



Veterans Clinic Symposium

University of Missouri

WELCOMING REMARKS

INTRODUCTORY INFORMATION

ABOUT THE MIZZOU LAW VETERANS CLINIC

- Represents veterans and their family members regarding VA disability benefits and discharge upgrades, free of charge
- Gives law students the opportunity to work on real client files while still a law student
- Teaches Veterans Clinic, Advanced Veterans Clinic, Veterans Law, Law of War, and Military Law courses
- Has recovered more than \$20 million in VA disability benefits and assisted more than 2,000 veterans, and secured numerous discharge upgrades
- Programs
 - Military Lawyer Transition Program, Rural Outreach Program, Amicus Briefing Program, Medical School-Law School Partnership Program, & Homeless Veterans Program
- Operates heavily on private donations



THANK YOU TO OUR SPONSORS

- Bryan Cave Leighton Paisner: BCLP
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- Premier Sponsor: The Honorable E. Richard Webber

CLE INFORMATION

- CLE information is located on the Symposium webpage which can be found on our website at veteransclinic.missouri.edu.
- Some states pre-approved which are noted on the Symposium webpage.
- Attendance Code v. CLE Code for Preapproved States
- Attendance code *required* for online attendees and may be submitted via the attendance code submission survey linked on the Symposium webpage: **TIGER25** (Attendance code only needs to be submitted once and is not required for in-person attendees.)
- For states not pre-approved, you may still apply for credit according to your jurisdiction's requirements.
- CLE certificates may be requested via the feedback form linked on the website (you must have been registered for the Symposium and submitted the attendance code during the Symposium to receive a certificate).

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GENERAL SYMPOSIUM INFORMATION

- All Symposium information is available on the Symposium webpage which can be navigated to on our website at veteransclinic.missouri.edu. This includes information on how to ask questions of our panelists, materials, CLE information, surveys, and more all on the Symposium webpage.
- After-action email with links to donate, provide feedback on the presentations and symposiums, and more will be sent to registered attendees at the conclusion of the Symposium as well.
- Still have questions? Email us at mulawvetclinic@missouri.edu or place the question in the livestream chat.



UNDERSTANDING VETERAN HOMELESSNESS: A HOLISTIC APPROACH

QUESTIONS?

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**DISCHARGE CHARACTERIZATIONS:
IMPACTS, LEGAL FRAMEWORK, &
DISCHARGE UPGRADE APPLICATIONS**



Dana Montalto

- Lecturer on Law and Associate Director of the Veterans Legal Clinic at Harvard Law School.
- Founder of the Veterans Justice Pro Bono Partnership.
- Juris Doctorate from Yale Law School.



Hugh McClean

- Associate Professor of Law at the University of Baltimore.
- Founder and Director of the Bob Parsons Veterans Advocacy Clinic.
- Juris Doctorate from Case Western Reserve University School of Law.



Brent Filbert

- Associate Clinical Professor and Director of the Veterans Clinic at the University of Missouri School of Law – Columbia.
- Juris Doctorate from University of Missouri School of Law – Kansas City.
- Moderator for Today's Discussion.



Overview of Law, Regulations, and Policies

- Discharge Upgrades - DOD
- Character of Discharge Reviews – VA
- Chapter 17 Access to Healthcare - VA

Relationship Between Characterization of Service, Homelessness, and the Risk of Homelessness

Strategies for Success in Discharge Upgrades for Homeless Veterans

Unique Challenges to Representing Homeless Veterans

State Benefits for Veterans

Policy Changes to DOD/VA Policies and Procedures to Better Serve Homeless Veterans

QUESTIONS?

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BREAK

**COLLABORATIVE ADVOCACY:
BRIDGING LEGAL EXPERTISE AND PRO-BONO SERVICE**

A DISCUSSION OF GRANTS PASS & CRIMINALIZATION OF HOMELESSNESS

QUESTIONS?

