

## Brief

# Justice-Involved Veterans: Honoring Service and Advancing Public Safety

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## Introduction

Military veterans have sacrificed to protect us, and state legislatures are responding by taking steps to ensure veterans are not forgotten in the criminal justice system. Veterans are increasingly receiving interventions that can help them resume their responsibilities to their families, their communities and their country.

Roughly 200,000 active-duty service members leave the armed forces each year, and while most transition successfully, [many struggle](#) with mental health and substance use disorders, the effects of traumatic brain injury, homelessness and criminality. Veterans who enter the criminal justice system confront a patchwork of interventions, but these programs are often inaccessible and vary substantially across jurisdictions.

The Council on Criminal Justice, an independent and nonpartisan policy and research organization, launched the [Veterans Justice Commission](#) (VJC) in 2022 to assess the extent and nature of veterans' justice-system involvement, the adequacy of support for service members as they return home, and the effectiveness of the system's response when veterans break the law. Led by Chuck Hagel, former secretary of defense and Nebraska U.S. senator, the commission also includes former Defense Secretary and White House Chief of Staff Leon Panetta as well as a former sergeant major of the Marine Corps, the chief justice of the Georgia Supreme Court, two formerly incarcerated veterans and other top military, veteran, and criminal justice leaders.

The commission developed a [Model Policy Framework](#) that encourages states and the federal government to expand alternatives to prosecution and incarceration for justice-involved veterans. This brief defines the problem, identifies existing legislative and judicial approaches, and summarizes the commission's key findings.

## Statement of the Problem

Americans enthusiastically recognize the military with parades and donate generously to assist veterans with visible injuries. However, veterans grappling with invisible injuries are easily overlooked. Invisible injuries are the psychological, emotional, and behavioral conditions that can result from trauma experienced both in combat and non-combat contexts. Sometimes these invisible injuries can lead to criminal behavior. Research has found robust associations between post-traumatic stress disorder

(PTSD), traumatic brain injury (TBI), substance use disorders, and both aggressive behavior and criminal justice system involvement for veterans.

This is not a new problem; the ancient Greeks documented [these phenomena](#) over two millennia ago. However, we have yet to adequately address these issues as so many veterans today find themselves in the criminal justice system without support. Experts today estimate that at least 70,000 veterans are currently incarcerated in the United States. However, the total is likely much higher because many courts, law enforcement agencies, and correctional institutions lack a reliable and uniform process to identify and track veterans. Even members of the “Greatest Generation” struggled: one-third of the individuals entering 11 prisons in the upper-Midwest from 1947 to 1949 were military veterans.

Our current understanding of invisible injuries has advanced significantly in the last 70 years, but our criminal justice system and statutory schemes have not adapted accordingly and remain woefully inadequate to address these challenges. Roughly three-quarters of post-9/11 veterans were deployed at least once, compared to 58% of veterans who served before them, and post-9/11 veterans are about twice as likely as their pre-9/11 counterparts to have served in an active combat zone.

As of 2021, the U.S. was home to roughly 19 million veterans, and more than four million of them have served since the attacks on 9/11. The post-9/11 generation of veterans faced historically high rates of multiple deployments and combat exposure, experiences that have consistently been linked to the occurrence of PTSD and TBI. These conditions along with substance use disorder are linked to poor performance during military service and criminal justice involvement after the transition to civilian life.

Among veterans incarcerated in jails, nearly nine in 10 (87%) had experienced a traumatic event in their lifetimes and 39% screened positive for PTSD, compared to an estimated PTSD prevalence rate of 6% among the civilian population.

Research demonstrates that veterans are far more likely than civilians to be arrested and booked, yet they are under-identified and receive widely varying deflection and diversion from prosecution and at sentencing. For those veterans who are incarcerated, high rates of PTSD and TBI, inadequate healthcare to treat service-related conditions, and the drastic reduction of VA compensation and benefits impede a veteran’s successful reentry into the community.

“We are prosecuting and imprisoning veterans while denying them the care and consideration they need and deserve—despite the fact that their criminal justice involvement is often due, at least in part, to their willingness to fight for their country. As a result, we are not only doing a disservice to veterans, but also jeopardizing the safety of the public they once fought to protect.”

