

for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

James J. Haas, Maricopa County Public Defender

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*Delivering America's
Promise of Justice for All*

for The Defense

Editor: Dan Lowrance

Assistant Editors:
Jeremy Mussman
Susie Graham

Office:
620 West Jackson, Ste. 4015
Phoenix, AZ 85003
(602) 506-7711

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IN HONOR OF OUR MILITARY VETERANS, THIS ISSUE OF FOR THE DEFENSE FOCUSES ON MATTERS IMPACTING VETERANS CAUGHT UP IN THE CRIMINAL JUSTICE SYSTEM. WE WELCOME YOUR COMMENTS, SUGGESTIONS AND SUPPORT IN THIS VITAL AREA.

Maricopa County Veterans Assistance Project

By Billy Little, Defender Attorney & Colonel, United States Air Force

The U.S. military is deployed in a magnitude and duration never before seen in an all volunteer force. Since October 2001, over 1.6 million troops have deployed as part of the global war on terror. The strain on military personnel in the form of combat exposure, multiple deployments, and inadequate rest between deployments has been enormous. Troops are returning from combat with multiple physical and psychological injuries. It has been said that in war, there are no uninjured soldiers – this phrase has never been truer than it is today.

The RAND Corporation released a study this year that as many as 300,000 troops currently suffer from PTSD or major depression and another 320,000 suffer from traumatic brain injury (TBI). The conclusion of the study was that at least one-third of the deploying troops suffer from PTSD, TBI, or both. These injuries are directly related to an increase in family/social problems, alcohol/drug abuse, homelessness, and increased involvement in the criminal justice system. There were 427 veterans screened by the Maricopa County Adult Probation Office for felony cases in the first six months of 2008.

In March of 2008, the Public Defender's Office developed a working group to address the growing population of veterans in the criminal justice system. Our working group established the following objectives:

1. Identify and verify veteran status as soon as possible.
2. Rapidly obtain medical/mental health records from the VA.
3. Coordinate assistance for reintegration into society.
4. Establish a specialty court system for veterans.
5. Assist in legislative changes that will ensure veterans successfully reintegrate into society.

Status of the Objectives

1. Identify and verify veteran status as soon as possible.

It is easy to identify and verify veteran status even if you have no personal military experience. The checklist below is self-explanatory and serves as a good filter to determine possible military service.

Preliminary Veteran Questions

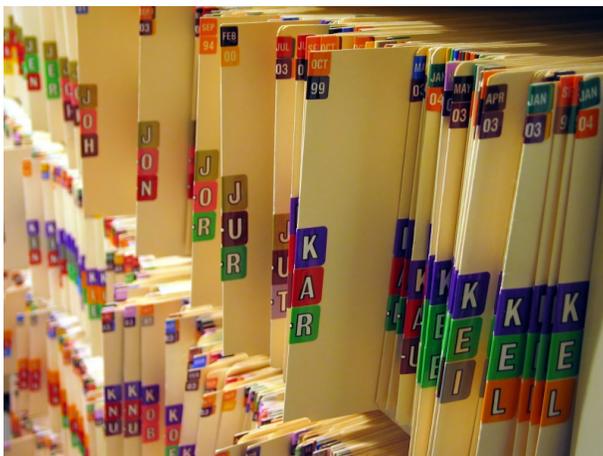
1. Are you a veteran?
2. What branch of service?
3. Where did you go to boot camp?
4. Where did you go after boot camp?
5. What years did you serve? Active or reserve?
6. What type of discharge did you receive?
7. Did you have a service number or did you use your social security number?
 - a. What is your SSN or service number?
8. What is the full name that you used while in the service?



If the client answers the questions appropriately, then the attorney can submit VA Form 21-22a (Attachment 1 to this article) to the local Veterans Benefits Administration office for verification of military service. The form can be mailed, hand delivered, or faxed to the following office:

Veterans Benefit Administration
 3333 North Central
 Suite 3026
 Phoenix, AZ 85012
 Fax (602) 627-3040.

2. Rapidly obtain medical/mental health records from the VA.



There are two forms that you can use to request records from the VA. It is best to start with VA Form 10-5345 (Attachment 2 to this article) and, if that is not successful, then submit a Standard Form 180 (Attachment 3 to this article). After completing a VA Form 10-5345 you can submit the form to the VA caseworker assigned to your client or you may fax the form to (602) 200-2371. If neither of these is successful, then you should call the local VA office for assistance.

If you have been unsuccessful in obtaining records using the VA Form 10-5345, then you should complete a Standard Form 180. Instructions on where to send the form are on the form itself. However, you can also contact a local VA caseworker and they will assist in processing the Form 180 if your client is a current patient of the VA.

3. Coordinate assistance for reintegration into society.

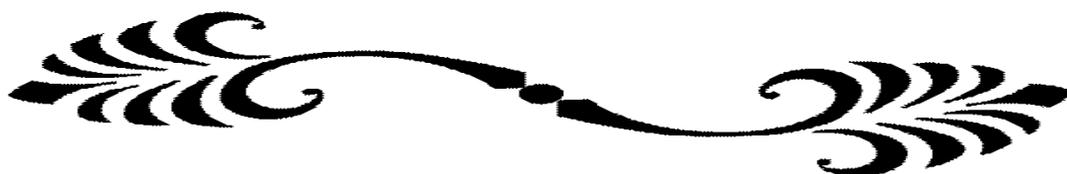
There are hundreds of agencies in Maricopa County that will assist veterans in need. Snell & Wilmer has volunteered to assist in compiling a list of services and will publish a comprehensive list of services for all of us to use. There are several other agencies working with Snell & Wilmer to accomplish this objective and it promises to be a very helpful guide. We will publish it in *for The Defense* as soon as it is completed.

