghanistan era veterans in state and federal prisons. *Psychiatric Services*, 64(1), 36-43. <https://doi.org/10.1176/appi.ps.201200188>; Saxon, A. J., Davis, T. M., Sloan, K. L., McKnight, K. M., McFall, M. E., & Kivlahan, D. R. (2001). Trauma, symptoms of posttraumatic stress disorder, and associated problems among incarcerated veterans. *Psychiatric Services*, 52(7), 959-964. <https://doi.org/10.1176/appi.ps.52.7.959>
- <sup>3</sup> Drapela, L. A., Lutze, F. E., Tollefsbol, E. T., & Pimley, N. (2019). Assessing the behavior and needs of veterans with traumatic brain injury in Washington State prisons: Establishing a foundation for policy, practice, and education. *Justice Quarterly*, 36(6), 1023-1049. <https://doi.org/10.1080/07418825.2018.1481221>; Logan, M. W., McNeeley, S., & Morgan, M. A. (2021). The effects of traumatic brain injury and post-traumatic stress disorder on prison adjustment and recidivism among military veterans: evidence from Minnesota. *Psychiatric Quarterly*, 92(3), 1147-1158. <https://link.springer.com/article/10.1007/s11126-021-09883-1>
- <sup>4</sup> Tsai, J., Rosenheck, R. A., Kaspro, W. J., & McGuire, J. F. (2014). Homelessness in a national sample of incarcerated veterans in state and federal prisons. *Administration and Policy in Mental Health and Mental Health Services Research*, 41(3), 360-367.

<sup>5</sup> *Ibid.*

<sup>6</sup> Finlay, A. K., Stimmel, M., Blue-Howells, J., Rosenthal, J., McGuire, J., Binswanger, I., ... & Timko, C. (2017). Use of Veterans Health Administration mental health and substance use disorder treatment after exiting prison: The Health Care for Reentry Veterans program. *Administration and Policy in Mental Health & Mental Health Services Research*, 44(2), 177-187. <https://doi.org/10.1007/s10488-015-0708-z>

<sup>7</sup> National Institute of Corrections. (2018). *Barracks behind bars: In veteran-specific housing units, veterans help veterans help themselves.* <https://www.govinfo.gov/content/pkg/GOVPUB-J16-PURL-gpo172300/pdf/GOVPUB-J16-PURL-gpo172300.pdf>

<sup>8</sup> Second Chance Business Coalition. (n.d.). *About the SCBC.* <https://secondchancebusinesscoalition.org/about>

<sup>9</sup> Veteran Jobs Mission. (n.d.). *About the mission.* <https://veteranjobsmission.com/about-the-mission>

<sup>10</sup> Rosser, L. (2021). The recent history of veteran recruitment and retention. In N. D. Ainspan & K. N. Saboe (Eds.). (2021). *Military veteran employment: A guide for the data-driven leader.* Oxford Academic. <https://doi.org/10.1093/oso/9780190642983.001.0001>

<sup>11</sup> The White House. (2016, May 5). *Fact sheet: As part of the 5th anniversary of Joining Forces, first lady Michelle Obama and Dr. Jill Biden announce new private sector hiring and training commitments for veterans and military spouses.* <https://obamawhitehouse.archives.gov/the-press-office/2016/05/05/fact-sheet-part-5th-anniversary-joining-forces-first-lady-michelle-obama>

<sup>12</sup> George W. Bush Presidential Center. (2017). *Stand to: Working together to solve challenges with veteran employment.* <https://www.bushcenter.org/publications/stand-to-working-together-to-solve-challenges-with-veteran-employment>

<sup>13</sup> George W. Bush Presidential Center, 2017.

<sup>14</sup> U.S. Chamber of Commerce. (2023, October 19). *Hiring our heroes celebrates a decade of impact.* U.S. Chamber of Commerce Foundation.

<https://www.uschamberfoundation.org/workforce/hiring-our-heroes-celebrates-decade-impact>

<sup>15</sup> Dickman, R., & Ewell, C. (2024, June 20). *Hire Heroes USA – Overview & Impact* [Meeting presentation]. Veterans Justice Commission, Council on Criminal Justice.

