

Guide to Veterans Legal Issues

Second Edition

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Three Rules for Legal Services Advocates

1. Always ask: Is the client a veteran or a family member of a veteran?
(Some baggage may attach to “veteran”; if you feel that’s operating, try “military” or “service”.)
Use Appendix: Referral Checklist for VA Cash Benefits
2. Consider how Post Traumatic Stress Disorder (PTSD), major depression, and Traumatic Brain Injury (TBI) may affect veterans or their families in your own housing, public benefit and family cases.
3. Refer clients to competent advocates to pursue VA benefits for veterans, their dependents and survivors.
See 8.0 Resources, especially 8.6 Veterans Projects/Services in a Legal Services Program

1.0 Overview

1.1 Demographics

Nearly 22.3 million military veterans live in the United States.¹ They represent 13% of the adult population. The overwhelming majority of veterans are men; 2,248,579 million are women. Women today comprise 20% of active duty military members, a huge increase from the past. Sixteen percent of Gulf War veterans are women while only 5% served in the military in World War II and 3% in Viet Nam. The increasing number of women in the military, serving in both combat and non-combat roles, is an emerging issue.²

Elder veterans number 9.1 million or about 36%. Fifty three percent of veterans are 35 to 64 years old.

The majority of veterans today are white (80%), specifically white males. With increasing numbers of minorities, the military is beginning to reflect the diverse population of the United States in general — 2.3 million (10.1%) African Americans; 1.1 million (5.6%) Hispanics; 333,000 (1.4%) Asian/Pacific Islanders; 185,000 (.8%) American Indian/Alaskan Natives.³

The highest numbers of veterans live in the South, followed by the Midwest, the West, and the Northeast. The highest percentages of veterans are located in Alaska (17%) and Montana (16%). Six states have more than one million veterans: California (2.3 million); Florida (1.8 million); Texas (1.7 million); New York (1.2 million); Pennsylvania (1.1 million); and Ohio (1.1 million).

¹ <http://www1.va.gov/vetdata/> The National Center for Veterans Analysis and Statistics (NCVAS) collects and analyzes key statistics on Veteran population and VA programs

² VA has set up several information portals focusing on women, for example, Center for Women Veterans <http://www.va.gov/womenvet/> and Women Veterans Health Care <http://www.womenshealth.va.gov/>

³ *Id.*

Demographics of California veterans expressed in charts and graphs are described on the CalVet web site.⁴ Also see *Veterans' Cultural Competency: Combat to Community; Demographics, Cultural Characteristics, Myths and Stereotypes about Veterans* (2013)⁵ described in 8.8 Resources - Webinars, below.

1.2 War Times

Military service is classified as either wartime or peacetime service. Certain advantages accrue to veterans with wartime service. For example, only veterans with wartime service are eligible for non-service-connected disability pension benefits. See § 3.2 Laws, below.

Veterans are categorized by the war times in which they served. “War Times” are the calendar periods with an official beginning and ending of that war time period. War times are important because many VA benefits are dependent upon a veteran having served in a war time.

Currently, we are in the “*Gulf War Period*”, which began on August 1, 1990 to the present. Other war time periods relevant today are:

World War II: September 15, 1940 – July 26, 1947.

Korean War: June 26, 1950 – February 1, 1955.

Vietnam War: August 4, 1964 – May 8, 1975.

Thirty percent of all living veterans today, 8.2 million, served in the Viet Nam war. Twenty percent, 3.9 million, served in World War II. Three fourths of all veterans served in some period of wartime. And many veterans have

4

<https://www.calvet.ca.gov/VetServices/Pages/Veteran-Demographics-.aspx>

5

http://a123.g.akamai.net/7/123/121311/abc123/yorkmedia.download.akamai.com/121311/WebContent/programs/advet11/pdf/chp_04.pdf

served in more than one wartime period such as WWII and Korean War.

1.3 The Department of Veterans Affairs⁶

The Department of Veterans Affairs, a Cabinet level department, is the second largest federal department, consisting of three administrations:

- **Veterans Health Administration (VHA)** provides health care for some veterans

- **Veterans Benefits Administration (VBA)** administers programs that provide financial and other assistance to veterans, their dependents, and survivors including Veterans' compensation, Veterans' pension, survivors' benefits, rehabilitation and employment assistance, education assistance, home loan guaranties, and life insurance coverage⁷—

Office of Disability Assistance – oversees disability [Compensation Service](#), [Pension](#) and [Fiduciary Service](#), [Insurance Service](#), and Benefits Assistance Service.

Office of Economic Opportunity oversees [Education Service](#), [Loan Guaranty Service](#) and [Vocational Rehabilitation & Employment \(VR&E\) Service](#)

Office of Field Operations oversees

- [Four area offices](#)
 - Eastern Area, [Detroit, MI](#);
 - Southern Area, Nashville, TN;
 - Central Area, Muskogee, OK;
 - Western Area, [Phoenix, AZ](#);
- [Regional Offices](#) (ROs)
- [Records Management Center](#) and
- Appeals Management Center (processes most appeals that have been returned to VBA by the Board of Veterans Appeals).