Establish a specialty court system for veterans.

Maricopa County Presiding Judge Barbara Mundell signed Administrative Order 2008-129 (Attachment 4 to this article) establishing a Veterans Treatment Court Advisory Committee. Retired Judge Kenneth Fields is the committee chair and the Maricopa County Public Defender's Office has a seat on the committee. The court will start small and build on its success. It appears as though the cities of Phoenix and Mesa will most likely be the starting point for this specialty court. It is important to note that this concept is still in its infancy. At this point, the court has not been officially established. You will be notified as soon as the court is established and if there are any changes that will affect your clients.

5. Assist in legislative changes that will ensure veterans successfully reintegrate into society.

California and Minnesota have adopted legislation to assist the courts in treating veterans involved in the criminal justice system. (See Attachment 5 for a copy of Minnesota's legislation). The intent of the legislation is to successfully reintegrate veterans into society when a causal link between the criminal behavior and military service can be established. The current Arizona sentencing system does not provide the courts with the flexibility needed to successfully reintegrate veterans into society. Mandatory sentencing schemes often place veterans suffering from PTSD or TBI side-by-side with gang members and career criminals. This is not an effective way to treat those who have been injured while ensuring the safety of our society. We are currently working on draft legislation that is similar to the legislation passed by California and Minnesota. There are several private attorneys, at least one large firm, and other private citizens who are assisting with this initiative.



OMB Control No. 2900-0321
Respondent Burden: 5 minutes



Department of Veterans Affairs

1. VA FILE NO(S). (Include prefix)

APPOINTMENT OF INDIVIDUAL AS CLAIMANT'S REPRESENTATIVE

Note: If you would prefer to have a service organization assist you with your claim, you may use VA Form 21-22, "Appointment of Veterans Service Organization As Claimant's Representative."

PRIVACY ACT NOTICE: VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22, Compensation, Pension, Education, and Rehabilitation Records-VA, published in the Federal Register. Your obligation to respond is voluntary. However, failure to respond provide the requested information could impede the recognition of your representative and/or identification of disclosable records. Except for information protected by 38 U.S.C. 7332, your representative is not prohibited from redisclosing records. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to recognize the individuals appointed by claimants to act on their behalf in the preparation, presentation, and prosecution of claims for VA benefits (38 U.S.C. 5902, 5903, and 5904) and for those individuals to accept appointment. We will also use the information to verify consent for the disclosure of VA records to the appointed representative (38 U.S.C. 5701(b) and 7332). Title 38, United States Code, allows us to ask for this information. We estimate that claimants and individuals appointed for purposes of representation will each need an average of 5 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.whitehouse.gov/omb/library/OMBINVA.EPA.html#VA. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

2. NAME OF CLAIMANT (Veteran, guardian, beneficiary, dependent, or next of kin)	3. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP Code)
---------------------------------------------------------------------------------	------------------------------------------------------------------------------------------

4. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN	5. SERVICE NO(S).
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6. BRANCH OF SERVICE
 ARMY NAVY AIR FORCE MARINE CORPS COAST GUARD OTHER (Specify)

7A. NAME OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE	8. ADDRESS OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE (No. and street or rural route, city or P.O., State, and ZIP code)
---------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------

7B. INDIVIDUAL IS (check appropriate box)
 ATTORNEY AGENT INDIVIDUAL PROVIDING REPRESENTATION UNDER SECTION 14.630
 SERVICE ORGANIZATION REPRESENTATIVE (Specify organization below)

9. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C.
 Unless I check the box below, I do not authorize VA to disclose to the individual named in Item 7A any records that may be in my file relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia.

I authorize the VA facility having custody of my VA claimant records to disclose to the individual named in Item 7A all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Redisclosure of these records by my representative, other than to VA or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative.

10. LIMITATION OF CONSENT. My consent in Item 9 for the disclosure of records relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia is limited as follows:

CONDITIONS OF APPOINTMENT: I, the claimant named in Item 2, hereby appoint the individual named in Item 7A as my representative to prepare, present, and prosecute my claims for any and all benefits from the Department of Veterans Affairs (VA) based on the service of the veteran named in Item 4. If the individual named in Item 7A is an agent or attorney, the scope of representation provided before VA may be limited by the agent or attorney as indicated below in Item 14. If the individual indicated in Item 7A is providing representation under section 14.630, such representation is limited to a particular claim only. I authorize VA to release any and all of my records (other than as provided in Items 9 and 10) to that individual appointed as my representative. Signed and accepted subject to the foregoing conditions.

11. SIGNATURE OF CLAIMANT	12. DATE OF SIGNATURE	13. CLAIMANT'S RELATIONSHIP TO VETERAN (If other than the veteran)
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14. LIMITATIONS ON REPRESENTATION - AGENTS OR ATTORNEYS ONLY. (Unless limited by an agent or attorney, this power of attorney revokes all previously existing powers of attorney)

15. SIGNATURE OF REPRESENTATIVE	16. DATE OF SIGNATURE
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FEES: Section 5904, Title 38, United States Code, contains provisions regarding fees that may be charged, allowed, or paid for services of agents or attorneys in connection with a proceeding before the Department of Veterans Affairs with respect to benefits under laws administered by the Department.