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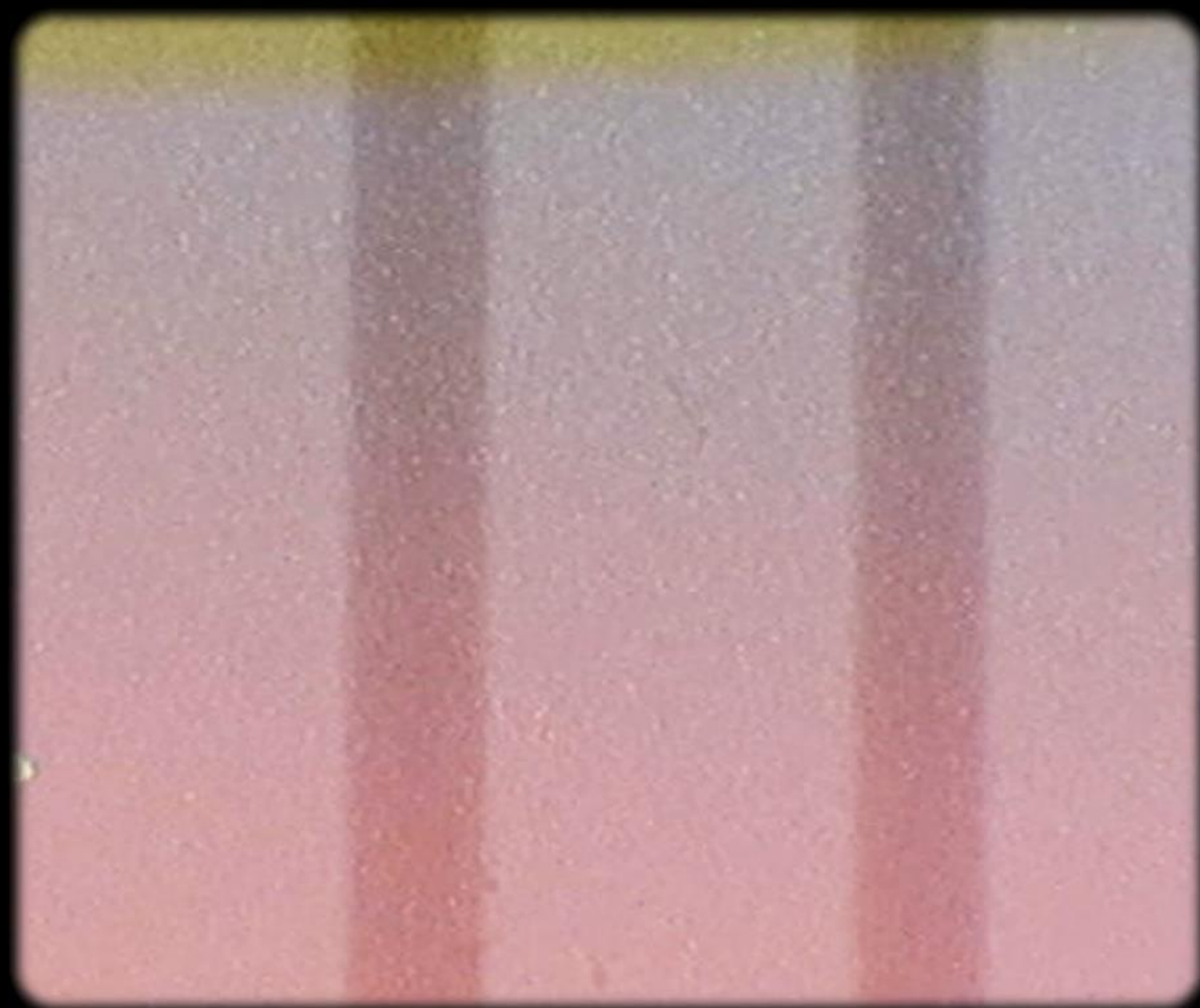
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VETERANS
COMMUNITY PROJECT

Mizzou Law Veterans Clinic Symposium



MISSION STATEMENT

Veterans housing Veterans,
armed with the strength &
support of the community

VETERANS
COMMUNITY PROJECT



Table 9. Top Ten Highest *Unmet* Needs Identified by Homeless Veterans.

Rank	All Veterans	Male	Female
1	Financial assistance to prevent eviction/foreclosure	Financial assistance to prevent eviction/foreclosure	Housing for registered sex offenders*
2	Housing for registered sex offenders*	Housing for registered sex offenders*	Dental care
3	Legal assistance to prevent eviction/foreclosure	Legal assistance to prevent eviction/foreclosure	Financial assistance to prevent eviction/foreclosure
4	Child care	Child care	Legal assistance to prevent eviction/foreclosure
5	Welfare payments	Welfare payments	Child care
6	Legal assistance for child support issues	Legal assistance for child support issues	Legal assistance for outstanding warrants/fines
7	Goods (furniture, house wares) for new apartment	Goods (furniture, house wares) for new apartment	Credit counseling
8	Move-in assistance (rent and utility security deposits)	Move-in assistance (rent and utility security deposits)	Family reconciliation assistance
9	Family reconciliation assistance	Family reconciliation assistance	Legal assistance for child support issues
10	Legal assistance for outstanding warrants/fines	Legal assistance for outstanding warrants/fines	Discharge upgrade