- **National Cemetery Administration**

⁶ VA Organizational Briefing Book http://www.va.gov/landing_organizations.htm

⁷ The Veterans Administration describes its programs at <http://www.va.gov/opa/publications/factsheets.asp>

Services and benefits are provided through a nationwide network of 153 hospitals, 956 outpatient clinics, 134 community living centers, 90 domiciliary residential rehabilitation treatment programs, 232 Vet centers, 57 Veterans benefits regional offices, and 131 national cemeteries.

1.4 State/Territory Veterans Affairs Offices

States also have various programs for veterans that vary by state.⁸

California Department of Veteran Affairs (CalVet)⁹ provides several programs including services for homeless people, women and parolees; tuition waivers for dependents and non-resident vets, veteran homes, and employment assistance. These services are described on CalVet's website and *California Veterans Resource Book*.¹⁰ Cal Vet District offices help veterans and their dependents to obtain federal disability and pension VA benefits through applying and representing claims.¹¹

1.5 County Veterans Service Officers (CVSOs)

In concert with the VA, CalVet, veteran service organizations, and veteran advocates, County Veterans Service Officers provide services and advocacy to veterans, their dependents and survivors. County Veterans Service Offices are often the initial contact for veterans.¹²

⁸ Links at <http://www.va.gov/statedva.htm>

⁹ <https://www.calvet.ca.gov/calvet-programs>

¹⁰

[https://www.calvet.ca.gov/VetServices/Documents/Veteran_%20Resource_%20Book_2014.pdf#search=C alifornia%20Veterans%20Resource%20Book%20E](https://www.calvet.ca.gov/VetServices/Documents/Veteran_%20Resource_%20Book_2014.pdf#search=C%20alifornia%20Veterans%20Resource%20Book%20E)

¹¹<https://www.calvet.ca.gov/find-a-service-provider>

¹²California Association of County Veterans Service Officers lists officers, their contact information, office locations and hours of operation at <http://www.cacvso.org/assets/banner/2011%20annual%20report.pdf>
See 8.0 Resource below. California Association of County Veterans Service Officers

1.6 The Servicemember's Civil Relief Act

The Servicemember's Civil Relief Act (SCRA)¹³ provides a wide range of protections for individuals entering, called to active duty in the military, or deployed servicemembers. It postpones or suspends certain civil obligations to enable service members to devote full attention to duty and relieve stress on family members of those deployed servicemembers. A few examples include these obligations:

- Outstanding credit card debt
- Mortgage payments (including foreclosure)
- Pending trials
- Taxes
- Terminating leases.

The SCRA covers all active duty servicemembers, Reservists and the members of the National Guard *while on active duty*. The protection begins on the date of entering active duty and generally terminates within 30 to 90 days after the date of discharge from active duty.

The [Servicemember's Civil Relief Act Guide \(2006\)](#) describes and analyzes the SCRA.¹⁴

[StatesideLegal.org Interactive Forms](#)¹⁵ helps clients and advocates write letters asserting any one of several SCRA protections. These include letters for early termination of cell phone contracts, vehicle and residential leases, as well as reduction of interest rates.

Information Point: More on SCRA from [JAGNet](#).

¹³

http://www.justice.gov/crt/spec_topics/military/scratext.pdf

¹⁴

http://www.americanbar.org/content/dam/aba/migrated/legal_services/lamp/downloads/SCRAguide.authcheckdam.pdf

¹⁵ <http://statesidelegal.org/interactive-forms-directory>

Practice Point: Use the department of Defense website to find out whether an individual has active duty status to qualify for provisions under SCRA.¹⁶

1.7 Military Knowhow and Jargon

[StatesideLegal.org](#) helps service members, veterans, their families and advocates to access benefits, better understand issues and find free legal help. It indexes the best legal information in an easy to use site.

Stand-out features include this information:

- [Interactive forms](#)
- [Overview of key issues](#)
 - Benefits
 - Consumer
 - Employment
 - Family Law
 - Housing
 - Taxes
 - Civil Rights
 - Education
 - Estate Planning
 - Health
 - Immigration
- [Discharge/Military Records](#)
 - DD Form 214, Discharge Papers and Separation Documents
 - Discharge Conditions
 - Request Military Service Records or Prove Military Service
 - Benefits at Separation
 - DD FORM 293 - Application for the Review of Discharge from the Armed Forces
 - Discharge Problems Associated with Traumatic Brain Injury
 - Discharge Upgrading and Discharge Review: Introductory Materials and Forms for Attorneys and Counselors

- [Legal Military Acronym User-Guide](#)

¹⁶ <https://www.dmdc.osd.mil/appj/scra/scraHome.do>

Information Point: Needs Survey VA staff, community providers, and homeless veterans complete an annual survey, identifying what they consider the unmet needs for homeless veterans in their area.¹⁷

Information Point: Needs of Gulf War vets are highlighted in Center for Investigative Reporting's *Returning Home to Battle — For many veterans, the end of active duty means the beginning of a new fight – for benefits, housing and a chance to rebuild their lives.*¹⁸

2.0 INCOME

2.1 Overview

As a whole, a smaller percentage of veterans are poor (6.3%) as compared to the poor adult non-veteran population (11.9%). The median annual income for male veterans is \$33,973; for females \$26,470.