(ATTACHMENT 2)

OMB Number: 2900-0260
Estimated Burden: 2 minutes



Department of Veterans Affairs

REQUEST FOR AND AUTHORIZATION TO RELEASE MEDICAL RECORDS OR HEALTH INFORMATION

Privacy Act and Paperwork Reduction Act Information: The execution of this form does not authorize the release of information other than that specifically described below. The information requested on this form is solicited under Title 38, U.S.C. The form authorizes release of information in accordance with the Health Insurance Portability and Accountability Act, 45 CFR Parts 160 and 164, 5 U.S.C. 552a, and 38 U.S.C. 5701 and 7332 that you specify. Your disclosure of the information requested on this form is voluntary. However, if the information including Social Security Number (SSN) (the SSN will be used to locate records for release) is not furnished completely and accurately, Department of Veterans Affairs will be unable to comply with the request. The Veterans Health Administration may not condition treatment, payment, enrollment or eligibility on signing the authorization. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act systems of records notices identified as 24VA19 "Patient Medical Record - VA" and in accordance with the VHA Notice of Privacy Practices. You do not have to provide the information to VA, but if you don't, VA will be unable to process your request and serve your medical needs. Failure to furnish the information will not have any affect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law. The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 2 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

ENTER BELOW THE PATIENT'S NAME AND SOCIAL SECURITY NUMBER IF THE PATIENT DATA CARD IMPRINT IS NOT USED.

TO: DEPARTMENT OF VETERANS AFFAIRS (Print or type name and address of health care facility)	PATIENT NAME (Last, First, Middle Initial)
	SOCIAL SECURITY NUMBER

NAME AND ADDRESS OF ORGANIZATION, INDIVIDUAL OR TITLE OF INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED

VETERAN'S REQUEST: I request and authorize Department of Veterans Affairs to release the information specified below to the organization, or individual named on this request. I understand that the information to be released includes information regarding the following condition(s):

- DRUG ABUSE ALCOHOLISM OR ALCOHOL ABUSE TESTING FOR OR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV) SICKLE CELL ANEMIA

INFORMATION REQUESTED (Check applicable box(es) and state the extent or nature of the information to be disclosed, giving the dates or approximate dates covered by each)

- COPY OF HOSPITAL SUMMARY COPY OF OUTPATIENT TREATMENT NOTE(S) OTHER (Specify)

PURPOSE(S) OR NEED FOR WHICH THE INFORMATION IS TO BE USED BY INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED

NOTE: ADDITIONAL ITEMS OF INFORMATION DESIRED MAY BE LISTED ON THE BACK OF THIS FORM

AUTHORIZATION: I certify that this request has been made freely, voluntarily and without coercion and that the information given above is accurate and complete to the best of my knowledge. I understand that I will receive a copy of this form after I sign it. I may revoke this authorization, in writing, at any time except to the extent that action has already been taken to comply with it. Written revocation is effective upon receipt by the Release of Information Unit at the facility housing the records. Redislosure of my medical records by those receiving the above authorized information may be accomplished without my further written authorization and may no longer be protected. Without my express revocation, the authorization will automatically expire: (1) upon satisfaction of the need for disclosure; (2) on _____ (date supplied by patient); (3) under the following condition(s):

I understand that the VA health care practitioner's opinions and statements are not official VA decisions regarding whether I will receive other VA benefits or, if I receive VA benefits, their amount. They may, however, be considered with other evidence when these decisions are made at a VA Regional Office that specializes in benefit decisions.

DATE	SIGNATURE OF PATIENT OR PERSON AUTHORIZED TO SIGN FOR PATIENT (Attach authority to sign, e.g., POA)
------	-----------------------------------------------------------------------------------------------------

FOR VA USE ONLY

IMPRINT PATIENT DATA CARD (or enter Name, Address, Social Security Number)	TYPE AND EXTENT OF MATERIAL RELEASED	
	DATE RELEASED	RELEASED BY

INSTRUCTION AND INFORMATION SHEET FOR SF 180, REQUEST PERTAINING TO MILITARY RECORDS

1. Information needed to locate records. Certain identifying information is necessary to determine the location of an individual's record of military service. Please try to answer each item on the SF 180. If you do not have and cannot obtain the information for an item, show "NA," meaning the information is "not available." Include as much of the requested information as you can.

2. Restrictions on release of information. Release of information is subject to restrictions imposed by the military services consistent with Department of Defense regulations and the provisions of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. The service member (either past or present) or the member's legal guardian has access to almost any information contained in that member's own record. An authorization signature, of the service member or the member's legal guardian, is needed in Section III of the SF180. Others requesting information from military personnel/health records must have the release authorization in Section III of the SF 180 signed by the member or legal guardian, but if the appropriate signature cannot be obtained, only limited types of information can be provided. If the former member is deceased, surviving next of kin may, under certain circumstances, be entitled to greater access to a deceased veteran's records than a member of the public. The next of kin may be any of the following: unremarried surviving spouse, father, mother, son, daughter, sister, or brother. Employers and others needing proof of military service are expected to accept the information shown on documents issued by the military service departments at the time a service member is separated.

3. Where reply may be sent. The reply may be sent to the member or any other address designated by the member or other authorized requester.

4. Charges for service. There is no charge for most services provided to members or their surviving next of kin. A nominal fee is charged for certain types of service. In most instances service fees cannot be determined in advance. If your request involves a service fee, you will be notified as soon as that determination is made.