- Commission Chair and former U.S. Defense Secretary Chuck Hagel

## **Existing State and Local Policies to Assist Veterans in the Justice System**

*Based on the Veterans Justice Commission’s publication [Alternatives to Prosecution and Incarceration for Justice-Involved Veterans: A Model Policy Framework](#) and [From Duty to Dignity: Supporting Service Members in Their Transition to Civilian Life](#).*

## Veteran Diversion Statutes

Minnesota and California have enacted laws that establish court-led diversion and rehabilitative interventions for justice-involved veterans who are charged anywhere in the state. Notably, both provide veterans with significant legal incentives, like expungement and avoiding conviction in non-prison cases, or avoiding prison in more serious offenses, to address conditions underlying their criminal behavior. These two state laws provide common elements that informed the commission's policy framework to better support justice-involved veterans.

## Sentence Mitigation

Twelve states have established post-conviction statutory provisions that recognize veteran status as a mitigating factor in sentencing. However, these statutes do not sufficiently account for mental health conditions, nor do they offer the opportunity to avoid conviction.

## Veterans Treatment Courts

[Veterans treatment courts](#) (VTCs) have been a pioneering intervention, offering eligible veterans an alternative to the traditional court process through an approach that includes treatment for issues underlying their criminal behavior. But participation is often restricted to minor offenses, and a recent analysis found that [no more than 10 to 15 percent](#) of justice-involved veterans can access a VTC. As of December 2023, [just 15 percent of counties](#) had an operational VTC and eight states had none at all. Veterans who become justice-involved in those communities cannot access an alternative that would honor their service while holding them accountable and addressing untreated invisible injuries.

[ALL RISE's Justice for Vets](#) offers support, training, and evidence-based standards for VTCs, but research has shown significant variance in the way each VTC chooses to operate. Some VTCs offer little incentive for veterans to undergo an arduous treatment program, and others have stringent eligibility criteria that results in many veterans being excluded. 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."

This lack of uniformity creates gaps in sentencing alternatives and the quality of treatment for veterans. While VTCs can serve an important role in diverting "high risk-high need" veterans, the courts are resource-intensive and are difficult to scale in more rural counties.

## Model Policy Framework: Diversion for Justice-Involved Veterans

After surveying policies and programs across the country, the Veterans Justice Commission convened a committee to develop a [policy framework](#) that would honor military service and recognize the reality of invisible injuries. The resulting framework and policy options for state legislatures complements existing statutes and VTCs by creating a full continuum of sentencing alternatives and services offered to veterans charged with a criminal offense within a state or in the federal system.

## Key Elements of the Veterans Justice Framework

- Broad eligibility criteria to maximize participation. All veterans should be eligible if there is an indicator of mental or physical symptoms of a condition from military service which could have contributed to the offense. Such conditions may include substance-use disorder (SUD), military sexual trauma (MST), traumatic brain injury (TBI), and posttraumatic stress disorder (PTSD).
- Provides criminal courts across the state with a uniform set of alternatives to prosecution and incarceration based on best practices used in analogous problem-solving courts and community supervision.
- Judges determine veteran eligibility; establish the diversion program and terms for completion; and hold the veteran accountable for progress and completion of the case plan.
- Veteran Sentencing Option (VSO) guides judges and provides significant legal incentives to veterans who successfully complete their case plan. Expands the use of pretrial supervision and probation in lieu of a record of conviction or incarceration.
- Veteran status should be both 1) recognized as a mitigating, but not aggravating, factor in sentencing; 2) considered in addition to any other existing mitigation a jurisdiction provides for mental health conditions.
- The court, corrections agencies, and/or designated case management professionals will develop a case plan based on an evidence-based clinical and criminogenic assessments of the veteran's specific risks and needs.
- Connect the veteran with licensed and accredited providers who offer evidence-based treatment tailored to address the specific risks and needs identified. The treatment can often be funded by the VA and coordinated through [Veteran Justice Outreach specialists](#).
- Permit veterans to complete programs in their county of residence, and encourage input from the veteran, their families and victims/survivors through the process.

## Profile of Army veteran Hector Matascastillo



The Veterans Justice Commission Framework is grounded in research identifying effective interventions for justice-involved veterans and was inspired by stories of veterans like [Hector Matascastillo](#), who made the most of his second chance to heal from invisible injuries, earn his licensure in social work and help others who struggle in a similar way.

## State Adoption of the Veterans Justice Framework

In April 2024, the Nebraska legislature, led by Sens. Tom Brewer, Justin Wayne and Lou Ann Linehan unanimously passed [LB253](#) which codified the Veterans Justice Framework. (See [press release](#) on Nebraska's adoption of LB253.) The Veterans Justice Commission staff provided technical assistance to the Nebraska legislature as it considered the framework. The Veterans Justice Commission is presently educating policymakers and organizations across the country on the framework along with other Commission findings and recommendations.

## Online Resources