



Equal Justice Foundation

Analysis of Veteran Arrests El Paso County, Colorado

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We are deeply indebted to a number of Army and Marine officers for reviewing the draft of this report. Ben Gifford, Esq., was a Marine Corps company commander for two tours in Iraq including the Fallujah battles, and after completing law school served briefly as the prosecutor for the misdemeanor veteran court here. Willis "Jay" Magee is a retired Army lieutenant colonel with extensive combat experience and now with Point Man Ministries working with homeless and wounded warriors. Dennis McCormack provided many valuable insights into the problems veterans face. McCormack is a retired Army warrant officer who we first met when he was working with the Army Wounded Warrior (AW2) program on Fort Carson. Dennis is now with Homefront Cares and does much volunteer work to try and prevent veteran suicides.

Conversations with many veterans and their intimate partners involved in the justice system and suffering from PTSD, TBI, or other injuries have been invaluable in helping us understand what they face.

Air Force veteran Kris Sybrant has worked with us from the beginning and continues to strive to bring forward the data on what happens to veterans in the courts after they are arrested. Jeff Wright, formerly with Naval Intelligence, and author of the book *The Citizen's Last Stand*, kindly reviewed the final draft and his comments were invaluable.

Discussions with Leo Martinez (CmdSgtMajor, U.S. Army, retired), Lead Veteran Peer Mentor for the Colorado 4th Judicial District Veteran Trauma Court, were of great help in discerning how the current veteran court operates and how it might operate in the future in order to handle all of veterans arrested in El Paso County.

These veteran's reviews, comments, and suggestions have been invaluable in developing the current report. However, errors of commission or omission are solely the responsibility of the authors.

Analysis of Veteran Arrests in El Paso County, Colorado

Abstract

Beginning in July 2010 an investigation of veteran and active-duty military arrests in El Paso County, Colorado, was undertaken based on daily arrest and booking reports provided by the sheriff. This report encompasses veteran arrest data from 2011 as the base year and data collected since.

El Paso County contains five separate military bases and is the third-largest concentration of military forces in the United States. All police departments within the county and all five bases use the county criminal justice center (CJC) for detention.

In 2011 ~3,200 veterans and active-duty military were arrested and booked into the CJC. Statistical analysis of these arrests and associated charges is summarized in eighteen tables, five figures, and four appendices. There is nothing in this data that implies the current justice system deters crime or violence by veterans. In fact, evidence suggests the present system is criminogenic. In many cases interaction with the justice system increased a veteran's potential for violence, up to and including homicide. Current policies of “catch, convict, and release” were plainly a factor in increased rates of homelessness, suicide, and homicide among veterans.

The wars of the 21st Century have resulted in many thousands of casualties returning to El Paso County suffering from Post Traumatic Stress Disorder (PTSD) and the signature wound of these wars, Traumatic Brain Injuries (TBI), as well as many other combat injuries. The characteristics of these injuries make it very likely that the veteran will be brought to the attention of peace officers, who often have little option but to make an arrest under current laws. As this report illustrates, that amounts to several thousand veterans arrested each year in this one county.

A criminal conviction often makes it impossible for veterans to obtain employment and frequently devastates families and children.

Cases involving domestic violence, an add-on charge in Colorado, are the most common basis for arrest in this study. Some 30% of the veterans booked into CJC in 2011 were arrested for domestic violence. But in only half of those cases did the charges include an actual violent act.

Behaviors characteristic of PTSD, TBI, and many other combat injuries are indistinguishable from the definition of intimate partner violence under current laws. As a result, the justice system, and concurrent legal abuse syndrome, exacerbates the veteran's injuries. The end result is a justice system, that, in effect, punishes veterans for serving their country.

Our analysis repudiates the widespread adoption of a drug-court model for veteran courts. In this study, only 13% of charges are for drugs or alcohol. Further, a “drug-court” model is of no value in domestic violence or traffic cases, which constitute the bulk of veteran arrests in this study. Treating substance abuse alone in cases where the veteran has PTSD/TBI is contraindicated as it does not address the underlying problems.

Another startling result is that while arrests of civilians tapers off sharply after age 30, arrests of veterans continues steadily regardless of age. After age 50 virtually all the inmates in the CJC are veterans and the county jail effectively becomes an Old Soldiers Home. Available data make it evident that veterans who remain in El Paso County after their first arrest will keep getting arrested over and over again.

Injuries like TBI are clearly associated with early onset of dementia and in many cases veterans are being arrested for that. Other biological factors, e.g., perimenopause in females, correlate with veteran arrests.

Clearly these veterans are bringing back a psychological plague that is not being properly or fully diagnosed, that is not being addressed at the critical time to prevent more harm and violence, and is spreading to family and friends. And evidence in this report makes it clear that the epidemic today will echo down the decades until at least mid-century even if the wars ended today.

The repercussions are magnified by OIF/OEF veterans who have endured multiple combat tours and survived injuries that would have been fatal in previous conflicts.

When comparing Iraq and Afghanistan veterans with those from Vietnam it is clear that the passage of many new laws, e.g., the War on Drugs, domestic violence statutes, sexual assault and rape shield laws, has a dramatic negative effect on the ability of veterans to reintegrate into society. However, we find no evidence that these draconian measures have improved public safety.

Our study is ongoing and our next effort is to incorporate court outcomes for many of these veteran arrests now that we have sufficient longitudinal data.

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Introduction

Background

While returning Vietnam veterans were spit on, demeaned, and degraded, today we welcome Iraq and Afghanistan veterans home but then throw them in jail because of their combat injuries. These veterans are often our best and brightest hope for the future. They have more than demonstrated their willingness to sacrifice for the betterment of society. Instead, society is destroying them. And most community efforts focus on helping veterans survive after their lives have been destroyed.

Under English common law the justice system is designed to be reactive rather than proactive. Crimes are to be punished after they occur as prevention historically has done more harm than good. Thus, classic deterrence doctrine is based on the principle that a potential offender will want to avoid the pains and penalties, and find displeasure at the prospect of incarceration. But deterrence has little discernible impact on veterans with combat injuries suffered in seemingly endless wars. And once arrested and convicted the problems veterans face are compounded and all too often become insurmountable as they attempt to reintegrate into society.

OIF/OEF veteran's trauma is magnified manyfold by a host of draconian new laws that have arisen in the decades since Vietnam. Extant responses to veteran issues and injuries are often little more than cosmetic cover-ups for elected officials and career-makers for a wide range of attorneys and judges. Yet government has not fixed the problems they spawned in the first place and have demonstrably failed to provide for public safety, the *raison d'être* for their expensive existence.

The end result will be hundreds of thousands of young veterans who will suffer a fate even worse than that of Vietnam veterans during the course of a prior lost generation.

We present here an analysis of how veterans are running afoul of the justice system in El Paso County, Colorado, and what crimes they are committing in the hope that better ways to deal with these issues can be found and implemented.

El Paso County encompasses a total of five military bases with numerous primary and supporting command units. A partial list includes the Army's Fort Carson with the 4th Infantry Division, 10th Special Forces, and numerous support units; Army Space Command; Northern Command, Army Space and Missile Defense Command, Air Force Space Command, 21st Space Wing, and numerous other units are located at Peterson Air Force Base; Schriever Air Force Base includes the Joint Functional Component Command for Space, Missile Defense Integration and Operations Center, various intelligence, satellite control, training, and space missions; Cheyenne Mountain Air Force Station houses the North American Aerospace Defense Command and other units; and the Air Force Academy.

Record number of disabled from these conflicts

Although the combat burden locally has fallen most heavily on Army units, men and women from all these commands have been repeatedly deployed during these decade-long wars. Many veterans have been deployed on three, four, or more combat tours for periods of nine to fifteen months each tour, commonly with only a year or less back to rest and refit between deployments. It is obvious that such operational tempos have taken an immense toll on families, children, and, most of all, the troops themselves. For combat soldiers with multiple combat tours it is evident that more than 30% of them now suffer from Post Traumatic Stress Disorder (PTSD) and that

percentage is certain to increase in the future. In addition, approximately 20% of them have Traumatic Brain Injuries (TBI) as well as many other combat injuries and wounds.

In a May 27, 2012, article, Marilynn Marchione, chief medical writer for the Associated Press, reviewed the current veteran statistics and pointed out that nationally 1,615,136 troops have left active duty and become veterans since these wars began.¹ About 54% of them are getting health care through the Veterans Administration (VA); compared with only 40% after Vietnam and World War II. She also notes that a record number of new veterans are seeking compensation for service-related disabilities. So far, 45% have filed claims, more than double the 21% that did after some other recent wars. They are claiming 8.5 ailments on average; Vietnam veterans claimed less than four, and World War II veterans, about two.

Also it's a long wait for an answer from the VA: About 60% of claims were backlogged more than 125 days last year, up from 36% the year before. Accurate determinations were made in only 77-84% of cases, adding to the problems, frustration, and trauma of disabled veterans, particularly those with families to support.

This all adds up to trouble and much of it is occurring in Colorado Springs and the surrounding county.

And these problems are certain to worsen with time.

Media coverage

Since veterans began returning from the conflicts in Iraq, Operation Iraqi Freedom (OIF), and Afghanistan, Operation Enduring Freedom (OEF), Fort Carson and Colorado Springs in El Paso County, Colorado, have been at ground zero for problems generated after multiple combat tours.

There have been numerous stories and documentaries in the media covering the many crimes committed by veterans and active-duty military in El Paso County.

- On July 25, 2009, Dave Phillips published an article in the Colorado Springs Gazette titled the Casualties of War, Part I: The hell of war comes home, beginning a series that culminated in his 2010 book Lethal Warriors.
- On July 28, 2009, R. Jeffrey Smith with the Washington Post followed up on Phillips' story, noting that soldiers returning from Iraq after serving at Fort Carson have exhibited an exceptionally high rate of criminal behavior in their home towns, carrying out a string of killings and other offenses that the ex-soldiers attribute to lax discipline and episodes of indiscriminate killing during their grueling deployments. And while the problems may have their origins with military units in El Paso County it is clear they spread throughout the nation as the troops return home.
- CNN in an August 6, 2009, special by Jim Spellman and Wayne Drash presented the story of Army medic Spc. Thomas Delgado's² who was charged with attempted murder of his wife after being treated for PTSD. The EJF has documented the outcome of that case in the courts.

1. Article available at <http://www.npr.org/2012/05/27/153832767/disability-claims-rise-among-veterans>.

2. The CNN story is at http://articles.cnn.com/2009-08-06/justice/accused.soldier.ptsd_1_war-veterans-iraq-post-traumatic-stress-disorder?_s=PM:CRIME. The follow-on details of this arrest are posted at <http://www.ejfi.org/DV/dv-42.htm> with details of his court history.

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- On November 12, 2009, Rolling Stone published The Fort Carson Murder Spree³ by L. Christopher Smith noting that soldiers returning from Iraq had been charged in at least 11 murders at America's third-largest Army base. They noted that: "...14 soldiers from the base have been charged or convicted in at least 11 slayings since 2005 — the largest killing spree involving soldiers at a single U.S. military installation in modern history."

That was only the beginning of the murder spree.

- On May 18, 2010, PBS Frontline aired The Wounded Platoon,⁴ an investigation of a single Fort Carson platoon of infantrymen — 42 men of the 3rd Platoon, Charlie Company, 1st Battalion, 506th Infantry, 2nd Brigade Combat Team, 2nd Infantry Division five years after their first deployment to Iraq and return to Fort Carson. They found, after a long journey, a group of young men changed by war and battling a range of psychiatric disorders that many blame for their violent and self-destructive behavior. Since returning from Iraq in 2005 three members of the 3rd Platoon had been convicted of murder or attempted murder; one had been jailed for drunk driving, another for assaulting his wife; and one has attempted suicide. The producers note that by then, and since the Iraq war began, a total of 18 soldiers from Fort Carson had been charged with or convicted of murder, manslaughter or attempted murder committed at home in the United States, and 36 had committed suicide. **Again, only a beginning!**
- On July 8, 2010, Current TV, Vanguard presented a special on War Crimes prominently featuring the problems with veterans suffering from PTSD in Colorado Springs.
- In November 2010 reporter David Phillips, the Colorado Springs Gazette, published his book Lethal Warriors: When the New Band of Brothers Came Home. Phillips brings to life the chilling story of how today's American heroes are slipping through the fingers of society — with multiple tours of duty and inadequate mental-health support creating a crisis of PTSD and a large-scale failure of veterans to reintegrate into society, which we follow up on with this report. Following the frightening narrative of the 506th Infantry Regiment — who had rebranded themselves as the Lethal Warriors after decades as the Band of Brothers — he reveals how the painful realities of war have multiplied in recent years, with tragic outcomes for America's soldiers, compounded by an indifferent government and a shrinking societal safety net.
- In June 2012 Andrea Carlile chronicled her family's struggles with PTSD in her book, The War That Came Home, as her husband, Wesley Carlile, became increasingly violent several years after his time in Iraq with the 3rd Armored Cavalry Regiment, which deployed from Fort Carson during the invasion of Iraq in 2003.

The Equal Justice Foundation began documenting these problems in an October 9, 2004, newsletter concerning domestic violence and the military⁵ and have published continuing reports on veterans and the justice system since.⁶ In July 2008 we began promoting a special court for veterans in Colorado Springs in cooperation with Judge Ronald Crowder.⁷ And in early 2010 we

3. Available online at <http://www.rollingstone.com/politics/news/the-fort-carson-murder-spree-20091112>

4. Available online at <http://www.pbs.org/wgbh/pages/frontline/woundedplatoon>. Former EJF Director Robert Alvarez is featured in this special in his role as an advocate for wounded warriors employment, a program of the National Organization on Disabilities (NOD). Alvarez's frankness resulted in his termination from NOD.

5. Available at http://www.ejfi.org/News/DV-October_9_2004.htm.

worked with Rep. Marsha Looper to develop, and ultimately pass enabling legislation for veteran courts in Colorado. The veteran trauma court was formally launched December 17, 2009, under District Judge Ronald Crowder (MGen, USA, ret.) and a pilot program was begun in February 2010. In March 2010 Dr. Corry presented a review of progress to that point.⁸ About 200 veterans have entered the court as of April 2013, of which 107 have been formally evaluated.⁹ Apparently 45 have graduated from the program and 12 dropped out since it began. This is a minuscule fraction of the over 8,000 known veteran arrests in this time interval so there is obviously a long way to go in developing a fully-functional veteran court.

But our efforts haven't stopped there. In addition to providing advice and assistance to individual veterans in July 2010 we began compiling daily arrest and booking records of veterans and active-duty military provided by the El Paso County Sheriff's Office (EPSO). We published an initial report of our findings from the first 1,000 arrest and bookings of veterans during the period August-November 2010 in February 2011¹⁰ and this report is a follow up using the first full-year, 2011, of veteran arrest data as a base, and data collection continues.

Related studies

In August 2011 the Institute for Veteran Policy produced an extensive review of the literature on veterans and criminal justice. As it is not within the scope of this report to provide such a review readers are directed to that report for additional references.¹¹

The only similar study of veteran arrests that we are aware of is being done under the aegis of the Texas Association of Counties and titled the Veterans Intervention Project — Travis County.¹² That project was begun in November 2007 by Travis County Constable Maria Canchola. To date they have released two reports. The first, published in July 2009 was based on surveys administered during a 90-day period, from September 1, 2008 through November 30, 2008, for a total of 458 veteran arrests.¹³ The second report was published in November 2011 based on sampling during a 92-day period, from September 15, 2010 through December 15, 2010 for a total of 503 surveys of 416 veteran arrests.¹⁴ They find an average of 170 veterans are arrested in Travis (Austin) County each month and that county has a population of ~1 million compared with ~600,000 in El Paso County, Colorado. In discussions with them they rarely have active-duty military in their jail. In most respects their studies and ours are complementary and

6. See newsletters at http://www.ejfi.org/Press_releases.htm#DV and the chapter on Veteran Courts at <http://www.ejfi.org/Courts/Courts.htm>.

7. See report at http://www.ejfi.org/News/DV-December_29_2008.htm.

8. See review at <http://ejfi.org/News/Courts-March-8-2010.htm>

9. Undated initial evaluation of 4th Judicial District Veteran Trauma Court available at <http://gainscenter.samhsa.gov/cms-assets/documents/60094-138002.slattery.pdf> (accessed April 9, 2013).

10. Report is available at http://ejfi.org/PDF/EPSO_vet_arrest_report.pdf

11. Available at <http://www.swords-to-plowshares.org/wp-content/uploads/Veterans-and-Criminal-Justice-Literature-Review.pdf> (accessed April 8, 2013).

12. Web site is at https://www.county.org/for-county-officials/best-practices/Pages/2011_Veterans-Intervention-Project-Travis-County.aspx.

13. 2009 survey available at http://www.ejfi.org/PDF/Travis_County_TX_Veteran_Jail_Survey.pdf.

14. 2011 survey available at http://www.ejfi.org/PDF/Travis_Cty_TX_vet_jail_survey-2011.pdf.

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come to many of the same conclusions except their dominant misdemeanors are DUI's. As they did direct interviews they present more complete results on branch of service and theater of combat operations. Our investigation of domestic violence cases is more inclusive but that is probably influenced by more draconian laws in Colorado where actual violence isn't required as a basis for a DV charge.

From the judicial perspective, in 2012 Barry R. Schaller, a retired justice of the Connecticut Supreme Court, published *Veterans On Trial: The Coming Court Battles Over PTSD*. Justice Schaller continues to serve on the Connecticut Appellate Court and has served in all three branches of state government so he brings a broad perspective to the issues reviewed in this report.

In her 1995 book *Overcoming the Devastation of Legal Abuse Syndrome* Dr. Karin Huffer documents the trauma that results from the injustice of protracted litigation and criminal charges so evident in this report. Even veterans who didn't have PTSD will certainly develop it after a prolonged divorce, child custody, paternity fraud, or other legal battle, and criminal charges magnify the injuries a veteran may already have. In her later book, *Unlocking Justice: The Americans With Disabilities and Its Amendments Act, Protecting Persons With Disabilities In Court*, reviews the basic need for an ADA advocate to help those with PTSD, TBI, and other disabilities receive due process and proper representation in court.

For those who would know more about the toll of war on veterans, Lt. Col. (USA, ret.) David Grossman's 1995 book *On Killing: The Psychological Cost of Learning To Kill In War And Society* and the follow up in 2004 *On Combat: The Psychology and Physiology of Deadly Conflict in War and in Peace* are the standard references. These books are of value even to combat veterans attempting to understand their own experiences.

The group *Battling Bare*¹⁵ is working with military wives and veteran's intimate partners to bring understanding of what their veteran is going through with PTSD, TBI, and other war injuries. We know of no better description of what wives face than the letter from a Navy corpsmen's wife we have reproduced on page 31 from *Battling Bare's* blog.

It is obvious the problems covered in this report will not go away and we should look to the experience of Vietnam veterans to help guide us through the labyrinth ahead. While there are many, two books, *Tears of a Warrior: A Family's Story of Combat and Living with PTSD* by Janet Seahorn, Ph.D. and her wounded warrior husband Tony Seahorn; and *Flashback: Posttraumatic Stress Disorder, Suicide, and the Lessons of War* by Penny Coleman, stand out in our experience.

Objectives of this report

When a veteran court in Colorado Springs was first proposed in 2008 no data existed on how many discharged veterans were being arrested or on what charges. Anecdotal evidence suggested the number was in the thousands per year and the main problem was with alcohol and drug abuse, although considerable evidence existed for extensive issues of domestic violence among veterans and their families.

With the cooperation of El Paso County Sheriff Terry Maketa the Equal Justice Foundation began a research-based program to determine the extent of the veteran crime problem and find out

15. *Battling Bare's* Facebook page is <http://www.facebook.com/BattlingBare>. Their blog is at <http://battlingbare.blogspot.com/> and the images at <http://pinterest.com/ashwise/battling-bare-inc-uniting-wives-while-creating-awa/> are heart-rending and compelling.

what crimes they were being charged with. The objective is first to define them and then to find better and more effective ways of dealing with the issues veterans face in life and the justice system.

The following tabulation presents our goals in this evaluation of veteran arrests:

- Improve public safety by providing statistical and objective evidence for the type, amount, and causes of criminal activity by veterans in El Paso County.
- Provide quantitative evidence from which to propose possible remedies for and reductions in criminal behavior by veterans.
- Evaluate effectiveness of veteran courts.
- Investigate interactions of veterans with disabilities such as post traumatic stress disorder (PTSD) and traumatic brain injuries (TBI) with the justice system.
- Evaluate effectiveness of treatment for injuries such as PTSD and TBI versus outcomes for those who are convicted and incarcerated without treatment for crimes associated with their injuries.
- Seek reductions in arrests for domestic violence and violations of restraining orders by proactively seeking treatment rather than convictions in order to preserve families and children whenever possible.
- Provide education and support for intimate partners and families on what to expect when living with veterans suffering from PTSD, TBI, and other wounds of war so as to both preserve their relationship and reduce the problems and possible danger of doing so.
- Analyze and compare characteristics of veterans arrested and booked into CJC in El Paso County, Colorado, with the general population.
- Analyze and compare characteristics of active-duty military arrested and booked into CJC in El Paso County, Colorado, with both the general population and discharged veterans.

In order to approach these objectives it was necessary to make a number of assumptions and these are enumerated in Appendix A on page 103. Questions we cannot answer through this study are tabulated in Appendix B on page 105.

With present data we have, at best, only laid the foundation for achieving many of these objectives and our research continues.

Veteran Arrest And Booking Data

Overview

Veteran arrest data collection began on July 19, 2010, based on daily veteran and active-duty military reports provided by the El Paso County Sheriff's Criminal Justice Center (CJC) IT department and is continuing indefinitely. This report concentrates on the first full year of data collection, 2011. As of early spring in 2013 we have data from some 8,000+ veteran arrests and bookings in El Paso County. It is our intention in subsequent reports to tie court and veteran outcomes to the arrest data in as many cases as practical.

With minor exceptions, all police departments and the five military bases in the county use the CJC exclusively for detaining anyone arrested. So the sampling of veteran arrests and bookings is reasonably inclusive.

However, the report only includes those veterans actually booked into the CJC. Civilian or base police may detain a veteran but take them to the detox center, to a hospital, confine them to base, or release them after investigating without booking them into the CJC. Cadets from the U.S. Air Force Academy are taken to the Teller County jail. Thus, no data are available on such detentions and arrests and that may cause minor inaccuracies regarding the magnitude of the problem with drug and alcohol abuse. Available data also excludes any contact of a veteran with law enforcement that simply results in a summons, e.g., a traffic ticket. Also, cases brought by child protective services against veterans are not included unless he or she is also arrested and booked.

In some cases the veteran did not admit to being a veteran during the booking process. In three years only 58 examples of that have been found.

Summary of data provided by daily reports

The EPSO daily reports provide the offender's name, address, telephone number, sex, age and date of birth (DOB), race, veteran or active duty, the crimes that the veteran is charged with, and the highest level of these crimes, i.e., felony, misdemeanor, petty, traffic, or civil, and level within those categories.¹⁶

The first time a veteran, or civilian, is booked into the CJC they are assigned a unique pin number and that number is included with any and all subsequent bookings. Each time they are logged into the CJC they are also given a unique booking number so that multiple bookings of the same veteran are readily identifiable. Although occasionally duplicate pin numbers have been found for the same veteran, that number is statistically insignificant and in most cases was corrected in our tabulation.

As shown in Appendix C on page 107, the NCIC¹⁷ crime codes provided and used by the sheriff have been grouped into 12 crime categories for this analysis. These crime categories may, or may not fit categorizations used by others but do provide valid distinctions for veteran crimes committed in El Paso County. By the measure used the three major crime categories in this sample

16. Veteran arrest reports for the previous 24-hour booking period are generated at 8 AM each morning and distributed via electronic mail to interested parties as a Portable Document Format (PDF) file. The PDF file is then printed out and the data are manually entered into an Excel spreadsheet. For analyses the data are then transferred from the spreadsheet to SPSS statistical software.

were offenses against persons (primarily domestic violence), traffic violations, and drug and substance abuse.

Veterans arrested and booked in 2011

Total bookings

The total number of veterans booked into the Criminal Justice Center (CJC) of the El Paso County Sheriff’s Office from January 1, 2011, through December 31, 2011, is summarized in Table 1. There are an estimated 77,000 veterans in El Paso County and the 2010 census placed the total population at 622,263. Thus, military veterans comprise roughly 12% of the county population.

Table 1: Summary of veterans booked into the Criminal Justice Center (CJC) in 2011

Total CJC bookings	Veteran bookings	Active-duty bookings
22,605	2,249	933
<i>Average number of veterans plus active duty booked per month</i>		
265 per month (3,182 total)		
<i>Average number of active-duty military booked per month</i>		
78 per month (933 total)		
<i>Average number of prior service or non-active duty veterans booked per month</i>		
187 per month (2,249 total)		

Veterans and active-duty bookings combined were 14.1% of the total during the year, approximately 2% more than their percentage of the total population suggests. The 14.% in 2011 is also an increase from 12.8% in our initial four-month sample of 2010 bookings.

Estimated number of veterans initially booked in 2011

As noted above, the first time anyone is booked into the CJC they are assigned a unique pin number. Based on the assigned pin numbers it is possible to estimate how many active-duty military and discharged veterans were booked into the El Paso County jail for the first time in 2011 as shown in Table 2. This estimate does not imply the veteran has never been arrested before, or booked into jail in some other jurisdiction, or taken to a detox facility rather than jail, simply that the CJC has no prior record of them. Also, as noted, a veteran may not disclose they are a veteran when being booked so these values slightly underestimate the number of first-time bookings.

17. The National Crime Information Center (NCIC) is a computerized index of criminal justice information, i.e., criminal record history information, fugitives, stolen properties, missing persons) available to Federal, state, and local law enforcement and other criminal justice agencies. A complete list of NCIC codes is available at <http://wi-recordcheck.org/help/ncicoffensecodes.htm>. Note that usage by the EPSO varies in many ways from this standard but the codes still provide an essential means of classifying crimes.

Analysis of Veteran Arrests in El Paso County, Colorado

Table 2: Estimated number of veterans booked for first time in 2011

First-time active duty bookings	First-time veteran bookings
838	1,677

Percentage arrested and booked for the first time during study period

Using the unique pin numbers assigned the first time an offender is booked into CJC shows that 59% of the veterans in the initial sample period had been arrested and booked at least once before. By comparison, the El Paso County Sheriff's web site states that overall 80% of the offenders taken into the CJC have been previously booked.

Of the 838 active-duty military initially booked in 2011, 67 are known to have been discharged from active duty and then rearrested and booked again in 2011 after their discharge. Of course the great majority of discharged veterans are likely to return home or, wisely, move out of El Paso County when they leave active duty.

However, a substantial number are prevented from leaving El Paso County due to probation or conditions imposed on them by child protective services. That often increases their problems as they have no local support such as family in the area.

Also, many active-duty personnel who are arrested will remain in the military and be transferred out of the area. An unknown, but substantial percentage of active-duty military left the county after having been arrested and booked. So our value of 67 greatly underestimates the number of men and women who are arrested and booked while on active duty, then discharged and rearrested somewhere within a year.

Percentage rearrested during study period

Rarely a veteran is booked two or three times for the same offense. This is usually associated with a homicide charge or high-level felony where the veteran has been convicted, is being held in state prison, and returned to the CJC for another hearing or appeal. An offender may also bond out of jail and then later be taken back into custody for the same crime when convicted.

However, if a veteran violates parole or is arrested for a bond violation they are charged and booked for a separate crime than the original charges. The veteran may violate parole more than once and be repeatedly booked for that but each violation is a separate offense with a unique booking number. Of course a veteran may be arrested multiple times on different occasions for a DUI, for example, but each booking is for a separate offense and given a unique booking number.

For veterans, 1,504, or nearly half had been arrested in El Paso County before 2011 or were arrested more than once during the year. As a somewhat transient population veterans should differ from the general jail population in this and other respects. An unknown, but substantial percentage of veterans left the county after having been arrested and booked. That decreases the veteran rearrest percentage. Conversely, the data clearly show many veterans left and then were rearrested while visiting although they now live elsewhere.

For 90 of the active-duty military, their arrest in 2011 was not the first time they have been booked into CJC. In some cases the time span between their arrests suggest they were deployed after their first arrest and then arrested again after they returned. Additional deployments, coupled

with the trauma of their first arrest, substantially increased their stress levels and decreased their ability to cope, thus increasing the likelihood of their rearrest.

Frequency of rearrests

Veteran arrests have not been sampled for a long enough period to accurately determine the average frequency at which veterans are rearrested or for what crimes they are rearrested. However, we have sampled long enough to see that active-duty military and discharged veterans are frequently arrested multiple times in El Paso County. Findings from 3,631 bookings are presented in Table 3.

Table 3: Number of times active-duty military and separated veterans were arrested and rearrested and booked into CJC during sampling period (n = 3,631)

Number of times booked	Active Duty		Active then discharged		Veteran	
	Number	Percent	Number	Percent	Number	Percent
1	957	84.3%	0	0.0%	1,803	74.2%
2	144	12.7%	29	43.3%	409	16.8%
3	27	2.4%	19	28.4%	141	5.8%
4	4	0.4%	9	13.4%	46	1.9%
5	3	0.3%	8	11.9%	16	0.7%
6			1	1.5%	9	0.4%
7			1	1.5%	2	0.1%
8					2	0.1%
9					1	0.0%
Totals	1,135	100%	67	100%	2,429	100%

Unfortunately, data to date suggest that once a veteran is arrested there is a very high probability they will be arrested again if they come into contact with law enforcement for any reason. However, we have no data to suggest that veterans with prior arrests are rearrested at a higher rate than civilians.

It is reasonable to presume that most troops who are arrested in El Paso County while on active duty prudently leave the area upon discharge. Most troops return home in any case. But there are many reasons troops who have been arrested on active duty remain in the county.

1. They are awaiting trial or are on probation as a result of their arrest and not allowed to leave;
2. They have children and child protective services (CPS) has forbidden them to take the children out of the county as a result of child abuse allegations;

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3. They have property in the county and were planning on settling here;
4. They are waiting for their disability payments to start, and
5. In too many cases they have nowhere else to go and simply stay with their buddies here.

While the frequency at which veterans are rearrested is yet indeterminate, sampling has gone on long enough to get a snapshot of what veterans are being rearrested for, i.e., do they commit the same crime over and over and, yes, some do. Others move on to more violent crimes. Others become homeless and are hit with the various charges vagrants are always subjected to.

A sample of veterans arrested five (5) or more times since data collection began in July 2010 is presented in Appendix D on page 115. This sample only presents data from veterans who were apparently first booked into CJC after tabulation began on July 19, 2010, so veterans who were first arrested and booked before that date are excluded, e.g., Ms. Morman has been booked ten (10) times just since we began tabulating CJC bookings, primarily for contempt of court. We have not yet tabulated her arrests previous to July 2010.

No clear pattern emerges for most of the charges against veterans in Appendix D who are repeatedly arrested. Some, like Conner clearly have a drug problem. Others, like Cruise and Ms. Williams are well on their way to becoming alcoholics who drive dangerously. Reckless and dangerous driving, with or without alcohol or drugs, is characteristic of Iraq veterans with PTSD/TBI as it was a survival skill in combat. So that is common in the tabulation in Appendix D.

Domestic violence, particularly violation of restraining orders, is a frequent cause of rearrests and, as discussed on page 35, actually increases probability of homicide. And some of these veterans are simply and repeatedly violent whether or not such behavior is related to PTSD/TBI or other combat trauma or not.

It is possible to draw some tentative conclusions from the limited rearrest cases presented in Appendix D

1. If the intent of these veterans is criminal they are certainly inept at it;
2. The justice system has no ascertainable deterrent effect on subsequent behavior of veterans after they are first arrested;
3. If arrested on active duty in El Paso County a veteran should get as far away as possible after discharge and not come back.

Table 3 and Appendix D make it clear that in many, if not most cases the justice system intervention does little or nothing to deter veterans from criminal behavior. In fact, the work of Huffer (1995) shows that the justice system actually increases the trauma for disabled veterans already suffering from combat injuries like PTSD. And Sherman (1992), Dugan and others (2001), and Iyengar (2007) have documented the criminogenic effect of present justice system interventions in the civilian population that must certainly carry over into veteran arrests.