5. Health and personnel records. Health records of persons on active duty are generally kept at the local servicing clinic, and usually are available from the Department of Veterans Affairs a week or two after the last day of active duty. (See page 2 of SF180 for record locations/addresses.)

6. Records at the National Personnel Records Center. Note that it takes at least three months, and often up to seven, for the file to reach the National Personnel Records Center in St. Louis after the military obligation has ended (such as by discharge). If only a short time has passed, please send the inquiry to the address shown for active or current reserve members. Also, if the person has only been released from active duty but is still in a reserve status, the personnel record will stay at the location specified for reservists. A person can retain a reserve obligation for several years, even without attending meetings or receiving annual training. (See page 2 of SF180 for record locations/addresses.)

7. Definitions and abbreviations. DISCHARGED -- the individual has no current military status; HEALTH -- Records of physical examinations, dental treatment, and outpatient medical treatment received while in a duty status (does not include records of treatment while hospitalized); TDRL -- Temporary Disability Retired List.

8. Service completed before World War I. National Archives Trust Fund (NATF) forms must be used to request these records. Obtain the forms by e-mail from inquire@nara.gov or write to the Code 6 address on page 2 of the SF 180.

PRIVACY ACT OF 1974 COMPLIANCE INFORMATION

The following information is provided in accordance with 5 U.S.C. 552a(e)(3) and applies to this form. Authority for collection of the information is 44 U.S.C. 2907, 3101, and 3103, and Public Law 104-134 (April 26, 1996), as amended in title 31, section 7701. Disclosure of the information is voluntary. If the requested information is not provided, it may delay servicing your inquiry because the facility servicing the service member's record may not have all of the information needed to locate it. The purpose of the information on this form is to assist the facility servicing the records (see the address list) in locating the correct military service record(s) or information to answer your inquiry. This form is then filed in the requested military service record as a record of disclosure. The form may also be disclosed to Department of Defense components, the Department of Veterans Affairs, the Department of Homeland Security (DHS, U.S. Coast Guard), or the National Archives and Records Administration when the original custodian of the military health and personnel records transfers all or part of those records to that agency. If the service member was a member of the National Guard, the form may also be disclosed to the Adjutant General of the appropriate state, District of Columbia, or Puerto Rico, where he or she served.

PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT

Public burden reporting for this collection of information is estimated to be five minutes per response, including time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to National Archives and Records Administration (NHP), 8601 Adelphi Road, College Park, MD 20740-6001. DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. SEND COMPLETED FORMS AS INDICATED IN THE ADDRESS LIST ON PAGE 2 OF THE SF 180.

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF APPOINTMENT)	ADMINISTRATIVE ORDER
OF A VETERANS TREATMENT COURT)	NO. 2008-129
EXPLORATORY COMMITTEE)	
_____)	

Whereas the Superior Court of Arizona in Maricopa County is aware of the emerging needs of veterans, and their families, entering the court system; and

Whereas the court understands the need for a comprehensive needs assessment to develop a coordinated response to current gaps in the service delivery system;

IT IS ORDERED that an Exploratory Committee be established to analyze the need for a problem solving court to address issues unique to combat veterans entering the court system; and

IT IS ORDERED appointing Honorable Kenneth Fields (retired), as Chair of the Exploratory Committee; and

IT IS ORDERED appointing Robin Hoskins as the staff person for the Exploratory Committee to assist Judge Fields and the committee.

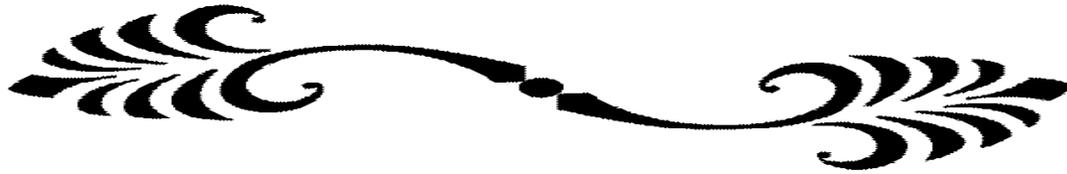
IT IS FURTHER ORDERED the Exploratory Committee will consist of representatives that will further advance the goals of the committee. Representatives may include, but are not limited to the following:

- Superior and Limited Jurisdiction Courts
- Prosecution Counsel
- Defense Counsel
- Veterans Administration Medical Center
- Regional Behavioral Health Authority
- U.S. Veterans Administration
- Local law enforcement
- Community agencies serving combat veterans
- Other interested parties may be identified once the committee convenes

The Exploratory Committee will bring together and coordinate government and community-based services necessary to best support combat veterans and their families entering the court system. This will be accomplished through:

- Analysis of the need within Maricopa County
- Identification of the best response to diverting this population from the traditional criminal justice system
- Identification of funding sources and grant opportunities
- Establishment of an evaluation component to further monitor and assess the committee's response to the issue

S.F. No. 3376, as introduced - 2007-2008th Legislative Session (2007-2008)



1.1 A bill for an act
 1.2 relating to public safety; requiring screening of certain defendants in criminal
 1.3 cases for posttraumatic stress disorder; authorizing mitigated dispositions for
 1.4 certain offenders suffering from posttraumatic stress disorder who receive
 1.5 treatment; requiring legislative reports and the collection of summary data;
 1.6 requiring the preparation and distribution of an informational pamphlet;
 1.7 proposing coding for new law in Minnesota Statutes, chapter 609.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. **[609.093] POSTTRAUMATIC STRESS DISORDER; REQUIRED**
 1.10 **SCREENING AND DISPOSITION OPTIONS; COLLECTION OF**
 1.11 **INFORMATION; REPORT TO LEGISLATURE.**

1.12 Subdivision 1. **Initial screening.** As early as is practicable in a misdemeanor, gross
 1.13 misdemeanor, or felony prosecution, the court shall ensure that the defendant has been
 1.14 asked whether the defendant is a military veteran or is currently in the military. If the
 1.15 defendant is a veteran or is in the military, the court shall ensure that the defendant has
 1.16 been asked if the defendant has served in a stressful military assignment and whether the
 1.17 defendant has ever experienced symptoms associated with posttraumatic stress disorder.
 1.18 The initial screening may be conducted by the court, the defense attorney, the prosecutor,
 1.19 or any other suitable individual within the court system. The screening may occur orally
 1.20 or in writing.

