



POLICY

## From Combat to Courtroom: How Criminal Justice Fails Our Veterans

Struggling with addiction, PTSD and other service-related traumas, far too many of them run afoul of the law. States could do more to help those at risk.

OPINION | Oct. 4, 2024 • Brock Hunter, Veterans Justice Commission



A homeless veteran walks along a homeless encampment known as Veterans Row in West Los Angeles in 2021. (Genaro Molina/Los Angeles Times/TNS)

Americans love their military veterans. We shower them with medals, honor them with holidays and thank them for their service. But this outpouring ignores a glaring reality: Once they turn in their uniforms, many veterans struggle.

Each year roughly a quarter of a million active-duty service members leave the military and return to civilian life. Most transition successfully, but others bring home trauma and other service-related impacts **that are linked to a range of problems**, from drug and alcohol addiction to PTSD and homelessness. For far too many veterans, these post-service hardships lead to the criminal justice system. **One in 3** of our nation's 19 million veterans report having been arrested and jailed at least once, and at last count **more than 181,000 were in U.S. prisons and jails**.

Veterans who break the law should be held accountable, but we must also recognize that their service often plays a role in their criminal behavior. Instead, our justice system too often ignores veterans' unique challenges and leaves them behind.

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When I returned home from my service as an Army scout, I struggled to reintegrate into civilian life and acted out in ways that could have led to criminal convictions. But I was fortunate: A strong support structure helped me steer clear of that fate. That challenging time drove me to focus my legal career on helping troubled veterans who run afoul of the law.

Over the past 20 years, this mission has given me an up-close view of the heavy toll military service can take. As a public defender in the 1990s, I represented many Vietnam veterans wrestling with service-related trauma that had long gone unaddressed. Haunted by the invisible wounds of war, many fell through the cracks and reoffended, again and again.

That vulnerability is even more pronounced for post-9/11 veterans who fought in Iraq and Afghanistan, our nation's longest wars. Without a national draft, our country supported these conflicts by repeatedly redeploying the same troops into combat to an unprecedented degree. Research shows that those serving multiple deployments are **three times more likely to develop PTSD** than those not deployed, and nearly **350,000 traumatic brain injuries** have been diagnosed among veterans since 2000.

We know from the research that **PTSD heightens the risk of criminal behavior and suicide**, increasing the odds that veterans will harm themselves or the communities they fought to defend. Despite this knowledge, we've done far too little to help those at risk in a systematic way.

**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 last December, **just 15 percent of counties** had an operational VTC and eight states had none at all.

That means many veterans are out of luck. In 2021, my state of Minnesota passed bipartisan legislation to fill the gap. **The Veterans Restorative Justice Act** created standardized criteria and protocols for treatment courts to give all veterans access to therapeutic interventions when service-related issues lead to criminal offenses.

**The Veterans Justice Commission**, a nonpartisan panel launched by the Council on Criminal Justice, is urging states to build on this effort. Led by former U.S. defense secretaries Chuck Hagel and Leon Panetta, the commission has produced **a policy road map** to help states expand alternatives to prosecution and incarceration for veterans. The road map was adopted as a model bill, **the Veterans Justice Act**, by the American Legislative Exchange Council.

In April, Nebraska became the first state to adopt **legislation based on the model**. Under the statute, veterans who demonstrate that a service-related condition contributed to their offense can be diverted from prosecution by a judge. Those eligible must complete a structured program combining supervision with individualized treatment. Only certain crimes that are eligible for probation qualify, and victims have the chance to speak in court.

 In addition, California, which has 2 million military veterans — the most of any

state — recently enacted legislation **expanding eligibility for the state's pretrial veterans' diversion program** to include those charged with specified felonies, an augmentation that aligns with the commission's model. (The change excludes felonies such as murder, voluntary manslaughter, rape and other sex offenses from eligibility.)

More than a dozen other states are now examining the model, and the federal government should incentivize them to adopt these reforms. While parades, monuments and other symbolic expressions of appreciation feel good, they are no substitute for policy solutions that can catch veterans when they fall into the criminal justice system and return them, as assets, to the communities they served to protect.

*An Army veteran, Brock Hunter is a criminal defense lawyer, co-founder of **the Veterans Defense Project** and an adviser to the Council on Criminal Justice's **Veterans Justice Commission**.*

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