



CALIFORNIA VETERANS LEGAL TASK FORCE

333 Nutmeg Street

San Diego, California 92103

Office: 619-234-3707 Fax: 619-550-3145

www.CVLTF.org



Profile of 100 Incarcerated Veterans

February 2012

Table of Contents

I. Project Description	3
II. Summary of Findings	5
III. Interview Data	7
IV. Profile of 14 Post-9/11 Veterans	15
V. Profile of 35 Veterans Eligible for Alternative Sentencing	21
VI. Questionnaire Used	25

I. Project Description

Purpose

The purpose of this study was to understand the characteristics of the veteran population in the criminal justice system of Alameda County, California, with the aim of identifying those special needs of this population that could be addressed in a Veterans Treatment Court.

Veterans Treatment Courts

In California, a Veterans Treatment Court is a probation monitoring court wherein veterans convicted of probation-eligible offenses are referred to treatment for mental health issues rather than being incarcerated. Authority for such alternative sentencing is found in California Penal Code Section 1170.9.

These courts use the collaborative team model, usually a hybrid of drug court and behavioral health court operation. Eligible mental health issues range from simple alcohol addiction to serious mental illness, but they all must be somehow related to the veteran's military service.

The focus of the Veterans Treatment Court is on the mental health and other needs—for instance, housing and employment—of the veteran, with the aims of reduced recidivism and returning veterans to being productive members of society.

Methodology

During the final three months of 2011, Duncan MacVicar of the California Veterans Legal Task Force interviewed 100 veterans face-to-face in the Alameda County jails—90 in the Santa Rita Jail and 10 in the Glenn E. Dyer Jail. Data is self-reported; that is, we recorded the veteran's answer to a question without verification. (Exceptions: On a few occasions, we changed an answer based on clear indications in the veteran's behavior in the interview; for instance, when asked if diagnosed with mental illness, a clearly disturbed individual might answer, "No.") A custom 24-question interview was used to ensure uniformity of data collected; see Chapter VI.

Our objective was to interview every veteran in the jail visited until a total of 100 interviews was achieved. Of course, we could not interview all 100 candidates in one day. And since jail populations change daily, our sample was spread over time—in this case, just over three months. Santa Rita Jail has a population of approximately 3,700, housed in 17 different "living units" and Dyer Jail has a population of about 350 in 7 units, so we visited each unit multiple times, looking to capture a sample representative of the population in each unit.

All veterans interviewed volunteered to participate. Interview visits were publicized in three ways: (1) announcements in each living unit upon our arrival; (2) posters hung in the units a few

days ahead of visits, asking veteran inmates to volunteer to participate; and (3) asking all individuals who identified themselves as veterans in a survey conducted earlier in 2011.

Previous survey of jail inmates

In mid-2011, deputies at Santa Rita Jail talked to every one of the 3,836 inmates at that time, to learn how many of them were veterans. The question asked was, “Have you ever served in the armed forces?” 126 responded in the affirmative, for a result of 3.4% of the jail population.

Definitions

For purposes of this study, a veteran is defined as one who has served in our country’s uniformed services--Army, Navy, Air Force, Marines, or Coast Guard—at least through basic training.

Population Interviewed

By interviewing veterans resident in jail rather than at booking, we were able to conduct a significant number of interviews in a relatively short time. This approach resulted in interviews both of those awaiting trial and of those serving sentences.

A problem with this approach became clear as we studied the charges for those veterans interviewed. It turned out that our sample contains a much higher proportion of felonies than expected—certainly more than the results of other such studies of veterans. This is because many—perhaps more than half—of those with felony charges were in county jail due to parole violations. So the survey results are skewed toward felony charges. With the exception of five veterans interviewed, we were able to determine the initial charges on which all parole violators were convicted, and we report those original charges in this survey.

Future research

To complement this study, it would be beneficial for future studies to include—

- A greater proportion of suburban and rural populations.
- Samples devoid of parole violators.
- A county containing a military base.