Day of the week for veteran arrests

Tuesday (18%) and Wednesday (19%) have the largest number of veteran arrests. Friday has only 16% of veteran arrests and Saturday only 11%. Sunday is the quietest day of the week with just 9% of veteran arrests occurring on that day.

The pattern is slightly different for active-duty military who are primarily being arrested on Tuesday (16% of arrests), Thursday (16%), and Friday (16%). So more partying for active duty on

Friday as expected, but hardly significantly more. However, **no** days of the week, i.e., Friday and Saturday, stand out as major days for veteran or active-duty military arrests.

No correlation of veteran or active duty arrests with holidays is evident in the data for 2011.

The significance is that it isn't weekend partying where veterans mainly get into trouble.

Demographics

Sex of offenders

In 2011 the Armed Forces were ~14.5% female overall, with the Army being ~13.6% and the Air Force ~19.1% women.¹⁸ There are four Air Force bases and one Army base in El Paso County but the Army has the largest number of troops and, where branch of service is known, virtually all arrests and bookings are of Army veterans.

A comparison of male versus female veteran arrests shows a distinct difference. However, the majority of the veteran arrests in 2011 are thought to be associated with combat trauma, e.g., PTSD, TBI, etc. Although such trauma has similar characteristics in both men and women, more male than female veterans suffer from PTSD and TBI, which is likely one reason for the lower rate of female bookings. However, gender bias in willingness of police to arrest females is often evident.

Table 4: Sex of veterans booked into CJC compared with Army percentages

Sex	EPSO CJC bookings	Army
Male	91.5%	86.4%
Female	8.5%	13.6%

Race

Army demographics for race are used Table 5 as they are the largest component of veterans in El Paso County and are more likely to be suffering from combat traumas leading to their arrest and booking.¹⁹

Note that the El Paso County Sheriff does not distinguish between White and Hispanic in their jail records. Thus, demographic totals for White includes Hispanics.

EPSO CJC bookings show Asians and American Indians considerably underrepresented in the data. That is possibly due to their moving out of the county after discharge in larger percentages than whites or blacks.

18. Source The Women's Memorial Statistics on Women in the Military www.womensmemorial.org/PDFs/StatsonWIM.pdf

19. Source Army Profile — FY 2005 available at [www.armyg1.army.mil/hr/docs/demographics/FY05 Army Profile.pdf](http://www.armyg1.army.mil/hr/docs/demographics/FY05%20Army%20Profile.pdf). While not up to the minute this report probably reflects the demographics when many current veterans were on active duty.

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Table 5: Race of veterans booked into CJC compared to Army data

Race	EPSO CJC bookings	Army
Asian	0.9%	4.0%
Black	24.2%	21.6%
American Indian	0.5%	3.1% (listed as Other)
White	71.3%	71.3% (White and Hispanic)
Note that in 3.1% of veterans booked race was unknown.		

Blacks were booked at a slightly higher percentage than their numbers in the Army would suggest and blacks are more highly represented in the Active Duty but discharged to Veteran and rearrested group (35.8%) than Whites (59.7%) but the sample size is small (n = 67).

Age distribution

There are a number of reasons to monitor the age distribution of veterans who are booked into the CJC. Among these are:

- An attempt to find out at what age veterans are likely to first be arrested?
- Are particular age groups more likely to be arrested?
- Do veteran arrest age distributions follow those of the general jail population?
- Are there particular ages at which active-duty military and veterans are likely to be arrested for particular crimes, e.g. domestic violence?
- What events do veteran arrests correlate with, e.g., following discharge, combat stress during major conflicts, decreasing or increasing problems with age, etc.

Note there is not sufficient data in a one-year sample to adequately answer all these concerns. but sampling is continuing. Questions that cannot be answered by this study are tabulated in Appendix B on page 105.

General CJC population including veterans in 2011

The bar chart in Figure 1 illustrates the age distribution of all inmates booked into CJC during calendar year 2011. The chart includes bookings for 22,605 inmates.

Note the rapid drop off in inmates older than age 30 in the overall inmate population as expected. By age 30 apparently those with criminal intent in the civilian population have generally smartened up or are locked up for long periods.

Discharged veterans booked during calendar year 2011

In Figure 2 the ages of discharged veterans booked into the CJC in 2011 have been plotted. Note that there is no continuous drop off after age 30 of discharged veterans who have been arrested and booked as seen with the general CJC inmate population (Figure 1). Rather the ages of discharged veterans who were booked shows several peaks roughly coinciding with the nation's major conflicts back to Vietnam.

Figure 1. Age distribution of all inmates booked into CJC during 2011

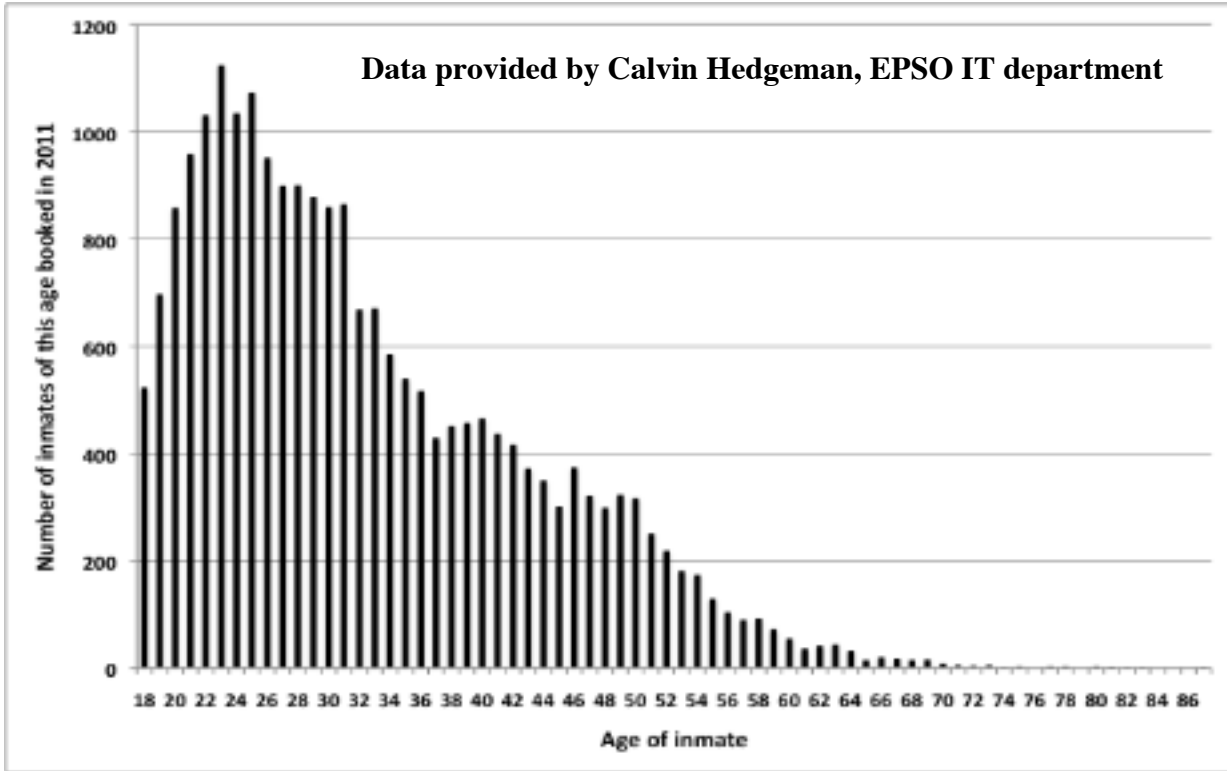
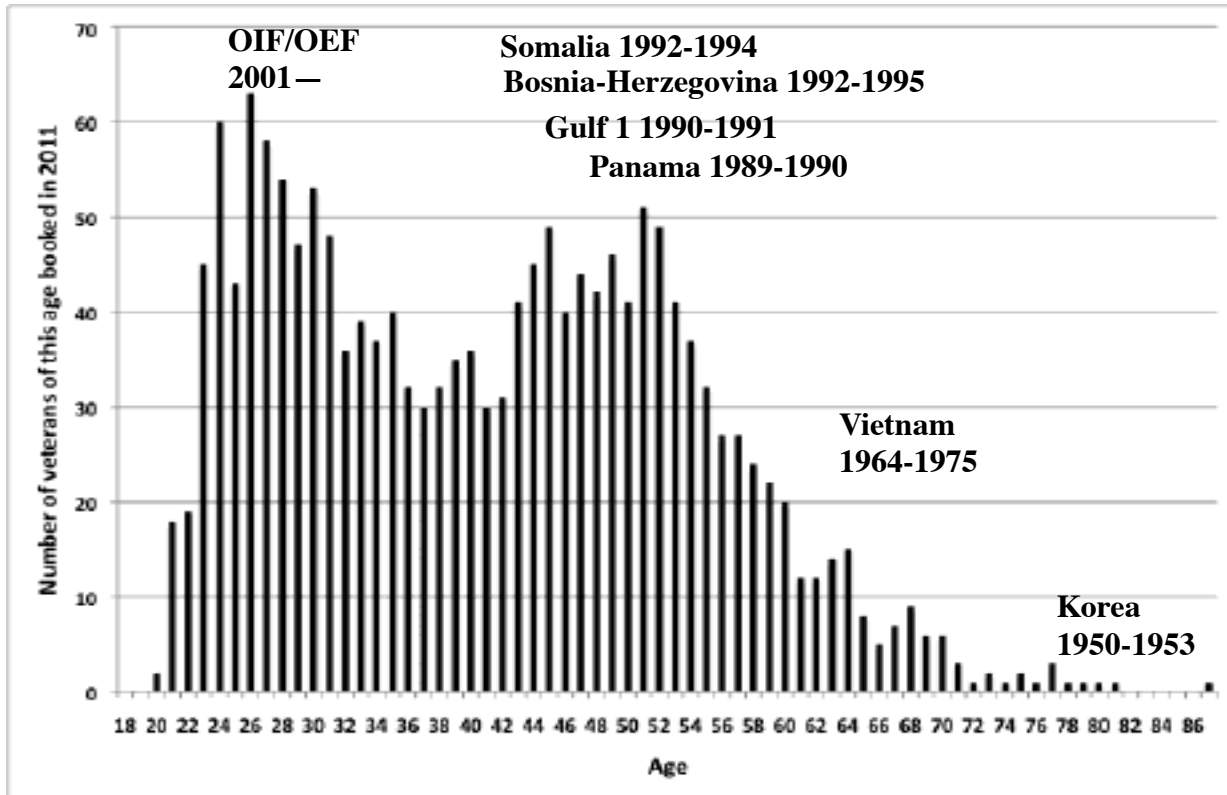


Figure 2. Age distribution of discharged veterans booked during 2011



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Even Korean veterans who now must be 76 or older show a small peak in Figure 2.

And one lonely old veteran from WW II of 87 was taken to jail on a domestic violence charge.

It is assumed most veterans enter combat for the first time around age 20. Thus veterans of the Gulf I War in 1991 are now around age 40 as shown by a sharp peak in Figure 2. Veterans of the Bosnia-Herzegovina and Somali conflicts between April 1992 and December 1995 would roughly be between 36 and 39 years old now. Vietnam veterans generally fall between the ages of 60 and 77. Of course, as evident in the age of active-duty military who are arrested, as shown in Figure 3 on page 18, the ages of veterans in a given conflict will be distributed in decreasing numbers above the minimum age by roughly 20 years and PTSD may strike a veteran years, or even decades after combat, so age peaks in Figure 2 are smeared and conflicted with earlier wars.

It is also clear from Figure 2 that combat is reflected in the CJC inmate population decades later and that earlier arrests have no deterrent effect afterward. The scattered and smeared peaks between age 42 and 49 show arrests of veterans of the Panama invasion, the Gulf I war, Bosnia-Herzegovina, and Somali conflicts. Comparing age distributions between the dominantly civilian CJC inmate population in Figure 1 with that of veterans in Figure 2 provides strong evidence that it is military service and resultant injuries, e.g., PTSD, TBI, etc., that dramatically increases the chances of being arrested and jailed later in life.

However, the sharp peak in the ages of CJC veterans at 51-52 in Figure 2 does not follow this pattern as there were no major conflicts circa 1981-1982. There is a similar peak at this age in Figure 5 on page 42 for veterans arrested for domestic violence and in our initial report on the first 1,000 veteran arrests (Corry and Stockburger, 2012, p. 5). Thus, there may be a secondary affect that causes a veteran's trauma to resurface around this age as discussed subsequently on page 66.

It is known that the mortality rate of combat veterans from all causes generally exceeds that of the overall population. For example, only about one third of in-theater Vietnam veterans are reported to be alive today²⁰ although, as noted above, their average ages are between 60 and 77.

Thus, it is inferred that the decline with age in numbers of veterans arrested presented in Figure 2 on page 16 owes as much, or more, to the decline in their total numbers due to mortality than it does to any reintegration into society by these veterans as they age.

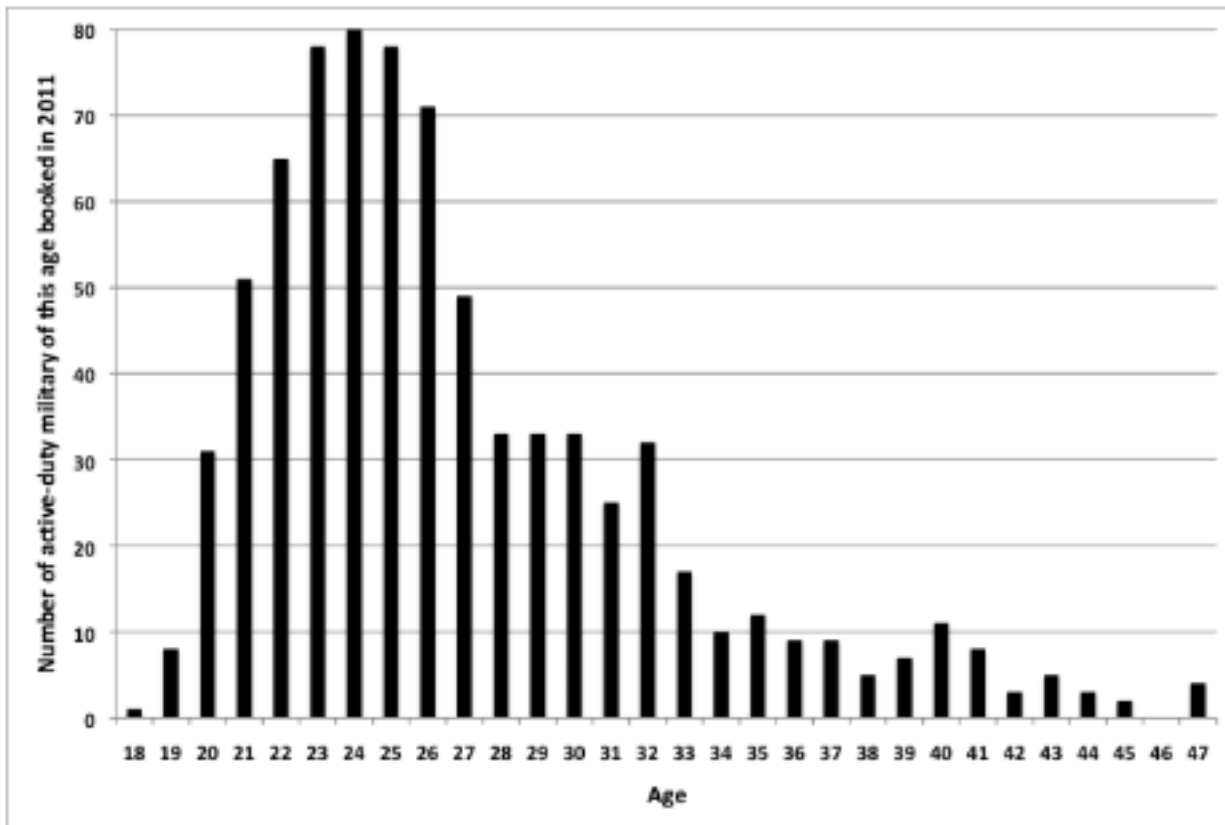
Figure 2 offers stark testimony that if present law enforcement policies under current laws are continued that the lives of veterans of today's wars will be destroyed in ever increasing numbers down through the decades at immeasurable cost to society. In fact there are several lines of evidence that suggest the present arrests and convictions are actually criminogenic. While we cannot offer proof that treatments available today for military injuries will be effective, we are honor bound to try alternatives to the "*catch, convict, and release*" justice system that is so clearly destroying thousands of veterans in El Paso County, Colorado, alone.

20. There are various estimates of how many Vietnam veterans who actually saw combat, or at least served "in country," remain alive today. Roughly 2.6 million put their boots on the ground during the conflict. As of the 2000 Census roughly 1 million were still alive. Various estimates suggest only about 800,000 in-country Vietnam veterans are alive today. One of the better reviews is by Marine combat-veteran Gordon Duff at www.veteranstoday.com/2009/07/08/who-are-the-real-vietnam-vets/.

Active-duty military arrests — calendar year 2011

The age distribution of active-duty military personnel arrested in 2011 is shown in Figure 3. By age 26, the mean age for active-duty military arrested in this analysis, military personnel have often been promoted to corporal (E-4) or above so the majority of these arrests involved non-commissioned officers who have almost certainly completed more than one combat tour. In addition the EJP is aware of a number of officers, lieutenants through colonels, who have also been arrested in El Paso County.

Figure 3. Age distribution of active-duty military booked into CJC during 2011



For an active-duty military population not heavily involved in combat an equivalent bar chart would probably peak around age 21 and drop off quite sharply above that age. The general consensus is that the older non-commissioned and commissioned officers are rarely arrested in peacetime.

Thus, it is inferred that the majority of the arrests of active-duty military in El Paso County during 2011 are associated with combat-related trauma. And with an average of 78 arrests per month of active-duty troops the available data suggest Fort Carson may be losing the equivalent of one platoon per month to current policies of the civilian justice system.

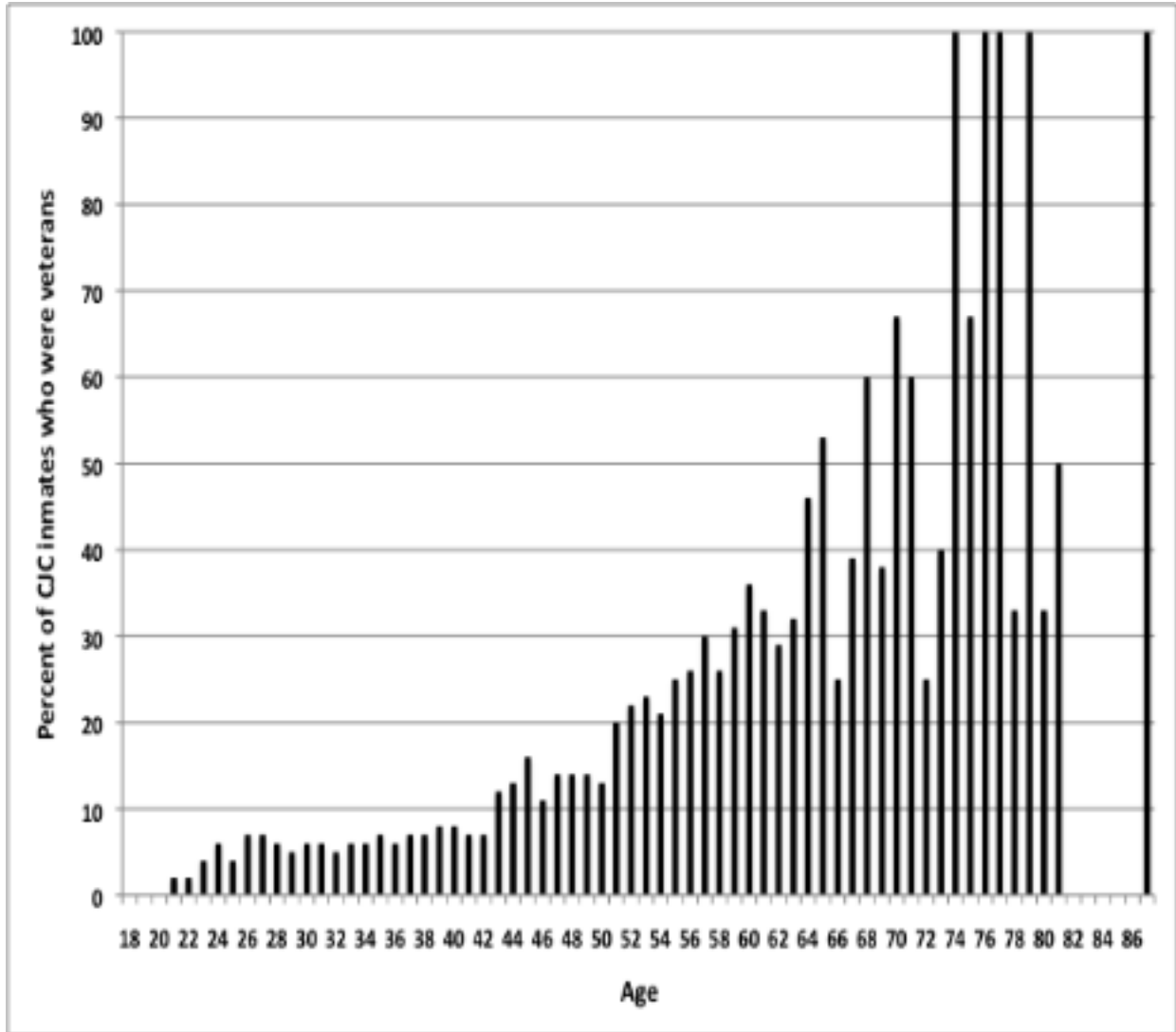
Percent of inmates who are veterans booked into CJC in 2011 vs. age

As noted in Figure 2 on page 16 arrests of veterans do not rapidly drop off after age 30 as expected and shown for the general CJC inmate population in Figure 1. To further examine the effects of that observation the bar chart presented as Figure 4 shows the percent of CJC inmates who were veterans versus their age. Up until age 44 veterans are only a small (6-7%) fraction of

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all CJC inmates. However, past age 50 the percentage of veterans booked into CJC dominates the graph. By age 75 virtually all CJC inmates are veterans. A relative frequency graph of the CJC general population and veteran data showed the same result as Figure 4.

Figure 4. Percent of inmates booked into CJC versus age



Various statistical methods of illustrating the impact of the continuing arrests of veterans despite their advancing age were attempted. The simplest to understand is the chart in Figure 4 showing the percent of inmates in the CJC as a function of age. This problem is further discussed under Aging and veteran arrests on page 62.

It can be reasonably predicted that the peak in Figure 3 between ages 23 and 26 resulting from arrests of today's veterans of the current conflicts, that is but a small peak now in Figure 4, will echo down the years. Thus, by the year 2040 virtually all of the CJC inmates 50 or over will be OIF/OEF veterans. That strongly suggests unless effective intervention is taken the first time a veteran encounters the justice system, or before, many will be in and out of jail for life. That is an inhumane price society can hardly afford to pay.

Veteran crime data

The following tabulations are based on the arrest and booking into CJC of 1,366 active-duty military personnel and 3,489 discharged veterans during the time interval of July 19, 2010, to January 18, 2012. The longer time provides better sampling of some of the rarer events. These veterans were arrested and booked a total of 4,719 times during this interval.

Of the total number, 3,489, of veterans booked in this time interval, 3,196 were males (91.6%) and only 293 (8.4%) were female. Among active duty military a slightly higher percentage of males than the overall average were booked into CJC, 1,264 (92.5%) males of 1,366 total.

The status of 53 individuals listed as veterans at the time of booking was indeterminate, usually because of an improbable age, i.e., a discharged veteran is unlikely to be just 18-years old. Also, the number of inmates claiming to be discharged veterans who are not is indeterminate but could be a substantial fraction of the total, perhaps as high as 30%. Conversely, the sheriff contracts with the military bases and is reimbursed for incarcerating active-duty personnel. Active-duty military also are quite likely to have identification establishing their status at the time of booking. So statistics for the number of active-duty military are somewhat more reliable than for discharged veterans.

High charge — How many veterans and active-duty military were arrested and booked for felony, misdemeanor, traffic, civil, etc. offenses

Table 6: Numbers and percentages of crimes resulting in an arrest and booking

High charge	Number	Percent of total
Felony	1,337	28%
Misdemeanor	2,584	55%
Traffic	448	10%
Civil	30	1%
Petty offense	9	0%
Unknown at time of booking	311	7%
Total bookings	4,719	100%
Includes CJC bookings of both discharged veterans and active-duty military between July 19, 2010, and January 18, 2012.		

As best we can tell veterans arrested and booked on traffic offenses usually have prior arrests. They may also be angry and aggressive when stopped, especially if they are suffering from the irrational anger characteristic of PTSD. Reasons why police arrest some and not others for the same level of minor crimes are discussed on page 80.

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Veterans booked on civil charges are usually the result of non-payment of child support or for failure to appear. Failure to appear is common with veterans suffering from TBI due to short-term memory problems.

Table 7: Numbers and percentages of felonies, misdemeanors, and other crimes between July 19, 2010 and January 18, 2012 broken out by level of crime and sex

High Charge	Sex		Total	Percent of total bookings			
	Female	Male					
Arrested and booked into CJC for a felony							
F1 (highest, first-degree murder)	0	0%	3	0%	3		
F2 (2 nd degree murder & similar)	2	2%	38	3%	40		
F3	12	12%	237	19%	249		
F4	45	45%	403	33%	448		
F5	19	19%	268	22%	287		
F6 (lowest)	16	16%	166	13%	182		
F0 (level undetermined)	7	7%	121	10%	128		
Total felonies	101	100%	1,236	100%	1,337		28%
Arrested and booked into CJC for a misdemeanor							
M1 (highest, usually DV)	58	29%	769	32%	827		
M2	12	6%	229	10%	241		
M3	28	14%	251	11%	279		
MS	3	2%	55	2%	58		
M0 (undetermined, often DUI)	97	49%	1,082	45%	1,179		
Total misdemeanors	198	100%	2,386	100%	2,584		55%
Arrested and booked into CJC for a traffic offense							
T1	16	41%	118	29%	134		
T2	21	54%	278	68%	299		
TA	0	0%	3	1%	3		
TB	2	5%	7	2%	9		
T0 (undetermined)	0	0%	3	1%	3		
Total traffic	39	100%	409	100%	448		10%
Arrested and booked into CJC for lesser or unknown offenses							
Civil cases	4	N/A	26	N/A	30	1%	
Petty offense	1	N/A	8	N/A	9	0%	
Unknown (assumed criminal)	16	N/A	295	N/A	311	7%	
Totals	359	7.6%	4,360	92.4%	4,719	100%	

It is important to note that the data tabulated in Table 6 are based only on the charges filed against a veteran at the time they were booked. It is common in many cases for the district attorney to file additional charges, sometimes a dozen or more, against the veteran upon review. It has also been reported to us many times that the prosecutor has jumped up a misdemeanor charge to a felony, reportedly in an attempt to force the veteran to accept a plea bargain. That appears to occur most commonly in domestic violence cases. Future research is planned to follow cases through the court system to track prosecutorial abuse.

The level of charges filed at the time of booking, broken down by sex, are presented in Table 7 above. The current data do not suggest that males or females are charged at significantly different levels of crimes. The only major difference is that no females were charged with first-degree murder during the sampling interval but, thankfully, there were not enough such cases to draw any conclusions.

More data, and tracking cases through the courts, may allow distinctions to be made between the sexes in a future report.

Crime categories for veterans booked into CJC

Crime categorization of charges against veterans

For comparison purposes it was both necessary and convenient to break the type of individual charges brought against veterans and active-duty military into twelve categories as follows: (1) animal violations; (2) drug and substance abuse; (3) offenses against persons; (4) offenses against property; (5) offenses against public officials; (6) offenses involving children; (7) sex crimes; (8) traffic violations; (9) unknown; (10) violation of a court order or terms of a criminal conviction; (11) violating public peace and order; and (12) weapons violations. Other groupings and classifications are possible, of course, but these have worked well for our analyses. These categories and associated NCIC criminal codes are defined in Appendix C on page 107.

The numbers of veterans defined in Table 6 on page 20 booked into each category are summarized in Table 8. Note that veterans are often arrested and booked for more than one crime. Thus, the same booking may place a single veteran into multiple categories, e.g. a domestic violence case may often place a veteran in Categories 2, 3, 6, 7, and 12. Therefore, the total number of charges greatly exceeds the number of individual veterans booked into CJC during the sampling period.

A traffic stop is unlikely to result in an arrest without aggravating factors. So traffic violations are the high charge against veteran bookings in just 10% of the cases shown in Table 6 on page 20. But when an officer does make an arrest in a traffic stop there are almost certain to be a number of violations involved. As a result traffic violations lead the crime categories in Table 8 with 25.3% of the total.

The second major category for which veterans are booked into CJC are offenses against persons (23.6%), most commonly involving domestic violence charges and this issue is examined in more detail in the section on domestic violence on page 29.

Drug and substance abuse crimes, on which the veteran court is currently modeled, are only 13% of the total offenses for which veterans are booked. Property offenses at 15% are more common. Of course a veteran may get drunk and destroy property and be booked on both crimes but we have not seen the value of presenting most crime cross tabulations except for driving

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Table 8: Crime categories of active duty and veteran bookings

Crime Category		Active duty	Veteran	Status Unknown	Total charges	Percent of total
1	Animal violations	0	20	0	20	0.1%
2	Drug and substance abuse	342	1,573	13	1,928	13.2%
3	Offences against persons	1,044	2,380	29	3,453	23.6%
4	Offences against property	458	1,664	56	2,178	14.9%
5	Offences against public officials	42	326	1	369	2.5%
6	Offences involving children	107	215	8	330	2.3%
7	Sex crimes	61	326	26	413	2.8%
8	Traffic violations	863	2,738	100	3,701	25.3%
9	Unknown at time of booking	230	205	11	446	3.0%
10	Violations of courts orders or terms of a criminal conviction	191	1,027	5	1,223	8.4%
11	Violating public peace and order	91	356	12	459	3.1%
12	Weapons violations	43	76	2	121	0.8%
Totals		3,472	10,906	263	14,641	100%

under the influence (DUI) shown in Table 10 on page 25 and domestic violence cases in Table 14 on page 40.

Crime categories of offenses broken out by sex

While the breakout of offenses by sex in Table 9 below generally conforms to the broader picture presented in Table 8 above there are some notable differences.

The percentage of active-duty females booked for offenses against persons, presumably domestic violence, is notably higher (37.0%), while the percentage of female veterans booked for offenses against persons is notably lower (17.4%) than the overall average of 24% shown in Table 8.

Also, the number of traffic violations for active-duty females Table 9 is notably lower (18%) than the overall average of 25% in Table 8.

Drugs, substance abuse, and induced violence

Contrary to expectations when the veteran court was established and modeled on drug court procedures Table 8 indicates that only 13% of all charges brought against veterans in 2011 involved drug and substance abuse. There is only minor variation from that percentage in the

Table 9: Crime categories of active duty and veteran bookings broken down by sex

Crime Category		Active duty				Veteran			
		Male		Female		Male		Female	
1	Animal violations	0	0%	0	0%	17	0.2%	3	0.4%
2	Drug and substance abuse	323	9.8%	19	10.1%	1,465	14.4%	108	14.9%
3	Offences against persons	974	29.7%	70	37.0%	2,254	22.1%	126	17.4%
4	Offences against property	424	12.9%	34	18.0%	1,557	15.3%	107	14.8%
5	Offences against public officials	37	11.3%	5	2.6%	279	2.7%	47	6.5%
6	Offences involving children	100	3.0%	7	3.7%	195	1.9%	20	2.8%
7	Sex crimes	61	1.9%	0	0%	323	3.2%	3	0.4%
8	Traffic violations	829	25.3%	34	18.0%	2,542	25.0%	196	27.1%
9	Unknown at time of booking	223	6.8%	7	3.7%	185	1.8%	20	2.8%
10	Violations of court orders or criminal conviction	183	5.6%	8	4.2%	950	9.3%	77	10.7%
11	Violating public peace and order	86	2.6%	5	2.6%	342	3.4%	14	1.9%
12	Weapons violations	43	1.3%	0	0%	74	0.7%	2	0.3%
Totals		3,283	100%	189	100%	10,183	100%	723	100%

Note that 263 cases where the veteran status was questionable were excluded from this table.

breakout presented in Table 9 with active duty males and females averaging 10% and veterans a bit higher at 14.6%.