<sup>16</sup> Visher, Christy & Debus-Sherrill, Sara & Yahner, Jennifer. (2011). *Employment After Prison: A Longitudinal Study of Former Prisoners*. Justice Quarterly.

<https://www.urban.org/sites/default/files/publication/32106/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF>.

[https://www.researchgate.net/publication/233474673\\_Employment\\_After\\_Prison\\_A\\_Longitudinal\\_Study\\_of\\_Former\\_Prisoners](https://www.researchgate.net/publication/233474673_Employment_After_Prison_A_Longitudinal_Study_of_Former_Prisoners)

<sup>17</sup> Council on Criminal Justice, 2023a.

<sup>18</sup> Buehler, E. D., & Kluckow, R. (2024). *Correctional Populations in the United States, 2022 – Statistical Tables* (NCJ 308699). Bureau of Justice Statistics.

<https://bjs.ojp.gov/document/cpus22st.pdf>

<sup>19</sup> Ahlin, E. M., & Douds, A. S. (2020). If you build it, will vets come? An identity theory approach to expanding veterans' treatment court participation. *Criminal Justice Review*, 45(3), 319-336. <https://doi.org/10.1177/0734016820914075>

<sup>20</sup> Pelletier, D. (2022). *Identifying the veteran population within the criminal justice system*. Justice for Vets: Dispatch from the Front Lines. <https://allrise.org/wp-content/uploads/2023/05/Identifying-the-Veteran-Population-Within-the-CJS-2022.pdf>

<sup>21</sup> Mullins, S. F. (2024, May 30). *Veterans on community supervision* [Meeting presentation]. Corrections and Reentry Advisory Council, Veteran's Justice Commission, Council on Criminal Justice; Hawken, A., Mullins, S. F., & Cook, L. (2024) [Forthcoming]. *Estimating the number of veterans in state prisons*. Council on Criminal Justice.

<sup>22</sup> The Council on Criminal Justice calculated an expected estimate of 79,000 veterans in state prisons in 2022, using the BJS's number of veterans in state prisons in 2016 and the percent change from 2016 to 2022 (-19%) for all people in state prisons. However, 79,000 may be an overcount due to the historical decline in the number of veterans as a percentage of people in state prisons. The NYU researchers did not attempt to collect

any veteran count for jails due to the large number of jails and limited resource. For veterans in state prisons in 2016, see Appendix Table 1: Maruschak, L. M., & Bronson, J. (2021). *Survey of prison inmates, 2016: Veterans in prison* (NCJ 252646). Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/vpspi16st.pdf>. For all people in state prisons in 2016 and 2022, see Table 1: Carson, E. A., & Kluckow, R. (2023). *National prisoner statistics, 2012–2022* (NCJ 307149). Bureau of Justice Statistics. <https://bjs.ojp.gov/document/p22st.pdf>. For the historical decline, see page 1: Noonan, M. E., & Mumola, C. J. (2007). *Veterans in state and federal prison, 2004* (NCJ 217199). Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/vsfp04.pdf>.

<sup>23</sup> See Appendix Table 1 for the number of veterans and Table 2 for veterans as a percentage of all people in state prisons: Maruschak, & Bronson, 2021.

<sup>24</sup> The study uses data from 46 states. 20 of the 46 states relied on imprisoned people to self-identify as veterans. To estimate the national count of 52,000, the researchers used a statistical model to create estimates for the four states where the researchers did not obtain data.

<sup>25</sup> 38 CFR § 17.38(c)(5). <https://www.ecfr.gov/current/title-38/chapter-I/part-17/subject-group-ECFRf01c7718f2a7e24/section-17.38>; See also: Seamone, E. R. (2024). *Healing on the inside: A history of healthcare for incarcerated veterans*. Council on Criminal Justice. <https://counciloncj.org/healing-on-the-inside-a-history-of-healthcare-for-incarcerated-veterans/>

<sup>26</sup> Tanielian, et al., 2018.