U.S. Department
of Veterans Affairs

Fact Sheet

Office of Public Affairs
Media Relations

Washington, DC 20420
(202) 461-7600
www.va.gov

April 2025

Community Homelessness Assessment, Local Education and Networking Groups (CHALENG)

Top Ten Highest Unmet Needs

Rank	Highest Unmet Needs: All responses	Mean Score
1	Legal Assistance for Credit Issues/Debt Collection	2.25
2	Housing for Registered Sex Offenders	2.26
3	Family Law (i.e., divorce, child custody)	2.33
4	Legal Assistance to Expunge a Criminal Record	2.36
5	Child care	2.36
6	Tax Issues	2.38
7	Legal Assistance for Child Support Issues	2.44
8	Dental Care	2.44
9	Discharge Upgrade Appeals	2.49
10	Legal Assistance for Outstanding Warrants and Fines	2.53



Shelter / Transitional Housing

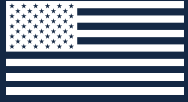
- Most shelters do not instill or reinforce a sense of self-worth, dignity, or respect
- Lack of stabilization/adjustment period, often changes are instant and inconsistent
- Case managers are often overwhelmed and unable to work with to address specific needs or causes of homelessness due to high turnaround



Shelter/Transitional Housing



- Lack of security, leading to a feeling of anxiety and constant awareness of surroundings
- Group living is often an overwhelming and shocking environment
- Battling for limited resources
- Even if a Veteran completes the process they must and develop new relationships and now living on their own again



Veteran homelessness is a problem in every U.S. city

On any given night in America, more than 30,000 Veterans experience homelessness.

Tens of thousands more are unaccounted for, living in secluded camps, couch surfing, sleeping in cars, or hiding in plain site.

The causes of homelessness are varied and complex, rooted in issues around unemployment, mental or physical health, substance abuse, a break down in support, and more, all contributing to a loss of basic human needs.

1 in 10

Vets experience homelessness as an adult

Veterans are 50%

More likely to become homeless than those who have not served in the military

Women

Are the fastest growing demographic of Veterans experiencing homelessness

Housing services and Veteran preferences don't align.

Our conversations found the importance of responding to individual housing preferences. Many Veterans felt that the options available to them were limited and would require a lot of effort to access, and

we heard that some Veterans prefer to remain homeless than to accept temporary shelter or

shared living options. We found that being able to accommodate participants' preferences for pets, people and property were determinative factors.

People

Property

Pets

HERE'S HOW WE DO IT



FIRST

Dignity starts with a home

We build villages of tiny homes, giving every Veteran “240 square feet of dignity.”



SECOND

Dignity grows with a **community**

We surround our Veterans with wraparound services and skills-training.



THIRD

Dignity sustains in society

We prepare our Veterans for reintegration and generations of change.



- Community based solution to a national issue
- Volunteerism allows for significant cost reduction
- Not as dense as traditional models but maintain higher occupancy rates
- Reduction is recidivism



Our timeline

2016

Official beginning. Received 501(c)(3) status. First tiny home prototype constructed. Ribbon-cutting and land dedication for VCP of Kansas City.

2017

Began renovating space for the Kansas City Outreach Center, which is now our national headquarters. Free bus pass program begins. VCP Village groundbreaking ceremony. 3,000 Veterans served. Phase I construction in KC began.

2018

Phase 1 VCP of KC Village ribbon-cutting. 3,000 bus passes issued providing 1 million free rides. Welcomes 13 new residents and started Phase II construction.

2019

Opened KC Outreach Center at 8825 Troost. Over 2 million free rides through bus pass program. Launch of national expansion program. Ribbon-cutting ceremony for KC Village Center. Phase III construction began.

2020

Hired our first employees in Longmont, CO. VCP of Longmont Village groundbreaking. Land dedication ceremony for VCP of St. Louis.

2021

Hired our first employees in St. Louis, MO. VCP of St. Louis groundbreaking. KC Outreach Center renovations. Announced expansion to Sioux Falls, South Dakota.

2022

KC Commissary Day opens. Hired first employees in Sioux Falls, SD. Celebrated start of construction in Longmont, CO. St. Louis Phase I construction began. Sioux Falls groundbreaking. Expansion to Milwaukee begins.

2023

Sioux Falls ribbon-cutting. Longmont Village Center ribbon-cutting. First residents move-in in Longmont and Sioux Falls. Featured on ABC's "Good Morning America" broadcast.

2024

Announced expansion to Glendale, AZ.

2025

Glendale, AZ groundbreaking.