Alcohol is the leading drug used by both active duty military and veterans and the numbers of arrests and bookings for DUI or DWAI are broken out in Table 10 together with the percentage of the total drug and substance abuse cases shown in Table 9.

Prescribed medications known to be associated with violent behavior

However, commonly it is prescribed medications that lead to the veteran’s problems with the justice system due to violent and erratic behavior, or to their unexplained death. The top ten drugs associated with increased levels of violent behavior as listed in Time Magazine²¹ in 2011 are:

10. Desvenlafaxine (Pristiq) — An antidepressant that affects serotonin and noradrenaline. The drug is 7.9 times more likely to be associated with violence than other drugs.

21. Summary and links to studies available at <http://www.helium.com/items/2068393-study-reveals-top-ten-violence-inducing-prescription-drugs>.

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Table 10: Cases involving driving under the influence (DUI) or driving while ability impaired (DWAI)

Status	Male			Female		
	Drug and substance abuse total	DUI/DWAI		Drug and substance abuse total	DUI/DWAI	
		Number	Percent		Number	Percent
Active duty	323	253	78%	19	17	90%
Veterans	1,465	919	63%	108	86	80%
Percentages are relative to total number of drug and substance abuse cases for each sex presented in Table 9.						

9. **Venlafaxine (Effexor)** — An antidepressant that treats anxiety disorders. The drug is 8.3 times more likely to be associated with violence than other drugs.
8. **Fluvoxamine (Luvox)** — A selective serotonin reuptake inhibitor (SSRI) drug that is 8.4 times more likely to be associated with violence than other drugs.
7. **Triazolam (Halcion)** — A benzodiazepine drug for insomnia that is 8.7 times more likely to be associated with violence than other drugs.
6. **Atomoxetine (Strattera)** — An ADHD drug that is 9 times more likely to be associated with violence than other drugs.
5. **Mefoquine (Lariam)** — A malaria drug that is 9.5 times more likely to be associated with violence than other drugs. Virtually all deployed troops were required to take this drug.
4. **Amphetamines** — This general class of ADHD drug is 9.6 times more likely to be associated with violence than other drugs.
3. **Paroxetine (Paxil)** — An SSRI antidepressant drug that is 10.3 times more likely to be associated with violence than other drugs. It is also linked to severe withdrawal symptoms and birth defects.
2. **Fluoxetine (Prozac)** — A popular SSRI antidepressant drug that is 10.9 times more likely to be associated with violence than other drugs.
1. **Varenicline (Chantix)** — An anti-smoking drug that is a shocking 18 times more likely to be associated with violence than other drugs.

Prozac, Paxil, Lariam, and amphetamines lead the tabulation of prescription drug problems reported to the EJJF, and these drugs are known to have been routinely prescribed by military and VA doctors for troops suffering from combat injuries, or even while in combat.

And while not on Time Magazine’s list, quetiapine, (branded as Seroquel, Xeroquel, Ketipinor) has been reported to cause suicidal ideation, rapid heart beat, and death. The deaths of at least six U.S. military veterans who were given drug cocktails including quetiapine have been attributed to its inclusion by military doctors attempting to treat PTSD.²² However, the number of deaths of

22. See Wikipedia comments at http://en.wikipedia.org/wiki/Quetiapine#Adverse_effects.

veterans and active-duty military who were prescribed quetiapine (Seroquel) as one of a cocktail of drugs for their injuries certainly exceeds 100.²³

Ambien (zolpidem), a short-term sedative prescribed for the treatment of the insomnia, typical of PTSD, and for some brain disorders has also been reported to have caused delusions, hallucinations, and sleepwalking.

Of great concern also is the fact that many disabled veterans are being given bags of prescription medications containing as many (possibly more) different drugs. No one knows how these drug cocktails interplay with over-the-counter drugs, herbal supplements, and particularly alcohol. Military medical providers now classify any veteran taking three or more prescription medications as “high risk” and recommend reviewing and adopting new treatment plans. These drug cocktails have been associated with unexplained deaths or suicides.

It is evident in dealing with these issues that suicide is often seen as a way out for veterans. While we do not have quantitative data on the relationship, notable causes, when a cause can be heard, are problems with intimate relationships, depression, and chronic pain. And suicidal ideation is often reported associated with PTSD.

Here again the justice system often lies at the root of their problems. As pointed out by Silverglate in his book *Three Felonies A Day* (2011, p. 45-73) overzealous prosecutors in the Department of Justice have made many physicians afraid to prescribe pain medications, particularly opioids, in sufficient quantities and doses needed to control the pain experienced by many veterans. As a result many turn to street drugs that, in turn, find them afoul the justice system.

Medical marijuana is legal in Colorado, and has proven quite effective in treating PTSD and pain. But veterans often report being unable to obtain or use this relatively harmless medication that is insanely classified as a Schedule I addictive narcotic under federal law. All too often, after years of fighting the pain, the nightmares, depression, the VA, and the justice system, suicide is seen as the only way out.

From the above it is clear that many of the problems that bring veterans to the attention of law enforcement are the direct or indirect result not only of their combat injuries but the medical treatments they are prescribed for relief of those injuries. Unfortunately, most enforcement effort has concentrated on illegal drug use or driving on drugs.

What can possibly be gained by prosecuting veterans who are under a doctor’s care but suffer an adverse reaction to the prescribed treatment?

Sex offenses

Veterans are more commonly charged with sex offenses than the general public

In 2011 according to data available from the Colorado State Court Administrator, sex offenders were just 1% of all misdemeanors in the general public.²⁴ However, from Table 8 on

23. Personal communication, Fred A. Baughman Jr., MD, Fellow, American Academy of Neurology.

24. Colorado State Court Administrator statistics are available at www.courts.state.co.us/Administration/Unit.cfm?Unit=annrep.

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page 23 a total of 413, or 2.8% of the all charges, were sex crimes charged against veterans and active-military, although this total includes both felonies and misdemeanors.

Excluding those individuals whose veteran status is questionable, and broken out by active duty, 1.9% of all charges were for a sex crime (Table 9). For veterans 3.2% of all charges against males were for sex crimes.

With this population we are dealing primarily with young, randy males who are more sexually active and aggressive than the general population. But, as noted in the introduction, one of the major obstacles veterans face is a plethora of new laws that makes once innocent, or at most irritating and insulting behavior criminal. These two factors make it certain that male veterans are more likely to be charged with a sex offense than the general public. **But, remarkably, no charges of rape have been lodged against any active duty or discharged veteran!**

While the percentage of sex crimes by veterans almost certainly exceeds the general population, the rate is also probably not as high as available data suggests.

Many cases have been brought to the attention of the Equal Justice Foundation where women are making false allegations of rape or sexual assault.²⁵ It is known that such false allegations are often made by women to cover up their infidelity, for revenge, to gain advantage in a divorce or child custody dispute, or for numerous other reasons. Although the percentages of such reports are hotly debated, and beyond the scope of this report, it is clear that false allegations of sexual assault and abuse are being made. But we have no way to sort out such cases from available data and that will be the subject of future research as we integrate the court data with the arrest data.

There are also many cases where false allegations of sexual abuse of children are being made to gain advantage in custody disputes, vindictively, or for revenge. Anecdotal evidence suggests such cases may constitute a significant percentage of charges of sexual assaults on children. Dean Tong in his book *Elusive Innocence* examines the problem in detail. Unfortunately, such false allegations tend to consume scarce resources needed to prosecute the real and horrific cases of such child abuse by both men and women.

Fortunately, we are not aware of any “sex crime” witch hunts in El Paso County, Colorado, of the magnitude outlined by William Anderson²⁶ in other parts of the United States, but many individual cases are known to be associated with the county’s child protective services. So the difference is only in scale. This is an issue we intend to pursue in a later report when we track veteran cases through the court.

25. For one example see the story of how Marine Corps Sgt. Brian Foster spent a decade in Leavenworth after his ex-wife moved to Colorado from California and brought false rape charges against him http://ejfi.org/News/Courts-4_29_09.htm.

26. See Costs and benefits of modern “sex crime” witch hunts at <http://www.theagitator.com/2012/08/17/costs-and-benefits-of-modern-sex-crime-witch-hunts/>.

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Domestic Violence and Veterans

Background

Manifestations of PTSD, TBI, and other mental disorders suffered by military veterans are often indistinguishable from domestic violence under current laws. Such factors as irrational anger, hypervigilance, exaggerated startle response, nightmares during which the veteran kicks and fights in their sleep, putting their hands around their partners neck and possibly choking them even in their sleep, flashbacks, substance abuse of alcohol and prescription drugs for pain and to allow the veteran to sleep, suicidal ideation or attempts, and similar reactions to combat or other trauma associated with military service or accidents all too often result in the veteran being arrested for domestic violence. The draconian consequences of even a misdemeanor domestic violence conviction are summarized in Table 11.

Table 11: Consequences of a misdemeanor domestic violence or any felony conviction under current Colorado laws

• Barred from holding many jobs	• Denied a security clearance
• Unable to rent an apartment	• Forbidden from obtaining school loans
• Unable to hold any professional licenses	• Unable to get or hold a teachers certificate
• Denied credit or a financial bond	• Unable to become peace officers or firefighters
• Denied a commercial drivers license	• Unable to obtain medical insurance
• Denied hazmat or explosives work	• Find their children taken from them
• Subjected to federal felony charges if they are even around a weapon or ammunition	
• Discharged from the service under less than honorable conditions, often losing all benefits, retirement, bonuses, medical care, and they may even have to repay reenlistment bonuses	
Note that a plea bargain of any kind is a conviction	

In Colorado “domestic violence” is an aggravator, or add-on charge that can be applied to any crime. As a result, making a telephone call or sending electronic mail often results in charges of “domestic violence.” As shown subsequently in Table 14 on page 40 only about half of veterans booked for domestic violence actually have an offense against a person, i.e., violence, charged against them.

As a conviction for domestic violence is almost certain to destroy the veteran’s family, marriage, children, civilian or military career, and ability to get or hold a job or professional license, this crime category is of primary interest to the Equal Justice Foundation and society.

Domestic violence and PTSD

Look at an infantryman’s eyes and you can tell how much war he has seen.

Bill Mauldin, Up Front, 1944.

In attempting to deal with the problems a wounded veteran faces when charged with “domestic violence” the first question is what is post traumatic stress disorder (PTSD)? And why is it an issue when dealing with what is defined as “domestic violence” under current law?

While PTSD is commonly associated with soldiers after combat it can occur as the result of any traumatic event and more civilians than veterans suffer from this condition.

Post traumatic stress disorder (PTSD) defined

The characteristic symptoms of post traumatic stress are:

- Sleeplessness (probably the most common and the first thing one notices);
- Dissociation from actual events and no memory of them is diagnostic;
- Nightmares often accompanied by kicking, fighting, or choking a partner in one's sleep;
- Impotence in males;
- Irrational anger or irritability accompanied by emotional or violent outbursts;
- Anxiety and a need for unconditional control of almost every situation in order to feel safe;
- Panic attacks and hyperventilating (veterans are known to put on their body armor in such cases);
- Social withdrawal and fear of crowded places (often will not leave house or go shopping until early morning hours);
- Difficulty concentrating, focusing, or remembering (short-term memory loss);
- Hypervigilance often expressed as a fear of crowds and a need to do a reconnaissance before entering an area or building, e.g. WalMart;
- Flashbacks to the event(s); and
- An exaggerated and often violent startle response.

To officially fall within the diagnostic guidelines the symptoms must last for at least a month. A duration of less than three months is considered "acute," three months or more is considered "chronic," and "delayed" refers to an onset of symptoms at least six months after the traumatic experience. In our experience, while PTSD is relatively easy to recognize and diagnose it is often difficult to treat and many times the symptoms reoccur throughout the veteran's life.

Not every individual suffering from PTSD will exhibit all, or sometimes even most of these symptoms. For example, a veteran with subclinical PTSD may only suffer from sleeplessness and nightmares. But everyone of these PTSD symptoms can and does play out in a scenario that resembles domestic violence and often other crimes as well under current laws.

Despite efforts by the military to recognize and treat troops for PTSD, TBI, and other injuries when they return from combat it is quite likely a veteran will not admit they have a problem. And *post* traumatic stress means **post**; anywhere from months, years, and sometimes decades may go by after the traumatic event before PTSD becomes a problem.

The most comprehensive study of these problems with Vietnam veterans is the National Vietnam Veterans' Readjustment Study (NVVRS). It is important to note that the NVVRS takes the position that PTSD should be considered a mental injury of war rather than a mental illness.

Schaller (2012, p. 107) notes that almost half the veterans in the NVVRS study had been arrested or jailed at least once, 35% had been arrested more than once, and 11.5% were convicted of a felony. And that was before current DV laws were passed. He also notes that theater veterans (boots on the ground) exposed to high combat stress were especially likely to engage in violent behavior after their return. It is also important to note that Vietnam veterans typically endured

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only one combat tour whereas OIF/OEF veterans commonly endured multiple tours and the impact of that is only now beginning to be felt.

Estimates of the prevalence of PTSD among in-theater combat veterans varies between 30% and 70%. It is evident that not less than 30% of OIF/OEF veterans will exhibit clinical PTSD and that at least 70% will exhibit some of the symptoms, e.g., sleeplessness, startle response, etc. And it only takes one involuntary startle response to end up with an assault charge.

We have been told by veterans that it is not uncommon for them to keep their body armor (battle rattle, or “hugs”) and don it when they feel threatened or during panic attacks. Some even put on their “hugs” and sleep on the floor in a corner with their weapons at hand in order to feel safe and secure. And veterans with PTSD often self medicate with alcohol in order to sleep. Combine heavy drinking with irrational anger and a panic attack and it is easy to see a family fight ensuing.

Aggravating these problems is the fact that veterans are typically in denial, what one military officer refers to as the “Leave me alone, I’ll be fine,” syndrome. Career concerns and pride, among other factors, often make a veteran avoid or refuse treatment before they end up in an orange jumpsuit in the CJC.

Treating wounded veterans as common criminals in an inhumane and disgraceful fashion is abhorrent, violates all concepts of the common law evolved over centuries, and demonstrably causes more problems that it could possibly cure. As Iyengar (2007) and Dugan and others (2001) have documented, current practices all too often lead to homicides (see Table 15 on page 44). And those are simply the most extreme problems of current practices.

The ultimate costs to society of the destruction of lives, families, marriages, and children evident from the consequences of a domestic violence conviction for veterans with PTSD, as summarized in Table 11 on page 29, are horrible to contemplate and will haunt and torment us for decades to come.

Better ways must be found!

What PTSD looks like to an intimate partner

In dealing effectively with veterans involved in an intimate relationship it is critical to first understand what PTSD and associated injuries looks like to their partner. We know of no better example than the following letter written by a Navy corpsmen’s wife describing her experience:

*Originally published in Business Insider²⁷
Reproduced with permission*

July. 5, 2012

Dear PTSD,

Before you came into my life, I had heard rumors. Back then, no one really spoke about you unless it was in hushed whispers. No one knew for sure what you looked like — but I heard you did unspeakable things...that you crept into bed with husbands and seduced them away from their unsuspecting wives. I also heard that you drank. A lot. I heard sometimes you could be two places at once — physically in one place but mentally elsewhere. It was also said that

27. See www.businessinsider.com/dear-ptsd-letter-from-a-military-wife-2012-7.

you were a liar, home wrecker, careless and violent...that sometimes you would take your mounting anger out on walls or whatever or whomever happened to get in your way. You left shattered picture frames and broken memories in your wake. There have been songs written about you...yet they don't even begin to do justice to just how evil you are. In fact, there has been talk of you being a murderer. I can't say that I'm surprised. I wouldn't put it past you. I believed those rumors and I certainly never invited you into my life.

But you came anyway.

And you were relentless.

It was four and a half years ago when you crept into our lives — an unwelcome guest. I'm not sure if you were in his med (medical) bag on the plane or if you quietly crept in through an open window one night making him awake in a state of panic...but once you came, no matter how much I begged and pleaded, you just kept finding ways back into our life.

Persistent.

I still can't believe the cops were never called when you would be banging down the door just to prove you were still there, still providing him the thrilling "alive" feeling I couldn't...At first you were just a nuisance...doing stupid things like ruining our sleep and tracking your sandy footprints all over our home, leaving shattered glasses, like a disrespectful child never cleaning up after yourself...leaving your mark to let us know you were still there...then you started turning up and interfering with his job.

Distracting.

Leaving us on edge...but you proved to be a stealthy, well-trained machine...incognito even. We knew you were there but no one else admitted to seeing you — some might say you were a ghost of sorts. Eventually, we thought maybe they were right — that maybe you weren't there to stay....So we tried so many times to go on pretending we had moved on...but you are like the ex we avoided yet managed to bump into on the Fourth of July at the fireworks, causing him to hide under the nearest table so you don't see him and have to wax nostalgia about all of your memories. Those trips down memory lane were always too much to handle anyway.

But we were wrong. And you were angry. Angry that we wished you away or that we ignored you — I'm still not sure which but you sure let us know it. Quite the elaborate production. You make quite a scene, don't you? You followed us everywhere we went. Proof of your existence began popping up everywhere but, like us, others knew of your bad reputation and hanging out with you started to get him into trouble at work...and then at home...You once left a hole in the wall at the top of the stairs...and I read the elicited text messages between the two of you...you sure were proving all the rumors true.

The last straw was when you began attacking me for trying to pull him away from your allure...your antidepressant induced numbness...All I wanted was to go back to being a couple but everyone knows, PTSD, you're a dirty, dirty whore. You weren't ready to let go yet. You had greater plans...the ultimate sacrifice was number one on your list.

You wanted his life.

And you tried to take it. You probably would have won if I conceded defeat that day but, unlike you, using him for whatever thrill...I love him. So I saved his life. I'd heard you'd been violent before, or in instances like ours, cowardly, disguising yourself as miracle pills that would end the suffering you've caused. Some might say you are the snake to Adam and Eve.

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Even the experts trained to recognize you, they were so afraid of you and the implications of your existence that they concocted an elaborate cover up and sent us on our way. Maybe you are just bloody brilliant.

I've been reading in the news lately about how good you've gotten at tricking the military into believing you aren't real and I gotta say, I'm impressed. But I'm not buying it. At all.

I've been talking about you, PTSD, and I have about had it with you in my life. The few bruises, the tears, the fear, the insecurity, anxiety, infidelity, deceit and the broken heart....I'm over it and I want my husband back. I bet you feel real big...that uneasy feeling you leave in the pit of my stomach never goes away anymore. Empty promises don't ease my pain. You have even stooped so low as to bring my children into your little shenanigans and that is just crossing the line. They aren't babies like they were when we first met. They're perceptive. They've witnessed our arguments. They've seen how terrible you are to me but I'm strong. I'm a fighter and when it comes to my children, I always show them that...but you're expertly trained and certainly know how to subdue your victim until they concede defeat.

This time is different, though. You have me so close to waving the white flag to protect my children...but I know once you put the pen in my hand to sign away the relationship I committed to, you will only find another home to ruin. It is for that reason that I will let you win this round.

I walked away...

No, I ran. In fact I fled. Hundreds of miles. Too tired to fight...but I'm regrouping. Preparing. Training. Filling my arsenal. More focused and driven than before. I'm sure you've heard the phrase that Hell hath no fury like that of a woman scorned. If you won't go quietly into the night and leave my family be, you need to know I'll never give up. And when you come at me again, I'll be prepared. This time I have a ton of women who have my back. We will tell everyone what you do. I won't let you have him.

I want him back.

And I don't care if you have to rot in hell but you will lose. I hope you're ready. PTSD, I hate you...

*Sincerely,
Heather Goble*

- Wife of Hospitalman 2nd Class Justin Goble, Fleet Marine Force (FMF)
- United States Navy 2003 — pending Physical Evaluation Board (PEB)
- Mother
- Fighter

What Mrs. Goble so eloquently describes obviously meets the definition of “domestic violence” under current laws. And she expresses surprise that police were never called. But are we to treat such cases, and there are tens of thousands of them, as a crime or as a casualty of war? It seems obvious the criminal justice system, as presently constituted, is not prepared to deal with such problems.

Destructive and deadly impact

Because due process is not enforced in these cases, demographic data²⁸ demonstrates that in Colorado's 4th Judicial District (El Paso and Teller counties) two-thirds of the DV charges filed are false or, at best, unsubstantiated. Clearly, these laws are being used more as weapons of vengeance, vindictiveness, and for advantage in child custody and divorce than to actually control or reduce domestic violence. Even more frightening is the fact that it is extremely rare for such malicious prosecution and abuse of process to even be recognized, let alone prosecuted.²⁹

Law enforcement is also mandated to give a very high priority to 911 calls for a domestic disturbance and, given "probable cause," a warrantless arrest, almost always of the male (see examples on page 64), is mandatory. The home will also be searched without a warrant, often leading to additional charges.

Once charged with domestic violence, C.R.S. § 18-6-801(3) forbids a plea bargain to any crime that does not include the domestic violence designation required in § 16-21-103. This "no drop" provision ties the prosecutor's hands and no district attorney wants to be seen by female voters as going easy on "domestic violence." But even these draconian measures are often exacerbated by prosecutorial abuse that includes threats, intimidation, stacking charges, exaggerating likely jail sentences, threatening and often keeping defendants in jail until trial if they won't accept a plea bargain, intimidating witnesses against the veteran, and sometimes even torture.

The net result is that "domestic violence" has become the most common crime in Colorado and thousands of specious cases clog the courts.³⁰

Couples have become more frightened by the police than their partners and anecdotal evidence suggests that many, if not most 911 domestic disturbance calls are now made by a third party. Given the extreme and destructive results of even a misdemeanor domestic violence conviction, as outlined in Table 11 above, couples are ill-advised and afraid to dial 911 in a domestic disturbance for other than nefarious reasons, e.g., revenge. A twenty-year tabulation of 911 domestic disturbance calls to the Colorado Springs police show that the number of such calls has remained essentially constant at 12,000 ±2,000 calls per year from 1990 to 2010 despite a 63% increase in population and passage of ever more oppressive domestic violence laws beginning in 1994.³¹

In the 1980's a series of experiments were run in five cities, including Colorado Springs, to determine how best for police to respond to domestic disturbance calls. These experiments are reviewed by Lawrence Sherman, who was the principal investigator, in his 1992 book *Policing Domestic Violence*. While based on feminist dogma that males are always the perpetrators in such cases, one unambiguous finding of these experiments was that if the man was unemployed at the time of the incident, as disabled veterans commonly are, that the effect of arresting him

28. See Chapter 8 at <http://dvmen.org>.

29. The prosecution and civil penalty against Colorado Springs police officer Ms. Sydney Huffman is a notable exception (see <http://www.thedenverchannel.com/news/30207597/detail.html>, accessed August 13, 2012).

30. By 2010 domestic violence was involved in over 26% of all misdemeanor cases in Colorado according to the State Court Administrator.

31. See tables and article Mandatory Arrest — Deters Intervention And Increases Homicides at <http://dvmen.org/dv-109.htm> (accessed August 13, 2012).

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was criminogenic. While many factors were involved, as in all human relationships, it can be predicted with substantial confidence that further violence will result from such arrests. Thus, Sherman (1992) repeatedly warned against making arrest mandatory in domestic disputes.

Despite that clear finding, feminists pressured the Colorado legislature into making arrest mandatory in 1994 in C.R.S. § 18-6-803.6(1). And because mandatory arrest resulted in more violent women being arrested they also passed a “primary aggressor” law, C.R.S. § 18-6-803.6(2), in essence dictating that the officer should always arrest the male.

The tragic result of this misguided ideology and legislation was illustrated by Iyengar (2007), who found that warrantless mandatory arrests actually increases homicides among intimate partners by 60% compared with states who wisely refrained from enacting such laws. She hypothesizes that the reason for this increase in homicides is that mandatory arrest dissuades victims from reporting problems to the police, as documented above, that in some cases ultimately results in murder.

Mandatory arrests also result in a mandatory protection order under C.R.S. § 18-6-1001 that typically bars the man from his home and children, among other penalties that sidestep and ignore due process. Making the penalties for violating a protection order ever more draconian has increased the rate at which such orders are violated but that also increases the catalytic effect such orders have on violence.

Dugan and others (2001) found that:

“...Increases in the willingness of prosecutors’ offices to take cases of protection order violation were associated with increases in the homicide of white married intimates, black unmarried intimates, and white unmarried females...”

So today an anonymous 911 call by a third-party, or by a woman bent on revenge, results in a warrantless search of a veteran’s home that commonly ends with his arrest, also without a warrant. That often occurs even if there is clear evidence the woman was the violent party as reviewed on page 54, or there is no evidence of violence at all. And the mandatory protection order typically bars the veteran from seeing his children and returning to his home.

It would be an understatement to say such injustice results in rebellion.

Financial consequences of a domestic violence conviction for a veteran

If convicted of domestic violence, and a plea bargain is a conviction, the Uniformed Services Former Spouses Protection Act (PL 97-252, 1982) “allows” state divorce courts to “divide” as marital property any “pension” earned during the concomitant marriage/service period, regardless of fault, need, or independent wealth. It also penalizes military personnel for domestic violence inflicted on civilian spouse/dependents by revoking his/her retirement benefits and providing them to his/her victims.

While technically not a “former spouse” benefit, since no divorce is required, under 10 U.S. Code § 1059 (as implemented by DOD Instruction 1342.24), a spouse or dependent child (under 18, or under 23 if in college) is entitled to receive transitional compensation and benefits if the service member is discharged for abuse, i.e. domestic violence or sexual assault, against the spouse or child. As of December 2004, monthly payments are \$993 for a spouse, and \$247 for each child, and the dependents are entitled to medical, dental, commissary, and exchange benefits. The payments are pegged to the level of the Department of Veterans Affairs’ Dependency and

Indemnity Compensation established by 38 U.S. Code § 1311, and lasts for a minimum of 12 months and a maximum of the lesser of 36 months or the service member's length of service. Furthermore, payments to a spouse terminate upon the spouse's remarriage, or if the service member resides in the same household as the spouse. The obvious result, if not the intent, is to destroy the veteran's marriage, keep him away from his children by forcing him out of the marital home, and insure the children have no father. As it has become ever more difficult to get convictions in criminal domestic violence cases, the truly ugly part of this law is that victim's advocates and radical feminist shelters are using it as a bribe to try and get wives to testify against their military husbands.

Obviously the current approach to controlling domestic violence by the justice system under present laws is grossly flawed, dysfunctional, and a danger to public safety. The issue becomes even more grossly distorted when a veteran with PTSD, TBI, or other psychological injury is involved.

Problems for the frontline peace officer

As "domestic violence" is an add-on charge to any crime, and violence is only present in about half the veteran's cases booked for DV (see Table 14 on page 40), any expression of PTSD can be, and is treated by police as criminal "domestic violence" under current laws.

Given their irrational anger, social withdrawal, fear of crowds, hypervigilance, and the fact that most veterans don't feel comfortable unarmed, police can hardly be blamed for a very cautious approach in such cases. Add to that excessive drinking and drug use, the slurred speech and drunken appearance often associated with PTSD/TBI, combined with speeding and erratic driving, and the frontline officer is often left with few choices but to make an arrest.

In a May 28, 2007, newsletter the Equal Justice Foundation presented a Cop's Eye View of Domestic Violence and the Military³² from an encounter a Colorado Springs peace officer had with an Army staff sergeant. Anyone unfamiliar with police response in these situations should read this article.

Overzealous prosecution and dysfunctional courts

It is apparent from available data that the problems veterans face in the justice system are not with frontline peace officers, who are doing a dangerous job and often have few options but an arrest. From what we have been able to observe the challenges lie with overzealous prosecutors whose only objective is a conviction at any cost and justice be damned. Dysfunctional courts who fail to stem, or may even encourage outrageous plea bargains and allow perjurious testimony adds to the veteran's trauma.

A married veteran with children who accepts a plea bargain for something like domestic violence will find the criminal court is just the beginning. Next they will likely find themselves in a divorce court, then a "family" court to determine child support and custody issues, often with additional false allegations thrown at him by child protective services.

Because of his anger at the injustice of these proceedings, and the fact he is now homeless or living in his car, a "protection" order will be deemed essential and he can no longer be with his

32. See http://www.ejfi.org/News/DV-May_28_2007.htm. Note that the police officer is a reserve Army captain.

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children. Of course the “protection” order provides no protection and this legal abuse (see Huffer, 1995) only serves to worsen his PTSD.

What clearly needs to be done is to fix the problems with the prosecution and dysfunctional courts. Once arrested the approach to these wounded warriors must be quite different than the situation a frontline peace officer faces and courts have more time to make reasonable and just decisions, as is their charge.

Domestic violence veteran arrest data analyses

Of the 3,182 veterans booked into CJC in 2011, 937 (29.5%) of the cases included the add-on charge of domestic violence. Whether the case involved domestic violence was unknown in an additional 270 (8.5%) of the arrests, but the charges resembled a domestic violence case or the veteran had been previously arrested on similar domestic violence allegations.

Table 12: Breakdown of 937 domestic violence cases in 2011 by felony or misdemeanor

937 total booked	Felony	Misdemeanor
Number	250	687
Percent	26.7%	73.3%

Of the 937 veterans booked on domestic violence charges, 357 (38.1%) were on active duty at the time of their arrest. With a domestic violence conviction even for a misdemeanor the Lautenberg Amendment³³ to the Brady Act makes it impossible for them to bear arms and they are quickly chaptered out of the military, commonly losing all retirement, educational, medical and other Veteran Administration benefits. While the Lautenberg Amendment also bars anyone under a restraining order for domestic abuse from possessing a weapon or ammunition, apparently so many soldiers have such orders against them that this restriction is largely, if not totally ignored on Fort Carson according to one JAG officer.

The remaining 580 (61.9%) domestic violence cases involved discharged veterans, or in some cases, veterans who were on active duty and then discharged and rearrested again for domestic violence.

Since a charge of domestic violence typically includes multiple categories of crimes, e.g., offenses against persons, offences involving children, offences against property, violations of court orders, animal violations, etc., this is the largest single category of arrests and bookings of veterans in 2011 and any other year since 1994.

As shown in Table 12, 250 (26.7%) of the known domestic violence cases involved felony charges at the time of booking. The remaining 687 (73.3%) cases involved misdemeanor charges, typically third-degree assault, harassment, or violation of a protection/restraining order.³⁴

It is known that in many cases that the district attorney stacks on initial charges prior to arraignment of the veteran, commonly elevating a misdemeanor charge to a felony. Anecdotal

33. See http://en.wikipedia.org/wiki/Domestic_Violence_Offender_Gun_Ban.

34. Violation of a civil domestic abuse protection order becomes a criminal act of domestic violence under C.R.S. § 18-6-803.5.

evidence strongly suggests this is done in order to coerce the veteran into accepting a plea bargain for a misdemeanor without explaining that the pains and penalties of a misdemeanor domestic violence charge are essentially identical to a felony conviction as noted in Table 11 on page 29. We have also seen it done and been told repeatedly by active-duty troops and veterans that the prosecutor told them that if they did not accept the plea bargain they would be held in jail until the trial six months down the road. Use of hypothermia,³⁵ a form of torture, has also been reported to us in order to coerce a plea bargain in these cases.

Many times the veteran is deceived or deluded into believing that a plea bargain is not a criminal conviction and that the case will be sealed after a given time period if they accept the plea bargain. These “deferred,” or faux convictions, are lies imposed on the veterans by both the district attorney and the judge and have far reaching consequences that are cleverly disguised and hidden from naive and unwary veterans who expect justice from the system they fought to preserve.