1.21 Subd. 2. **In-depth screening.** If the initial screening required in subdivision 1
 1.22 indicates that the defendant is a military veteran or is in the military and possibly may
 1.23 be suffering from posttraumatic stress disorder, the court, if the defendant agrees, shall
 1.24 refer the defendant to the Veterans Administration, the Department of Veterans Affairs,
 1.25 or another entity qualified to assess the defendant for posttraumatic stress disorder. The

S.F. No. 3376, as introduced - 2007-2008th Legislative Session (2007-2008)

2.1 entity to which the defendant is referred shall prepare a report to the court that does the
 2.2 following: (1) confirms whether the defendant is a military veteran or is in the military; (2)
 2.3 reviews the defendant's military record to determine the types of assignments in which the
 2.4 defendant served; (3) determines whether the defendant suffers from posttraumatic stress
 2.5 disorder that is related to the defendant's military service; and (4) recommends treatment
 2.6 options to address the defendant's posttraumatic stress disorder.

2.7 Subd. 3. **Independent evaluations.** The prosecutor and defense attorney each have
 2.8 the right to independently evaluate the defendant if they disagree with the findings of
 2.9 the report described in subdivision 2. The results of any independent evaluations must
 2.10 be reported to the court.

2.11 Subd. 4. **Consideration of report and evaluation; disposition options.** The court
 2.12 shall consider the report required in subdivision 2 and any independent evaluations
 2.13 conducted under subdivision 3 when determining how to proceed in the defendant's
 2.14 criminal case. Following the defendant's plea, if the court determines it is appropriate
 2.15 given the report's or evaluation's recommendations and the circumstances and severity of
 2.16 the offense, and is consistent with public safety, the court shall consider doing either of the
 2.17 following: (1) staying the adjudication of guilt, if the prosecutor consents; or (2) staying
 2.18 the imposition or execution of sentence, regardless of whether the prosecutor consents. If
 2.19 the court does this, the court, as a condition of the disposition and in addition to any other
 2.20 reasonable conditions of the type described in section 609.135, shall require the defendant
 2.21 to successfully complete the treatment recommended in the report or evaluation.

2.22 Subd. 5. **Data collecting; report.** (a) The court administrator of each judicial
 2.23 district shall report to the state court administrator in a manner and frequency determined
 2.24 by the state court administrator summary data on the number of initial screenings, in-depth
 2.25 screenings, independent evaluations, and mitigated dispositions occurring under this
 2.26 section within the district.

2.27 (b) By February 1 of each year, the state court administrator shall report a summary
 2.28 of the data received under paragraph (a) to the chairs and ranking minority members of
 2.29 the senate and house of representatives committees having jurisdiction over criminal
 2.30 justice policy.

2.31 **EFFECTIVE DATE.** This section is effective August 1, 2008.

2.32 **Sec. 2. INFORMATIONAL PAMPHLET.**

2.33 By September 15, 2008, the commissioner of veterans affairs shall publish a
 2.34 pamphlet summarizing the provisions of section 1 and make the pamphlet available to

S.F. No. 3376, as introduced - 2007-2008th Legislative Session (2007-2008)

- 3.1 veterans. Instead of publishing a separate pamphlet, the commissioner may include the
- 3.2 summary in another document relating to veterans' issues.
- 3.3 **EFFECTIVE DATE.** This section is effective August 1, 2008.

Editor's Note: The story of this actual veteran came to the attention of several pro bono attorneys at the Law Firm of Snell & Wilmer, who are graciously volunteering their time on behalf of veterans.

How a Veterans Court Can Help

One Iraq Veteran's Successful Encounter With The Criminal Justice System

By Eric Nielsen, Associate, Snell & Wilmer LLP

Below is the story of an Army Specialist from Phoenix whom we will call Mr. Jones. His treatment on Maricopa County probation has been specifically tailored to a veteran, and the results have been outstanding. Unfortunately, the majority of veterans convicted here are processed without this much attention to their unique needs. His story, however, shows the good that can be accomplished with a Veterans Assistance Court working closely with the VA hospital and organizations devoted to veterans' services.

Mr. Jones is one of many veterans returning from Iraq or Afghanistan who has been diagnosed with PTSD and/or TBI. He served in the Army for five years, completing two tours of duty in Husayba and Tal Afar, Iraq. He now traces the nightmares, voices, depression, anxiety, alcohol and substance abuse, and flashbacks he has suffered—and his resulting violence and criminal conviction—to injuries he experienced while serving in Iraq.

In March of 2003, at the age of eighteen, motivated by a desire to see the world, Mr. Jones enlisted in the Army. He had graduated from high school just nine months earlier. In high school, Mr. Jones had been an ordinary student, getting A's in the classes he liked and enjoying video games, skateboards, and baseball. Before enlisting, he had never tried alcohol or used illegal substances, nor had any interaction with the criminal justice system.