<sup>27</sup> Hwang, S. (2024). Exploring biomarker technology to enhance the diagnosis and treatment of PTSD in justice-involved veterans. Council on Criminal Justice. <https://counciloncj.org/exploring-biomarker-technology-to-enhance-the-diagnosis-and-treatment-of-ptsd-in-justice-involved-veterans/>

<sup>28</sup> Hawken, A., Mullins, S. F., Cook, L., & Pereira, E. (2025) [Forthcoming]. *Estimating the cost of healthcare for veterans in state prisons*. Council on Criminal Justice.

<sup>29</sup> Hawken, et al., 2025 [Forthcoming].

<sup>30</sup> Vandergrift, L.A., Christopher, P.P. Do prisoners trust the healthcare system?. *Health Justice* 9, 15 (2021). <https://doi.org/10.1186/s40352-021-00141-x>

- <sup>31</sup> Taylor, E. N., Timko, C., Nash, A., Owens, M. D., Harris, A. H., & Finlay, A. K. (2020). Posttraumatic stress disorder and justice involvement among military veterans: A systematic review and meta-analysis. *Journal of Traumatic Stress*, 33(5), 804-812. <https://doi.org/10.1002/jts.22526>
- <sup>32</sup> Public Law 104 - 262 - Veterans' Health Care Eligibility Reform Act of 1996 <https://www.govinfo.gov/app/details/PLAW-104publ262>
- <sup>33</sup> Howley, S., Rouzbahani, D., & Kennedy, S. C. (2024). *Reflections: Veterans discuss their experience in the criminal justice system*. Council on Criminal Justice. <https://counciloncj.foleon.com/veterans-commission/reflections/>
- <sup>34</sup> Tsai, J., & Rosenheck, R. A. (2015). Risk factors for homelessness among US veterans. *Epidemiologic reviews*, 37, 177-195. <https://doi.org/10.1093/epirev/mxu004>
- <sup>35</sup> National Coalition for Homeless Veterans. (n.d.). *Veteran homelessness*. <https://nchv.org/veteran-homelessness/>
- <sup>36</sup> Tsai, J., & Rosenheck, R. A. (2015). Risk factors for homelessness among US veterans. *Epidemiologic reviews*, 37, 177-195. <https://doi.org/10.1093/epirev/mxu004>
- <sup>37</sup> Helping Families Save Their Homes (HEARTH) Act, S.896, 111th Cong. (2009). <https://www.congress.gov/bill/111th-congress/senate-bill/896>
- <sup>38</sup> U.S. Department of Veterans Affairs. (2023). *Department of Veterans Affairs supportive services for veterans families (SSVF) program*. [https://www.va.gov/HOMELESS/ssvf/docs/SSVF\\_Program\\_Guide.pdf](https://www.va.gov/HOMELESS/ssvf/docs/SSVF_Program_Guide.pdf)
- <sup>39</sup> *City of Grants Pass v. Johnson et al.*, 23 U.S. 175 (2024). [https://www.supremecourt.gov/opinions/23pdf/23-175\\_19m2.pdf](https://www.supremecourt.gov/opinions/23pdf/23-175_19m2.pdf)
- <sup>40</sup> Veterans' Disability Compensation and Housing Benefits Amendments of 1980 § 504.
- <sup>41</sup> 38 U.S. Code 5313. <https://www.govinfo.gov/app/details/USCODE-2023-title38/USCODE-2023-title38-partIV-chap53-sec5313>
- <sup>42</sup> *Current veterans disability compensation rates*. U.S. Department of Veterans Affairs. <https://www.va.gov/disability/compensation-rates/veteran-rates/>; 38 U.S. Code 5313.