Acknowledgements

California Veterans Legal Task Force acknowledges the support of the Alameda County Sheriff’s Department in this effort. Contributing to the survey was Assistant Sheriff Brett Keteles, Lt. Mark Flores, Lt. Melanie Ditzenberger, Sgt. Tom Burns, and Deputies Gary Mitchell and Roberto Martinez. Deputy Mitchell, a fellow veteran, was particularly helpful, devoting an extraordinary amount of time to ensure the success of the project. – Duncan MacVicar

II. Summary of Findings

Observations

1. This is an inner city type of population, due to the heavy influence of the city of Oakland:
 - 70% were of minority ethnic groups.
 - 38% were homeless.
 - 55% reported being victims of serious crime at some time in their lives.
 - 83% of veterans were charged with felonies. This is influenced by the large proportion of parole violators, which greatly increases the felony count.
2. This is an older population, which is typical of the general veteran population, having a preponderance of Vietnam-era and older veterans. However, the lack of younger veterans is striking in this case.
 - 87% of veterans were 40 or more years old.
3. Veterans experience a higher level of mental health issues than the typical jail population:
 - 75% report substance abuse (39% of them alcohol, sometimes along with drugs).
 - 64% report some other form of mental illness.
 - 17% report having attempted suicide, with another 10% having considered suicide.
4. The military experience of these veterans seems typical of the general veteran population:
 - 29% served in a combat zone--14% Vietnam, 6% Iraq/Afghanistan, and 9% other.
 - 75% of veterans were eligible for VA services due to their military discharge status.
 - Another 11% reported Other Than Honorable (OTH) discharges, which can often be upgraded to VA-eligible status.

Eligibility for alternative sentencing under California law

A key question in this study was the proportion of this sample of veterans who were eligible for alternative sentencing under California Penal Code Section 1170.9. To estimate this answer, we applied the following criteria to survey results:

- First, we disallowed those violent felony charges that fall under Penal Code 667.5 (i.e., homicide, rape, kidnapping) that are ineligible for probation under the law. Then we disallowed additional serious felony charges under Penal Code 1192.7 that were unlikely to be negotiated down to a probation-eligible offense (i.e., hit-and-run with injury, assault with a deadly weapon).
- Next, we selected only those veterans reporting a mental health problem (to include substance abuse, per 1170.9) that was present at the time of the offense.
- Finally, we selected only those veterans whose mental health problems could reasonably be related to their military service (to include an original diagnosis while in the military).

The result of this analysis is that 35 of the 100 veterans interviewed (35%) were eligible for alternative sentencing under CPC 1170.9. Interview data of these 35 veterans is tabulated in Chapter V, "Profile of 35 Veterans Eligible for Alternative Sentencing." A summary of findings on this population:

- The profile of these 35 eligible veterans was similar to the profile of the full 100 in the categories of gender, age, and ethnicity.
- Eligible veterans had a lower proportion of Honorable discharges and higher proportions of Other Than Honorable and Bad Conduct discharges.
- 40% of eligible veterans had served in combat, vs. only about 30% of the full 100.
- Eligible veterans were more likely to be homeless and to be unemployed.
- The profile of eligible veterans was similar to that of the full 100 in terms of level of offense (felony vs. misdemeanor), but eligible veterans were much more likely to be charged with DUI and much less likely to be charged with sex offenses.
- 43% of eligible veterans were also eligible for VA services, to include healthcare. Another 20% received Other Than Honorable discharges but have sufficient years of service, so they could apply for VA eligibility.
- Eligible veterans were more likely to suffer from substance abuse (94% vs. 75%) and mental health problems (86% vs. 64%).
- 80% of eligible veterans reported co-occurring substance abuse and mental health problems.

III. Interview Data

A. Demographic data

1. Gender

97	Male
3	Female

This result is similar to results of other studies of incarcerated veterans.

2. Age distribution

8	Less than 30 years old
5	30-39
28	40-49
47	50-59
7	60-69
5	70 or older

This result is remarkable. Although it reflects, generally speaking, the overall distribution of veterans in our society, it contrasts to other studies of incarcerated veterans. Those studies show much higher proportions of younger veterans, reflecting the fact that crime is a characteristic of younger men, not older men.

3. Highest level of education

9	Did not graduate from high school
34	High school diploma
46	Post-high school study (including AA degree)
9	Four-year college degree
2	No answer

4. Ethnicity

47	African-American
30	Caucasian
13	Hispanic
3	Filipino
7	Other/No answer

Less than 40% of today's military services are minorities. Yet nearly 70% of this veteran population are minorities. This reflects the inner city nature of Alameda County's largest city, Oakland.

B. Military service

1. Branch of service

44	Army
30	Navy
6	Air Force
18	Marines
2	Coast Guard

2. Service component

90	Active duty
7	Reserve
3	National Guard

3. Years of service

17	Less than 2 years
52	2-4 years
23	5-9 years
6	10-19 years
2	20 years or more

In the interviews, we learned that a number of these veterans were discharged before their two-year obligations had been fulfilled, usually due to problem behavior.