Our model

MISSION

Serve all Veterans who took the oath.

We are dedicated to serving every person who raised their hand to protect this country, regardless of length or type of service or discharge status.

START

Provide them the safety of home.

The tiny homes in our Villages offer Veterans a sense of security, and the opportunity to reintegrate into the community at their own pace.

GROW

Support with wraparound services.

Specially trained case managers work 1-on-1 with residents to reveal new choices to help Veterans create their own pathways to lasting success.

SUSTAIN

Grow a network of support.

When a Veteran is ready to move on to their own permanent housing they take the entire contents of their house with them as well as our ongoing support.

THE
SOLUTION

Transitional housing with an 85% success rate

Founded in Kansas City, Missouri, in 2016 by a group of combat Veterans shaped by their military service, we began with a determination to do better for Veterans in need. Today, we're growing nationwide to serve more Veterans everywhere, ensuring no one is left behind.

Our founders' solution was simple: provide Veterans experiencing homelessness with a home of their own and wraparound case management services that leverage the support of the community to not only get them back on their feet, but ensure they continue standing.

We serve all Veterans with dignity, humility, and honesty, regardless of length or type of service, or discharge status.





Home is more than just a place to live

Home means having loved ones, support, pets, and personal belongings. Home provides stability, security, and dignity.

**Our mission is to provide every
Veteran with the dignity of home.**



OUR MODEL

The importance of a current mailing address

When someone doesn't have a home, it's not just shelter that is missing.

Without home, it's harder to feel safe, harder to plan ahead, harder to thrive. The simple routines many of us take for granted—like making a meal, having a quiet space to rest, or knowing where we'll sleep each night become uncertain.

Without home, the barriers multiply, making it harder to get back on your feet, to find stability, and to feel the warmth and safety every Veterans deserves.

Without home, it makes it exponentially harder to:



Open a bank account



Apply for jobs



Buy a car



Provide care, support, and stability for children



Get a loan

The Washington Post

Democracy Dies in Darkness

How Veterans Affairs denies care to many of the people it's supposed to serve

OUR MODEL

The importance of connection

More than 50% of Veterans are not enrolled in the benefits they deserve, and most of the Veterans we serve at VCP are in this group.

We connect Veterans with community services that make a difference, serving as a one-stop shop where they find not just a home, but vital connections to the resources they need.

At VCP, we know a strong connection to the community is essential for a Veteran's long term success, and we're committed to building those connections.

But OTH separations carry great costs. These former service members are often excluded from VA health care, from VA housing if they are homeless, from VA benefits payments even if they're disabled by their service and from the educational supports provided to other veterans. Veterans with the OTH label experience a higher risk of homelessness and are twice as likely to commit suicide. They also face the shaming effects of hearing from federal VA employees that they are "not a veteran."

The federal government excludes these veterans from health care under a complex and opaque system. T

More troubling, VA staffers routinely misapply the law, misread military records and reject evidence that veterans qualify for treatment. Across the country, VA administrative staff members have failed to give veterans

OUR MODEL

Customized care makes all the difference

We believe every homeless Veteran has a unique story and deserves personalized support.

The H.O.M.E.S. Index

We have a two-part process to get Veterans back on their feet. When a Veteran arrives to one of our villages, they take our H.O.M.E.S. Index to determine their area(s) of most need.

Their score helps us create a clear plan for what needs improvement in the coming months. Every month, our residents retake the H.O.M.E.S. Index, and we track their progress which shows us who's nearing their goals and will be ready for permanent housing.

Our H.O.M.E.S. Index

HHealth and well-being

Opportunity for education and training

Money management

Earnings and income stability

Support network

OUR RESIDENTIAL PROGRAM

Wraparound case management services

The heart of our residential program is the customized and comprehensive wraparound case management services designed for each Veteran.

- The primary goal of our residential program is to prepare the Veteran for a self-sustaining life outside of VCP.
- Case managers work intensely with Veterans while they live in our tiny home Villages.
- The average stay in our village is 14-16 months.
- We have an industry-leading **85% positive transition rate**.



OUR RESIDENTIAL PROGRAM

What the dignity of home looks like

When a Veteran moves into one of our transitional homes, they step into a fully furnished space complete with appliances, furniture, pots, pans, towels, bedding, two weeks of groceries, and everything else they need to make their house feel like a home.

Every home features a private kitchen and bathroom, with space for a bed and small furniture items. The houses are intentionally designed with past trauma and military post-traumatic stress in mind.

When a Veteran is ready to move into their own permanent housing, they take it all with them—ensuring a fresh start with the essentials already in place.