Felonies, false allegations, and domestic violence

At the extreme end of the criminal spectrum sixty-four of the two-hundred-fifty felony domestic violence cases were F1 (first-degree murder) through F3 felonies and involved such crimes as:

- Three cases of attempted first-degree murder;
- Four cases of second-degree murder;
- Two cases of child abuse causing death — knowing or reckless;
- Two cases of first-degree kidnapping and two cases of second-degree kidnapping;
- Three cases of forcible sexual assault; and
- Twenty-four cases of aggravated incest or sexual assault on a child by a person in a position of trust and the victim under age 15.

These would be horrific statistics if they were all true. But there is good reason to question the validity of many of these charges. As noted on page 29, demographic analyses that have continued over a decade establish that at least two thirds of the domestic violence allegations in the 4th Judicial District (El Paso and Teller counties) are unsubstantiated or false.³⁶ By that we mean it would be impossible for a prosecutor to establish mens rea and actus reus beyond a reasonable doubt before a jury. It is also known that charges of domestic violence and sexual assault on a child are frequently used to gain advantage in divorce and custody disputes (see Tong, 2001).

In 2011 the Colorado State Court Administrator reported 4,280 dissolution of marriage petitions and 771 cases involving child custody disputes in El Paso County.³⁷ If only a small fraction of those cases involved false allegations by veteran’s wives or girlfriends it would

35. Most jails of any significant size have a “cold room” where deranged and violent prisoners are placed in order to calm them down. The temperature in these holding cells is reportedly around 55° Fahrenheit.(13° Celsius).

36. See false allegations section in Chapter 8 at <http://dvmen.org>.

37. See Table 17 for 2011 at http://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/Annual_Statistical_Reports/2011/District_Court/Table17.pdf (accessed August 18, 2012).

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account for many, and probably most of the domestic violence and sex assault cases tabulated here.

Is race an issue in domestic violence among veterans?

Another question is whether race is a significant factor in who gets arrested for domestic violence? Domestic violence is often called the new Jim Crow for blacks in the civilian population.

Table 13 breaks down the available data for veterans and active-duty military by race for the year 2011. Both blacks and Caucasians are somewhat overrepresented compared with the racial makeup of the Army. But neither race is sufficiently overrepresented in the booking data to suggest significant discrimination is occurring in El Paso County.

Table 13: Domestic violence and race of veterans arrested and booked in 2011 (n = 937)

Race	Asian	Black	American Indian	White and Hispanic	Unknown
Number of DV arrests	8	251	2	671	5
Percent of DV arrests	0.9%	26.8%	0.2%	71.6%	0.5%
Percent of this race in Army	3.3%	21.1%	2.6%	61.1%	N/A

It is notable that both Asian and American Indian veterans were significantly less likely to be arrested and booked for domestic violence during 2011 than their numbers in the Army would suggest.

Categories of crimes under which veterans were also charged with domestic violence

As noted, under Colorado law “domestic violence” is not a crime in and of itself but, instead, is an aggravator, or sentence enhancer, to any other criminal act between individuals involved in an “intimate relationship.”³⁸

All crimes in Colorado are said to be affronts to the peace and dignity of the State. Despite someone, often arbitrarily,³⁹ being designated the “victim,” only the DA who is prosecuting the case can make the call about whether the case goes forward or not and the “victim” cannot withdraw the charges. Also, for individuals whose occupations require a professional license, e.g., medical doctors, teachers, pilot, etc., a conviction for domestic violence may be considered “moral turpitude” and licensing boards frequently revoke or suspend the license to practice, or refuse to

38. Under C.R.S. § 18-6-800.3 “domestic violence” means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. “Domestic violence” also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship. An “intimate relationship” means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time. But in 2010 in *People vs. Disher*, 07SC1088, the Colorado Supreme Court held that evidence of a sexual relationship is not necessary to establish the existence of an intimate relationship when a man is charged with domestic abuse or violence

39. See “primary aggressor” statute C.R.S. § 18-6-803.3(2).

renew the license, and may be required to under state law. A domestic violence conviction is often sufficient grounds to revoke a commercial drivers license, particularly where the individual may be hauling hazardous materials. Of course, if the offender’s occupation requires the use of a weapon they are usually out of a job as soon as charges are filed.

It is also fundamentally important to realize that actual violence is **not** a necessary element of a domestic violence charge. Simply telephoning, sending an email, swearing, or kicking the cat in the presence of a past or present intimate partner is sufficient to result in a charge of “domestic violence.”

With that in mind we also examined what types of crimes veterans were being charged with in conjunction with domestic violence. The results are summarized in Table 14.

Table 14: Crime categories of veterans also charged with domestic violence

Crime category vs. DV bookings		Active duty		Veterans		Total charges
		Number	Percent	Number	Percent	
1	Animal violations	0	0%	5	0.2%	5
2	Drug and substance abuse	11	0.8%	148	4.5%	159
3	Offenses against persons (actual DV)	835	56.9%	1,511	45.8%	2,346
4	Offences against property	207	14.1%	386	11.7%	593
5	Offences against public officials	17	1.2%	79	2.4%	96
6	Offences involving children	99	6.8%	159	4.8%	258
7	Sex crimes	32	2.2%	129	3.9%	161
8	Traffic violations	67	4.6%	212	6.4%	279
9	Unknown at time of booking	7	0.5%	16	0.5%	23
10	Violations of court order or conviction	128	8.7%	498	15.1%	626
11	Violating public peace and order	56	3.8%	147	4.5%	350
12	Weapons violations	8	0.5%	12	0.4%	20
Totals		1,467	100%	3,302	100%	4,916

A veteran is usually charged with more than one crime in DV cases. The total number of charges (n = 4,916) thus exceeds the number of veterans (n = 937) arrested for DV.

Note that less than half the veterans (46%) who were booked for “domestic violence” had an included charge of an offense against a person, i.e., actual violence (Table 14). Even for active-duty military, who are younger and presumably more physical than discharged veterans, only 57% of the cases included an offence against a person, or actual violence.

Protection order violations

As word has spread about the draconian penalties associated with a domestic violence conviction, as outlined in Table 11 on page 29, fewer and fewer defendants have been willing to accept a plea bargain. Demographics⁴⁰ demonstrate that if a defendant pleads not guilty and demands a jury trial there is less than a 5% chance they will ultimately be convicted, particularly

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if they have a competent criminal defense attorney. As a result, beginning in 2005 groups like TESSA⁴¹ apparently began a campaign to encourage women to obtain civil domestic abuse protection/restraining orders under C.R.S. § 13-14-101 et seq.⁴²

Once a protection order is issued it becomes a crime of domestic violence under C.R.S. § 18-6-803.5 to violate the terms and conditions of the order. Thus, radical feminists began promoting the reporting of trivial or fabricated violations of these orders in order to gain a conviction.⁴³ Typically this abuse of process occurs during a divorce or child custody battle to insure the court grants the woman full custody of the children. But many cases of sheer vengeance and revenge are known.

As no proof is required, arrest is mandatory, and the defendant is left attempting to prove a negative, reported violations of restraining orders have increased more than seven-fold since 2005. Of the 128 violations of a court order shown in Table 14 for active duty, 111 (87%) were for violating a restraining order. And of the 498 violations of a court order for veterans, 423 (85%) were for violating a restraining order.

And in effect there is no penalty for a woman making a false allegation.

Age of veterans charged with domestic violence

It is of little surprise to note that young couples fight. It is also to be expected that military couples will have problems with their relationship given the multiple combat deployments spouses have endured during a decade of relentless wars. And even in peacetime it might be expected that domestic violence cases would peak between the ages of 22 and 28, as illustrated in Figure 5 below, as young couples with children face many financial pressures as well as adjusting to living together and raising the little ones, a challenge even for civilian couples.

In most cases it might be expected that couples would either learn to live with one another or divorce by their mid-thirties. But with veterans there is the added factor of PTSD, which often doesn't express itself for years or decades after the trauma of combat and may never go away.

Thus, there are substantial numbers of veteran arrests for domestic violence beginning at age 36 and finally dying back out around age 47 (Figure 5). These correlate with veterans of the conflicts between 1990 and 1995 and the same peaks are shown in Figure 2 on page 16.

Other biological factors may also affect arrests for what is now termed "domestic violence" as couples age. Figure 5 shows a distinct peak for veteran arrests at age 51-52. Additional data should better define this but the same anomaly in veterans arrested around age 50 was seen in Figure 2 on page 16. This observation is reviewed on page 66.

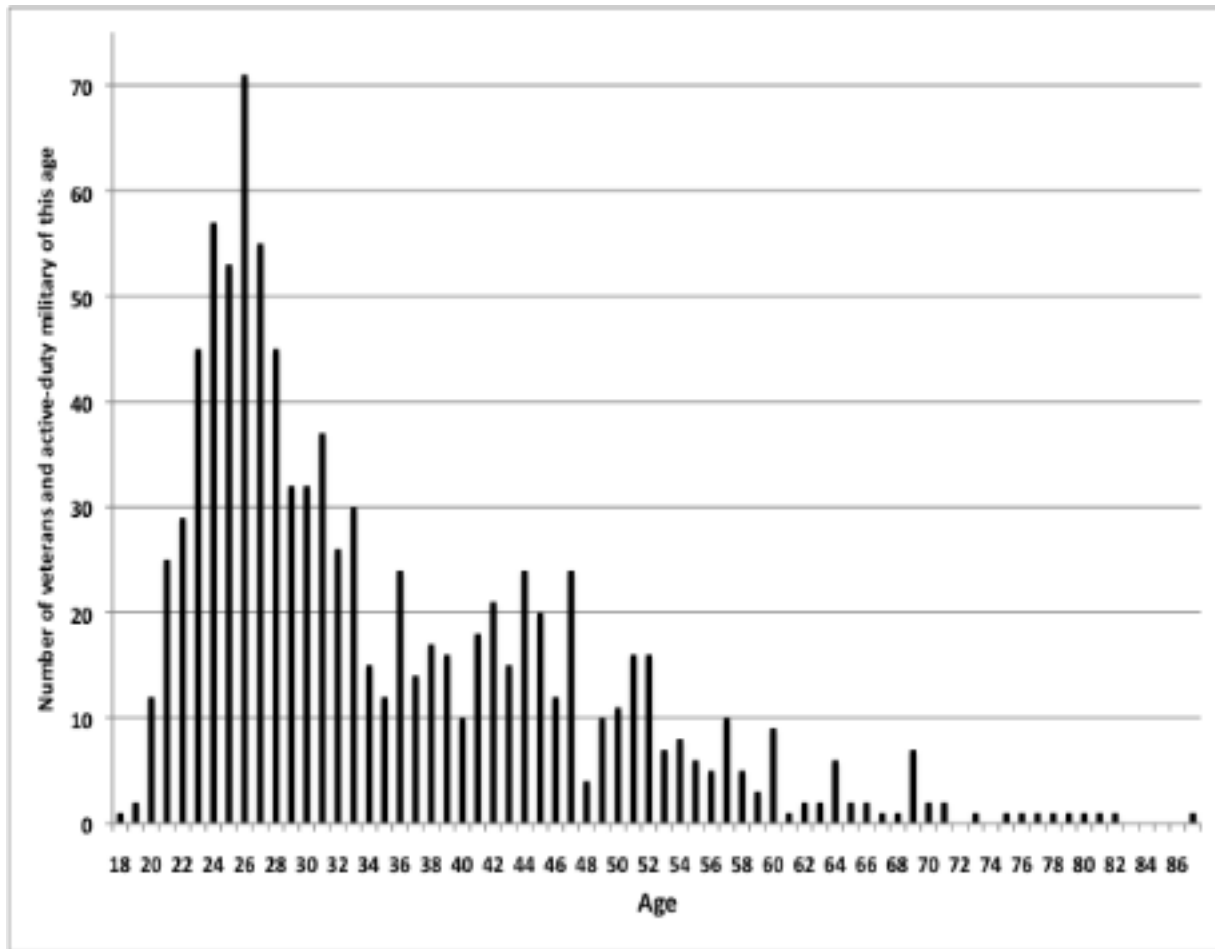
40. Demographic data are presented in Chapter 8 at <http://dvmen.org>.

41. See tessacs.org.

42. TESSA is listed on the Colorado Fourth Judicial District web site gofourth.org/clerkoffelp.htm as the group to contact in order to obtain a restraining order.

43. See Table 64 at <http://www.dvmen.org/dv-107.htm#pgfId-1176352> (accessed August 31, 2012)

Figure 5. Plot of ages of veterans, both male and female, charged with domestic violence



Summary

Obviously there are no simple answers to the problems of domestic violence and veterans, particularly where they are suffering from combat injuries like PTSD, TBI, and other wounds of war. But in many cases early recognition of the veterans' problems and corresponding treatment could well reduce the horrifying numbers.

And bear in mind these data are from veterans in a single county after a decade of ceaseless and senseless war. One hesitates to consider the magnitude of the problems when extrapolated nationally.

Of one thing we are certain, the current practice of *“catch, convict, and release”* on misdemeanor domestic violence charges only makes a bad situation worse.

Veterans Charged With Homicide and Attempted Murder

One of the objectives of this study is to determine if there is a discernible pattern, or patterns that lead veterans to increasing levels of violence over time. Such patterns might be associated with previous arrests and convictions, divorce, infidelity, PTSD/TBI or other wounds or injuries, substance abuse, homelessness, employment, drugs, number of combat tours, or other yet undetermined factors. Homicide and attempted murder are, of course, the most dangerous to society although veteran suicides are also of deep concern.

We previously noted the correlation of mandatory arrest documented by Iyengar (2007), who found that warrantless mandatory arrests actually increases homicides among intimate partners by 60%. And Dugan and others (2001) found that:

“...Increases in the willingness of prosecutors’ offices to take cases of protection order violation were associated with increases in the homicide of white married intimates, black unmarried intimates, and white unmarried females...”

Sherman (1992) has also established the relationship between lack of employment and repeat, and oftentimes increased levels of domestic violence.

Another factor that leads to violence in veterans appears to be well established, the link to a number of prescription drugs.⁴⁴ Mefoquine (Lariam), an antimalarial drug has been linked to a number of domestic violence incidents and suicides, and the Army stopped using it in 2011. Fluoxetine (Prozac), paroxetine (Paxil), and amphetamines have all been involved in cases of violence documented by the EJF.

Much of the media coverage of the violent and murderous rampages and acts by returning veterans in the Colorado Springs area prior to 2011 were presented on page 4. The problems have only gotten worse!

In 2011 Colorado Springs had a record number of homicides. Active duty military and veterans contributed more than their share to that statistic.

In the CJC daily report of arrests an NCIC code 999 indicates the veteran is being charged with first- or second-degree murder, vehicular homicide, criminally negligent homicide, first- or second-degree attempted murder, and may include a charge that the crime was committed with extreme indifference.⁴⁵ During 2011 twenty-one (21) veterans were booked into CJC with a 999 code. Of those apparently eighteen (18) occurred during 2011 alone and are tabulated in Table 15. Of the eighteen, seven cases are listed as causing death.

The Rolling Stone article (Smith, 2009) tabulates eleven slayings in the five years between 2005 and 2009, while Table 15 lists seven in just the year 2011. Clearly, as the wars continued the problems with extreme violence by veterans have also grown worse. It is also critical to remember these cases are only for veterans stationed in or who remain in El Paso County after discharge. For the many thousands of combat veterans who were discharged and returned home no data are

44. A list of the top-ten violence inducing prescription drugs currently known is available at http://ejfi.org/PDF/Top10_violence-inducing_drugs.pdf.

45. A crime committed purposely, knowingly, and recklessly with extreme indifference to human life or during the course of a serious felony such as robbery or rape. Mass murders, execution-style killings of bound or helpless victims, randomly shooting into a crowd, are examples of extreme indifference.

Table 15: Murder and attempted murder by veterans in El Paso County during 2011

Booking Period	Last Name	Sex	Veteran or Active Duty	Age	Race	DV flag	High Charge	Booking Charges
1/1/2011	Ibarra, Carlos Raul	M	V	32	W	Y	F2	Criminal attempted 1 st degree murder, child abuse without injury/knowning or reckless, criminal mischief >\$500 <\$1,000
2/4/2011	Graham, Jr., Michael Claude	M	V	27	B	Y	F2	Attempted 1 st degree murder (stabbing), DUI, 3 rd degree assault, harassment, sexual assault with deadly weapon or injury — aided by another, 1 st degree burglary — armed with weapon, false imprisonment, felony menacing with real/simulated weapon, child abuse without injury/knowning or reckless, number plates attached failure to provide evidence of insurance, license for drivers (1) or (4), driving under restraint, installing excessive window tinting.
2/10/2011	Peters, George Ronald	M	V	24	W	Y	F1	Child abuse-serious injury/knowningly or reckless. Charges upgraded to 1 st degree murder on 2/19/11 after the child died.
3/8/2011	Tolefoa, Estelle	F	V	23	W	Y	F2	Child abuse — death/knowning or reckless
4/5/2011	Driskell, Daniel James	M	A	25	W	U	F2	Attempted 1 st degree murder
4/6/2011	Fred, Shawn Agostini	M	A Army	25	W	Y	F3	1 st degree attempted murder, tampering with physical evidence.
4/22/2011	Charles, Tiran Marlo	M	V	33	B	Y	F2	Crimes against at risk adults and juveniles — assault in the 1 st degree, 2 nd degree attempted murder, attempted 2 nd degree assault on a peace officer, felony menacing with real/simulated weapon, 3 rd degree assault, harassment, obstruction of telephone/telegraph service, criminal mischief >\$500 <\$1,000, child abuse without injury/knowning or reckless
Names in bold are known to have been booked into the CJC prior to this incident.								

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Table 15: Murder and attempted murder by veterans in El Paso County during 2011

Booking Period	Last Name	Sex	Veteran or Active Duty	Age	Race	DV flag	High Charge	Booking Charges
6/25/2011	Doutt, Mark Leland	M	V	51	W	N	F3	Accidents involving death — duty to report, careless driving causing death/injury. Fatal hit-and-run accident while driving under the influence. Sentenced to 8 years in DOC. Arrested for DUI in El Paso County in September 1987 and in Teller County in May 2006. Pled guilty both times.
6/29/2011	Untalan, David Lee	M	V	26	W	Y	F3	2 nd degree murder, 2 nd degree kidnapping without sexual assault, felony menacing with real simulated weapon, false imprisonment
7/7/2011	Granados, Alberto	M	V Army	45	W	Y	F2	2 nd degree murder, felony menacing with deadly weapon, sexual assault, 3 rd degree assault.
7/22/2011	Ybanez, Albert Gary	M	V	53	W	Y	F2	2 nd degree murder. Killed his 35-year-old son. Convicted of manslaughter.
7/27/2011	Graves, Damien James	M	V	35	W	Y	F2	Attempted 1 st degree murder, felony menacing with real/simulated weapon, 3 rd degree assault, Internet service provider communications violation
9/16/2011	Rice, Michael Dontell	M	V	37	B	U	F2	1 st degree attempted murder, driving while ability impaired (DWAI). Bar fight turned into shooting at the Copperhead Road Bar.
10/19/2011	Thomas, Sr., Chaddrick Levil	M	V	34	B	N	F2	2 nd degree murder. Charged with 1 st deg murder in 2002 at age 25.
11/12/2011	Price, Jason Allen	M	A			Y	F2	2 nd degree murder. Killed his 2-year-old nephew. Pled guilt to involuntary manslaughter.
11/14/2011	Strong, Jerry Lee	M	V	44	W	Y	F3	2 nd degree attempted murder, felony menacing with deadly weapon
Names in bold are known to have been booked into the CJC prior to this incident.								

Table 15: Murder and attempted murder by veterans in El Paso County during 2011

Booking Period	Last Name	Sex	Veteran or Active Duty	Age	Race	DV flag	High Charge	Booking Charges
11/16/2011	Bartosik, Trevor Dane	M	V	33	W	Y	F2	Attempted 1 st degree murder, 3 rd degree assault, criminal mischief <\$500, false imprisonment
12/21/2011	Elam, Jr., Robert Laron	M	A Army	20	B	Y	F2	Child abuse — causing death/knowing or reckless. Killed his 2-month old daughter.
Names in bold are known to have been booked into the CJC prior to this incident.								

available but it is very likely the number of cases in Table 15 would at least double if such data were included.

For the eight cases in Table 15 where the perpetrators are known to have been previously arrested and booked into CJC it is evident current policies and practices of the justice system had no deterrent effect on the veteran’s later extreme violence.

Homicides and domestic violence

Of the 18 cases in Table 15 it is striking that 14 of them involved domestic violence and 2 more case were indeterminate as to whether DV was involved.

The evidence to date favors injuries such as PTSD and TBI as underlying mechanisms for these violent crimes. Substance abuse, pain, or other life events may act as a trigger for the actual event. Whatever the causes and triggers for these crimes the people most in danger from these veterans were usually those closest to them.

PTSD and strangulation

Many cases have been reported to us where a veteran with moderate to severe PTSD puts his hands around his wife’s neck, even in his sleep. What has been reported to the EJJ by Army and other veterans wives is that if they remain calm and talk quietly to their loved one then he “wakes up.” and no harm is done.

Even when the veteran is awake, wives in these situations describe their husband as acting like a “zombie.” Upon “awakening” the veteran with PTSD has no memory of the event, a characteristic of the dissociation diagnostic of PTSD, and the action is clearly involuntary.

However, from what we can determine, if the woman panics or struggles then the veteran may also panic and choke her to some extent, sometimes to unconsciousness and even unto death. In such cases when police are called the veteran will be arrested for felony strangulation or murder involving domestic violence.

The earliest reference we are aware of to this apparently common behavior is in Bradley’s 2000 book, *Flags of Our Fathers* (p. 305), describing the behavior of a Navy veteran whose ship was hit by a Japanese kamikaze in 1945 during the battle for Okinawa. But back then there was

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not the hysteria about “domestic violence” there is today and veterans who had seen unimaginable horrors were given latitude.

The best explanation of such behavior that we have heard is that during the course of an argument, or for some other reason, the veteran “dissociates,” a well-known characteristic of PTSD, and wants the “noise,” e.g., his wife’s nagging or arguing, to stop. When it doesn’t, he tries to stop it by choking her. If that hypothesis is valid, teaching wives or girlfriends of veterans with known or suspected PTSD to simply go quiet and limp when he puts his hand around her neck could save her life and their relationship. Of course this hypothesis fails for cases where the veteran puts his hands around her neck while he is asleep.

Such cases are hardly an aberration as we have now heard of this behavior from well over a dozen wives/girlfriends and veterans known to be suffering from PTSD. We suspect that many of the homicide and attempted homicide cases by veterans tabulated in Table 15 are the result of such trauma-induced behavior. And stories such as the following are common:

Colorado Springs Police Blotter

Record ID: 16637

Incident Date: May 28, 2012 Time: 11:51:00 PM

Division: Sand Creek Shift III

Title: Disturbance Location: 2153 Gilpin Avenue

Summary: On 05/28/12 Officers from the Sand Creek Division were dispatched to the 2100 block of Gilpin Avenue in regards to a domestic disturbance. The reporting party advised that a female was screaming and crying in the middle of the street. Officers arrived and contacted an adult male and adult female that had been involved in a physical disturbance. The female was transported to a local hospital where she was treated for strangulation related injuries. The male, identified as Alexander Durazo was taken into custody and later booked into the Criminal Justice Center for Criminal Attempt, Second Degree Murder.

Adults Arrested: Alexander Durazo

According to the CJC booking record Alexander Durazo is on active duty, 23-years old, and was booked for Felony 3 on charges of domestic violence for second-degree murder, third-degree assault, obstruction of telephone/telegraph service, child abuse without injury — knowing or reckless, reckless endangerment, and harassment.

Prosecuting the veteran for this “crime” may be counterproductive and often contrary to the wishes of the “victim,” who recognizes her partner needs treatment rather than prosecution and a criminal conviction.

The veteran is further traumatized by the “justice” system (Huffer, 1995) and, if children are present as they were in the Durazo and many other cases, child protective services becomes involved and the children may, and often do end up in foster homes. Certainly the father will be regarded as too dangerous to be around his children after such an incident but keeping him from his children is certain to traumatize him even further.

Hardly an ideal solution for society.

Burden on prosecutor to establish both *mens rea* and *actus reus*

Since the veteran has no memory of the incident they often feel they are being unjustly accused. And if common law were followed they would be innocent as *mens rea*⁴⁶ requires the prosecutor to prove beyond a reasonable doubt that the veteran/defendant acted purposefully, knowingly, recklessly, willfully, and intentionally. That is of particular importance in cases where the defendant is a veteran who demonstrably suffers from PTSD, TBI, or reacts instinctively without conscious intent, e.g., flashbacks or a startle response due to combat stress, as a review of the symptoms of PTSD outlined on page 30 clearly shows.

The second requirement to obtain a conviction is *actus reus*. That requires the prosecution to prove the veteran/defendant voluntarily committed a criminal act as involuntary acts cannot be considered criminal or we would all be in jail. The model penal code specifically describes what are considered involuntary acts and thus not criminal: (1) a reflex or convulsion; (2) a bodily movement during unconsciousness or sleep; (3) a bodily movement that otherwise is not a product of the effort or the determination of the actor, either conscious or habitual; (4) conduct during hypnosis or resulting from hypnotic suggestion. A veteran suffering from PTSD or TBI often exhibits the behavior defined in (1) through (3) just in the course of living with their condition.

Rather than blindly prosecuting such cases it is suggested we should be studying the underlying causes and seeking ways to treat the veteran in order to avert such dangerous actions.

How well do current practices protect and preserve public safety?

The basic purpose of our very expensive justice system is to protect and preserve public safety.

The cases in Table 15 on page 44 represent the most extreme failures of the current system to deter crime. But the follow up question is how well does the response of the justice system protect the public after these violent perpetrators have been apprehended and incarcerated?

In Table 16 we present follow up data on 9 of the 18 veterans listed in Table 15 on page 44 who committed or attempted murder in some form. While the sample size is small, the results are not promising as to the effectiveness of present interventions in preserving public safety even in the most extreme cases.

- After attempted first-degree murder Trevor Bartosik was arrested six months later for felony menacing with a deadly weapon;
- After two prior DUI's Mark Doult is first involved in a fatal hit-and-run in June 2011 and then commits vehicular homicide in January 2012 while driving drunk;
- Daniel Driskell is arrested in April 2011 for attempted first-degree murder then five more times through February 2013;

46. Under common law the prosecution must prove beyond a reasonable doubt that the defendant acted knowingly, intentionally, and recklessly (*mens rea*) in committing the alleged crime (*actus reus*). If due process is followed the standard common law test of criminal liability is usually expressed in the Latin phrase, *actus non facit reum nisi mens sit rea*, which means "the act does not make a person guilty unless the mind is also guilty." Even under crimes considered to be strict liability, e.g., murder, the prosecution must prove the defendant acted voluntarily as involuntary acts are not criminal.

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- Robert Elam kills his 2-month old daughter in December 2011 then goes AWOL from Fort Carson.
- Shawn Fred is arrested in March 2011 for felony second-degree assault then just a month later for first-degree attempted murder and tampering with evidence, both DV cases;
- Carlos Ibarra is arrested on New Years Day 2011 for attempted first-degree murder, then again in June for felony menacing with a weapon, and yet again for felony menacing with a weapon in February 2012, all DV cases;
- A bar fight turns into a shooting and Michael Rice is arrested for first-degree attempted murder in September 2011. But he is at it again in January 2012 where he is booked for second-degree assault causing serious bodily injury;
- Jerry Strong is arrested November 14, 2011, for second-degree attempted murder and felony menacing but is apparently back out of jail in a day. However, he is back in again four days later on November 18th for violating a restraining order, DV charges of course;
- Albert Ybanez is arrested in July 2011 on second-degree murder charges after killing his 35-year-old son, but he is out and arrested again in May 2012 on a charge of third-degree assault, DV of course.

Additional examples of veteran rearrests are presented in Appendix D on page 115. We have limited this sample to those who have been arrested five or more times just since sampling began to make the table manageable. But the sample size in Appendix D is quite sufficient to demonstrate that arrest and rearrest has little or no deterrence affect on veterans. The current “catch, convict, and release” policy often does make them homeless and prone to suicide. And, as noted, this policy is criminogenic.

We doubt the picture will change much with additional data but see no reason to feel safe and secure with a record like this. And there is little question that the passage of ever more draconian laws, as has been done over the past 20 years, will do anything but make the situation worse.

In the interest of public safety isn't it time to try a different approach to dealing with veterans?

Table 16: How well are current practices of the justice system protecting public safety

Last Name	Sex	Veteran or	Race	Age	DV flag	Booking Period	High Charge	Notes
Bartosik, Trevor Dane	M	V	W	33	Y	11/16/2011	F2	Attempted first-degree murder, third-degree assault, criminal mischief <\$500, false imprisonment
				34	U	5/20/2012	F5	Felony menacing with deadly weapon. Now homeless.
Doutt, Mark Leland	M	V	W	51	N	6/25/2011	F3	Accidents involving death — duty to report, careless driving causing death. Fatal hit-and-run accident. Arrested for DUI in El Paso County in September 1987 and in Teller County in May 2006. Pled guilty both times.
				52		1/9/2012	F3	Vehicular homicide while driving under the influence. Pled guilty to hit-and-run after killing a bicyclist while intoxicated.
Driskell, Daniel James	M	A	W	25	U	4/5/2011	F2	Attempted first-degree murder
					N	7/29/2011	M0	Driving under restraint, signals by hand or signal device
				V	26	U	4/18/2012	U
		M	5/30/2012			S	Speeding 10-19 MPH over limit	
		M	6/15/2012			S	Failed to obey traffic control signal	
		M0	2/7/2013				Driving under restraint, minimum safety standards motor driven cycles	
Elam, Jr. Robert Laron	M	A	B	20	Y	12/21/2011	F2	Child abuse-causing death, knowing or reckless. Killed his 2-month old daughter.
					U	7/18/2012	U	Went AWOL from Fort Carson.
Fred, Shawn Agostini	M	A	W	26	Y	3/4/2011	F4	Second-degree assault, harassment
						4/6/2011	F3	First-degree attempted murder, tampering with physical evidence.
Ibarra, Carlos Raul	M	V	W	33	Y	1/1/2011	F2	Criminal attempted first-degree murder, child abuse without injury/knowing or reckless, criminal mischief >\$500 <\$1,000
						6/16/2011	F5	Felony menacing with real/simulated weapon
				34		2/29/2012	F5	Felony menacing w/real/simulated weapon

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Table 16: How well are current practices of the justice system protecting public safety

Last Name	Sex	Veteran or	Race	Age	DV flag	Booking Period	High Charge	Notes
Rice, Michael Dontell	M	V	B	37	U	9/16/2011	F2	First-degree attempted murder, DWAI. Bar fight turned into shooting at the Copperhead Road Bar.
				38		1/30/2012	F4	Second-degree assault causing serious bodily injury
Strong, Jerry Lee	M	V	W	44	Y	11/14/2011	F3	Second-degree attempted murder, felony menacing w/deadly weapon
						11/18/2011	M1	Violation of a restraining order
Ybanez, Albert Gary	M	V	W	53	Y	7/22/2011	F2	Second-degree murder. Killed his 35-year-old son. Convicted of manslaughter.
				54		5/16/2012	M1	Third-degree assault

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Observations

What are we missing?

We can't solve problems by using the same kind of thinking we used when we created them.

Albert Einstein

The basic reason for doing research is to examine alternative hypotheses. It is of little value to simply collect the data, draw some bar graphs, and fill in some tables. Conscience, and good science demands that the data be related to other observations and what we know of human and veteran behavior from other studies. While the evidence for many of our observations is based on limited data, often dependent on inference and analogy, and may be speculative in part, it is essential to portray what we think we have learned to date from this and related studies.

Society and the justice system are making some familiar yet critical mistakes. Those with a defined expertise working in these matters have emerged to try and help: a few attorneys and judges (because they possess a knowledge of the law and its machinations), young veterans (because they have served in the military), mental health professionals and researchers (often working for or with the VA). Yet they are ignored, kicked to the curb, and often belittled because “they don’t understand the problems.” Of course what they don’t understand is a bureaucracy that knowingly and unknowingly feeds on the misery and finances of veterans and their families.