4. Years since discharge

4	Still on duty
1	Less than 2 years
4	2-4 years
5	5-9 years (i.e., since 2001)
17	10-19 years
37	20-29 years
26	30-39 years
6	40 years or more

Note that only 14% of these veterans served in the post-9/11 era.

5. Type of discharge

55	Honorable
17	General (honorable conditions)
3	Medical
-----	(VA-eligible above this line)
11	Other Than Honorable (OTH)
5	Bad Conduct
6	Dishonorable
3	Don't know/No answer

The low rate of honorable discharges reflects the troubled nature of this population, many of whom were discharged for reasons stemming from addiction or mental health problems.

6. Combat experience

14	Vietnam
6	Iraq/Afghanistan
5	Persian Gulf 1990's
4	Other (Kosovo, Grenada, Central America)
71	None

It is generally expected that the proportion of Iraq/Afghanistan veterans among those veterans in the criminal justice system will increase dramatically over the next few years.

C. Family situation

1. Marital status

36	Single
35	Divorced
25	Married (many separated or estranged)
4	Married (common law)

2. Minor children living at home: Only **3**

3. Obligated to provide child support: **13**

4. Serious family issues: **46**

28	Troubled relationships with family members
10	Childhood problems
5	Family members with serious medical problems
3	Troubling loss of family members

In the interviews, it became clear that mental health problems of these veterans often stemmed from family problems, like abuse during childhood.

D. Economic situation

1. Living situation

38	Homeless
23	Renting
14	Living with parent or other relative
13	Homeowner
9	Living in a program
3	Unknown/No answer

A homeless rate of 38% has to be high even for a population of jail inmates.

2. Employment

47	Unemployed
31	Full-time job
22	Part-time job

3. Sources of income other than employment

58	None
26	Government disability
18	SSDI
7	VA
1	Military
42	Other government assistance
17	SSI
12	SSI survivor
5	General assistance
4	Unemployment compensation
2	Military retirement
2	Reserve/National Guard pay
9	Family income
4	Retirement plan
3	Spouse's income
2	Savings/investments
3	No answer

The above numbers total greater than 100 due to multiple answers.

E. Legal situation

1. Offense

83	Felony
17	Theft/burglary
17	Drug-related
16	Violent
12	Sex-related
6	White collar
5	Weapons-related
3	Domestic violence
1	Driving under the influence
1	Conduct
5	Unknown*
17	Misdemeanor
4	Driving under the influence
4	Domestic violence
4	Theft
1	Conduct
1	Vehicular
1	Weapons-related
1	Sex-related
1	Property

*In five cases we were unable to learn the felony offenses of parole violators.

2. Legal status when arrested

30	On probation
20	On parole
7	Both probation and parole
42	Neither
1	No answer

3. Victim of a serious crime

55	Yes
17	Robbery
15	Assault/battery
12	Lethal assault
8	Theft
3	Hit by drunk driver
2	Hit and run
1	Sexual assault
1	Embezzlement
45	No

Note: Answers within the Yes category total more than 55 due to multiple reporting.

F. Health data

1. Present physical problems

34	Disease/internal problem
21	Orthopedic problem
7	Other injury
3	Multiple problems
31	None
4	No answer

2. Injured or first diagnosed while in the military

35*	Yes
65	No

* Only three that reported a combat injury received a Purple Heart. Four others claim they should have received one, so a total of seven reported being wounded in combat. The other 28 are injuries from accidents, or new illnesses (including some cases of substance addiction).

Note that many mental health issues stemming from military service, like PTSD, usually are not diagnosed while the individual is in the military.

3. Any usage of VA healthcare

42	Yes
58	No

4. Usage of other VA benefits

19	Yes
16	Education
3	Housing
81	No

5. Substance abuse problem

75*	Yes
36	Drug
20	Alcohol
19	Both
24	None
1	No answer

*57 of those reporting substance abuse have received treatment; 58 (not necessarily the same people) report that the problem persists.

6. Other mental health problems

64*	Yes
16	Depression
14	Post-Traumatic Stress Disorder (PTSD)
9	Other lesser disorders
7	Schizophrenia
6	Mood disorders
1	Traumatic Brain Injury (TBI)
11	Unspecified
35	None
1	No answer

*60 veterans of the 64 with problems report that the problem persists.