OUR RESIDENTIAL PROGRAM

Pet friendly homes

We welcome Vets and their pets.

We believe pets have a necessary and needed role in the recovery of many homeless Veterans. Often times pets are the first form of support for the Veterans we serve.



OUR RESIDENTIAL PROGRAM

Building community one Village at a time

Each Veterans Community Project Village includes some—or all—of the following physical spaces designed to provide Veterans with the care and services they need to restore the dignity of home.

- VCP Village of tiny homes
- Outreach center
- Village Center
- Dog park
- Gardens and outdoor spaces





KANSAS CITY, MO | LONGMONT, CO | SIOUX FALLS, SD | ST. LOUIS, MO | MILWAUKEE, WI | GLENDALE, AZ | OKLAHOMA

VETERANS
COMMUNITY PROJECT

Join the mission
vcp.org



QUESTIONS?

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**Effective and Trauma-Informed
Representation of Homeless Veterans at VA**

Roadmap

- Who is an At Risk or Homeless Veteran?
- Access to VHA Housing Resources
- Access to VHA Healthcare
- Access to VBA Disability Compensation
- Discharge Upgrades (briefly)
- Other Legal Issues (briefly)
- Takeaways

The Goal

- Counsel/represent the client as to:
 - VHA Programs and Resources—access to housing
 - Access to VHA Healthcare--access to healthcare
 - Access to VBA Disability Compensation—access to additional income
 - Discharge Upgrades—removal of an impediment to employment
 - Other Legal Issues—removal of other legal impediments to housing or employment
- ... and do so in a trauma-informed manner.
 - Efficiently;
 - Effectively; and
 - Respectfully;
 - While preserving your health and well-being.



Definitional Matters

- **Who is a homeless veteran?**
 - Interestingly, VA does not specifically define what it means to be homeless.
 - We've seen a few variations: street homeless, living with a family member or friends, living in a shelter, and/or living in a car
 - Veteran – 38 U.S.C. § 101(2)
 - “A person who served in the active military, naval, air or space service, and who was discharged or released therefrom *under conditions other than dishonorable.*”
 - Note: veteran's discharge status is relevant to both the DOD and the VA.
 - Generally, for VA purposes “under conditions other than dishonorable” means an Honorable or General (Under Honorable Conditions) discharge.

Threshold Matters

- **Who is a veteran at risk of homelessness? 38 C.F.R. § 79.15**
 - At risk of homelessness” is an individual who does not have sufficient resources or support networks . . . Immediately available to prevent them from moving to an emergency shelter or another place and meets one or more of the following conditions:
 - 1) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for assistance;
 - 2) Is living in the home of another because of economic hardship;
 - 3) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

Threshold Matters

- 4) Is constructively evicted from their current housing because of untenable conditions created by the landlord such as shutting off electricity and water or discriminatory acts;
- 5) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
- 6) Lives in a single-room occupancy or efficiency apartment unit in which there resides more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons per room, as defined by the U.S. Census Bureau;

Threshold Matters

- 7) Is exiting a publicly-funded institution, or system of care (such as a health-care facility, mental health facility, foster care or other youth facility, or correction program or institution);
- 8) Is fleeing, or is attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual, including a child, that has either taken place within the individual's primary nighttime residence or has made the individual afraid to return to their primary nighttime residence; or
- 9) Otherwise lives in housing that has characteristics associated with instability and an increased risk for homelessness.

VHA Housing Resources

- **Is the veteran eligible for or already participating in a VA housing program?**
 - For those already receiving VA housing assistance, is the veteran a participant in:
 - The VA Health Care for Homeless Veterans (HCHV) program?
 - Dual case management and temporary housing
 - The VA HUD-VASH program?
 - Direct VA case management and direct permanent housing program
 - The grant per diem (GDP) program?
 - Indirect case management through community partners
 - The Supportive Services for Veteran Families (SSVF) program?
 - Indirect case management through community partners
 - If so, you should be prepared to request their VA or community partner treatment records and/or ask for their permission to contact their case manager.

VHA Housing Resources

- **Is the person eligible for or participating in a VA housing program?**
 - For those **not** receiving VA housing assistance, is the veteran homeless or at risk of homelessness? Do they qualify for housing assistance?
 - If they do, then they should participate in one of the programs. That is because:
 - 1) They benefit from temporary, short-term, and permanent housing assistance;
 - 2) They benefit from VA acknowledgement of their unhoused status—triggering:
 - Expeditious processing of their later disability claims; and
 - The development of potentially favorable evidence in their case; and
 - 3) They benefit from access to case manager/support.
 - This also gives you a point person to reinforce contact.