---

<https://www.govinfo.gov/app/details/USCODE-2023-title38/USCODE-2023-title38-partIV-chap53-sec5313>

<sup>43</sup> U.S. Department of Veterans Affairs. (2024). *M21-1, part XIV, chapter 7 - data-matching programs that identify incarcerated beneficiaries and dependents.*

[https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000173307/M21-1-Part-XIV-Chapter-7-Data-Matching-Programs-That-Identify-Incarcerated-Beneficiaries-and-Dependents?query=felony](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000173307/M21-1-Part-XIV-Chapter-7-Data-Matching-Programs-That-Identify-Incarcerated-Beneficiaries-and-Dependents?query=felony)

<sup>44</sup> *Supra* note 37.

<sup>45</sup> There is well-established precedence of state and federal entities creating systems intended to link and analyze information between jurisdictions. For instance, the FBI National Data Exchange (N-DeX) is used by criminal justice entities across the country to link individual records in their own jurisdiction to those in national databases.

Additionally, some states currently leverage the VRSS to identify veterans who are involved with their criminal justice system. However, in both cases these processes often require an individual to link state and federal data manually – a process which can be time consuming when considering state agencies may have hundreds or thousands of new records a month. Therefore, it may be prudent to establish a more automated process. This may take the form of an application programming interface (API), or middleware specifically established to create an automatic data exchange between state criminal justice information systems and the VA. Such a system will facilitate the timely identification of incarcerated veterans and may be used to minimize veteran arrearages by the VA and the targeting of veterans for responsive, veteran-focused rehabilitation programs by state correctional agencies.

<sup>46</sup> Goggin, E., & Roberts, M. (2019). Specialized housing units for veterans incarcerated in United States prisons and jails. In J. Tsai & E. Seamone. (Eds.) *Intersections between mental health and law among veterans*. Springer, Cham. [https://doi.org/10.1007/978-3-030-31664-8\\_7](https://doi.org/10.1007/978-3-030-31664-8_7); National Institute of Corrections. (n.d.). *Justice involved facilities map*. <https://info.nicic.gov/justice-involved-veterans/justice-involved-veterans/jiv-facilities-map>

<sup>47</sup> National Institute of Corrections, 2018.

<sup>48</sup> Burke, C., Keaton, S., Schroeder, G., & Ocheltree, K. (2019). *Veterans moving forward: Process and impact evaluation results of the san diego county sheriff's department VMF Program*. Office of Justice Programs. <https://www.ojp.gov/library/publications/veterans-moving-forward-process-and-impact-evaluation-results-san-diego-0>.

<sup>49</sup> Middlesex Sheriff's Office (August 2019) *Housing Unit for Military Veterans White Paper*.

<sup>50</sup> Council on Criminal Justice, 2023.

<sup>51</sup> Council on Criminal Justice, 2023.

<sup>52</sup> Feldman, B. (2024). *The second look movement: A review of the nation's sentence review laws*. The Sentencing Project. <https://www.sentencingproject.org/reports/the-second-look-movement-a-review-of-the-nations-sentence-review-laws/>

<sup>53</sup> Raymond, N. (2024, February 1). Thousands of federal inmates become eligible for sentence reduction. *Reuters*. <https://www.reuters.com/legal/government/thousands-federal-inmates-become-eligible-sentence-reductions-2024-02-01/>

<sup>54</sup> Cal. Penal Code § 1170.91; See also: Office of the Public Defender, State of California. (n.d.). *Veteran resentencing information SB 1209*. <https://www.ospd.ca.gov/wp-content/uploads/2023/06/SB-1209-Veterans-resentencing-information-Accessible.pdf>

<sup>55</sup> *Ibid.*

<sup>56</sup> Veteran Resentencing Information: SB 1209 (2023). Office o <https://www.ospd.ca.gov/wp-content/uploads/2023/06/SB-1209-Veterans-resentencing-information-Accessible.pdf>

<sup>57</sup> See a previous recommendation from the Council on Criminal Justice Task Force on Long Sentences for specific criteria beyond military service that second look policies should also consider addressing: Council on Criminal Justice. (2023b). *Recommendation 12 promote accountability and rehabilitation through selective second look opportunities*. <https://counciloncj.foleon.com/tfls/long-sentences-final-report/recommendation-12>