Another wide realm of experiential and professional reference is largely missing: veteran peers who have spent time in VA facilities, veterans who have experienced the pain of combat wounds, those who have experienced the inability to access adequate housing and the homeless, those who have been around long enough to understand the impacts of digital records in the realm of employment, and those who understand the failings of social services. They too are ignored.

Also ignored are the striking differences between OIF/OEF veterans and those from earlier conflicts. We note at least the following:

(1) World War II and Korean veterans had months to decompress in the company of their buddies on troop transports coming home at the end of their tour. Many then gathered together at the American Legion or VFW to swap war stories in a form of group therapy.

In contrast, OIF/OEF veterans are transported back to the world virtually instantaneously and also have a mid-tour leave back home. But they rarely join veteran organizations after being discharged from all reports.

(2) OIF/OEF veterans have commonly endured multiple combat tours. Many have served three or more rotations into combat and have served in both Iraq and Afghanistan.

(3) Survival rates of the severely wounded were much lower in previous wars. OIF/OEF veterans have not only survived previously fatal attacks but have often returned to combat multiple times afterward.

(4) OIF/OEF veterans are prescribed psychiatric and psychotropic drugs both while in the battlespace and after their return. Most such drugs didn’t even exist at the time of previous conflicts and only now are the deleterious side effects of many of these psychoactive drugs becoming apparent.

Estimates of the percentage of returning OIF/OEF veterans who suffer from PTSD range from 30% to 50%. Those values are certain to grow with time and it is reasonable to expect that 70+% of

these veterans will eventually suffer some level of disability due to post traumatic stress. The age distribution shown in Figure 2 on page 16 makes it clear that these problems will not disappear until the veterans of the current wars are dead.

The glaring omissions in crafting effective responses are manifest in this report and express themselves in the guise of homelessness, the recidivism documented here, repeated incarcerations, relapse into alcoholism and substance abuse, civil and familial rupture, depression, and, too often, suicide.

Arrest scenarios

In proposing any possible response to the problems of veteran arrests it is essential to look at why one individual is arrested and not another. In the United States today there are so many laws that citizens inevitably break one or more every day and there is no question that laws are selectively enforced.

Once arrested the first time, available data strongly suggest that if a veteran remains in El Paso County that they will be repeatedly arrested thereafter, essentially for the rest of their lives (Figure 4 on page 19).

A reasonable question is why does that happen and what actions result in a veteran being arrested?

Blame the victim

Demographic data clearly show that approximately two thirds of the court cases for domestic violence in El Paso County are based on false or unsubstantiated allegations. Current DV and sexual assault laws make it particularly convenient and attractive for wives and girlfriends to file charges to gain advantage in a divorce or custody battle, or simply for vengeance and revenge.

Protection orders are often used as a weapon in such cases, and in paternity fraud cases to keep the man away from child(ren) the mother alleges he fathered. That is done so he can't get DNA paternity testing and she might lose child support. And once a protection order is in place it is easy enough to claim he violated it as no proof is required and a warrantless arrest is mandatory. Of the violations of a court order, shown in Table 14 on page 40, for active-duty military 87%, and 85% for veterans are for violating a protection order in order to buttress their case against the veteran.

Thus, one of the problems faced in dealing with veterans in the justice system is sorting out who is the "victim" in the case.

A typical scenario brought to the EJJF runs something like this:

1. Wife is having an affair while husband deployed, or after he gets back, and one of them wants out of marriage.
2. She calls 911 and screams domestic violence, or goes to TESSA and gets a restraining/protection order against him.
3. Arrange for, or simply claim he has violated the restraining order and get him arrested, often multiple times. He is left attempting to prove a negative.
4. At all costs keep him away from any kids she has so he can't get DNA paternity testing done. A restraining order is a must!

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5. Divorce him claiming abuse. Cry in court a lot, or in mediation so judge or mediator gives her large child support, federal government gives her at least half of his military retirement, force him out of military and she gets paid until end of his enlistment as detailed on page 35.
6. Veteran is left unemployed and homeless, and often goes back to jail for non-payment of child support for kids that may not even be his.
7. Ex shacks up with boyfriend/father of her kids.

Another scenario often seen by the EJF is the following:

1. Arrest and convict veteran suffering from PTSD/TBI for domestic violence or violating protection order.
2. Charge him with child abuse if they have kids.
3. DHS/CPS case worker writes out protection order against father and takes the children into a foster home without troubling court for formal orders.
4. Fast track dependency and neglect (D&N) case and convict father on “preponderance of the evidence,” i.e., because the DHS/CPS case worker says so.
5. Prevent parents from leaving El Paso County but DV conviction means veteran can’t get job and he is chaptered out of service.
6. Typically couple break up.
7. Veteran is left homeless, mother on welfare, and children in foster care where they are often actually physically and sexually abused.
8. Jail veteran for non-payment of child support.
9. Children lose virtually all chance of success later in life and suffer from a multitude of problems, e.g., teenage pregnancy, juvenile delinquency, drug abuse, dropping out of school, etc.

Make it impossible to comply with court orders

A major problem seen in the arrest data involves the penalties imposed on the veteran by the court that make it virtually impossible for them to comply without running the risk of being rearrested, often multiple times.

A typical scenario involves the following:

1. Take away veteran’s driver license.
2. Sentence him/her to mandatory appearances with probation officer, treatment provider, substance abuse or DV classes, court appearances, etc.
3. Arrest him repeatedly for driving without a license or insurance.
4. Now without a job he can’t make child support payments so back to jail.

Use his disabilities and injuries against him

Veterans with severe TBI, PTSD, or other injuries will often appear and behave far from the norms of other citizens. Behaviors such as the following often bring them to the attention of law enforcement:

- They have short-term memory losses that often see them arrested for things like shoplifting.
- Their speech may be slurred and they stagger or weave when walking.
- Their actions around others, particularly females, may be inappropriate.
- They are often afraid of crowds and only go out late at night.

- Their driving is erratic, aggressive, and they speed as those were once essential survival tactics.
- They don't feel safe unless they are armed.
- They drink a lot or use legal and illegal drugs in order to sleep and quell the nightmares and pain.
- They are often angry and destructive for no discernible reason.
- They are aggressive and combat savvy.
- They are proud but homeless and just looking to survive any way they can.
- They resent, often with good reason, the way the justice system has treated them in the past.
- They are seeking revenge against someone, often a wife or a girlfriend, who has wronged them.
- They have nothing left to live for and are suicidal and don't mind taking someone with them when they die.
- They have killed in combat and have few compunctions about doing so again.

Any and all of these behaviors, and more, are certain to make peace officers cautious and apprehensive when approaching or dealing with a veteran. The veteran isn't likely to be cooperative with the officer either (see "Aggravated POPO" on page 80) so an arrest is likely.

New laws add to veteran problems while decreasing public safety

Laws virtually always result in unintended consequences and those attempting social engineering like the War on Drugs, draconian domestic violence and abuse laws, and numerous new sexual assault shield laws and statutes that often make a defense virtually impossible are notorious for negative results.

It is well established that drug prohibitions increase crime while doing little or nothing to decrease the use of substances they target. As Vietnam well demonstrated, drug use by veterans is magnified by protracted, ill-defined wars, and the wounded of such conflicts will use most anything to relieve their pain.

Well-intentioned social-engineering laws against domestic violence have been twisted to become weapons of vengeance and retaliation against men and serve mainly to devastate children and families.⁴⁷

Sexual assault has now been so broadly defined that virtually any contact between a male and female can be interpreted as a criminal act, much to the dismay and destruction of many veterans seeking female companionship.

Thus, veteran arrests are dramatically increased, especially those wounded warriors suffering from PTSD and TBI, as well as other injures of these seemingly forever wars. Add to that the many arrests of veterans of previous conflicts evident in Figure 2 on page 16 and it is clear there is a growing problem that will echo through the justice system for decades.

The pain from their injuries and relationship problems inherent in repeated forced separations make veterans particularly susceptible to falling afoul of these new laws. All of them present

47. For example see the summary history by Erin Pizzey at <http://www.ejfi.org/DV/dv-5.htm> or her memoir This Way To The Revolution.

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major obstacles for disabled veterans attempting to adjust to both their injuries and what seems to them a strange new world of civilian life.

A “justice” system that is criminogenic

Arrest and conviction often result in more violence

Available data reviewed in this report make it clear that the current approach by the justice system to dealing with veterans suffering from service-related mental and physical injuries has no deterrent effect, does nothing to provide for public safety, and exacerbates the violence and public danger in many cases. Whether this is done deliberately, by design, indifference, or incompetence is indeterminate, but it is being done.

With regard to veterans, and particularly disabled veterans, the justice system is often criminogenic and frequently generates, rather than suppresses, criminal activity, too often violent.

The underlying problems with a large, if undetermined fraction of veterans being arrested in El Paso County are the result of trauma and wounds either from combat, training accidents, sexual assaults⁴⁸ (male veterans have frequently been sexually assaulted as well as females), or other service-related disabilities. Add to these the normal accidents and hazards of life.

Studies of domestic violence clearly show a correlation between employment status and violence (Sherman, 1992). Arrests of unemployed DV offenders have been shown to increase the frequency of assaults on their intimate partners.

Disabled, and many other veterans find getting a job in today’s economy extremely difficult even with a clean record. Most are proud of their service and value independence. But with even a minor conviction, and certainly any jail time, their ability to find employment and live independently is often lost. As a result their ability to reintegrate and stake in conforming to the norms of society and its laws is destroyed. If they have children child protection services (CPS) all too often moves in and takes them, or bars the father from having any, or just very limited contact with them. That increases the veterans isolation from normal society, destroys his incentives, and magnifies his anger.

Frustration follows but they hold on to their pride. They are trained in violence and with nothing more to lose they become a danger to those around them and society in general. Evidence for this backlash is presented in Table 15 on page 44 listing homicides and attempted murder by veterans in El Paso County just during 2011.

In Table 16 on page 50 we’ve examined how current practices of the justice system fails to provide public safety with regard to the most extreme crimes. While the sample is, thankfully, small we doubt any reasonable person would infer current practices are acting to deter further criminal behavior.

In Table 3 on page 12 we looked at how often active duty military and veterans have been arrested and rearrested since we began sampling CJC bookings. While to date the great majority have only been arrested once it is clear that as time goes by, if a veteran has been arrested previously, it is odds-on that any subsequent contact with police will result in their arrest even for the most petty crimes, and that is reflected in Figure 2 on page 16 .

48. Reportedly 1 in 5 female veterans suffer from military sexual trauma, or M.S.T., from assaults or harassment during their service that often leads to post traumatic stress disorder.

In Appendix D on page 115 we've tabulated veterans who have been arrested five or more times just during the short time interval (three years) we've been collecting CJC booking data. In that time interval one woman has managed to get arrested and booked ten times and is known to have been booked at least once before our sampling began. It seems blatantly obvious that the present legal system does not deter veterans from continued criminal activities and provides little or no protection of public peace and order, or safety.

This backfiring of current policies is postulated as one factor in why the CJC population comes to be dominated by older veterans as shown in Figure 4 on page 19 .

In addition an all too frequent result of this divorce from society appears to be suicide.

Reasons for reentry failure

Table 11 on page 29 tabulates the dire consequences of a misdemeanor domestic violence conviction. As do most, the current veteran court in El Paso County operates on a post-conviction basis in which the veteran typically is required to plead guilty to a felony in return for a promise of a deferred sentence. But completing treatment rarely results in the conviction actually disappearing from public records. Further, in the interest of public safety, it is critical that the record of anyone convicted of a felony be publicly available.

As a result veterans face punitive policies which limit their access to reentry services. The collateral consequences of post-conviction treatment programs, as well as traditional incarceration, include sacrifices such as disenfranchisement, restrictions on licensure and employment, restrictions on housing, denial of public benefits, disqualification for financial aid, inability to adopt or foster a child, loss of assets and property, as well as the use of arrest data in background checks for employment, housing, and credit access (Council of State Governments, 2005). These factors limit the veteran's ability to become self-sufficient post-treatment or post-incarceration, and commonly lead to cyclical homelessness, recidivism, and too often, suicide.

Further, the literature overwhelmingly demonstrates that incarcerated veterans are highly vulnerable to death by overdose after release if they do not receive effective treatment (Institute for Veteran Policy, 2011). Available data suggests that 80% do not receive adequate veteran-specific reentry services for substance abuse, mental health, medical illness, family dysfunction, or domestic violence services, and that estimate is probably low.

Fix the problem, not the blame

Deterrents in current justice system are of little value

Classical deterrence doctrine is based on the avoidance of pain or displeasure. The present justice system is based on the principle that the potential for arrest and incarceration will deter citizens from breaking the law. But laws have become so numerous and opaque that no one can know them, let alone obey them, e.g., see Silverglate (2011).

On page 48 we provided a review of how ineffective current practices are even in the most extreme cases.

In his book, *Policing Domestic Violence*, Sherman (1992, p. 363-365) discusses three general deterrence hypotheses associated with the interaction of legal and extralegal threats of punishment that are postulated to prevent citizens from committing crimes. He refers to these as

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the “conditional,” the “replacement,” and the “additive” hypotheses and a brief review of how these may or may not affect veterans interaction with the current justice system is necessary.

- The **conditional** hypothesis is the oldest of these and states that legal threats deter only those potential offenders who are sufficiently integrated into conventional society that they will suffer an adverse reaction to legal sanctioning.
- The **replacement** hypothesis assumes the opposite conditional relationship between legal and extralegal, i.e., societal disapproval, controls. Thus, under this hypothesis legal control, i.e., arrest and incarceration, are only effective where societal controls are absent.
- The **additive** hypothesis claims that both extralegal and legal controls deter potential offenders — the more of each the more deterrence.

But to depend on those principles to deter veterans who have endured combat, Ranger training, Marine Corps boot camp, paratrooper school, Special Forces selection, etc. is to jest. Marines phrase it as “Pain is weakness leaving the body,” and a civilian jail might reasonably be compared to a rest home after what many of these veterans have experienced. That is particularly true if previous arrests and convictions have driven the veteran into homelessness with little chance of finding employment or being self sufficient.

There is also the question of whether a veteran suffering from PTSD, TBI, or other wounds of war both visible and invisible, is acting rationally and can they be deterred? And the problems are compounded when the laws themselves are irrational.

Sherman (1992) also reviews the results of five experiments in different cities, including Colorado Springs, on the effects of arrests and finds that when the offender is unemployed an arrest is criminogenic. And unemployment for disabled veterans is very high and made higher by arrest and conviction.

The criminogenic effect appears to be compounded if the veteran is suffering from what Huffer (1995) has called the “Legal Abuse Syndrome” wherein protracted litigation and repeated contact with the justice system increases the trauma. For a veteran who didn’t have PTSD at the time of their first contact with the justice system, it is virtually certain they will suffer from it afterward. And where a veteran has disabilities that result in repeated arrests, their trauma will be magnified and exacerbated with each contact.

The predictable, with a very high probability, and observable result is that arrest and prosecution of veterans, particularly if they are unemployed and otherwise disengaged from society as they commonly are, will be more crimes (Appendix D), and often more violent crimes including homicides and attempted homicides (Table 16).

It should be kept in mind that many of these veterans have killed and may have no compunctions against killing again if they think it necessary for revenge, as a vigilante, or even just for thrills as the media is fond of telling us (see page 3). That is reportedly particularly true if the veteran has served in countries where the value of life has been trivialized (Magee, personal communication, 2013).

Other predictable outcomes are homelessness or suicide. And too often one sees homelessness after a veteran is thrown from his home and children by unsubstantiated charges of domestic violence, followed by homicide, then suicide.

Early intervention is essential

All available evidence indicates that to be effective the veteran's problems must be identified and treatment begun as soon as possible after they develop. And it is critical to recognize that clinical PTSD often does not express itself for years or decades after the trauma. TBI may be mild at first but grow worse with age, particularly if the veteran suffers further trauma to their head. So it is impossible to make generalizations about veterans injuries and trauma.

Unfortunately, many veterans will not admit they have a problem until they end up in an orange jumpsuit in the CJC. So the problem is dropped on the justice system by default and it is ill-equipped to handle it.

So what can be done to help disabled veterans while preserving justice?

Biology, mental health, and veteran arrests

There are no simple answers to the problems facing wounded warriors and their, hopefully, successful reintegration back into the civilian world. But we can recognize and ameliorate some of the biological problems made evident in this study.

Dissociation from events and other involuntary acts

Under common law involuntary acts are not, and cannot be considered crimes.

In tabulating veteran arrests and bookings we encountered far more shoplifting cases than expected. In talking with veterans with PTSD and TBI we found that with the difficulty they had concentrating, focusing, and remembering they sometimes went into a store and picked up items, forgot they had them, and left without paying. Surveillance tapes clearly show them taking the items but the veterans had no memory of taking them. In some cases related to us they found the item when they got out to the parking lot and went back in to pay for it, or were arrested before they could get back into the store. Such dissociation is diagnostic of PTSD. Shoplifting is an excellent example of a low-level crime where restitution is easily accomplished, PTSD is readily recognized, and diversion into treatment under deferred prosecution would be ideal.

But most problems with dissociation are not so simple. As an example, one of the recurring problems with PTSD sufferers with intimate partners is a tendency to place the veteran's hands around his partner's neck as discussed on page 46. Wives in these situations describe their husband as acting like a "zombie." Upon "awakening" the veteran with PTSD has no memory of the event and such dissociation is diagnostic. Such involuntary actions are not now, and hopefully never will be criminal under common law.

However, if police are called as a result of one of these dissociative incidents, the veteran is arrested for felony strangulation or attempted murder involving domestic violence. Since the disabled veteran has no memory of the incident they often feel they are being unjustly accused. Obviously prosecuting the veteran for this involuntary act is counterproductive and often contrary to the wishes of the "victim," who frequently recognizes her partner needs treatment rather than a criminal conviction.

If children are present, child protective services often becomes involved and the children may end up in foster homes. Hardly an ideal solution for society and provides no protection with regard to public safety. In fact, the veteran in such cases often becomes even more dangerous and

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may well become homicidal or suicidal after the “justice” system takes away his family and children.

Since PTSD occurs “post” the trauma, months, years, even decades after the veteran gets back to the world, the Power Point presentations on what to expect, the written evaluations, visits with a psychologist or psychiatrist soon after the trooper returns from combat are often ineffective as symptoms and problems in many, if not most cases won’t arise for some time. There is also the natural resistance of tough combat troopers to admitting they have a problem. As noted repeatedly, in many cases we have seen the first time a veteran is willing to admit something is wrong is when they end up in an orange jumpsuit in the CJC. Since the first time the veteran is noticed they have all too often already been arrested and booked, and their case disposition is now up to the district attorney. Unfortunately, the alternative of a non-judicial diversion program has not proven practicable in El Paso County.

From the justice system standpoint what is required is a reasonably accurate and reliable method of determining the action, or actions were in fact involuntary and a result of the veteran’s injuries. If public safety is to be preserved it is critical to evaluate them when they are first intercepted by the criminal justice system. But if arrested the prosecution and court are certain to want a professional screening using standardized tests such as the Mississippi Test for Combat-Related PTSD.⁴⁹

It is likely the local VA could do such testing in cooperation with the justice system. Peer mentors/specialists could also be trained to do preliminary screening and should also be skilled ADA advocates (see Huffer, 2011). It should be possible to do at least preliminary screening on every veteran who ends up in the CJC for the first time either in jail or at their first arraignment if they are released on bail. In the long term it would also be desirable to require veterans given a summons for traffic offenses like speeding or careless/reckless driving to be screened, and treated if needed, as such actions are often an early indicator of PTSD.

Veterans or their lovers can also do a self screening⁵⁰ as a check on the official results, or before so that treatment might begin before the glacially-slow justice system gets around to the formal evaluation. Hopefully, many veterans might even do a self screening, seek treatment on their own or at the insistence of family members, friends, or a peace officer who has contact with the veteran on a minor problem,⁵¹ and avoid contact with the justice system entirely.

What would also be productive is a widely-available handbook for wives, girlfriends, and other family members describing what to expect from their disabled veteran and how best to deal with the issues when they arise.

Perhaps even more important is information for a veteran’s children so they have a better idea of what dad, or mom, is going through. Little people are most frightened by what they don’t understand and no one will tell them about.

49. Northwest Education Training Assessment offers a series of a computerized standard psychological tests at <http://www.nweta.com/legacy-products/hss/>. No doubt there are other sources.

50. An online screening service is available at <https://www.militarymentalhealth.org/>.

51. Available data show that less than 10% of 911 domestic disturbance calls result in an arrest.

Aging and veteran arrests

It is apparent from Figure 4 on page 19 that the county jail too often serves as an Old Soldiers Home. Veterans past age 50 and well into their 80's are arrested on a variety of charges, often involving domestic violence. It is plain from comparing Figure 2 on page 16 and Figure 4 with the age distribution of dominantly civilian CJC inmates in Figure 1 that there is a radical difference in arrest and incarceration between the civilian and veteran populations.

There is considerable evidence that the rate of domestic violence decreases as couples age. Clearly young men and women are more physically aggressive. However, there is also evidence that the percentage and severity of violence perpetrated by women increases with age in couples that do fight.

A 1988 study by Pillemer and Finkelhor found that in elderly couples wives were more than twice as likely to assault their husband than vice versa. Similar results from Stets and Straus (1989) are shown in Table 17.

Table 17: Perpetrator of violence as a function of age and marital status (Stets and Straus, 1989)

Age	Marital Status	Female only violence	Male only violence	Both
18-24	Cohabiting	29.0%	9.7%	61.3%
	Married	29.1%	13.6%	56.4%
25-34	Cohabiting	18.2%	21.2%	60.6%
	Married	26.9%	20.7%	52.4%
35-44	Cohabiting	33.3%	40.0%	26.7%
	Married	26.9%	28.0%	45.1%
45+	Cohabiting	66.7%	33.3%	0.0%
	Married	34.2%	29.4%	36.4%

While circumstances may give police few options under current laws to arresting veterans in their 70's and 80's, subsequent processing by the legal system is a disgrace. Natural aging processes often dictate that assistance be provided but their current abuse by the courts, in addition to whatever injuries veterans may have received in service to their country, is a pathetic commentary on the state of our justice system.

Several factors contributing to the arrests of aging veterans are reviewed below.

Dementia

Look again at the plot of the ages of veterans being arrested in Figure 2 on page 16 and then note in Figure 4 on page 19 that past age 50 virtually every inmate in CJC is a veteran. It is hard to deny there must be a link between the dementia of old age and veteran arrests. It is only reasonable to suggest that the stress of combat, wounds, and resultant PTSD likely accelerate the

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onset of senior dementia. Older people with head injuries are known to be more likely to have complications such as dementia. So wounded veterans are at more risk than the general population.

Dementia, including Alzheimers almost inevitably results in violent spells.⁵² As women currently live longer than men, this problem is more common in females than males. Unfortunately, under current laws when violence is encountered in elderly couples police are often left with few options but to make an arrest and such cases are plainly seen in Figure 5 on page 42 . Unfortunately, it is almost always the male who is arrested.

Even when “domestic violence” is not involved Alzheimers and senile dementia likely underlay many of the arrests of aging veterans.

Traumatic brain injury (TBI) is the signature wound of OIF/OEF veterans. In people younger than 50 head injury is the third most common cause of dementia, after infection and alcoholism. So these problems are not simply limited to older veterans and will grow worse as OIF/OEF veterans age.

It thus seems beyond dispute that many veterans are being arrested and incarcerated for the “crime” of growing old and serving their country.

Surely we can find better ways to deal with dementia!

Calling domestic violence and sexual assault what they are not

Dogma versus data

Some background for our statements here is essential. Current state laws, initially passed circa 1994, are based more on ideology than common law and research. For example, feminist dogma states unequivocally that women are *only* violent in self defense and men “batter” their wives and girlfriends for “power and control” over them to maintain the patriarchy.⁵³ Feminist ideology also postulates that women never lie and that we must “believe the victim.” Of course, if we believe the victim without question then we must presume the accused is guilty, contrary to the long standing principle that a man is presumed innocent until proven guilty beyond a reasonable doubt by a jury of his peers.

As a consequence of the ideological distortion domestic violence laws strongly favor females. and most of the protections of the Bill of Rights and common law, i.e., due process, are nullified in these cases. Combined with outdated principles of chivalry and gallantry, and a broad failure of the courts to control perjury, these false beliefs are an open invitation for malicious prosecution and abuse of process, typically by females although the EIJ has seen a number of cases where males, usually attorneys, are taking advantage of these laws.

Contrary to the feminist dogma that only men are violent in intimate relationships, Straus, Gelles, and Steinmetz (1980) provided convincing evidence that women are as violent as men long before the current laws were passed. Prof. Martin Fiebert has since assembled a bibliography⁵⁴ that currently examines 286 scholarly investigations that include 221 empirical

52. See, for example, the CNN report When Alzheimers Turns Violent at <http://www.cnn.com/2011/HEALTH/03/30/alzheimers.violence.caregiving/index.html>.

53. See Processes Explaining the Concealment and Distortion of Evidence on Gender Symmetry in Partner Violence by Murray A. Straus, Ph.D. at <http://pubpages.unh.edu/~mas2/V74-gender-symmetry-with-gramham-Kevan-Method%208-.pdf>.

studies and 65 reviews or analyses that demonstrate women are as physically aggressive, or more aggressive, than men in their relationships with their spouses or male partners. The aggregate sample size in the reviewed studies exceeds 371,600. And an Army study in 1994 found two male abused spouses for every abused female spouse. Among young couples that finding has been repeatedly replicated, e.g., see Table 17 above.

What emerges from decades of research into violence in intimate relationships is that 50% of the time it is mutual combat between the couple with women initiating the violence about 60% of the time. In 25-30% of the cases the violence is exclusively female on male. The remaining, and smallest fraction, in 20-25% of the cases the violence is exclusively male on female. Moxon (2008, p. 160-168) reviews the research and states many of the biological bases why women and men are occasionally violent in intimate relationships.

These findings have been replicated time and time again and are one of the most well-established conclusions in the social sciences. It is also important to note that what most would consider criminal violence is quite unusual in intimate relationships. Most studies suggest such violence occurs among only 0.4% of couples in a given year.⁵⁵ In this study the most common violent offense charged is third-degree assault, what has been termed “push-and-shove.” Table 14 on page 40 shows only half the cases involves even that level of violence although, of course, a few cases where extreme violence was charged were found as outlined on page 38.

Indisputably, women are as violent, and often more violent than men in intimate relationships. The significance of that cannot be overstated when attempting to deal with intimate partner violence. It is impossible to solve a social problem like this when the underlying assumptions on which the laws are based are so fundamentally flawed.

Thus, basing draconian laws on fundamentally-flawed ideology is a recipe for disaster. Erin Pizzey, who pioneered the shelter for battered women movement in 1971, stated decades ago that “Any country that has tried to create a political solution to human problems has ended up with concentration camps and gulags,” and it is difficult not to believe we’ve arrived at that point in reviewing the statistics in this report.

But what makes the above so critically important in this report is that time after time we have been told by men that when they called the police in a domestic dispute where the wife or girlfriend was violent, the police arrested them rather than the violent female.⁵⁶ Colorado’s “primary aggressor” statute (C.R.S. § 18-6-803.6(2)) further inflames this injustice.

Here are some examples of horror stories we have heard:

- An Air Force Master Sergeant had been stabbed by his raging, alcoholic wife. When he called the local police they came and arrested him despite his obvious wound. Although an Air Force investigation found that he was the victim, the local district attorney persecuted him for over six months. The civilian criminal charges against him were only dropped when his wife died as a result of alcohol poisoning.

54. Available at <http://www.csulb.edu/~mfiebert/assault.htm>.

55. Reviewed at <http://dvmen.org/dv-30.htm>.

56. Author Glenn Sacks reviews this problem and the findings of other researchers at http://www.glennsacks.com/baseball_players_domestic.htm.

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- An Army Sergeant, wearing a Combat Infantry Badge when we spoke with him, found his wife was having an affair with a command sergeant major on Fort Carson after he returned from a deployment to Iraq. When she came back after being gone for 2 1/2 days he was naturally angry and they were arguing in her car. Instead of letting her simply drive off he pulled on the emergency brake but did not touch her. Eventually she left to return to her lover.

Eight hours later she called the police. The local DA charged him with menacing, false imprisonment, and child abuse (their child was present during the argument). As we see all too often, his incompetent attorney recommended he take a plea bargain.⁵⁷ Of course that would have ended the sergeant's military service and destroyed his life and child but the attorney would rake in an easy retainer fee and the DA would have another win. Only the sergeant and the nation would lose while the local DA prosecuted and persecuted one more veteran for his wife's adultery.

And the sergeant's command verified this story for us.

- A staff sergeant with 10th Special Forces on Fort Carson contacted the EJF after being arrested for domestic violence against his wife. Turned out she was the violent one. She was so violent that eventually she was arrested and charges against him dropped. But the staff sergeant was very nearly chaptered out of the Army before the charges could be cleared up.
- An Army veteran who was incarcerated on a domestic violence charge when he contacted the EJF tells us his ex-spouse has been using a restraining order to control every aspect of his life. He was afraid to be released. He writes his "...ex is using domestic violence charges to try and gain custody of our nine-year-old son." He was granted custody of their son through a child custody court order in California after his wife abandoned her son in 2011. As in a number of cases we've heard about,⁵⁸ his ex-wife then moved to Colorado and began using our DV laws against him. She tells him she plans to keep him in jail as long as she possibly can and to do that she has him rearrested for violating a protection order every time she gets a phone call from an "Unknown Caller," as no proof is required and a warrantless arrest is mandatory.
- Embroiled in a hotly-contested divorce Marine Corps Sgt. Brian Foster was awarded custody of their children in California. Then his wife, Heather, fled to Colorado with the boys and sought the help of a feminist attorney specializing in women's rights.

The California judge issued a kidnapping warrant for Heather Foster. She then claimed she fled her husband's abuse. Colorado, being a "safe haven" state, Heather was neither arrested nor charged.

Marine Sgt. Foster was then forced to negotiate once again for custody of his children. When those negotiations broke down Sgt. Foster found himself charged by his wife's attorney with assaulting, raping and threatening his wife.

As a result of false allegations of marital rape and domestic violence, Sgt. Foster was convicted by a general court martial in December 1999 of all charges and sentenced to 17 years confinement, stripped of his rank, all pay and allowances, and given a dishonorable discharge.

He served nine years, two months and 17 days of that sentence, most of it at the maximum security United States Disciplinary Barracks at Fort Leavenworth, Kansas, before being

57. The Equal Justice Foundation maintains an extensive blacklist of incompetent attorneys like this.

58. Story of how Marine Corps Sgt. Brian Foster spent a decade in Leavenworth after his ex-wife moved to Colorado from California and brought false rape charges against him is at http://ejfi.org/News/Courts-4_29_09.htm.

released and his rank restored on March 14, 2009, after a court of appeals vacated all findings of the trial court.⁵⁹

There are numerous other stories of how the insanity of current domestic violence laws and the extremism of the feminists whose ideology paints men as innate batterers, and women as innocent victims of the patriarchy. The impact on veterans, who are always referred to as “trained killers,” is particularly common and horribly destructive of their lives and children.

It is evident then that many of the veteran arrests we have tabulated are based on false allegations or arrest. The conundrum is that a veteran may well be in need of evaluation and treatment even though they are innocent of a crime. So means for the justice system to push them into needed medical care without destroying their children, families, and futures must be found, all while preserving due process and their civil liberties.

Perimenopause and domestic violence

Men and women become emotionally and mentally disturbed at any age, for many reasons, and in roughly equal numbers. A number of these disorders have been associated with domestic violence, notably borderline personality disorder (BPD, Dutton, 1995), bipolar disorder (BP) which is often indistinguishable from BPD, schizophrenia, narcissism, and so on. Some studies have also suggested a link between traumatic brain injuries (TBI) and bipolar disorder.