VA Healthcare and Programs

- **Is the veteran eligible to access VA healthcare?**
 - Not every veteran has access to VA healthcare and in to the same degree.
 - Healthcare eligibility is generally shaped by a few different factors, including the veteran's discharge status.
 - Honorable discharge – access to all VA healthcare;
 - General (Under Honorable) discharge – access to all VA healthcare;
 - Under Other Than Honorable discharge – access to VA healthcare but limited to only conditions deemed “service-connected,” or arising during or as a result of military service.
 - That is referred to as “VA healthcare under chapter 17.”
 - Bad Conduct discharge/Dishonorable/Dismissal (officers only) – no access to VA healthcare.

VA Healthcare and Programs

- **Does the veteran eligible to access VA healthcare?**
 - The PACT Act expanded veterans' entitlement to VA healthcare.
 - Generally, those eligible to access VA healthcare include veterans with a qualifying length or type of service (i.e., ending in an honorable or general discharge) or in-service experience (toxic exposure, military sexual trauma, etc.) or particular mental health condition (psychosis).
 - We recommend contacting your local eligibility office on behalf of these veterans, and if you receive a response different than what you expect, contact the office focusing on that particular category of veteran (MST coordinator). These folks should have access to VA healthcare on these grounds.



VA Healthcare and Programs

- **Does the veteran eligible to access VA healthcare?**
 - Most commonly for us, healthcare-eligible veterans include those with a:
 - Period of service ending in an honorable or general discharge;
 - A prior, honorable period of service; or
 - Access via chapter 17 (healthcare for service-connected disabilities only), if they have an under other than honorable discharge.
 - If through one of these avenues, the veteran should have VA healthcare access.

VA Healthcare and Programs

- **If the veteran is eligible, can they actually/practically access VA healthcare?**
 - For many, this will not be an issue—and this access will be life changing.
 - For others with an under other than honorable discharge through chapter 17, it can be an obstacle.
 - Generally, it is a facility-by-facility issue.
 - If a veteran is limited in accessing VA healthcare under chapter 17, then there is additional advocacy work that can be done. These include:
 - Healthcare access advocacy at the VA facilities (CBOC, VAMC, VISN);
 - Office of inspector general; and/or
 - Other systemic advocacy opportunities.

VBA Disability Compensation

- **Does the veteran have access to VBA disability compensation?**
 - Generally, VBA disability compensation is a monthly, tax-free benefit meant to compensate a veteran for any reduction in his or her functional (employment) capacity that results from his or her experiences during service.
 - Monthly benefit payments range from \$175.51 to \$3,974.15 based on the cumulative severity of the veteran's service-related (service-connected) disabilities.
 - Note: higher rates are available for veterans with dependents or more severe (and specific types of) injuries.

VBA Disability Compensation

- **Does the veteran have access to VBA disability compensation?**
 - Is the veteran eligible for VA disability compensation because of:
 - Their honorable or general (under honorable) discharge; or
 - Via a prior, honorable period of service?
 - If so, file a compensation claim for any conditions that arose during or as a result of that period of service. We call this “service connection.”
 - This requires evidence of a:
 - 1) Current disability or recurrent symptoms of disability;
 - 2) In-service event, injury, disease, exposure, or cumulative injuries; and
 - 3) A medical relationship, or nexus, between the two.

VBA Disability Compensation

- Further, file a compensation claim for any conditions that are caused or aggravated by the veteran's service-connected conditions. We call this "secondary service connection"
 - This requires evidence of that a service-connected disability caused or aggravated another condition.
- Remember, file a VA Form 21-526EZ (initial claim) for any conditions for which the veteran **has not** previously filed, and a VA Form 20-0996 (supplemental claim) with new and relevant evidence for any conditions that they have.
- You can and should identify the veteran as homeless or at risk on either form.
 - But, in our experience, this is not always dispositive.

VBA Disability Compensation

- Generally, VBA will “flash” a veteran as unhoused—triggering accelerated processing of their claims. You will need to monitor this, because checking the homeless or at-risk box will not always ensure that it happens.
- As a best practice, we also recommend developing evidence about the veteran’s tenuous housing status and/or financial hardship to increase your changes of the veteran being flagged as homeless/qualifying for accelerated processing.
 - Where it worked – we developed evidence that a housed veteran was three months behind on his mortgage and he was flagged for financial difficulty.
 - Where it didn’t – we developed evidence that a veteran was living in a cabin on his parent’s property, and he was not flagged for homeless or financial difficulty
 - He’s definitionally homeless, but VA doesn’t treat him as such.
- All of that to say, be prepared to reach out to the VBA on the veterans behalf.