7. Suicide attempt or ideation

13 (17%)	Attempt
8 (10%)	Ideation only
57 (73%)	None
22*	No answer

*This question was not asked in the first 18 interviews, and 4 declined to answer. (Total: 78).

IV. Profile of 14 Post-9/11 Veterans

A. Demographic data

1. Gender

12	Male
2	Female

2. Age distribution

8	Less than 30 years old
4	30-39
2	40-49

3. Highest level of education

0	Did not graduate from high school
5	High school diploma
8	Post-high school study (including AA degree)
1	Four-year college degree

4. Ethnicity

2	African-American
4	Caucasian
4	Hispanic
2	Filipino
2	Other/No answer

B. Military service

1. Branch of service

5	Army
4	Navy
1	Air Force
3	Marines
1	Coast Guard

2. Service component

10	Active duty
3	Reserve
1	National Guard

3. Years of service

2	Less than 2 years
5	2-4 years
6	5-9 years
1	10-19 years

4. Years since discharge

4	Still on duty
1	Less than 2 years
4	2-4 years
5	5-9 years (i.e., since 2001)

5. Type of discharge (for those discharged)

4	Honorable
1	General (honorable conditions)
0	Medical
-----	(VA-eligible above this line)
5	Other Than Honorable (OTH)
0	Bad Conduct
0	Dishonorable

6. Combat experience

6	Iraq/Afghanistan
1	Kosovo
7	None

C. Family situation

1. Marital status

7	Single
4	Divorced
3	Married (many separated or estranged)

2. Obligated to provide child support: **2**

3. Serious family issues: **6**

4	Troubled relationships with family members
1	Childhood problems
1	Family members with serious medical problems

D. Economic situation

1. Living situation

2	Homeless
5	Renting
4	Living with parent or other relative
1	Homeowner
1	Living in a program
1	Living in military barracks

2. Employment

7*	Unemployed
4	Full-time job
3	Part-time job

*Mostly students.

3. Sources of income other than employment

8	None
4	Government disability
2	SSDI
2	VA
4	Other government assistance
1	General assistance
1	Unemployment compensation
2	Reserve/National Guard pay

The above numbers total greater than 14 due to multiple answers.

E. Legal situation

1. Offense

11	Felony
3	Robbery
2	Murder
2	Sex-related
1	Kidnapping
1	Rape
1	Weapons-related
1	Drug-related
3	Misdemeanor
2	Theft
1	Driving under the influence

2. Legal status when arrested

3	On probation
4	On parole
7	Neither

3. Victim of a serious crime

8	Yes
3	Robbery
2	Theft
2	Hit by drunk driver
1	Sexual assault
6	No

F. Health data

1. Present physical problems

2	Disease/internal problem
3	Orthopedic problem
1	Other injury
2	Multiple problems
6	None

2. Injured or first diagnosed while in the military

6	Yes
8	No

3. Any usage of VA healthcare

2	Yes
12	No

4. Usage of other VA benefits

2	Yes
2	Education
12	No

5. Substance abuse problem

9*	Yes
4	Drug
2	Alcohol
3	Both
5	None

*5 of those reporting substance abuse have received treatment; 5 (not necessarily the same people) report that the problem persists.

6. Other mental health problems

7*	Yes
4	Post-Traumatic Stress Disorder (PTSD)
1	Schizophrenia
1	Traumatic Brain Injury (TBI)
1	Unspecified
7	None

*6 veterans of the 7 with problems report that the problem persists.

7. Suicide attempt or ideation

1	Attempt
0	Ideation only
5	None
8*	No answer

*This question was not asked in the first 18 interviews, which included 7 of this category of veteran (post-9/11). One declined to answer.

V. Profile of 35 Veterans Eligible for Alternative Sentencing

A. Eligibility under California Penal Code Section 1170.9

1. Offense. CPC 1170.9 specifies that, to be eligible, the veteran defendant must be charged with a probation-eligible offense following plea bargaining. So we disallowed those serious felony charges that were unlikely to be negotiated down to a probation-eligible offense: murder, rape, kidnapping, hit-and-run, and assault with a deadly weapon.

2. Mental health problem. CPC 1170.9 specifies three eligibility criteria related to mental health:

- The veteran defendant must be suffering from a mental health problem. (Note: Included in the definition of mental health problem is simple addiction.)
- The veteran must allege that the mental health problem contributed to the offense. (So we selected only those veterans who suffer from a mental health problem that was present at the time of the offense.)
- The mental health problem must be related to the veteran's military service in some way.