Mr. Jones does not remember a day in Iraq when he did not use a firearm. In fact, he saw combat his very first day in the theater. He soon saw his close friend, Lieutenant Smith, killed by an insurgent's 50-caliber weapon. Mr. Jones watched as a Combat Medic Specialist tried, unsuccessfully, to save the Lieutenant's life. On more than one occasion, Mr. Jones witnessed suicide bombers blowing themselves up, and he had to clean up the bodies and pack them into Army vehicles. The threat posed by improvised explosive devices ("IEDs") loomed constantly, and

his own Bradley Fighting Vehicle was immobilized by an IED. Mr. Jones saw the inside of another soldier's Bradley painted red with blood after encountering an IED.

Another aspect of the war that led directly to Mr. Jones's criminal behavior relates to his work as a prison guard in Iraq. Mr. Jones helped keep watch over detained mujahideen insurgents. The insurgents often would return from interrogations with zip ties on their wrists, and battered and bloodied from the beatings.

Still in Iraq, Mr. Jones could not escape the constant state of alert or put the horrific images out of his mind. He began using alcohol and marijuana whenever he wasn't on patrol or a mission. Notwithstanding his self-medication, Mr. Jones experienced nightmares, voices, depression and anxiety. He was prescribed appropriate medications for these symptoms. When he returned from Iraq and joined the Army reserve, the symptoms persisted. Finally, Mr. Jones received a formal diagnosis of PTSD, leading to his honorable discharge in September of 2007.

Once he returned home after discharge, Mr. Jones continued to struggle. For example, nightmares of giant scorpions haunted his nights, and he often woke up dreaming about different ways of being killed. During the day, he heard voices telling him to do unspeakable things.

Alcohol and marijuana could no longer subdue his mind, so Mr. Jones turned to hard liquor and other illegal substances. Not surprisingly, he was unable to keep a job and soon became homeless. Ultimately, his depression led to an unsuccessful attempt to end his life—by stepping out directly into oncoming traffic.

Desperate, Mr. Jones, who had never stolen more than a piece of candy in his life, resorted to theft. The day before Valentine's Day, 2008, he shoplifted a few beers from a local market. Halfway around the block, local law enforcement stopped Mr. Jones. As soon as the officer closed the first hand cuff around his wrist, the veteran lost all sense of reality. His mind flashed back to the zip ties that he himself had put on the mujahideen detainees, and to how they had looked after being beaten. He became convinced he would suffer the same fate as the mujahideen who had been tortured. As a result, Mr. Jones wrestled the officer to the ground and fought being arrested. He was charged with aggravated assault on an officer.

The Maricopa County Commissioner who sentenced Mr. Jones took into account his PTSD and sentenced him to 18 months' mental health probation. His probation terms involve active cooperation with the VA's mental health programs. Mr. Jones is grateful for his unique probation terms and for the VA. He reports, "It's a magnificent program ... I don't know what I would do without the VA."

Now, although still on probation, Jones is employed and sober. His goals include getting a house and returning to school. Jones hopes to become a surgical technician, to honor the life of his friend Lieutenant Smith.

Although the Maricopa County criminal justice system appears to be producing positive results for Mr. Jones, his experience in this regard is, by all accounts, unique. Most Iraq and Afghanistan veterans in Mr. Jones' situation pass through the criminal justice system undiagnosed and untreated. The complex, deployment-related, health problems they face are either handled in a cursory, ineffective manner or ignored altogether. For an ever-increasing number of veterans returning from deployment to Arizona with PTSD and/or TBI, a tailored diversion program such as a Veteran's Assistance Court would create pathways through the justice system that facilitate outcomes similar to that of Mr. Jones.

Screening Public Defender Clients for Post Traumatic Stress Disorder

By John Houston, Defender Attorney

Trial attorneys should understand, perhaps better than most, that stress is a powerful and, at times, necessary motivator. In other words, stress can be a good thing. Some events, however, produce so much stress that a person's physiological and psychological mechanisms for processing it are overwhelmed. When this happens a person is at risk for developing Post Traumatic Stress Disorder (PTSD), a condition where the stress processing has become pathological. PTSD is a disorder recognized in the *Fourth Edition of the Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV) of the American Psychiatric Association. And although PTSD may have formerly been recognized as "shell shock" or "combat fatigue", its sufferers are not limited to combat veterans. It may afflict anyone. Its effects may be transitory or life-long and profound.

According to the DSM-IV, in order to be diagnosed with PTSD, a person must experience a traumatic event and suffer the symptoms of re-experiencing the event, avoidance or numbing, and arousal or "being on edge."

A sufficiently traumatizing event will have involved actual or threatened death or serious physical injury to self or others, or a threat to the physical integrity of self or others. For instance, the event may involve presence in, or witnessing another person present in, the "zone of danger" of being killed or maimed, or of losing bodily integrity by being restrained, tortured, raped, or sexually molested. The event must also cause an extreme reaction such as fear, horror, dissociation, or intense loss of sense of self control.

Re-experiencing the event may manifest as a "flashback" where the sufferer perceives that the event is actually re-occurring. Such flashbacks are frequently the result of exposure to triggers that remind the sufferer, consciously or otherwise, of the event. An example would be a "shell shocked" combat veteran automatically diving for cover after hearing a thunderclap. Triggers may be much more subtle, though, and could involve anything that may consciously or unconsciously remind the sufferer of the event. Re-experiencing the event may also manifest as recurrent nightmares related to the event; experiencing serious psychological distress, such as a "panic attack" when being exposed to a trigger; or, as physiological reactivity, such as otherwise unexplained heightened alertness or agitation, at being exposed to a trigger.