VBA Disability Compensation

- **Does the veteran have current access to VA benefits?**
 - Once you file the veteran's claim, you **MUST** prepare your veteran to attend a VA compensation and pension examination.
 - A compensation and pension examination is a free, VA contract examination with a medical professional that seeks to determine: 1) whether the veteran has a current disability; 2) whether that disability is related to their service based on their service and medical history; and 3) the severity of their disability.
 - VA examinations can be rescheduled, but only once. You can ask for a second examination. If the veteran misses the second, then their claim will be denied.

VBA Disability Compensation

- **Does the veteran have current access to VA benefits?**
 - Looping in the veteran's VA caseworker about the existence/importance of the appointment can be helpful for three reasons:
 - Reinforcing the scheduling of the appointment;
 - Reminding the veteran that it exists and must be kept; and
 - Arranging the logistics of getting the veteran to the appointment.

VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - If the veteran is not eligible for VA disability compensation because of their other than honorable (or lower) discharge, then he or she can ask the VA for a character of discharge/service determination.
 - This asks the VA to treat the veteran's discharge as higher than it is for VA purposes based on the mitigating circumstances of the veteran's situation, so long as a statutory or regulatory bar does not prevent them from accessing VA benefits.
 - Note: there are exceptions to the statutory and regulatory bars.

VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - Statutory bars to VA benefits (38 U.S.C. § 5303(a)) include:
 - Discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces; or the
 - Discharge of any such person on the ground that such person was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority; or
 - As a deserter; or
 - On the basis of an AWOL from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable; or
 - Of an officer by the acceptance of such officer's resignation for the good of the service; or
 - The discharge of an individual during a period of hostilities as an alien.



VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - Statutory exceptions (38 U.S.C. § 5303(b)) include:
 - (b) If at the time of the commission of an offense leading to a person's court-martial, discharge, or resignation, that person was insane

VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - Regulatory bars to VA benefits (38 C.F.R. § 3.12) include:
 - (d)(1)(i) Discharge in lieu of trial. Acceptance of a discharge under other than honorable conditions or its equivalent in lieu of trial by general court-martial.
 - (d)(1)(ii) Mutiny or espionage. Mutiny or spying.
 - (d)(2)(i) An offense involving moral turpitude. This paragraph (d)(2)(i) includes, generally, conviction of a felony.
 - (d)(2)(ii) Willful and persistent misconduct. For purposes of this section, instances of minor misconduct occurring within two years are persistent; an instance of minor misconduct occurring within two years or more serious misconduct is persistent; and instances of more serious misconduct occurring within five years of each other are persistent.
 - Minor misconduct is misconduct for which the maximum sentence imposable pursuant to the Manual for Courts-Martial United States would not include a dishonorable discharge or confinement for longer than one year if tried by general court-martial.

VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - Regulatory exceptions (38 C.F.R. § 3.12) include:
 - (b) If at the time of the commission of an offense leading to a person's court-martial, discharge, or resignation, that person was insane; and/or
 - (e) If there are compelling circumstances to mitigate the AWOL or misconduct at issue. The following factors are considered:

VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - Regulatory exceptions (38 C.F.R. § 3.12) include:
 - (1) Length and character of service exclusive of the period of AWOL or misconduct. Service . . . Should generally be of such quality and length that it can be characterized as honest, faithful, and meritorious and of benefit to the Nation.
 - (2) Reasons for prolonged AWOL or misconduct. Factors considered are as follows:
 - (i) Mental or cognitive impairment at the time of the prolonged AWOL or misconduct, such as PTSD, depression, bipolar disorder, schizophrenia, SUD, ADHD, impulsive behavior or cognitive disabilities;
 - (ii) Physical health, to include physical trauma and any side effects of medication;
 - *Continued on next slide*

VBA Disability Compensation – Character of Discharge

- **Does the veteran have current access to VBA disability compensation?**
 - Regulatory exceptions (38 C.F.R. § 3.12) include:
 - (2) Reasons for prolonged AWOL or misconduct. Factors considered are as follows:
 - (iii) Combat-related or overseas-related hardship;
 - (iv) Sexual abuse/assault;
 - (v) Duress, coercion, or desperation;
 - (vi) Family obligations or comparable obligations to third parties;
 - (vii) Age, education, cultural background, and judgmental maturity.