3. Qualifying (i.e., service-related) mental health problem present at time of offense

9	Substance use disorder
7	Drug
2	Alcohol
26	Mental health diagnosis
9	PTSD
6	Depression
5	Other disorders
4	Schizophrenia
1	TBI
1	Unspecified

CONCLUSION: 35 of the 100 veterans interviewed, or 35%, appear eligible for alternative sentencing under California law.

4. Substance abuse of 35 eligible veterans (94%)

16	Drug
9	Alcohol
8	Both
2	None

5. Mental health problems of 35 eligible veterans other than substance abuse (86%)

10	PTSD
6	Depression
5	Schizophrenia
3	Undiagnosed/Unspecified
2	Mood disorders (bipolar/manic)
2	Anxiety disorders (incl. paranoia)
1	Behavioral disorder (anger)
1	TBI
5	None/No answer

6. Co-occurring disorders (substance abuse plus mental health) of 35 eligible veterans (80%)

28	Yes
7	No

B. Eligibility for VA healthcare

The VA has two general eligibility requirements—service of two years or more, and discharge status of Honorable, General, or Medical.

1. Type of discharge

14	Honorable
8	General (honorable conditions)
0	Medical
-----	(VA-eligible above this line)
9	Other Than Honorable (OTH)
3	Bad Conduct
1	Dishonorable

2. Years of service

7	Less than 2 years
28	2 years or more

CONCLUSION: Only 15 veterans (43%) are eligible for VA healthcare. An additional 9 veterans (26%) with OTH discharges would have to appeal to the VA for coverage; such an appeal can take time and may not be successful.

C. Other characteristics of 35 eligible veterans

1. Gender

34	Male
1	Female

2. Age distribution

3	Less than 30 years old
2	30-39
10	40-49
13	50-59
4	60-69
3	70 or older

3. Ethnicity

18	African-American
10	Caucasian
4	Hispanic
1	Filipino
2	Other/No answer

4. Combat experience

8	Vietnam
4	Iraq/Afghanistan
1	Persian Gulf 1990's
1	Other
21	None

5. Living situation

17	Homeless
8	Renting
3	Living with parent or other relative
5	Homeowner
2	Living in a program

6. Employment

20	Unemployed
3	Full-time job
11	Part-time job
1	Retired

7. Offense

28	Felony
8	Theft/burglary
8	Drug-related
3	Violent
3	Weapons-related
1	Sex-related
1	Possession of stolen property
1	Domestic violence
0	Driving under the influence
1	Conduct
2	Unknown
7	Misdemeanor
4	Driving under the influence
0	Domestic violence
1	Theft
1	Sex-related
1	Conduct

Questionnaire Used

A. Demographic Data

1. Gender
2. Age
3. Education: Did not graduate from high school
High school diploma
Post-high school study
College degree
4. Ethnicity: Caucasian (or white)
African-American (or black)
Asian
Filipino
Hispanic
Other (specify)

B. Military Service

1. Are you still in the service?
2. Which branch of the service are/were you in?
Army
Navy
Marines
Air Force
Coast Guard
3. Which component: Active duty
Reserve
National Guard
4. Did you serve in a combat theater? (specify)
5. During what years were you in the service?

6. Discharge: Honorable
General (Honorable Conditions)
Medical
Other Than Honorable
Bad Conduct
Dishonorable

C. Family Situation

1. Marital status: Single
Divorced
Married

2. Do you have children under 18? How many? With whom do they live? Are you obligated to provide child support?

3. Are you going through a divorce or experiencing other troubles in your family life? How about in the past?

D. Economic Situation

At the time you were arrested—

1. Did you have a steady place to live? If not, where were you living?
2. Did you have a job? Full- or part-time?
3. Did you have any other sources of income? (Specify)

E. Legal Situation

1. Most serious offense charged at present (supplied by Sheriff's Department)
2. When you were arrested, were you on parole? On probation?
3. Have you ever been the victim of a crime? (specify)

F. Health Data

1. Were you injured in the military? Did you receive a Purple Heart? Were you diagnosed with an illness?
2. Do you have any physical problems now?

3. Have you received any VA healthcare services? (specify) Other VA benefits? (specify)
4. Have you ever experienced drug or alcohol abuse? (specify) Have you ever been treated for it? Did it continue up to the time of your arrest?
5. Have you ever experienced or been treated for a mental health problem, like PTSD? (specify) Does that problem persist? Have you ever attempted suicide?