Avoidance or numbing may manifest as active or subconscious efforts to reduce exposure to triggers or persons, places, or things that could be associated with the event. It may involve denial or inability to recall all or part of the event. It may also involve a loss of perceived self-worth or trust of others that manifests as loss of interest in formerly pleasurable activities or future plans, or as social isolation.

Arousal or "being on edge" may manifest itself as sleep disturbances, irritability, aggressively acting out, hyperalertness, being constantly "on guard", having an exaggerated startle response or being "jumpy".

Untreated PTSD may result in profound reductions in quality of life. Tragically, other psychological disorders, such as depression or substance abuse, often co-occur. A sufferer may attempt to resolve the trauma of the event by re-enacting it or may try to manage the pain of the traumatic memories by engaging in self-injurious behaviors. For instance, a person having been raised in a home where one parent was battered by a series of partners may herself be attracted to partners who batter her as well. Having witnessed a terrible and senseless event may cause some sufferers to lose faith in themselves or in mankind in general to the extent that they just "give up". What sense is there

in trying to make a good life for oneself when one expects that it can be brutally taken away in an instant? Attempts to ease the effects of the memories of the trauma may frequently result in self-medication with alcohol or street drugs, or by engaging in risky sexual behavior. All of these effects can clearly result in involvement with the criminal justice system.

It is a good practice when initially interviewing a client to get a family history. Most people like to talk about themselves, and it is helpful in establishing rapport to talk about the things that get to the core of who your client really is. When screening for PTSD, the family history also serves a dual purpose. It is thought that some people are less predisposed to develop symptoms than others. A person with a strong sense of self may be able to experience a traumatic event that would otherwise cause symptoms in a person with a less well developed sense of self. A family history will allow you to assess the level of a person's development at the time of the event, including his history of dealing with stressful events.

Because of the nature of PTSD, just recalling the event can be traumatic. When screening for it, it may be better to work back from the symptoms to the event. Traumatizing events are not pleasant to talk about. Furthermore, in some cases, the sufferer may not even have a recallable memory of the event. Sufferers can actually dissociate and have no recollection of exceptionally traumatic events. In other words, in order to cope with extreme psychological trauma, some people may go into a form of "shock" and "go somewhere else" during the event.

Start with general questions about the person's history of substance use, loss of enjoyment, avoidance, changes in sleep patterns, hyperalertness, and other indicators. PTSD may have a delayed onset, but if someone is suffering from PTSD, identifying these indicators along with possible triggers for the current symptoms may assist in having a pattern emerge that suggests an event. If the traumatizing event is something that the person can clearly recall, approaching it this way may make the person less reluctant to talk about it.

In any case, respect your clients. This is not an area where you want to push. Do not rip scabs off of partially healed wounds unless you are equipped to treat them. If you believe that a client may have PTSD, have them evaluated by an expert.

If the person being screened is a veteran, there are additional things that you will need to know. Veterans having disabilities that were either caused by or aggravated by their military service are entitled to benefits. Before awarding benefits, the Department of Veterans' Affairs must determine whether a disability is service connected. For benefits arising out of PTSD, the traumatizing event must have occurred while on duty and have been related to combat or be the result of an assault. Accordingly, if a person is to be referred to the VA, it will be helpful to know his or her dates of active service, branch of service, job specialty or rating, assigned units, duty stations, deployment dates and locations, awards or medals, whether the person was ever a prisoner of war, type of discharge, and the circumstances surrounding any personal or sexual assault.

Identifying clients who are suffering from PTSD is important. They are suffering and deserve to be helped. Identifying the cause of the suffering is the first step in directing them to appropriate care. In the case of veterans, there is a federal agency whose sole function is to provide them with assistance. For purposes of legal representation, the presence of PTSD may be a powerful mitigator in negotiating a plea agreement and an appropriate sentence. Being able to argue that a client's alleged misconduct arises out of a treatable, previously unidentified medical condition, and that a treatment plan can easily be put in place, may make the difference between whether a client is warehoused in prison without treatment or, instead, receives a sentence that gets to the root cause of his criminal behavior and places him on the road to a successful, productive life.