DOD Discharge Upgrades (Briefly)

- A discharge upgrade/military record correction will change a veteran's DD214 (separation paperwork), while a VA character of discharge determination will only change the VA's classification of their service.
- A favorable VA COD determination can persuade/reassure a DOD board.
- Meanwhile, a DOD discharge upgrade decision is final and conclusive on the VA.

Other Legal Issues (Briefly)

- Homeless veterans often have other legal issues that need to be addressed.
 - Family law, employment law, landlord-tenant law, etc.
- Be ready to refer them out for other issues. We tend to refer them to:
 - Generalized bar association networks (“Find-a-lawyer”);
 - Law school clinics;
 - Non-profits;
 - Private practice (contingency fee practice);
 - Private practice (retainer practice).

Takeaways

- Strategy -
 - Success is relative and based on the facts of the particular case.
 - For some, access to healthcare alone will change their life.
 - You want to make the strongest possible filing as early as possible.
 - Think critically about evidentiary development (do you need to wait for an independent medical evaluation, or will a strategic affidavit do?)
 - Address evidentiary gaps in the veteran's medical treatment history in your evidentiary development to ward off future negative evidence/gap in time counterarguments
 - Strategically stage filings and evidentiary development, including
 - Ask a traumatized veteran to recount their trauma as few times as possible
 - Pursuing a VA character of discharge determination before a discharge upgrade



Takeaways

- Individual representation -
 - It can be the definition of “hurry up and wait”
 - Make the most of every client contact
 - Expect communication lapses
 - Prepare submission materials earlier rather than later—you may be ghosted
 - Organize your workload for crisis situations
 - Coordinate with VA social workers
 - Have your client identify a point-person for loss of contact
- Impact on attorney -
 - Take care of yourself (amidst a possible bit of chaos)
 - Outreach events can be a lot
 - Talk through challenges with coworkers or other supportive parties



QUESTIONS?

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BREAK

**VETERANS TREATMENT COURTS: UNDERSTANDING THEIR
IMPACT, FUNCTION, AND ROLE IN SUPPORTING VETERANS**

“You can’t create a monster, then whine when it stomps on a few buildings.”

- Lisa Simpson

VETERANS IN MISSOURI (VA STATISTICS)*

- Over 378K living in Missouri (257K projected for 2045)
- Largest Age Group Over 65 – 190K
- WWII 1.3; Korea 10K; Vietnam 118K; Gulf War 170K
- Women veterans – 39K
- 1900 MO DOC inmate veterans. (5.6 % of prison population) (MO DOC statistics.)*

MISSION OF VETERAN TREATMENT COURTS

“Successfully habilitate veterans by diverting them from the traditional criminal justice system and providing them with the tools they need in order to lead a productive, law-abiding lifestyle.”

Judge Robert Russell

Buffalo, New York

Veterans Treatment Court



NEED FOR A PROGRAM

Veterans Treatment Courts present an opportunity for us to come to the aid of the men and women in uniform who are suffering as a result of their sacrifice to this country and should be expanded to serve all veterans in need.

General Barry R. McCaffrey (Ret.)



VETERANS COURTS

- Are **NOT** a free pass.
- They are:
 - Problem solving courts
 - Utilizing rigorous treatment programs
 - Emphasizing personal **ACCOUNTABILITY**

VETERANS TREATMENT COURT PRINCIPLES

- ABA resolution supporting Veterans Treatment Courts
 - Participation is voluntary and constitutional rights protected
 - Utilize VA, community-based services and local agencies to assess needs of Veterans.
 - Mentoring by other Veterans.
 - Charges reduced or dismissed, or usual sanctions waived upon successful completion

ELEMENTS OF A VETERANS TREATMENT COURT PROGRAM

- Vets identified, assessed and referred to Veterans Treatment Court.
- Veterans linked with program of services fashioned to meet needs.
- Court staff and volunteers assist with stabilization services such as mental health counseling, employment and safe housing.
- Frequent status hearings reviewing treatment plans.
- Incentives for success. Sanctions for failure.
- Emphasis placed on accountability.

MEASUREMENTS

- Veterans Treatment Court success measured through outcomes:
 - Prevention of homelessness
 - Reduction of recidivism
 - Recovery through compliance with treatment plan
 - Reunification with family
 - Elimination of legal barriers to self-sufficiency
 - Reentry into the workforce
 - Connecting to support services such as VHA/VBA

IMPACT

- Graduates:
 - change their demeanor and attitude
 - leave program with renewed sense of pride, accomplishment and motivation
 - leave the program sober and stable and many have their charges reduced, dismissed or receive a sentence that does not include incarceration



VETERANS COURT



THANK YOU FOR
YOUR SERVICE

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CONCLUDING REMARKS