But in this study we noted an unexplained peak in arrests around age 50-52 in Figure 2 on page 16 and again in arrests for domestic violence with a peak at age 51-52 in Figure 5 on page 42. The same peak for veteran arrests around age 50, that does not correlate with past conflicts, was found in our initial study of the first 1,000 arrests we tabulated.⁶⁰

According to the Census Bureau in about half of married couples the husband is two to nine years older than his wife.⁶¹ The age difference is probably somewhat more pronounced among veterans who will frequently have enlisted and gone off to combat or completed their service tour before marrying. Thus, a veteran aged 50 will commonly have a wife aged 40-45.

Biologically, sometime between the age of 35 and 50 human females go through a “change of life” known as perimenopause wherein their estrogen and other hormone levels change, often dramatically. Typically perimenopause lasts from 4 to 7 years.

Cutler and Garcia (1993, p. 55-66) found that the average age at which estrogen levels began to sharply decline is 43. While a small percentage (10-15%) pass through perimenopause with few effects, for the vast majority the emotional and physical effects are life-changing. And for a small percentage (again 10-15%) perimenopause results in devastating emotional and physical breakdowns.

For roughly 80% of women the onset of perimenopause will present various irritations that Somers (2004, p. 2) describes in her popular book as the Seven Dwarfs that she names: Itchy, Bitchy, Sweaty, Sleepy, Bloated, Forgetful, and All-Dried Up in the order she experienced them, and all of which are typically blamed on the woman’s intimate partner. As a result, she gets

59. For full story and appeal court ruling see http://ejfi.org/News/Courts-4_29_09.htm.

60. Report is available at http://ejfi.org/PDF/EPPO_vet_arrest_report.pdf.

61. See table at http://www.allcountries.org/uscensus/56_married_couples_by_differences_in_ages.html.

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angry, frustrated, and violent. And she will often be encouraged and coached to call 911 or to get a protection order claiming domestic violence or abuse to put an end to “his” behavior.

Our research had previously found a distinct correlation between the onset of perimenopause in women and domestic violence and divorce.⁶² And in a March 2011 report on Crime and Justice in Colorado 2008-2010⁶³ the authors noted (p. 46) that the largest proportion of females convicted of crimes (24% of total) are in the age range of 35 to 44, providing further evidence for an age peak in female crime and violence during perimenopause.

As evident in the stories above, it has been widely observed that when a man calls the police in a domestic situation the cops commonly arrest the man, e.g., see Moxon (2008, p. 177). Thus, a veteran who calls the police when his wife or intimate partner becomes violent or irrational while going through perimenopause will himself be arrested. While in many cases no arrest occurs when a man calls 911 in a domestic, if an arrest is made the probability of him being arrested is in the 80-90% range according to the best estimates available.

Thus, the best explanation found for the peaks in veteran arrests for domestic violence around age 50 is the age correlation with their wives and intimate partners suffering from the effects of perimenopause.

Sexual assault and rape under current laws

As we noted on page 26 veterans are arrested for sex offenses at nearly three times the rate of the general population in Colorado. There are biological reasons why that might occur but there are also good reasons to suspect many such arrests are false or unjustified.

Throughout recorded history rape has been associated with armies and invasions. The men are typically in top physical shape and at the peak of their reproductive years. So it would be foolish to assume American veterans are not as sexually active as soldiers have always been.

So why have no veterans here been charged with rape?

In 21st Century America there is very little need for a man outside of prison to resort to rape to obtain sexual gratification. Female company is readily available locally at the bars downtown on Tejon Street. And if a trooper can't get lucky there, South Nevada and environs has the usual share of prostitutes associated with army bases the world over and throughout history. But all the sex trade is apparently run well within bounds as we only find four arrests for pimping, promoting sexual immorality, pandering, and soliciting for prostitution among all the bookings since we began our tabulation. Thus, there is little evidence for sex crimes in the traditional sense.

Introduction of “The Pill” in 1961 changed the sexual climate of the nation dramatically. “Free love” became the watchword and women became much more sexually available without the bonds of marriage. But the 1960's also saw a rise in radical feminism whose advocates found Erin Pizzey's exposure of domestic violence a panacea for their funding and recruitment problems. As their public funding grew they were able to successfully promote their neo-Marxist agenda.⁶⁴

Building on the hysteria their propaganda about domestic violence generated these radicals began to redefine sexual relations to conform to their concept of “political correctness.”⁶⁵ That

62. See domestic violence as a function of age at <http://www.dvmen.org/dv-35.htm#age> (accessed March 23,2013).

63. Report is available at <http://dvmen.org/PDF/Crime&Justice-CO-2008-2010.pdf>.

64. For a succinct history of this evolution see Moxon (2008, pages 6 to 12).

gave rise to radical feminists such as Andrea Dworkin, a former prostitute and campaigner against pornography, who defined all heterosexual intercourse as rape. Born the same year as Dworkin, University of Michigan law professor Catherine McKinnon has worked strenuously and quite successfully to redefine what constitutes sexual harassment and assault. Dworkin and McKinnon's work, among others, is widely referenced by radical feminists and used in "treatment" programs for sex and domestic violence offenders.

Together with many other like-minded feminists, their concept of rape, sexual assault, and harassment became dogma, first as codes and standards of behavior at colleges and universities across the country, and by the 1990's, as laws in most states. In Colorado the Lifetime Supervision Act for sex offenders was passed in 1998.⁶⁶

And why is this of basic interest to this report?

In 1967 the FBI established the The National Crime Information Center (NCIC) as a central database for tracking crime-related information between the numerous law enforcement branches in the United States. In order to do that standardized numerical codes and definitions were put in place and how those codes are defined and used by the El Paso County Sheriff is presented in Appendix C.

In Table 18 below we compare the original NCIC definitions of rape and other sex crimes with how these codes are now used by the CJC.

Note that over the years there has been acceptance and little change in the usage for most of the NCIC codes for sex crimes (codes 1101 to 1116), except when it comes to rape, which have now been transmuted into "sexual assault" (Table 18) in conformance with feminist doctrine.

There are basic reasons for doing this from the feminist standpoint. Rape is a time-sensitive crime that subjects a victim to an intrusive examination to gather evidence that may be more unpleasant and time-consuming than the rape itself. For many reasons, including that, women have always been reluctant to immediately come forward, so apparently many rapes went unreported.

Further, the horrific numbers of false allegations of rape, by most estimates at least 50% of all rape accusations are false, made peace officers skeptical of such claims without clear evidence. It is also fact that forceful rape of a woman by a stranger is a very rare crime.

Of some 8,000+ veteran arrests tabulated to date only two were charged with NCIC code 1102 (Table 18). There were 126 cases where the veteran was charged with code 1103 but many of these appear to be date or acquaintance "rapes" and are very difficult to prove to a jury, especially if she can't hide her past behavior.

Most people have a fairly clear idea of what constitutes rape but if the crime is shape shifted to "sexual assault" the picture becomes much foggier. Sexual assault can now be anything from coping a feel, bumping into a woman, sexual intercourse that she has changed her mind about, or

65. Wikipedia defines political correctness as a term that denotes language, ideas, policies, and behavior seen as seeking to minimize social and institutional offense in occupational, gender, racial, cultural, sexual orientation, certain other religions, beliefs or ideologies, disability, and age-related contexts, and, as purported by the term, doing so to an excessive extent.(see http://en.wikipedia.org/wiki/Political_correctness).

66. See report by Shipley (2008) reviewing Colorado sex offender laws (http://ejfi.org/PDF/CO_sex_offender_laws.pdf)

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Table 18: NCIC codes for rape and other sex crimes and how rape has been redefined

NCIC code	NCIC definition	As used by El Paso County Sheriff
1101	Rape with gun	Not used by EPSO CJC to date.
1102	Rape with weapon	Sexual assault with /deadly weapon or injury, aided by another.
1103	Rape — strongarm	Sexual assault-physical force/threats, helpless/impaired victim, sexual contact, victim helpless, position of trust.
1116	Statutory rape	Sexual assault on child with or without force.
3601	Sex Offense-Against Child-Fondling	Unlawful sexual contact - with force, intimidation, or threat, attempted sexual assault on a child.
3604	Incest with Minor	Aggravated incest, sex assault/child/position of trust, victim 15-18 or victim under 15.
3605	Indecent Exposure (to minors and adults)	Indecent exposure - specifies whether to an adult or to a child under 14 years old.
3607	Incest with Adult	Incest.
3611	Peeping Tom	Unlawful sexual contact w/o force, sexual contact-no consent.
3612	Failure To Register As A Sex Offender	Duty to register, failure to register new address.
3699	Sex Offense-Remarks	Sexual exploitation of children, possession of exploitative material, enticement of a child.
3799	Obscenity-Remarks	Obscene material — promotion to a minor.
3804	Bigamy	Bigamy.
4002	Procure For Prostitute Pimping (prostitute a minor or adult)	Pimping.
4004	Prostitution	Pandering, soliciting for prostitution.
4099	Commercial Sex-Remarks	Promoting sexual immorality.

forcible rape. The transmutation of the NCIC codes for rape to sexual assault is particularly curious since codes 1104 through 1199 specifically define a variety of sex assaults.

Unfortunately, radical feminist concepts ran athwart common law that demanded hard evidence, due process, mens rea, actus reus, and proof beyond a reasonable doubt before a jury of

one's peers. Obviously a woman's "perception" is insufficient to convict a man under such standards. However, publicly-funded feminist propaganda was so effective that proof was no longer needed on college campuses or in the public mind, and simply the allegation, followed by a mandatory, warrantless arrest was sufficient to effectively destroy any male targeted by one of the "sisterhood."

In order to implement these new definitions for rape it is necessary to rely on a woman's perception of whether or not she had been raped, assaulted, drugged, or coerced. And rather than having to submit to an immediate examination the new standards allow her as much time as she wants to decide whether she had been sexually assaulted (raped) or not. Nor is any of her past behavior to be allowed in as testimony under the new "rape" shield laws. And we are told we have to "believe the victim," whose words, feelings, and emotions trump the word of any man, who is obviously using "power and control" to maintain the "patriarchy."

Given this history, a description of what perception over common law has led us to in terms of "sexual assault" was provided in a recent story in the local newspaper about two cadets at the Air Force Academy abstracted here.

Accuser testifies in AFA sexual assault case

March 14, 2013

A former Air Force Academy cadet remembered seeing flirtatious Facebook messages from a fellow academy athlete pop onto her screen on May 16, 2012.

The messages caught her "off guard," she testified during an evidence hearing in an academy sexual assault case. The words were very out of character for that teammate. And, she said, they insinuated sex.

She walked down to his dorm room that night...

[A] senior at the academy, was charged on January 31, 2013, with aggravated sexual assault in the case.

The woman...said she knew [him] from their time on an academy athletic team, but they were never romantic.

Moments after entering his room the night of May 16, 2012, he kissed her and removed her shirt. She said she "went with the motions," but felt "uncomfortable."

She said "please stop" as they started having sex. "He just said 'It will be fine,'" a phrase she recalled hearing dozens of times. She recalled saying "stop" three times and heard the same response.

On cross examination, the defense attorney asked the woman if she fought while [he] took off her shirt or changed sexual positions.

She said she didn't — at one time, she acknowledged that one of his advances felt "good" — but also attributed her lack of action to "shutting down."

She later made a restricted report about the incident, allowing her to receive counseling without opening a criminal investigation.

In July, she changed her mind and spoke with the academy's Office of Special Investigations, leading to Thursday's hearing.

She recalled making the decision so that [he] and others would learn from the incident.

The woman left the academy last fall. "I'm still not here to try to hurt anyone," she said

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after about five hours on the stand. “I’m not here for revenge. I’m here because I think it goes above that.”⁶⁷

A woman who worked at the Academy and read the above story commented that a likely cause for this woman later filing charges was that the man bragged about the sex and she wanted vengeance for that gossip.

It is also of basic importance to understand that someone who is so weak and indecisive that it takes them weeks or months to decide they have been sexually assaulted or raped are not of the caliber needed to lead our troops into combat, where life-and-death decisions must be made immediately. Few things frighten warfighters more than an indecisive leader. So the nation is better off without her as a commissioned officer. But she has likely destroyed the male cadet’s career and even if he is found innocent this incident will haunt his career forever.

A brief paragraph to deconstruct her story in biological terms is also merited. Reproduction is a basic drive in any species, humans included. And men and women in the military are typically at the peak of their reproductive life span. So both men and women are driven to couple whenever possible if we are to survive. In this case she received a flirtatious message with sexual overtones. Based on nothing more than that message she then went to his room that evening without further invitation. Upon her arrival they kissed and he began undressing her with her help and cooperation. As this was their first time, she was coy and demure, and he reassured and soothed her. And their coitus was no wham-bam, missionary-position act. Testimony is clear that they assumed several sex positions, not easily done without the female’s full cooperation. And she admits it felt good. Also note that “shutting down” is a term commonly used by feminists to describe actions they wish to disavow.

Throughout history innumerable marriages and families have begun with situations virtually identical to this that help the human race continue.

But these are not the only problems veterans face under new laws

We have described above how veterans are commonly and repeatedly charged with domestic violence or abuse in this brave new world. That is particularly true if the couple is divorcing or there are child custody issues as oftentimes today the mother and father are not married.

If the father is not so foolish as to accept a plea bargain it is very probable the criminal DV case against him will fail. And despite TESSA’s best efforts the court may not impose a protection order on him in order to give her full custody of the kids or, in some cases, to keep him from getting DNA samples for paternity testing in which case she may lose child support.

In many cases that have been brought to the attention of the Equal Justice Foundation the woman’s next step is to then file charges claiming he sexually assaulted her or the kids, or the veteran is physically abusing his children. Tong (2001) reviews these issues in great detail in his book *Elusive Innocence*.

There are many problems in accepting such charges. First, all reliable studies show that most child abuse is committed by females, typically the mother. Available data show that the biological father is involved in proven cases of child abuse less than 10% of the time. Secondly, moderate to severe PTSD commonly results in male impotence. And a veteran who doesn’t have PTSD when

67. See full story in March 14, 2013, edition of the Colorado Springs Gazette titled “Accuser testifies in AFA sexual assault case.” www.gazette.com/articles/editor-152280-sexual-accuser.html (accessed March 17, 2013).

these games begin is certain to have it by this point. Third, there is no penalty for the woman in making such false allegations and every incentive, including legal and financial support from shelter groups and victim advocates to do so.

While at present we don't have enough court data correlated with the veteran arrest data to firmly establish how often the above scenario occurs, there is no doubt it does, and will be the subject of follow on research.

Of course a conviction, or a plea bargain admitting guilt in any of these cases will require the veteran to register as a sex offender for life, undergo extensive treatment, and commonly results in prolonged prison terms.

The examples we present here are but a small piece of a movement that threatens the body politic and the rule of law since there is no clear and concise definition of what constitutes "sexual assault." Obviously, a woman's subjective "perception," "feelings," or "fear" are impossible standards on which to base criminal law. To the great misfortune of all, those are exactly the standards currently being used.

Drinking, drugs, and drivers license

It is well known that with the onset of PTSD one of the first steps a veteran takes is an attempt to self-medicate, usually with alcohol. All too often that leads to drinking and driving, a danger to themselves and to the public.

However, it is counterproductive to arrest and convict a veteran suffering from PTSD of driving while intoxicated (DUI) or driving while ability impaired (DWAI), take their drivers license away, and mandate classes only for alcohol. The alcohol is simply a symptom of the more severe underlying injury. It also seems self evident that if the PTSD can be successfully treated that the substance abuse problem can be eliminated or greatly reduced.

Many other crimes can result in loss of a veteran's driver license such as failure to pay child support, vehicular homicide or assault while driving a motor vehicle, driving under the influence of a controlled substance or marijuana, use of a vehicle in the commission of a felony, failure to stop and render aid, presenting a false affidavit or statement under oath to the DMV regarding ownership or operation of a motor vehicle, underage possession or purchase of alcohol, convicted of motor vehicle theft, trespass, or criminal mischief causing damage to a motor vehicle, or a conviction for defacing property. These are just a few of the offenses that result in having one's drivers license revoked.

Despite losing their license veterans frequently, if not always, require treatment that can only be reached by driving. Rarely do they have someone available to drive them. If they have a job they must also drive for that. Grocery shopping also commonly requires that they drive.

So the arrest records reflect time-after-time veterans being rearrested for driving under restraint, no insurance, etc. As frequently a DUI is the first indication a veteran has more severe underlying injuries such as PTSD it makes more sense to mandate an evaluation and treatment as indicated. Then put an interlock on their car ignition so it doesn't start if alcohol is sensed, and issue them a probationary (red) license. Surely the cost to society of installing these devices in a veteran's vehicle is less than the cost of continually arresting and jailing them and the danger to public safety they represent by repeatedly driving while intoxicated and without insurance. And

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if the intercession and treatment are begun at this level it is hoped that more serious crimes can be avoided, or at least reduced.

Which option provides greater public safety:

- (A) A veteran driving without a license or insurance after a DUI or other conviction?
- (B) A veteran driving with a probationary (red) license and insurance while receiving treatment and monitoring for PTSD and related injuries with an ignition interlock so they can't drive intoxicated?

Pain medications

There are many cases where veterans are in so much pain that “substance abuse” is a fact of life. So arresting them for drug use, whether the drugs are legal or illegal, is irrelevant. In all too many cases that have come to the attention of the EJF the final release from pain the veteran has sought is suicide. From our perspective the use of any drug that brings them relief is preferable to the alternative of suicide.

All too frequently it is prescribed medications that lead both to the veterans problems with the justice system or to their unexplained death. The problems and prescription drugs known to be involved are tabulated on page 23. Prozac, Paxil, and amphetamines lead the tabulation of prescription drug problems reported to the EJF. These drugs are known to be routinely prescribed by military and VA doctors for troops suffering from combat injuries, or even while in combat.

It is clear that many of the problems that bring veterans to the attention of law enforcement are the direct or indirect result not only of their combat injuries but the medical treatments they are prescribed for relief of those injuries.

How is public safety preserved by prosecuting disabled veterans for following doctor's orders?

Post traumatic stress disorder (PTSD), traumatic brain injuries (TBI), and veteran arrests

There can be little question that the irrational anger, substance abuse, flashbacks, and other manifestations of PTSD described on page 31 fit the definition of domestic violence under current Colorado laws. Thus, disabled veterans are being punished because they are disabled.

A peace officer facing a distraught, often drunken and angry veteran, who is commonly armed, may have little choice but to make an arrest, but that is not sufficient reason to destroy his children, marriage, and future. The evidence in this report clearly demonstrates that the present practice of “catch, convict, and release” (see repetitive arrest data in Table 16 and Appendix D) increases the danger to society and the veteran's intimate partner, who often clearly recognizes her husband or lover needs treatment, not a criminal conviction.

One reviewer suggests a veteran volunteer ride along with police in order to divert the veteran into treatment rather than an arrest. Fort Carson has been placing military police with civilian police Wednesdays through Saturdays and Sundays and Mondays on holiday weekends to help as well. Diversion efforts like this should be encouraged and expanded.

With issues like domestic violence that are demonstrably linked to veteran injuries such as PTSD, TBI, or other service-related mental health issues, the present system does nothing to deter or prevent domestic conflicts by proposing appropriate treatment when such disputes first come to

attention of the justice system. Instead, the veteran is charged with a life-destroying add-on charge of “domestic violence” for strife between a couple that initially rarely involves significant, if any, violence (Table 14 on page 40).

While the veteran is rarely convicted of “domestic violence” unless they are so foolish, or more likely coerced into taking a plea bargain, the stress of an arrest, jail, and dealing with the insanity of the current “justice” system typically makes veteran’s conditions such as PTSD much worse. Huffer (1995, 2011) refers to this as “Legal Abuse Syndrome” (LAS). Even without a conviction a common result is then the breakup of the marriage/relationship, the ruination of their children’s lives, poverty, homelessness, and all too often suicide. And in all too many cases reported to us child protective services and the prosecution have forced wives to divorce their husbands.

Manifestations of the problems associated with PTSD and TBI evident in the CJC veteran booking data are often surprising. For example, short-term memory problems characteristic of PTSD and TBI apparently result in many arrests for shoplifting as noted on page 58. Of course, if the veteran is homeless, hungry, and broke they may simply be trying to get something to eat.

No doubt there are other surprises in store as we attempt to develop a workable solution to veteran injuries as they present themselves to society and the justice system that preserves and protects public safety while assisting disabled veterans to reintegrate into society.

Perhaps the best we can say for some time to come is that the trauma of war changes people, at times irrevocably. The impacts of combat and other traumas are often highly individualized and resistant to any “quick fix” with present medical science. Any veteran who has undergone mental health treatment at a VA facility for any length of time will convey an odyssey characterized by the prescription of a plethora of psychotropic medications and a battery of testing with a commensurate administration of therapeutic treatments until the “right one” was found. This is not “scientific” but a guessing game at present.

Surely we can turn an arrest into a positive experience that results in treatment and preservation of the veteran’s children, marriage, and life in many, and hopefully the majority of these cases. But in our experience such solutions will come from the ground up as opposed to massive government programs dictating from the top down. The concept of a veteran court, after all, came from the initiative of a single judge in a city not noted for its large veteran population. But the transformation will not be easy or swift.

Unhindered by rigid constraints human ingenuity often performs miracles.

Veteran suicides

One all too common outcome of the way veterans are treated by the justice system is suicide. While the causes of such suicides are many, and there are no simple answers, some of the problems might certainly be lessened or eliminated by reforms.

What is known not to work are suicide prevention awareness trainings that are delivered by non-veterans. Also ineffective are slide shows presented to large audiences, what the troops refer to as “Death by Power Point.”

From what is presently known the two biggest contributors to veteran suicides are (1) broken relationships, often aggravated and forced by DV arrests and child protective services (CPS) taking their children, and (2) depression, particularly when associated with unceasing pain.⁶⁸

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Again the justice system often lies at the root of their problems. As pointed out by Silverglate in his book *Three Felonies A Day* (2011, p. 45-73) overzealous prosecutors in the Department of Justice have made many physicians afraid to prescribe pain medications, particularly opioids, in sufficient quantities and doses needed to control the pain experienced by many veterans.

While medical marijuana is legal in Colorado, and has proven quite effective in treating both pain and PTSD, all too frequently veterans are unable to obtain or use this relatively harmless medication that is insanely classified as a Schedule I addictive narcotic. Of course active-duty military cannot use medical marijuana at all. After years of fighting the pain, the nightmares, the VA, and the justice system, suicide is seen as a way out. A common scenario in these situations is that the veteran crawls into a bottle and drinks himself to death.

Overzealous prosecution of overly broad laws resulting in criminal convictions clearly associated with PTSD, TBI, or other combat injuries often leads to homelessness, depression, and suicide by one form or another. When you take a man's children, his home, and everything he loved and fought for, often unjustly and vindictively, he seldom has anything left to live for.

In the alternative it is all too frequent that veterans in these situations kill their wives and even children, or others, and then themselves, or commit "suicide by cop."

It is long past time to try new approaches to these problems

68. For an extensive review of veteran suicides and causes see the final report of Department of Defense Task Force on the Prevention of Suicide by Members of the Armed Forces, *The challenge and the promise: Strengthening the force, preventing suicide and saving lives*, www.health.mil/dhb/downloads/Suicide_Prevention_Task_Force_final_report_8-23-10.pdf

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Veteran courts

History

Judge Robert Russell — A new approach

Recognizing a dramatic increase in veterans repeatedly coming before his court, often for the same offenses, in January 2008 on his own initiative, and to his great credit, Judge Robert Russell stood up the first known veteran court in Buffalo, New York.

Judge Russell's efforts were quickly recognized and the idea spread rapidly across the United States. In Colorado Springs the Equal Justice Foundation became involved with the district attorney and District Court Judge Ronald Crowder, a retired Army major general, in July 2008 to begin implementing a veteran court in this military bastion with its five military bases and tens of thousands of veterans and active-duty military. In 2010 we worked with Rep. Marsha Looper to pass enabling legislation for veteran courts in Colorado.

Problem solved — Not!

When Judge Russell launched his veterans court it was based on a drug-court model in which the veteran is only admitted to the program post-plea and post-conviction. Generally only nonviolent, i.e., no domestic violence, cases were eligible.

The National Association of Drug Court Professionals quickly snapped up Judge Russell's concept. They packaged it, marketed it, and publicized it with a high level of efficiency and effectiveness until such veteran courts are now publicly perceived as the "answer" for veterans caught up in the justice system.

Nothing could be further from the truth!

One major problem with the drug-court approach was that no one bothered to measure in advance what crimes and in what percentages veterans were being arrested for in El Paso County. As shown in Table 8 on page 23, only 13% of charges against veterans in this study involved drug and substance abuse. So a drug court model is inappropriate for our problems.

Unfortunately, the rapid adoption of the drug-court model has preempted attempts at other approaches to solutions of this societal tragedy.

Why a special court for veterans and why is the problem any worse or different now?

A basic question is why a special court is needed now for veterans who end up in the justice system? After all the United States has fought many wars since the Revolution and veterans have rarely received any special treatment from the justice system, although in all wars the psychiatric casualties greatly outnumber the physical ones.

In many ways combat veterans today face the same problems as their forbearers. But one difference is the length of the current wars, that have gone on for twelve years. Another issue is the way troops have been repeatedly deployed in these conflicts. In past wars a soldier or Marine went overseas and served a relatively fixed amount of time and, unless they volunteered for more, their combat duties were usually complete. But in the current wars the same troops are sent to combat time after time after time for periods of from seven to fifteen months, and their combat tours and enlistments have frequently been extended (stop loss) while deployed. Further, as soon as they

returned from one deployment they had to begin training for the next with the operational tempo allowing for only nine to twelve months between deployments rather than the originally planned twenty four.

The objective of any war is to achieve political goals, not simply kill people. Thus, most disheartening is the fact that OIF/OEF are undeclared wars of occupation with no clear goals, objectives, or defined missions other than to keep killing ragheads, hajjis, or whatever other perjorative terms the troops devise to express their frustration. Thus, troops who don't buy into this bizarre 21st Century version of a Crusade, and few do, often return demoralized and traumatized after even one tour in Iraq or Afghanistan. Then they are sent back again and again, basically until they break mentally, or are killed or wounded so severely they are of no further military value.

In his book *On Killing*, Grossman (1995, p. 44) points out that for the average soldier combat exhaustion begins after 30 days and troops are generally completely washed out after 60 days of continual combat. Combat efficiency can be restored for most soldiers by rest and relaxation (R&R) a number of times but that number is finite and varies from individual to individual.

What is known is that everyone has a breaking point beyond which they cannot endure and perform. Although the endurance of a combat soldier can be greatly extended by psychological and fitness training, supplemented by medication, there is an undefined point beyond which the combat soldier can no longer perform.

The factors that cause a soldier to break have been maximized by the Iraq and Afghanistan campaigns:

- (1) There is no clear definition of the goals or what constitutes victory;
- (2) The soldier is deployed over and over again, often to fight the same battles over the same terrain as before;
- (3) There are no secure rear areas and the operating bases are frequently subjected to mortar or sniper fire;
- (4) As soon as the soldier leaves their operating base they are subject to attack by the populace, who justly resent American occupation, and who have placed improvised explosive devices (IEDs), snipers, and other weapons of destruction in every conceivable location, as is true in every guerilla war.

Wounds, the death of buddies, too many explosions, the need to be constantly alert, etc. makes the list of combat stressors almost endless, and an individual's ability to endure them limited. Some break or are broken by wounds or head injuries on their first tour. Others last four, five, six, or more tours, and come home apparently unharmed on their return. But the surface calm is too often a facade that crumbles in time, often leading to PTSD/TBI related incidents that the veteran is loathe to admit to until they end up in an orange jumpsuit at CJC.

On May 27, 2012, the Associated Press published a review of disability claims currently filed by OIF/OEF veterans and found that a staggering 45% of the 1.6 million veterans of these conflicts have filed claims.⁶⁹ Further, these veterans are claiming eight to nine ailments on average and in the past year recent veterans are claiming eleven to fourteen service-related injuries. And these percentages and problems are certain to increase as the veterans age.

69. Article available at <http://www.npr.org/2012/05/27/153832767/disability-claims-rise-among-veterans>.

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Experience with Vietnam veterans who actually saw ground combat suggests at least 70% of current-conflict veterans will eventually develop post traumatic stress disorder (PTSD). And the signature wound of the OIF/OEF conflicts is traumatic brain injury (TBI) as the soldier's body and vehicle armor now allow them to survive in situations that would have been fatal in previous wars. And for those veterans suffering from TBI, PTSD is virtually a given.

Behaviors characteristic of PTSD, TBI, and other injuries suffered by veterans are almost certain to bring them to the attention of authorities, usually the police.

Catch, convict, and release doesn't work

The basic purpose of the criminal justice system is to provide for public safety.

Why it doesn't work

The current practice of requiring veterans to take a plea bargain and accept a faux conviction before being admitted to the veteran court eliminates the "carrot" and applies the "stick" before the veteran even gets started in the program. Since the conviction is on their record, they cannot now get a job, and their family is likely destroyed, what incentive do they have to undergo rehabilitation?

It is of little or no value to convict a veteran of a crime that destroys their lives and is virtually certain to prohibit them from ever reintegrating into society as productive citizens. Available data (Figure 2 on page 16 and Figure 4 on page 19) clearly show that once arrested and convicted the veteran is virtually certain to reoffend and often continue cycling in and out of jail throughout their life if they remain in El Paso County. Arrested veterans are thus well advised to move out of the county, and likely out of Colorado if they are ever arrested and booked here the first time, which we don't think is quite the message the Chamber of Commerce wants to put forward.

The plot of percentages of CJC inmates vs. age presented in Figure 4 on page 19 shows that the county jail is, in essence, an Old Soldiers Home. That plot alone makes it plain that treatment of veterans by the current justice system and the community which tolerates it is despicable and it is unlikely that any other demographic can mask this horrifying result.

From a number of perspectives the present system of police arresting emotionally-disturbed, combat-trained veterans, placing them in jail, judges giving them a perfunctory or no hearing, prosecutors demanding or coercing a plea bargain to a crime the veteran may or may not have committed, and turning them loose on the streets again, i.e., catch, convict, and release, often places the public's safety at greater risk. Is a veteran who repeatedly drives drunk any less dangerous than a murderer?

An arrest and conviction is a traumatizing experience for anyone.

For a veteran who has honored his commitment to his country by placing himself in harm's way, often on multiple tours, who has previously had no experience with the legal system, is and should be deeply offended by the cattle-car approach to justice typically found in our courts. And if they didn't have PTSD when they were taken to jail they likely have it before the justice system spits them out (Huffer, 1995, 2011). For veterans with mild to severe PTSD to begin with, they are certain to be further traumatized by the experience, often dangerously so.

Clearly, current practices and procedures used by the justice system in dealing with veterans are making the problems worse rather than better. In all probability, and from examples we've seen, more draconian prosecution and handing down even more severe sentences may delay the

problems with veterans while they are incarcerated but certainly doesn't solve the problem of integrating them back into society. And they are likely to be even more dangerous when finally released. Thus, in order to deal with these issues a new approach by the justice system is required.

Hence, the need for a problem-solving veteran court.

No substitute for police intervention is seen

In order for a veteran to reintegrate into society the basic goal should be to avoid, whenever possible, placing a criminal conviction on their record and thereby almost certainly destroying their chances of finding employment, housing, etc.

Although alternative interventions are desirable, and should be utilized wherever they can prove their effectiveness, we see no alternative for frontline peace officers who encounter a disabled veteran acting out but to make an arrest to control the immediate situation. As a result we expect that many thousands of veterans will be arrested each year, as is currently the case. And that will not improve with time after the current conflicts end as Figure 2 on page 16 shows.

On the plus side, since veterans are typically adverse to recognizing or admitting they have a problem, ending up in an orange jump suit in the county jail may often serve as a wake-up call and convince them, ornery, stubborn, proud, and cantankerous as they may be, that they do need treatment and make them willing to accept it.

Thus, although police intervention and detention may be essential it will be much more effective if they act as peace officers rather than law enforcement.

Aggravated POPO

There is no question that police and prosecutors under- and selectively-enforce the laws. There are simply too many laws, too few peace officers, prosecutors, judges, and not enough jail space to uniformly enforce all the myriad laws legislators have passed.⁷⁰

A basic question is then what leads a peace officer to make an arrest of one individual but not another who commits the same crime? It is, after all, considerably more time and trouble for an officer to arrest and transport an offender to CJC than to simply write a ticket or summons, and let the veteran appear in court at some later time and date.