Jury and Bench Trial Results

September 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 1						
9/2	Hann <i>Leigh</i>	Brnovich	Garcia	CR08-005398-001DT POM, M1	Guilty	Bench
9/2 - 9/4	Smith Sain Ryon <i>Ralston</i>	Hoffman	Rademacher	CR08-114511-001DT TOMOT, F3 Unlawful Flight, F5	Not Guilty - TOMOT; Guilty of Unlawful Flight	Jury
9/8 - 9/10	DeWitt Rankin <i>Browne</i>	Brnovich	Low	CR07-008735-001DT MIW, F4 Escape 2nd Deg., F5	Guilty	Jury
9/15 - 9/16	Turner <i>Curtis</i>	Budoff	Wu	CR07-176966-002DT Burglary 3rd Deg., F4 Poss. Burg. Tools, F6	Guilty	Jury
9/16 - 9/18	Farney <i>Del Rio</i>	Foster	Kuwata	CR08-123959-001DT Burglary 2nd Deg., F3 Poss. Burg. Tools, F6 w/2 priors	Guilty	Jury
9/18	Baker	Harrison	Baek	CR08-103304-001DT Impersonating a Peace Officer, M1	Guilty	Bench
9/22 - 9/29	Stewart Fritz Brazinskas <i>Curtis</i>	Gaines	Wicht	CR07-137069-001DT Burg. 2nd Deg., F3 Crim. Tresp., M1	Guilty (Partial in absentia.)	Jury
9/22 - 9/30	Fridde Brazinskas <i>Leigh</i>	Harrison	Wu & Steinberg	CR07-009048-001DT Burg. 2nd Deg., F3	Guilty	Jury
Group 2						
9/8 - 9/9	Kozelka Springer	Blomo	Mayer	CR08-124299-001DT Armed Robbery, F2D MIW, F4	Guilty Armed Robbery; Not Guilty MIW	Jury
9/16 - 9/17	Rosell	Holding	Linn	CR08-005767-001DT 4 cts. Forgery, F4	Guilty all counts	Jury
9/17- 9/23	Steinfeld Romani Casanova	Ditsworth	Herman	CR08-125512-001 DT Unlawful Flight, F5 Hit/Run/Damage Att. Veh. M2	Guilty	Jury
9/22 - 9/24	Scott	Mroz	Arino	CR07-163257-001DT Att. POND, F5	Guilty	Jury
9/24 - 9/29	Potter Springer	Mroz	Fuller	CR08-129201-001 Agg. Assault, F3D	Guilty	Jury

Jury and Bench Trial Results

September 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 3						
9/3	Mata	Myers	Swanstrom	CR08-107763-001DT Agg. Assault, M1	Guilty	Bench
9/3 - 9/8	Clemency Spizer Browne	Newell	Shipman	CR06-012815-001DT POM for Sale, F4 PODP F6	Guilty of lesser POM, F6; Not Guilty of PODP	Jury
9/23 - 9/26	Mata Williams	Hoffman	Mayer	CR08-122707-001DT Armed Robbery, F2D 3 cts. Kidnap, F2D MIW, F4	Not Guilty on all counts	Jury
9/23 - 9/25	Cooper O'Farrell Williams	Blomo	Beaver	CR08-005366-001DT POND for Sale, F2 PODP, F6	Guilty	Jury
9/25 - 9/30	Clemency Flannagan Browne	Brnovich	Sammons	CR08-005318-001DT POND for Sale, F2	Guilty of lesser POND, F4	Jury
Group 4						
8/26	Peterson	Buttrick	Maggi	CR07-030999-001SE POM, F6 Criminal Damage, F6	Guilty - POM Not Guilty - Criminal Damage	Jury
8/27 - 9/4	Sitver	Blomo	Clark	CR08-111645-001SE Att. Commit Murder 2nd Deg., F2D	Guilty	Jury
9/5	Brink	Ore	Reams	TR07-182753-001-TP 2 cts. DUI, Misd.	Not Guilty	Jury
9/5	Whitney	Contes	Seeger	CR08-113889-001SE Agg. Assault, M1	Guilty	Bench
9/8 - 9/9	Houck	Holding	Seeger	CR07-030614-001SE PODD, F4 PODP, F6	Not Guilty	Jury
9/8 - 9/18	Akins Salvato	Contes	Fuller	CR08-104668-001SE Agg. Assault, F3D Attempt to Commit Murder 1st Degree, F1D Street Gang, F2	Guilty	Jury
9/10 - 9/11	Ditsworth	Holding	Seeger	CR08-113909-001SE Agg. Assault, F3	Guilty of Agg. Assault, Dangerous	Jury
9/16 - 9/17	Ditsworth	Arellano	Seeger	CR06-108615-001SE POND, F4 PODD, F4	Guilty	Jury
9/23 - 9/24	Engineer	Holding	Krabbe	CR07-135585-001SE Resisting Arrest, F6 Agg. Assault, F6	Resist Arrest-Guilty of reduced charge, M1 Agg. Assault-dismissed w/o prejudice	Bench

Jury and Bench Trial Results

September 2008

Legal Defender's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
9/4	Kolbe	Hoag	AG	JD506392 Guardianship Trial	Guardianship Granted	Bench
9/4	Verdier	Holt	AG	JD16466 Dependency Trial	Dependency Found	Bench
9/11	Bushor	Keppel	AG	JD506828 Severance Trial	Severance Granted	Bench
9/19	Kolbe	Akers	AG	JD506177 Severance Trial	Severance Granted	Bench
9/22	Sanders	Davis	AG	JD15720 Severance Trial	Severance Granted	Bench
9/30	Verdier	Holt	AG	JD16867 Dependency Trial	Dependency Found	Bench

Legal Advocate's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	CR# and Charges(s)	Result	Bench or Jury Trial
9/30 to 10/3	Reinhardt,	Jones	CR07-007930-001DT POND For Sale, F2 PODP-F6	NG of PONDS. Guilty of Lesser POND-F4; and PODP- F6; 1st Strike Prop 200	Jury
9/17-9/30	Owsley Marrero	Gama	JD17188	Temporary Custody Denied	Bench
9/22-10/01	Owsley Marrero	Norris	JD10350	Temporary Custody Affirmed	Bench
9/22	Youngblood Gutierrez	Davis	JD15720 Short - Severance	Severed	Bench



Maricopa County
Public Defender's Office
620 West Jackson, Ste. 4015
Phoenix, AZ 85003
Tel: 602 506 7711
Fax: 602 506 8377
pdinfo@mail.maricopa.gov

for The Defense

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