That question is particularly relevant when veterans are arrested and booked into CJC for petty offenses (Table 6 on page 20) for things like dog at large, fishing without a license, not using a seat belt, etc., offenses that would normally result in no more than a ticket or summons?

In his excellent book *Policing Domestic Violence*, Lawrence Sherman (1992, p. 67) asked this question of peace officers and was told they selectively arrest "People who commit aggravated POPO." Asked what "POPO" was, they told him it is an acronym for "Pissing off a police officer."

Veterans suffering from PTSD, and the irrational anger and distrust of authority so often associated with it, seem quite likely to commit aggravated POPO when stopped by police with a resultant arrest on a host of issues that would not otherwise result in incarceration.

70. On average Colorado passes about 400 new laws every year. Few read them and police, district attorneys, and courts rarely enforce most of them.

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Ironically, arrests of veterans by peace officers on petty and minor misdemeanors may well be exactly what is needed for public safety if, but only if the justice system then does an evaluation and provides for appropriate treatment.

Courts have been moving in the direction of problem solving and diversion rather than punishment since 1989.⁷¹ The recidivism for veterans apparent throughout this report (Table 3, Figure 2, Figure 4, Table 16, and Appendix D) make it apparent that to be effective an intercept and diversion must occur the first, or earliest possible time a veteran enters the justice system, whether that involves a speeding ticket, misdemeanor domestic violence, or fishing without a licence. Public safety cannot wait until the veteran is arrested for attempted murder to begin treatment for PTSD.

Thus, whatever alternatives for veteran treatment evolve, the frontline peace officer will play a critical role.

Preserving a veteran's independence and future must be the objective

Since we see no feasible way to avoid a veteran's arrest in many situations, any solutions must involve a reform of the way the district attorney and courts deal with incarcerated veterans after that arrest.

In the past the district attorney and judges have depended on the big "stick" of incarceration and fines in order to coerce obedience to the laws. However, as noted on page 58, classical deterrence doctrine is of little value against veterans. That is particularly true if previous arrests and convictions have driven the veteran into homelessness with little chance of finding employment or being self sufficient.

Therefore, a program that has any chance of success must incorporate a substantial "carrot" for the veteran if they are to be willing to participate and complete it.

Obstacles

As with any advocacy for change there are obstacles in the way. Here are a few known ones that we've encountered:

- Logistic requirement that veterans can only be identified and tracked after they are arrested and booked into El Paso County CJC.
- Veteran court coordinator and Colorado Dept. of Human Services.
- TESSA and radical feminist ideology that postulate females are only violent in self defense and that all sexual intercourse is rape, or "sexual assault" in their parlance.
- El Paso County child protective services (CPS) and family "assistance" group on Fort Carson.
- Abuse industry and court cronies that sees domestic violence and child abuse in every veteran arrest and any other incidents involving disabled veterans, who they often refer to as "trained killers."
- Overzealous and ideological assistant district attorneys who are out to get a conviction at any cost, justice and common law be damned.
- DV treatment providers who seek to destroy a veteran's life for their short-term profit.

71. See review article at http://en.wikipedia.org/wiki/Problem-solving_courts_in_the_United_States.

- Magistrates and judges who take the approach “He’s bound to be guilty ‘r he wouldn’t be here!”⁷² to defendants in their court.

Deferred sentences — faux convictions

Possibly the major failing of a drug-court model used in conjunction with dealing with veterans who enter the justice system is the destruction a criminal conviction so often has on their future, and frequently their present military service or employment prospects; the negative impact on security clearances; their ability to obtain medical benefits, housing, loans, education; and all too frequently the disintegration of their marriages and children as outlined in Table 11 on page 29.

If the trooper is still on active duty when arrested and convicted they are commonly chaptered out of the military. In that process they typically lose all retirement and medical benefits. If the discharge is less than honorable, and many are, they may also lose their VA medical and disability benefits. And in some cases reported to the EJF the trooper has had to repay reenlistment bonuses.

In an attempt to alleviate this destructive outcome while still satisfying their mandate to punish offenders, prosecutors and courts have resorted to faux convictions that are labeled a “deferred sentence” and are permitted under C.R.S. § 18-1.3-102. The veteran is told (lied to) that if they satisfactorily complete the terms of their probation after they accept a plea bargain, i.e., plead guilty to whatever charges the prosecutor may bring against them, then the “conviction” will be dismissed and, supposedly, their record somehow “sealed.”

But once the veteran pleads guilty the only “stick” that remains open to the court is incarceration, which is what a veteran court should be trying to avoid. Worse, there is now no “carrot” to encourage the veteran to complete the requisite treatment and restitution in order to have the charges dismissed.

In the basic interest of public safety, and in an age of modern databases, claims by the court that a criminal conviction can or even should be concealed are a delusional and dangerous fantasy. For reasons that seem obvious, it is essential that every conviction be recorded and publicly available if criminal justice is to have any meaning at all. A faux conviction only serves to line the pockets of attorneys and increase public costs for courts, district attorneys, child “protective” services, and a host of additional parasites who serve to help demolish the veteran’s family and children.

The problem of such faux convictions is further exacerbated by the high percentage of veterans arrested for domestic violence as discussed on page 29 and following.

That brings to the forefront another problem with deferred sentences.

Initially the veteran court only dealt with felonies and many veterans very wisely declined to plead guilty to a felony. If they demand a jury trial and have a competent defense attorney there is an excellent chance they will be acquitted or the case dismissed for lack of a witness.⁷³ Also demographics clearly demonstrate that about 70% of domestic cases are based on false or unsubstantiated allegations for a variety of reasons and the case against the veteran falls apart at

72. He’s bound to be guilty ‘r he wouldn’t be here!” Starboard gun...FIRE! Shooting’s too good for ‘im, kick the louse out! Port gun FIRE! — Ancient chanty used to time saluting guns.

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or before the trial. In such cases the veteran is severely traumatized by what Huffer (1995) has called the “Legal Abuse Syndrome” but gets no treatment for their underlying problems.

Keep in mind that the purpose of a veteran court is, or should be to recognize and push the trooper as quickly as possible into appropriate treatment the first time they encounter the justice system so as to forestall or minimize future criminal activity. The court also needs a “stick” to ensure the veteran enters and completes that treatment. Thus, when the veteran, often quite wisely, refuses to plead guilty and accept a deferred sentence the court has no authority to order them into treatment and ensure they complete it unless or until they are later convicted by a jury six months or more later.

To our minds the use of, and insistence on deferred sentences and plea bargains (guilty pleas) defeats the intent and purpose of a veteran court. Instead of solving problems, such courts create them.

Deferred prosecution

Hopefully, Table 3 on page 12, Table 16 on page 50, and Appendix D on page 115 are sufficient to convince even skeptics that the current justice system is not fulfilling its most basic function of preserving and protecting public safety where veterans are concerned.

Deferred prosecution, as permitted under C.R.S. § 18-1.3-101, appears to us to be the best approach to that end currently available. Such an approach preserves the “carrot” of having charges dismissed against a qualifying veteran if they complete what must be a rigorous rehabilitation, and restitution where appropriate, while keeping the “stick” of a conviction hanging over their heads if they fail or back out, and jail if terms of deferred prosecution are willfully and repeatedly violated. It also gives the court the needed authority to place the veteran in treatment and supervise their progress.

Although their input is critical, the terms and conditions of such a program must not be dictated and controlled entirely by the current bureaucracies. The district attorney must be willing to work on a cooperative basis with veterans and their alleged “victims.”

In large measure veterans only talk to other veterans and a successful program will operate from the ground up on a peer-to-peer basis. Since attorneys, particularly assistant district attorneys, are rarely veterans some mutual education and cooperation is a must.

Further, full consideration for the terms and requirements of the Americans With Disabilities Act and its Amendments (ADAA) must be implemented (Huffer, 2011). Both district attorneys and judges have incentives to implement ADAA as failure to do so eliminates their immunity.

No disabled veteran should enter a courtroom or speak with a prosecutor without an ADA advocate by their side.

Scale

Presuming the local justice system, i.e., district attorney, is amenable to the routine use of deferred prosecution in veteran cases there is still the problem of scale.

73. In a 2004 ruling, Crawford v. Washington, the U.S. Supreme Court upheld the Sixth Amendment right of a defendant “...in all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him.” In DV cases and many others it is quite common for the accuser not to show up for trial. Under this ruling the prosecution and court are then generally required to dismiss the case.

The pilot veteran court formally stood up in February 2010 under Judge Ronald Crowder. Since that time his court has processed roughly 200 veteran cases. On the other side of the scale over 8,000 veterans and active-duty military have been arrested and booked into CJC in that same time interval. During 2011 there were an average of 265 per month (Table 1 on page 10), and over three years the average exceeds 200 per month.

While certainly not all veterans booked into CJC should be eligible for the veteran court, means must be developed to process and evaluate that number of cases at a minimum. Ideally, the process would also evaluate as many military veterans as possible who are stopped by peace officers for whatever reason, e.g., speeding is a common symptom of PTSD, officers may take a veteran with substance abuse problems to the detox facility rather than booking them into CJC, and so on. So coordination with police departments and municipal courts in the county also seems an essential component in order to ensure veterans with military injuries are diverted into treatment at the earliest possible time before their injuries put them before the bar facing felony charges.

Our discussions and interactions with local military bases suggests their commands would welcome such a plan and we assume their cooperation would be forthcoming.

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Triage

The first step we suggest in scaling up the pilot program for the veteran court involves some simple triage that could largely be done by a program coordinator.

A rapid triage of cases suitable for veteran court is essential and must be based on published standards, not simply left to arbitrary and discriminatory practices. Properly designed and implemented such triage should not take more than 15-30 minutes per veteran to either do an initial evaluation or update their records.

Unfortunately, at present unless the veteran seeks treatment on their own, we do not see a practical way to intercept many veterans before they end up in the CJC. Any and all such efforts to avoid that, however, should be explored and encouraged. In any case the objective should be to intercept and evaluate the veteran's condition the first time they come in contact with the justice system.

For the present, however, let us attempt to put forward for consideration a simple triage method of evaluation once the veteran is booked into the CJC. As contact information is obtained in most cases at the time of booking the veteran can be evaluated after they bond out or at first arraignment. Some allowance must be made in many cases to allow the veteran to obtain documentation, e.g., their DD 214.

Triage could readily be implemented by the veteran court coordinator⁷⁴ consulting with the assigned assistant district attorney based on standard criteria such as the following:

1. **Residence within Colorado's Fourth Judicial District (El Paso or Teller County) or, if active duty, or stationed at a military base in El Paso County.** Otherwise remand for standard prosecution as the veteran court must have territorial jurisdiction for any treatment or sentence. Note that in cases of minor crimes where a veteran is homeless a suitable solution may be to provide them a bus ticket home if they have relatives there willing to help him or her.
2. **Verification of military service.**⁷⁵ Veteran status can usually be established quickly in most cases with a DD 214, retired military ID, and a few moments discussion. Active duty status can be verified by their ID card, Enlisted or Officer Record Brief (ERB or ORB), or command if necessary. If veteran status verified proceed to Step 3. Otherwise remand for standard prosecution.⁷⁶
3. **Verification of duty in combat zone or service-related trauma or disability.** Much of this information is on their DD 214, ERB, or ORB. Other sources include a VA disability award letter, letter from an authorized medical officer or clinician, or results of a professionally recognized screening tool if they have them. If a service-related disability or trauma are verified the coordinator would assign a peer specialist/ADA advocate to work with the veteran and proceed to Step 4. Otherwise remand for standard prosecution.

74. It is strongly recommended that the coordinator doing the triage be a trained ADAA advocate.

75. Note that a DD 214 can be downloaded from the web and is thus subject to falsification.

76. Standard prosecution means the ordinary practices and procedures the prosecutor and court would normally follow when a veteran is not eligible for the veteran court.

4. **Level of crime they are charged with.** Ideally the intercept occurs with a fairly low-level misdemeanor, civil, or traffic offense, but the first arrest may well be an F6 to F3 felony. If the crime is suitable⁷⁷ for veteran court, proceed to Step 5. Otherwise remand for standard prosecution.
5. **Prior criminal convictions.** Unless these convictions were the result of willfully and repeatedly failing to comply with terms of previous veteran court rulings such convictions should not automatically disqualify the veteran.⁷⁸ If no disqualifying prior convictions proceed to Step 6. Otherwise remand for standard prosecution.
6. **Type of discharge for veterans and rating by command for active duty.** A less than Honorable Discharge should not disqualify a veteran on their first contact. As with Step 5, type of discharge should be evaluated in a favorable light for the veteran in most cases. If appropriate, proceed to Step 7. Otherwise remand for standard prosecution.
7. **Victim's wishes and insights.** The victim should be apprised of the process and their input factored into the decision. They may well say the veteran needs treatment rather than a conviction or may accept restitution in the event of property damage.⁷⁹
8. **Whenever possible defer prosecution under C.R.S. § 18-1.3-101 until the veteran can meet the diversion terms set by the veteran court.**⁸⁰ Some possible terms and conditions for deferred prosecution are discussed on page 93.
9. **If and when veteran complies fully with the conditions of the deferred prosecution dismiss the case against them** with or without prejudice depending on the circumstances of the case. If the veteran willfully, deliberately, or repeatedly violates the terms of their deferred prosecution then a hearing can be held as provided for under C.R.S. § 18-1.3-101 and the veteran remanded for standard prosecution.

and so on with easily understood and verified criteria that are uniformly applied.

The major advantages of this approach is that it maintains a “carrot” approach to motivate the veteran to seek and attend treatment and comply with the court’s terms, while maintaining the “stick” of a conviction if the terms of the diversion program are not met. Also, once charges are

77. It will be necessary and essential to define what crimes/charges are inadmissible. Also where exceptions might be considered, e.g., felony strangulation/attempted murder is often a sign of severe PTSD and should be considered if the “victim” states the veteran is known to need treatment and is willing to cooperate with a treatment plan.

78. Some prior convictions, e.g., a DUI, may actually indicate the need for a veteran to be placed in veteran court.

79. The objective and ideal is to be sure every disabled veteran receives appropriate treatment for their injuries rather than simply processed and traumatized further by the justice system.

80. Currently C.R. S. § 18-6-801(4) states that “No person accused or convicted of a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), shall be eligible for home detention in the home of the victim pursuant to section 18-1.3-105 or 18-1.3-106 or for deferred prosecution pursuant to section 18-1.3-101.” Of course the court need not find “on the record” that the action of an injured veteran suffering from PTSD or other wounds of war was “an act of domestic violence,” particularly if the “victim” states the veteran needs treatment. That would allow the court to grant deferred prosecution in most of these cases.

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dismissed the veteran has no conviction on his record, a fundamental protection in this era of electronic databases and difficult employment.

Conversely, a deferred sentence under C.R.S. § 18-1.3-102 as presently used in the veteran court requires the veteran plead guilty up front. Thus he has a conviction on his record before he even gets admitted. Even if the sentence is later dismissed, the guilty plea remains on public records, as it must in the interest of public safety. And once a veteran has pled guilty there is basically no “carrot” to keep them in line as the “stick” of a criminal conviction has already been used.

It is also difficult to see the value of such faux convictions as a “deferred sentence” other than to maintain the reputation of the district attorney and judge as being tough on crime. But, as this report clearly shows, that approach has done nothing to deter veterans from reoffending, little to provide treatment to those in need, has destroyed thousands of children and families, demonstrably increased homicides and suicides, and decreases public safety, the antithesis of the basic purpose of a justice system.

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Conclusions, Suggestions, and Recommendations

Justice is essential because injustice destroys the public's safety.

Alternatives

We have covered a fair number of the problems with current practices involving disabled veterans in the justice system. At issue are the proposal of workable alternatives that might be readily implemented. It is, after all, quite expensive to simply keep arresting, booking, and prosecuting these veterans time after time after time, as well as the cost to society of their crimes, real or otherwise. And a major selling point for implementing a veteran court is reduction in recidivism. But to do that the veteran court must be processing the great majority of veterans who enter the justice system, which clearly is not presently being done.

In El Paso County the logistics seem to dictate that the only viable intercept point for a disabled veteran who begins acting out injuries like PTSD is the CJC. Proud warriors are quite unwilling to admit they have a problem and ending up in an orange jumpsuit is frequently their first wake up call. If other means than an initial arrest can be found and implemented to get veterans into treatment, all the better. But under current laws much veteran behavior is going to appear criminal. And even where a veteran's behavior is not criminal the frontline peace officer may have no better alternative than an arrest and booking.

Intercept with veterans must be at the lowest possible level in the justice system, i.e., DWAI, DUI, shoplifting, DV or protection order, loitering, etc. Even if no treatment is provided the coordinator must record what action was taken and track whether the veteran is in the courts for any other reasons, e.g., divorce, child support, etc.

Enlist and educate intimate partners and other interested parties

We cannot solve the problems veterans face on the home front unless and until their family and intimate partners understand what to expect and have some ideas and, more importantly, help dealing with them short of calling the police. This can probably best be done by local non-profit organizations working in conjunction with the court and probation.

When a veteran with known PTSD, TBI, or other service-related injuries is living with family members it is essential to educate wives, children, and parents on these issues, and what to expect and how to recognize problems and precursors. It is especially important they learn how to react so as to minimize their danger. Toward that end stories from others like Heather Goble's letter on page 31 should be of some help.

Education of the women in a veteran's life is felt to be particularly critical in that most of these incidents that we've documented occur in the middle of an argument where the woman is most likely to react emotionally and panic. So both the trigger for such events needs to be recognized and the safest reaction by the "victim" taught to wives, girlfriends, sisters, mothers, roommates, and others. And their education should include the need to be sure, and to help the veteran keep appointments like treatment and court dates.

Families and friends should have a phone number for the assigned peer mentor, and a backup number if he/she is not available, that they can call if the veteran starts acting out. That gives them an option short of calling the police except in an emergency and the distraught veteran is likely to respond better to his peer than with police in most situations.

A bracelet identifying the veteran's condition(s) and phone numbers to call, as is used with other medical conditions, seems advisable in many cases. That would immediately inform peace officers and medical respondents of the veteran's condition as well as provide them contact information.

Courts

Prosecutorial discretion and ethics

One thing that must change is the attitude of overzealous prosecutors who put convictions in front of justice and regard coercing a plea bargain as a moral act. Plea bargains are typically coerced by stacking charges, exaggerating likely jail sentences, threatening and often keeping defendants in jail until trial if they won't accept a plea bargain, and intimidating witnesses against the veteran. For example, if a veteran is charged in an act involving domestic violence, at a minimum they will typically be charged with some combination of simple or aggravated assault, menacing, criminal mischief, child abuse, obstruction of telephone service, false imprisonment, and harassment or reckless endangerment. If not a first offense, violation of a protection order will likely be tossed in as well, together with anything else the prosecution can come up with.

If the "victim," the veteran's wife or intimate partner does not want to testify against him, clearly recognizing he needs help, not a criminal conviction, prosecutors frequently threaten to jail her, and child protective services to take her children if she won't testify the way they want her to. Witness intimidation is no more moral, ethical, or legal when done by an assistant district attorney or a case worker at the Dept. of Human Services than when a defendant does it.

Once the veteran is convinced by all these horrendous charges that they will spend years in jail if they dare defy the prosecutor and insist on a jury trial they are often offered a plea bargain for something like misdemeanor harassment. Often harassment is all the prosecutor might be able to prove beyond a reasonable doubt to a jury, if even that with an uncooperative witness.

But an unjust plea bargain coerced from a veteran today clearly means more crime tomorrow and tomorrow as evident from Figure 4 on page 19. That is the opposite of preserving and protecting public safety that the justice system is endowed to insure.

Justice is required because injustice destroys public safety!

Thus, in cases where the veteran is clearly suffering from military-related injuries, e.g., PTSD, TBI, etc., the role of the district attorney should be to seek effective intervention, restitution, and treatment that will minimize the potential for future crime. That is in stark contrast with current failed policies of draconian prosecution and life-destroying convictions.

Insofar as practical the same prosecutor, preferably a veteran himself, should be involved in the triage of veteran cases as well as their prosecution. There will be many cases where it can be proven that the veteran acted knowingly, intentionally, and recklessly in committing the crime but that is unlikely where they can be shown to be injured and disabled. And to forestall future litigation it is essential that the requirements of the Americans with Disabilities Act and Amendments (ADAA) be complied with (Huffer 1995, 2011). Failure to do so can result in loss of prosecutorial and judicial immunity.

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It is also important for prosecutors to note that while PTSD is relatively easy to diagnose, treatment is difficult and unsure and the veteran may need several tries to recover sufficiently to reintegrate into society. But one needless conviction can destroy their chances or ever doing so.

Judicial teamwork is needed

One of the complaints heard from both defendants and judges is that they have little or no idea of the case law or past history of the veteran standing before the bar.

Currently veterans are often bounced like a shuttlecock between different judges, none of whom take or have the time to review the case history. It is not unusual to find a veteran has appeared before eight to fifteen different judges, none of whom have taken the trouble to investigate the facts of the case or do anything but convict and release, with one judge often ignoring or reversing the rulings of a previous judge. Obviously a change is needed if the diversion and treatment necessary for the success of a veteran court is to succeed, and progress is to be measurable.

An example: a veteran may initially be charged with a DUI, often the first indication of PTSD. They may appear before a magistrate or county judge for sentencing, or even a municipal judge. Six months later, their condition unrecognized and no treatment underway, they may be hauled in for domestic violence, and appear before a different judge. Docket management seldom allows judges time to review case history in these minor cases. So again the veteran is processed and again no appropriate treatment begun, what we refer to as “catch, convict, and release,” as discussed on page 79. Table 3 on page 12 and Appendix D make it clear that this is the rule rather than the exception even over our relative short sampling period.

For a veteran court to be effective what is needed is a team of judges, magistrate, county judge, district judge, all working together so the veteran sees the same judges every time and they are not bounced from court to court as their case progresses, they are rearrested, or back in court for domestic problems, e.g., divorce, child custody, etc.

What must also change is the attitude of judges who see no harm in tolerating perjury, barring evidence clearly relevant to the case, blatantly favoring the prosecution, and discriminating on a wholesale basis against veterans and men in general. Forming a team of judges for a veteran court would minimize such abuse of process and violations of judicial canons.

Judges who ignore the fact that an unjust ruling creates crime, homelessness, devastates children and families, and all too often leads to suicide or homicide must reform or step down.

But we do not pretend to have universal answers. Some veterans are so damaged there is little that can be done. Others are simply common criminals who happened to be in the military for awhile. However, we can aim at those who are willing to try but are caught up in today’s bizarre laws and counterproductive justice system.

The problem then devolves into what can or should be done to protect public safety, protect the rights of the veteran, preserve their children and families, provide an intelligent means of evaluating the veteran’s condition and needs, and arrange for effective treatment. Public safety, after all, is the *raison d’être* for our justice system.

Peer mentors

Veteran volunteers should be used as peer mentors as much as possible rather than probation officers to monitor and report defendant's conformance and progress. That approach has several advantages:

- (1) It reduces program costs and defendant will probably cooperate and relate to another veteran much more closely than with a non-veteran probation officer.
- (2) It also provides his intimate partner or family someone that they might call or have come over when the situation begins to escalate rather than simply calling the police after the veteran gets drunk, starts pounding on the walls, or acting out the irrational anger and frustration so often characteristic of his injuries.
- (3) It would greatly help the court in recognizing poseurs and those attempting to fake their way through the program. A veteran is much more likely to recognize this behavior in another veteran than the judge, prosecutor, or probation officer.

Insofar as is possible peer mentors should also be trained ADAA advocates in order to better help the veterans they work with (see Huffer, 2011).

Timeline of events — what, where, when, and who

Disabled veterans are seldom able to piece together a defense or coherent story about what put them in jail. The classic requirements of what, where, when, and who essential to any investigation are frequently beyond their current capabilities.

In order to defend themselves against any criminal charges or in a civil action such as a divorce it is essential that they have an ADA advocate, peer mentor, or local charity help the veteran put together a timeline of events and gather evidence so that their version of events is known. This would need to be exempt from use as evidence against defendant at trial as provided for in the Americans with Disabilities Act and Amendments (ADAA). The Fourth Judicial District Attorney already does this in many DV cases with what is known as a Pre-Plea Investigation Report (PPIR). A timeline would also be of great value in determining appropriate treatment.

A basic problem with current PPIR is the case is often simply dismissed whereas the veteran in many cases is known to need treatment for PTSD, TBI, etc., or the problem will recur and they will be back in court. Again, preserving the "carrot" of deferring prosecution and having the charges against them dismissed upon good behavior and submitting to treatment would work better than simply dismissing the case, which provides neither a "carrot" or a "stick" to guide future behavior, but does further traumatize the veteran (Huffer, 1995).

Fix the problem, not the blame

The objective of any intervention by the courts, peace officers, treatment providers, or simply the veteran's family must be to relieve, or at least minimize the destructive impacts of military service on their minds and bodies while reinforcing and emphasizing the great many positive effects of their military training and service.

The numbers and diverse approaches charitable and some government agencies offer veterans in need of assistance in El Paso County are impressive up until the point they encounter the justice system. Then the available help dwindles to near zero and the sacrifices of their service is

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for naught. At that point they are often cast aside like pariahs and left homeless and bereft of everything they ever loved or cherished.

These are costs neither our honor or society can continue to bear!

At present the best-known and available approach to remediate the impacts and trauma of current laws is a problem-solving veteran court that, in large measure, substitutes treatment and restitution for convictions and incarcerations.

We have provided the evidence and stated the reasons why the present policy of “catch, convict, and release” is not only ineffective but criminogenic. Any successful approach must provide not only a “carrot” to entice the veteran to accept and continue in treatment and complete restitution, but a “stick” as well to punish them with if they refuse or deliberately fail.

The major problems we see with the current veteran court are:

- (1) Operating on too small a scale, handling just a couple hundred cases when there are thousands;
- (2) Requiring a plea bargain (guilty plea) prior to admittance to the court and thereby using a “stick” but no “carrot,” discouraging many from even applying and giving the veteran a criminal record that makes it virtually impossible for them to reintegrate into society;
- (3) Only dealing with criminal cases when many of the problems veterans face are civil and domestic; and
- (4) Failure of judges to act as a team so that veteran sees the same judges in all cases.

The scaling problem first requires development and acceptance of a standardized triage method (see suggestions on page 85). Given that it should be possible to deal with the 5 to 15 veteran cases a day we presently see.

Item (2) requires a switch from using deferred sentences to deferred prosecution in most cases. And if the veteran’s case isn’t suitable for deferred prosecution then there is a question as to whether they should be in a problem-solving court at all?

Toward moving to deferred prosecution we have the following:

Suggestions for terms of deferred prosecution

This is not intended to be an all-inclusive list that will work in every case. It simply tabulates some ideas of what might be done to both insure public safety and provide treatment for a disabled veteran caught in the justice system. The intent is to avoid placing a conviction on their record and thus destroying their future, devastating their children, and breaking up their family.

Support and treatment

- A critical first step is to insure the veteran is capable of, or has a support system and transportation available that makes it possible for them to meet terms imposed by the court. Their support system can be family, a charitable organization, possibly a church, or at least a veteran peer mentor who is on call for them. There are many veteran support groups in El Paso County and, whenever possible, these should be enlisted to help with the particular problems a veterans might have.
- For those veterans who have sufficient money or possessions the court might also consider requiring posting a peace bond against reoffending within some specified period, e.g., five years, before their case is dismissed.

- For PTSD many experts recommend medical marijuana to help the veteran find relief from pain, allow them to sleep, calm them, and help them eat. Such usage should be condoned and even recommended by the coordinator for PTSD, TBI, or in other appropriate cases.

Service dogs have proven to be quite effective in stabilizing veterans with PTSD, TBI, or other incapacitating injuries. Non-profit charities can frequently help with this.⁸¹

However, marijuana is still classified by the federal government as a Schedule I controlled substance and is, thus, unusable by veterans still on active duty. In these cases alternative treatments such as acupuncture, hypnosis, and hyperbaric chambers for TBI are having some success. Older methods such as continuous exposure or cognitive behavior, or eye movement desensitization and reprocessing (EMDR) therapy have been successful with some veterans.

- A review of prescribed medications is essential and in cases where the veteran is on three or more drugs a review by their medical provider is essential. A new treatment plan must be worked out that reduces, and in some cases eliminates, prescription drug use.
- If prescriptions are needed help veteran get them refilled either through the VA or a private pharmacy in order to reduce, or eliminate need for illegal drugs. Obviously prescription drug use should be limited, as noted.
- It is critical to recognize that there is no simple, quick, or permanent cure for PTSD and TBI.

Cases involving alcohol abuse:

- For DUI/DWAI wear ankle bracelet to detect alcohol use.
- Use antabuse (disulfiram) where veteran's health permits.
- Random UA's to insure veteran is staying sober.
- Install alcohol monitor and ignition interlock in their car(s) and let them keep drivers license, and insurance after interlocks are installed. Ignition interlock to be paid for with county funds if needed as this would be cheaper than repeated arrests and would provide for public safety.
- Arrange for confinement to base and extra duty if active duty.

Cases involving "domestic violence" or "sexual assault:"

- Verify charges are valid, e.g., not filed by woman in divorce/custody dispute to gain advantage, hiding paternity fraud, for vengeance or revenge, or other malicious reasons.
- For cases of confirmed PTSD/TBI an ADA advocate or peer specialist, preferably one and the same person, should be assigned. That would provide someone who the veteran's partner or family can all for help for minor problems short of calling police and having veteran arrested yet once again.

Presently many women refuse to call 911 after the draconian response to their first call for help. Iyengar (2007) thinks that is a major reason mandatory arrest increases intimate partner homicides. A veteran peer mentor could greatly reduce this problem.

- For active-duty military move some cases back to base JAG and CID.

81. The Equal Justice Foundation maintains an extensive list of agencies and charities who provide a broad range of assistance to veterans. See <http://www.ejfi.org/Help/Help.htm>.

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- When possible arrange for in-patient or out-patient treatment at VA clinic or TriCare-approved facility for disabled veterans with PTSD, TBI, or other injuries. Pain and sleep medication may be particularly important for success in the program. Again, medical marijuana has been shown to be one of the most effective drugs in such cases.
- If alcohol was involved in the incident that led to the arrest an ankle bracelet to monitor usage might be appropriate.
- A veteran booked for domestic violence is commonly charged with child abuse with or without injury by criminal negligence. Such “child abuse” charges are usually specious and simply indicate the child was somewhere in the home while the parents were arguing or fighting. Parents arguing and fighting has been going on since the beginning of time and there is no evidence the children suffer direct harm from it. Such child abuse charges should be dropped and efforts focused on ending conflicts between the parents.

Nothing is likely to make a male veteran more angry than taking his children from him, particularly if the mother is the one instigating the violence. Also, disposition of child abuse charges should be in the veteran court, not in a separate court, to ensure continuity of treatment and resolution.

- In domestic violence, sexual assault, and related cases evaluate other partner and close relatives in the home as well as the veteran. To believe the “victim” is to presume the veteran is guilty while their partner may be using the criminal justice system to cover up their own transgressions, e.g., infidelity, or for other malicious purposes.
- Respect wishes of “victim” when possible and without the prosecutorial intimidation so common now. But first verify she/he is a victim and not a co-combatant, perpetrator, or using the law to gain advantage.
- Failure to make a comprehensive review of the veteran’s living conditions is quite likely to ensure future violence.
- File charges against poseurs for making false statements to authorities.

Cases alleging child abuse:

- In cases of moderate to severe TBI or other disabling wounds arrange with community groups for assistance with child care and train mother and father on how to avoid accidentally injuring their child(ren).
- Provide education for children on why their wounded parent is having difficulty and how to help where they can.
- Verify charges are valid, e.g., not filed by woman in divorce/custody dispute to gain advantage or by a third-party with some axe to grind with the parents.
- Stop fast tracking dependency and neglect (D&N) cases when veteran is charged with domestic violence.
- Particularly for Fort Carson, rewrite Memorandum of Agreement on what constitutes child abuse and intervention by county Department of Human Services Child Protective Services division. And ensure that such cases are processed through the veteran court.
- Keep biological fathers involved with their children in all possible cases rather than the current practice of removing the father or allowing only supervised visitation based on any and all excuses or accusations.

- Statistics clearly show biological fathers are involved less than 10% of the time in criminal child abuse. In general the safest place for a child is with its biological father. Few things are more demoralizing to a veteran than to have his children taken from him!

Cases involving crimes against property:

Generally these cases involve shoplifting, theft, criminal mischief, trespassing, etc.

- Defer prosecution while veteran undergoes treatment and makes restitution.
- Arrange for in-patient treatment at VA clinic if disabled and homeless.
- Arrange food, housing, clothing, employment with cooperation of local charities.
- When restitution is made and treatment allows, arrange bus ticket back home if transient/homeless and veteran has relatives willing to help him or her.

The above is not intended to be a comprehensive list of options for dealing with disabled veterans enmeshed in the justice system. Every case will likely have its own challenges but continuing on the same path we are on will mean more crime, more violence, more arrests, more homelessness, more homicides, more suicides, more broken families, and more fatherless children who will grow up to become tomorrow's criminals.

Treatment is key to a veteran's chance of reintegrating into society and there is no better signal that a veteran needs treatment than an arrest. A willingness to experiment and accept failures must be inherent in the program. Trial-and-error must be an integral part of any veteran treatment program for there are plainly no known fail safe methods.

While we cannot, and should not expect miracles from a change to problem solving rather than prosecution and incarceration, we should expect it to work better than the clearly failed methods used at present.

Dangers inherent in these proposals

It should be evident that many, if not most of the problems tabulated here are the result of ideological laws passed on the basis of false premises that ignored the available research. Obviously, passage of more such laws can only make these problems worse. However, repeal or intelligent, research- and evidence-based modification of many of them would help.

At all costs the findings in this report should **not** be used to generate additional bureaucracy or add to the court or district attorney's budgets. These veterans are already being processed by the justice system within its current budget. What is needed is simply a reallocation of resources toward problem solving rather than generating problems with the present procedures.

Done with any intelligence and forethought at all these proposals have the potential to greatly reduce recidivism among veterans and thereby significantly reduce costs.

The requisite treatment facilities and charities to help veterans already exist in the community. Rather than kicking these groups to the curb, as was done by the Colorado Dept. of Human Services when the pilot program for a veteran court was begun, these groups must be an integral part of any successful program addressing veteran problems in El Paso County.

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Reducing false, unsubstantiated, and unjustified allegations

It is quite obvious that means must be found to reduce the horrific numbers of false and unsubstantiated allegations of domestic violence, sexual assault, and related issues. Also, it is not a crime for a veteran to grow old and they should not be arrested and incarcerated for that. It is scandalous to find that the CJC has become El Paso County's version of an Old Soldier's Home.

On the other hand we see no alternative to an arrest in many cases in order to force a veteran to recognize their problems and to point them towards treatment. But at least that should be done without a life-destroying criminal conviction, taking their homes and children from them, or increasing DHS/CPS bureaucracy.

ADA advocates

We do see a pressing need for many more ADA advocates to work with veterans in the court, not only to help the veterans and their families, but to clarify the veteran's problems and issues for the court and prosecution. Ideally, the ADA advocates would also be peer mentors and veterans themselves.

As Judge Schaller (2012) makes plain, the courts must learn to accommodate and recognize PTSD, and other war injuries as mitigating factors in judging veterans. Failure to do so will not only destroy hundreds of thousands of veterans lives and families but will, inevitably, lead to many years of expensive litigation that will far exceed any cost of implementing the procedures outlined here and those that additional experience show are necessary. Nor can we afford to ignore the immense contributions to society veterans have made in the past after returning from combat without having their lives destroyed by false ideologies, as is clearly being done today.

We cannot continue to dispose of veterans who have given so much as if they have no value to society except to provide work for a dysfunctional justice system.

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Appendix A Assumptions

The analysis and conclusions in this study are based on the following assumptions:

1. Veterans, particularly those still on active duty, are being arrested in large measure in El Paso County due to behavior associated with wounds and trauma, e.g., PTSD, TBI, etc., resulting from combat or other military-related injuries. Evidence for this assumption is the large numbers of arrests for domestic violence, alcohol and drug abuse, and DUI/DWAI arrests, as all of these behaviors are commonly associated with these injuries.
2. The collateral consequences of an arrest and conviction, particularly for domestic violence, are life destroying in terms of employment, family, and housing.
3. An arrest and conviction further traumatizes the veteran and often make it virtually impossible to reintegrate with society. As a result veterans continue to be arrested and rearrested due to their often bizarre behavior as their conditions worsen.
4. A one-year sampling interval is insufficient to accurately determine rearrest rates or a quantitative pattern of criminal activity.
5. **Post** traumatic stress disorder (PTSD) is just that, post the event, typically by months, often by years, and sometimes by decades. Such occurrences and reoccurrences are likely to lead to arrests much later in life than the norm.
6. Without early and effective treatment available data suggest PTSD and TBI are not likely to disappear, although intensity and frequency of symptoms may decrease with time. However, some new traumatic event, e.g., divorce, death of a spouse, auto accident, etc., may cause a recurrence or induce additional mental- or physical-health conditions. Recurrences are likely to be associated with rearrests.
7. The number of poseurs who falsely claim to be veterans is constant or at least doesn't increase with age. Current data suggests the number of veteran poseurs entering the CJC is no more than 1%. And we have no reason at present to think that false claims of military service significantly increase after age 60 with the onset of senile dementia.
8. For demographic analysis we have assumed all veterans are Army enlisted personnel and used FY2008 Army demographics.
9. Both veterans and active-duty military are assumed to have at least graduated from high school or have a GED as that is a typical requirement for enlistment.
10. Most veterans are above average in intelligence on standard tests, e.g., their IQ is above 100 and probably by 5 or more points.

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Appendix B What questions cannot be answered by this study?

- This study only encompasses veterans who are arrested within El Paso County, Colorado, and booked into the county Criminal Justice Center (CJC). No information is available about police interventions with veterans that do not result in an arrest and some veterans are detained but not booked into the CJC. For example, veterans taken to the detox facility but not booked into CJC are not included in the present study.
- At present no attempt has been made to determine the court outcome of most arrests. That will be the subject of a subsequent study.
- In some cases veterans and active-duty military are known to hide their service from police and jail deputies. We have no reliable information or estimate of what percentage of offenders arrested and booked into the CJC do that but to date the number found has been statistically insignificant.
- While tabulations of active-duty military are reasonably accurate there are known to be substantial errors in the number of actual veterans included in this study. There is no way for us to determine if an individual who claims to be a veteran at time of booking is, in fact, a veteran of the Armed Forces of the United States. It is estimated that only about 1% of individuals booked into the CJC who claim to be veterans may not be.
- What branch, or branches of service the veteran served in is not included in the veteran arrest reports. Even with active-duty military it is only rarely that the veterans branch of service is apparent, e.g., address given is on Fort Carson or another military base.
- Whether the veteran has experienced combat, or has other military-related trauma, e.g., sexual assault or crippling accident, is undetermined in this study.
- Whether or not veteran suffers from PTSD, TBI, etc. at the time of their arrest is unknown although in many cases, e.g., arrested for speeding 25 MPH or more over 75 MPH limit, or for attempting to strangle their spouse after one or more deployments, it is virtually certain they do.
- Available data do not indicate whether crimes committed by active-duty military occurred on base or off. However, 70% of military personnel in El Paso County live off base and virtually all go off base to party. In lieu of additional data it is estimated that at least 90% of the arrests in this study are for crimes committed off base.
- For discharged veterans who were arrested the type of discharge cannot be determined with available data. A study in San Diego, California, found about one-third of the veterans they had reviewed received other than honorable (OTH) discharges.
- Whether the veteran has other events occurring in their personal lives that may be influencing factors in their alleged criminal behavior is indeterminate in this study. For example, a veteran charged with domestic violence may be in the middle of a divorce, in a child custody battle, or their intimate partner may be trying to cover up infidelity. EJJ research shows there is a very high percentage (~70% in DV cases) of false allegations in such situations.
- Whether a veteran has previous arrests before coming to El Paso County is usually unknown.

- Whether or not the veteran moves after being arrested in El Paso County or is subsequently arrested in another Colorado county, or another state is usually unknown. However, it is statistically certain that many veteran problems that begin in El Paso County are exported to other localities.
- For rearrests it is unknown whether the veteran was also arrested in another Colorado county or state between the time of their previous arrest in El Paso County and their rearrest here.

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Appendix C Crime Categories – Arrest code groupings

For convenience in categorizing and analyzing the types of crimes veterans and active-duty military are arrested and booked for we have broken them down into twelve (12) categories as shown in the following table.

Code definitions are derived from the way they have been used in the veteran arrest reports provided by the EPSO IT department and often vary from NCIC standards. See Table 18 on page 69 for additional clarification of sex crime codes.

Crime category descriptions and numbers are purely arbitrary for this study and may or may not match UCR or NIBRS classifications.

Crime Category	Category Description	NCIC Code Number	Description of offense
1	Animal violations	6201	Cruelty to animals, dangerous animal
2	Drug and substance abuse	564	Distribution of Schedule I or II controlled substance
		3550	Possession drug paraphernalia, precursor/possession items to make illegal drugs
		3560	Offenses relating to marijuana distribution/sale
		3561	Marijuana smuggling
		3562	Unlawful possession schedule I or II controlled substance - amount usually specified, methamphetamine possession
		3563	Offenses relating to marijuana-cultivation/process
		3564	Unlawful possession Schedule III, IV, or V controlled substance, marijuana distribution
		3599	Unlawful distribution/manufacture/disposition/sale, or distribution Schedule I or II drugs, imitation controlled substances-manufacture/distribution/possession with/intent to distribute, possession of cannabis (marijuana)
		4104	Possession of unsealed alcoholic beverage, driving with open container in vehicle
		4199	Drinking in public - prohibited, possession/consumption of ethyl alcohol by minor
		5403	Driving under the influence of drugs
		5404	Driving under the influence (DUI) with /excess alcohol in blood or breath, or driving while ability impaired (DWAI)
		5599	Unlawful possession of alcohol, unlawfully serving alcoholic beverages-underage, soliciting on or near street or highway, unlawful taking, possession of wildlife
		5802	Possession of contraband-degree specified

Crime Category	Category Description	NCIC Code Number	Description of offense
3	Offenses against persons	910	Homicide-Negligent manslaughter-Weapon
		999	First or second degree murder, vehicular homicide, criminally negligent homicide, first or second degree attempted murder (may include extreme indifference charge)
		1004	Kidnap adult to sexually assault
		1008	False imprisonment (almost always carries DV flag with it)
		1099	First or second degree kidnapping - w/ or w/o sexual assault or robbery (may carry DV flag)
		1313	Identity theft, gathering identity information by deception
		1315	Vehicular assault - under the influence or reckless
		1316	Intimidation (includes stalking), harassment - stalking (almost always carries DV flag with it), solicitation prohibited
		1399	Assault First, 2nd, or 3rd degree (often carries DV flag with it), menacing with or without a deadly weapon, assault during escape-held w/ or w/o conviction on any misdemeanor
		2199	Criminal extortion - physical or verbal threats
		5000	Crime of violence, violent crime causing death or serious bodily injury
		5309	Harassment-Harassing communication
		7099	Harassment, reckless endangerment, stalking (usually carries DV flag with it), violation of custody

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Crime Category	Category Description	NCIC Code Number	Description of offense
4	Offenses against property	239	Theft >\$1,000 <\$20,000
		1299	First, second, or third degree robbery - may be aggravated by other crimes.
		2099	Arson - level specified and value of property may be estimated, cigarette-burning material on highway, smoking ban
		2206	Possession of burglary tools
		2299	First, second, or third degree burglary-residence, dwelling, or controlled substance with or without a weapon
		2303	Shoplifting
		2307	Third-degree burglary
		2309	Theft <\$100
		2399	Theft - amount usually specified
		2499	Aggravated motor vehicle theft
		2589	Forgery - level usually stated
		2602	Procuring food/accommodations w/intent to defraud - amount stated
		2605	Unauthorized use of a financial transaction device - amount may be given, criminal possession of a financial device(s)
		2606	Fraud by check over \$500-or amount or method stated, issuance of bad check-insufficient funds, check drawn on non-existing account
		2609	Fraud and abuse-computer/telephone
		2699	Pawnbroker - false information by seller, providing false information to a pawnbroker, fraud and deceit (drugs, securities), bait advertising, obtaining signature by deception, offering a false instrument for recording, computer crime-value of services stated, theft of rental property-value usually given, defrauding a secured creditor/debtor-value usually given, criminal possession of forged instrument, concealment or removal of secured property.
		2803	Theft by receiving - amount usually specified
		2805	Concealment of goods
		2999	Criminal mischief-estimated amount of damage may be specified
		3999	Fraudulent acts-by any other person
6299	Unlawful ownership of dangerous dog inflicts bodily injury, littering of public or private property		
7199	First, second, or third degree criminal trespass or tampering (may carry DV flag with it), purchaser to maintain register and obtain declaration of seller ownership, reports required, vehicles/vessels-operation on state property		

Crime Category	Category Description	NCIC Code Number	Description of offense
5	Offenses against public officials	2604	Impersonating a police officer, criminal impersonation
		4801	Resisting arrest, resisting/interfering with a public official
		4803	False reporting to authorities
		4899	Obstructing a peace officer or fireman, disobeying a police officer, failure to leave premises upon request of peace officer
		5199	Attempt to influence a public servant
6	Offenses involving children	3805	Child abuse - with or w/o injury - knowing or reckless, contributing to the delinquency of a minor, sales prohibited to minors
		3806	Failure to comply-support of child (debtor's prison)
		3899	Aiding or harboring a runaway child, domestic violence-habitual offender-3 or more previous convictions
7	Sex crimes	1102	Sexual assault with /deadly weapon or injury, aided by another (NCIC defines this as rape w/weapon)
		1103	Sexual assault-physical force/threats, helpless/impaired victim, sexual contact, victim helpless, position of trust (NCIC calls this rape-strongarm)
		1116	Sexual assault on child with or without force (NCIC calls this statutory rape)
		3601	Unlawful sexual contact - with force, intimidation, or threat, attempted sexual assault on a child
		3604	Aggravated incest, sex assault/child/position of trust, victim 15-18 or victim under 15
		3605	Indecent exposure - specifies whether to an adult or to a child under 14 years old
		3607	Incest
		3611	Unlawful sexual contact w/o force, sexual contact-no consent.
		3612	Duty to register, failure to register new address
		3699	Sexual exploitation of children, possession of exploitative material, enticement of a child
		3799	Obscene material-promotion to a minor
		3804	Bigamy
		4002	Pimping
		4004	Pandering, soliciting for prostitution
4099	Promoting sexual immorality		

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Crime Category	Category Description	NCIC Code Number	Description of offense
8	Traffic violations	5405	Disregard/fail/stop or yield at intersection, highway restrictions, obedience to official control devices, speeding-amount over limit usually specified, speed contests, exceed safe speed for conditions, emerging/entering alley/driveway/building, use of median or control division, following too closely, reckless driving with or without penalty, limitations on turning around, required position/method of turning, driving on mountain highway, minimum speed (impeding traffic), changing lanes when unsafe, disobey lane usage, signs, drove under FRA suspension, crossing at other than crosswalk (jaywalking), pedestrians walking/traveling in a wheelchair on highway, theft of or tampering with motor vehicle parts-estimate value usually given, driving on roadways laned for traffic (weaving).
		5406	Driving under restraint, accident involving damage-duty to report, license for drivers (1), (3), (4), (6) (see CRS § 42-2-101), driver w/o insurance on public roadway, drivers license expired, obstruction of view, wheel and axle loads, gross weight of vehicles and loads, minimum standards for commercial vehicles, permit unauthorized minor to drive, spilling loads on highway prohibited, license plates-expired or expired temporary permit, when lighted lamps are required
		5444	Aggravated driving when license revoked as habitual traffic offender (HTO)
		5499	Driving after revocation - prohibited, vehicular eluding-substantial risk of death to another, failure to yield after stopping, obedience to turn prohibition signs, fictitious number on plates, number plates attached, limitations on turning around, installing excessive window tinting, position and method of turning, careless driving with or without death or injury, solicitation on or near street or highway, right of way, pedestrians on highways, vehicles and vessels-operation on state property, air pollution violations, motor vehicle repair-failure to provide estimate, bicycle equipment, compulsory insurance, affirmation of insurance, traffic control signal legend, minimum safety standards motor driven cycles, one way streets and alleys, riding on sidewalks, exhaust systems, unlawful use or possession of license.
9	Unknown	100	No charge specified. Charges are unknown at time of booking. Taken into custody after sentencing. Charged List says "None"
		9040	Other chargeable statutes, unknown civil charges, unknown juvenile charges
		9050	Record added in review, original charges are unknown.

Crime Category	Category Description	NCIC Code Number	Description of offense
10	Violation of court order or terms of a criminal conviction	4901	Escape-Inmate convicted of felony F3, F4, F5, F6, escape-in custody on any misdemeanor
		5001	Violation of bail bond conditions - level of original charge specified
		5002	Violation of bail bond conditions-original charge a misdemeanor
		5005	Violation of restraining order - TRO, PRO, and EPO
		5006	Intimidation of a witness or victim, tampering with physical evidence or a witness or victim.
		5011	Parole violation - bond/no bond set on warrant, ISP community corrections client, residential community correction violations, interstate parole violation
		5015	Failure to appear/contempt of court/retaliation against a judge/obstructing court order
		5099	Fugitive from justice (bond set by demanding agency), obstructing government operations
		7802	Criminal attempt

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Crime Category	Category Description	NCIC Code Number	Description of offense
11	Violating public peace and order	5003	Perjury
		5008	First degree official misconduct
		5302	Incitement
		5311	Disorderly conduct - fighting in public, display/discharge firearm in public (may carry DV flag), offensive gesture/threat/noise/language
		5314	Loitering
		5399	Noise prohibited, violation or restraining order-relating to public conveyance, interference students/staff/faculty/students of educational institution, license required/inoculation required/dogs at large (78-136), obstructing highway, failure to desist or disperse, recreational facility-violate rule/regulation, park hours, hindering transportation, failure to sign affirmation.
		5704	Eavesdropping prohibited (may carry DV flag with it)
		5707	Public buildings-trespass
		5799	Wiretapping prohibited-cordless phone, invade privacy
		6300	Money laundering
		7299	Public indecency, invasion of privacy
		7399	Obstruction of telephone/telegraph service (almost always carries DV flag with it), telecommunications crime-access/damage/use/make equipment, criminal conspiracy, criminal libel, accessory to a crime-level stated, urination or defecation, crimes against at risk adults and juveniles, unlawful conduct on public property, fighting, fishing w/o a license, dog license required, annual inoculation required for dogs and cats, duty to restrain animals, dog at large, unlawful use or sale of certain fireworks, noisy pets or animals prohibited.
		9010	Habitual criminal (used because not defined elsewhere)
		9020	Improper accumulation prohibited, improper accumulation or storage of junk prohibited, parking or storage of inoperable vehicle, development plans, parks/recreation board rules-swimming in undesignated area, parks/recreation pass-false statement/alteration (used because not defined elsewhere).
12	Weapons violations	5202	Unlawfully carrying a concealed weapon
		5207	Explosives/incendiary devices-possession of components/manufacturing/control/giving
		5212	Possession of a dangerous/illegal weapon- switchblade/brass knuckle/gas gun/etc. possession of weapon by previous offender, possession of handguns by juvenile
		5213	Illegal discharge of firearm
		5299	Prohibited use of weapon

Appendix D Tabulation of veterans and active-duty military who have been arrested five or more times since sampling began in July 2010

The following records provide a preliminary glimpse into rearrest behavior of perennial offenders in our study. These veterans had not been booked into the CJC prior to July 2010. Nothing is known about possible criminal behavior before sampling began.

Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Boxley	M	B	A	23	Y	M3	3/19/2011	Harassment
						M1	4/18/2011	Violation of a restraining order
						M1	5/16/2011	Violation of a restraining order.
						M1	8/10/2011	Reckless endangerment, criminal mischief >\$500 <\$1,000
Carrier, Jr.	M	W	V	48	N	M0	1/22/2012	Speeding 5 MPH over limit, safety belt systems-mandatory use
						M0	2/25/2011	Shoplifting (2 counts), solicitation prohibited, solicitation on or near street or highway (4 counts)
						F5	3/15/2011	Possession of burglary tools, theft >\$500 <\$1,000, criminal mischief <\$500, possession of drug paraphernalia
						MS	5/15/2011	Solicitation prohibited, solicitation on or near street or highway (4 counts). Homeless.
						F5	5/31/2011	Shoplifting, possession of burglary tools.
						F5	6/24/2011	Shoplifting (2 counts), solicitation on or near street or highway (5 counts), solicitation prohibited, possession of burglary tools
						F5	11/9/2011	Possession of burglary tools
						F5	12/19/2011	Shoplifting, possession of burglary tools

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Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Conner	M	W	A	29	N	F6	5/19/2011	Possession of a Schedule I or II controlled substance except methamphetamine <4 oz., possession of drug paraphernalia, driving under restraint
					U	U	7/22/2011	Unknown.
				V	N	F6	8/24/2011	Possession of more than 2 grams of methamphetamine
Cruise	M	W	A	30	F6	F6	10/31/2011	Possession of a Schedule I or II controlled substance except methamphetamine >4 Oz.
					F6	F6	1/31/2012	Possession of drug paraphernalia, possession of 2 gram or less of methamphetamine
				N	F6	5/8/2012	Possession of Schedule I or II controlled substance except methamphetamine < 4 oz.	
				N	M0	3/16/2011	Driving under the influence, driving under restraint (2 counts), foreign licenses invalid during suspension	
				N	T2	9/9/2011	License for drivers (1) or (4). Address given in Orlando, FL	
				V	M0	12/22/2011	Failure to obey traffic control signal, driving under restraint	
				V	M0	12/23/2011	Driving under the influence	
Driskell	M	W	A	31	M0	M0	1/6/2012	Driving under the influence
					M0	M0	4/26/2012	Driving under restraint — alcohol conviction, owner without insurance of public highway, stop lamps or signal lights—none or defective
				U	T2	7/13/2012	License for drivers (1) or (4)	
				N	F2	4/5/2011	Attempted first-degree murder	
				N	M0	7/29/2011	Driving under restraint, signals by hand or signal device	
				V	U	4/18/2012	Failed to observe/disregard traffic control signal	
				V	MS	5/30/2012	Speeding 10-19 MPH over limit	
	MS	6/15/2012	Failed to obey traffic control signal					

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Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Edwards	M	W	A	21	Y	M3	12/25/2010	Harassment-harassing communication, speeding 10-19 MPH over
				22	N	M0	11/2/2011	Limitation on backing, operated an uninsured vehicle on roadway, driving under restraint, contempt of court
				23		M0	3/8/2012	Driving under restraint, driver without insurance on public roadway
						F6	5/3/2012	Bigamy
Evans	M	B	V	31	Y	M1	11/25/2010	Bigamy, driving under restraint
				32	N	F6	4/7/2011	Criminal mischief >\$500 <\$1,000, harassment
					U	U	4/30/2011	Pawnbroker — false information by seller
					N	F4	6/5/2011	Unknown.
						F4	7/11/2011	Theft >\$1,000 <\$20,000, driving under restraint-suspended license, failure to obey traffic control signal, safety belts required, seat belt not used-front seat passenger.
		F4	9/27/2011	Aggravated motor vehicle theft				
		F5	3/3/2012	Criminal mischief >\$500 <\$1,000, violation of a restraining order				
		F5		Y			Possession of a Schedule I or II controlled substance except methamphetamine <4 oz., criminal impersonation, theft from a person, aggravated motor vehicle theft	

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Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Gordon	M	W	A	28	U	U	10/7/2010	Unknown.
			V		N	M2	12/15/2010	Unlawful distribution/manufacturing/dispensing/sale or possession w/intent to sell Schedule II substance, theft by receiving >\$100 <\$500, offenses relating to marijuana-posessions <1 oz., speeding 10-19 MPH over limit
				29	Y	F2	3/20/2011	Third-degree assault, criminal mischief <\$500, obstruction of telephone/telegraph service, possession of >2 g of methamphetamine, possession of any quantity of a Schedule III, IV, or V controlled substance, possession drug paraphernalia, possession of 2 oz. or less of marijuana, owner without insurance on public highway, violation of registration provisions, unlawful distribution/manufacture of Schedule II controlled substance, harassment-harassing communication.
					N	F3	7/2/2011	First-degree aggravated motor vehicle theft >\$15,000
				30	U	F3	1/18/2012	Offenses relating to marijuana distribution/sale, unlawfully carrying a concealed weapon, possession of a Schedule I or II controlled substance except methamphetamine <4 oz., unlawful distribution/manufacture Schedule II controlled substance, third-degree assault, criminal mischief <\$500, harassment, obstruction of telephone/telegraph service, controlled substance possession Schedule II >1 gram.
					N	F3	3/22/2012	Unlawful distribution/manufacture Schedule II substance, fighting
						F4	4/19/2012	Unlawful possession Schedule II controlled substance

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Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Johnson	M	B	V	26	N	F5	12/8/2010	Process, cultivate, sell or distribute <5 lbs of marijuana or < 1 lb. of marijuana concentrate
				27		F3	3/26/2011	Process/cultivate/sell or distribute <5 lbs. of marijuana or <1 lb. of marijuana concentrate, unlawful distribution/manufacture/sale/possession of Schedule I controlled substance
					F4	9/29/2011	Marijuana-possession of 8 oz. or more, unlawful distribution/manufacture/sale/possession of Schedule III substance	
					M0	12/11/2011	Contempt of court (2 counts)	
Livingston	M	W	A	28	U		1/27/2012	Possession of cannabis (marijuana)
					F4		3/1/2012	Possession of cannabis, possession of a Schedule I or II controlled substance except methamphetamine > 4 oz., possession of more than 6 oz. of marijuana but no more than 12 oz. or 3 oz. or less of marijuana concentrate
						M0	1/13/2011	Failure to obey traffic control signal, driving under restraint
						M0	6/9/2011	Speeding 5-9 MPH over limit, driving under restraint
Lux, Jr.	M	W	V	22	M0		9/26/2011	Speeding 5-9 MPH over limit, speeding 20-24 MPH over 75 MPH limit, driving under restraint (2 counts)
					M0		12/13/2011	Speeding 5-9 MPH over limit, driving under restraint
						T2	3/5/2012	License for drivers (1) or (4) (2 counts)
						M2	10/24/2010	Criminal mischief <\$500, harassment
Lux, Jr.	M	W	V	38	M3		3/20/2011	Criminal mischief <\$100, harassment
					F4		10/14/2011	Criminal mischief >\$1,000 <\$20,000, violation of a restraining order, harassment
						N	12/20/2011	Criminal mischief <\$500
						F4	4/13/2012	Criminal mischief >\$1,000 <\$20,000

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Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes				
Mack	M	B	A	26	Y	M3	10/27/2011	Misdemeanor menacing, harassment				
				27	N	M0	12/8/2011	Driving under restraint-alcohol conviction, speeding 10-19 MPH over limit				
					Y	M1	3/9/2012	Driving while ability impaired				
				53	F4	M0	4/6/2012	Criminal mischief >\$500 <\$1,000, violation of a restraining order				
					M0	5/12/2012	Second-degree assault, violation of a restraining order, harassment					
Maines	M	W	V	53	N	M0	11/10/2010	Pedestrian on highway, solicitation on or near street or highway (multiple counts).				
					M0	12/6/2010	Solicitation on or near street or highway					
					54	M0	2/22/2011	Solicitation on or near street or highway.				
						M0	5/24/2011	Solicitation on or near street or highway (5 counts).				
					55	F3	8/16/2011	Aggravated robbery				
						F3	3/9/2012	Aggravated robbery, attempt to influence a public servant				
						F5	9/4/2010	First-degree criminal trespass, methamphetamine possession 2 grams or less, criminal possession of forged instrument				
					Milanowski	M	W	A	18	F5	10/6/2010	First-degree criminal trespass, possession of 2 grams or less of methamphetamine, possession of drug paraphernalia
										U	12/8/2010	Unknown.
										F5	3/23/2011	First-degree criminal trespass
F5	7/21/2011	First-degree criminal trespass										
			V	19		F3	10/28/2011	First-degree burglary-residence, Second-degree burglary-residence, dwelling, or controlled substance				

Analysis of Veteran Arrests in El Paso County, Colorado

Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Parnell	M	B	V	27	Y	M3	2/6/2011	Harassment — harassing communication
						F5	4/2/2011	Felony menacing w/deadly weapon
						M1	5/20/2011	Third-degree assault, harassment, obstruction of telephone/telegraph service, violation of a permanent restraining order, resisting arrest, obstructing a peace officer or fireman
						F5	5/23/2011	Felony menacing w/deadly weapon
						F4	7/14/2011	Criminal mischief <\$500, third-degree assault, violation of a restraining order, second-degree kidnapping without sexual assault, obstruction of telephone/telegraph service
						M2	7/22/2011	Violation of a restraining order
						M1	8/15/2011	Third-degree assault, violation of a restraining order
						M1	9/1/2011	Third-degree assault
						F0	2/9/2011	Fugitive from justice — bond set by demanding agency
						F6	8/6/2011	False information to a pawnbroker, theft \$50-\$300
Reavy	M	W	A	24	N	M2	8/25/2011	Criminal mischief <\$500, harassment
						F6	9/8/2011	Pawnbroker — false information by seller, theft <\$500, criminal mischief <\$500
						F6	12/16/2011	Pawnbroker — false information by seller, false information to a pawnbroker, theft <\$500

Analysis of Veteran Arrests in El Paso County, Colorado

Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Shadowens	M	W	V	30	N	M2	10/20/2010	Public buildings-trespass, unlawful conduct on public property, disorderly conduct — offensive gesture/threat/noise
				31	C		1/3/2011	Civil contempt
					M2	1/21/2011	Public buildings-trespass, unlawful conduct on public property, disorderly conduct-offensive gesture/threat/noise.	
					F4	10/14/2011	Second-degree assault, attempt to influence a public servant	
					F4	10/27/2011	Second-degree assault, contempt of court	
					F6	7/3/2012	Second-degree assault-crime of passion, public buildings-trespass, disorderly conduct — offensive gesture/threat/noise	
Williams	M	B	A	22	Y	F3	8/19/2010	Child abuse — serious injury/knowingly or reckless
				23	F4	5/9/2011	Child abuse — serious injury by criminal negligence	
				24	F4	2/13/2012	Child abuse — serious injury by criminal negligence	
					F4	3/28/2012	Child abuse — serious injury by criminal negligence	
					N	M0	4/24/2012	Driving under restraint, tail lamps and reflectors
					M0	5/9/2012	Tail lamps and reflectors, driving under restraint	

Analysis of Veteran Arrests in El Paso County, Colorado

Last Name	Sex	Race	Vet or Active	Age	DV flag	High Charge	Booking Period	Notes
Williams	F	B	V	23	N	M0	3/28/2011	Driving under the influence (2 counts), driving under the influence per se (2 counts), changing lanes when unsafe, driving under restraint, speeding 10-19 MPH over limit
						F4	6/13/2011	Driving under the influence, driving under the influence w/excess alcohol in blood or breath, driving under restraint — previous alcohol conviction, attempt to influence a public servant, forgery, criminal impersonation
						F4	8/17/2011	Driving under the influence (2 counts), Driving under the influence per se, driving under restraint (2counts) — previous alcohol conviction, driving on roadways laned for traffic (weaving), attempt to influence a public servant, forgery, criminal impersonation, false reporting to authorities
						M0	10/13/2011	Driving on roadways laned for traffic (weaving), careless driving without injury, driving under restraint — previous alcohol conviction, Driving under the influence, license for drivers (1) or (4)
					M0	10/21/2011	Driving under the influence (2 counts)	
				24	F6	1/3/2012	Driving under the influence (2 counts), criminal impersonation, license for drivers (1) or (4), driving on roadways laned for traffic (weaving), careless driving without injury, driving under restraint — previous alcohol conviction	