2.2 Law

Veterans may qualify for public benefit programs available to the non-veteran population.

3.0 DISABILITY

3.1 Needs

Disability significantly increases the veteran poverty rate; the rate of increase is nearly twice that of the non-veteran disabled population.

The poverty rate of disabled veterans is 29.1%; the poverty rate of the non veteran disabled population is 16.9%. Even those veterans who receive Social Security Disability or Supplemental Security Income benefits have incomes under \$9,000 per year.

¹⁷ Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups)
http://www.va.gov/HOMELESS/docs/chaleng/2011_CHALENG_Report_FINAL.pdf

¹⁸ <https://beta.cironline.org/investigations/returning-home-to-battle/#/toc>

Due to their medical condition and difficult administrative procedures, many disabled veterans are unable to follow the path to obtain veterans benefits to which they are entitled. According to a 2005 VA Inspector General Report,¹⁹ veterans who managed to obtain some type of representation got \$6,225 more in income per year than those who had no representation. Caps on attorney fees, however, effectively bar significant private attorney involvement.

Delays in processing benefits, the lengthy review and glacial appeals process also add exponential delays to receiving needed cash benefits.

Information Point: Veterans discharged under conditions less than fully honorable, even if related to post traumatic stress or minor disciplinary infractions, are ineligible for benefits. For example, Jon Stewart in January 2014 featured two Vietnam vets who received other-than-honorable discharge due to their PTSD. Because of their discharge status, these veterans are ineligible for the benefits and treatment that their service has otherwise earned.²⁰

Disability Claims are Increasing

Disability claims from returning Afghanistan and Iraq war veterans are increasing. Many more injuries and illnesses have been publicly recognized post-combat than in theater, with over 970,000 disability claims registered with the VA as of March 31, 2014.²¹

Claims from the Iraq and Afghanistan war veterans involve different injuries from those of the past, notably Post Traumatic Stress Disorder (PTSD), major depression, and Traumatic Brain Injury (TBI), the "signature wounds" of current

¹⁹ <http://www.va.gov/oig/52/reports/2005/VAOIG-05-00765-137.pdf>, p. iii.

²⁰

<http://www.law.yale.edu/academics/17887.htm>

²¹ http://costsofwar.org/article/us-and-allied-wounded#_ftn1#_ftn1

conflicts due to their prevalence. These disabilities are more difficult to manage and take more time and resources to address.²²

According to Veterans Health Administration data collected by Veterans for Common Sense, from 2002 through June 2012, approximately 247,000 Iraq and Afghanistan veterans who came for care at a VA facility were diagnosed with PTSD. The incidence of depression and PTSD has been measured at between one quarter and one third of all troops ever deployed to those conflicts. New evidence of toxic dust exposure and resulting respiratory, cardiac, and neurological disease suggests another large segment of war zone-induced illness has yet to be fully recognized.²³

Thirty-eight per 100,000 of all Iraq and Afghanistan veterans using VA health care have committed suicide, compared with 11.5 deaths per 100,000 for the general public.

As veterans from other war times get older, the likelihood of their disability increases. For example, 45% of World War II veterans, 24.8% of Viet Nam veterans and 16.3% of the Gulf and Iraq War veterans are disabled.

Burdens of Iraq and Afghanistan Wars

The burdens of these wars have fallen on both veterans and their families. They include “higher rates of suicide and mental illness, increased drug and alcohol dependence, higher rates of violence including homicide and child abuse and neglect (the latter both among the parent left behind and by the returning veteran), high risk behaviors that have resulted in elevated numbers of car crashes and drug overdoses, elevated

²²*Invisible Wounds of War - Summary and Recommendations for Addressing Psychological and Cognitive Injuries* (Rand 2008)
<http://www.rand.org/pubs/monographs/MG720z1.html>

²³ http://costsofwar.org/article/us-and-allied-wounded#_ftn1#_ftn1

levels of homelessness and divorce, and clinical levels of stress among the children.”²⁴

The Need for Advocacy & Outreach

Approximately one half of the veterans who are disabled apply for VA benefits. A VA survey demonstrates that about only 50% of veterans know that they might be eligible for VA income benefits (service connected compensation or pension) or for other VA benefits, such as education and health care.

Just getting the information to veterans would, in itself, increase their incomes and quality of life.

3.2 Laws

[[38 U.S.C. § 1101](#); C.F.R. [4.1 to 4.150](#); [38 U.S.C. § 1521](#); [38 C.F.R. § 3.23](#)]

The two main VA cash income programs are “service connected compensation” and “pension”.

Service connected disability²⁵ is not based on need. It is paid because of injury or illness that began during a veteran’s military service. Monthly payment amounts are based on a percentage (of disability) formula. A 100% rating means that a condition constitutes a 100% disability, resulting in the highest monthly payment of compensation. A 10% rating is the lowest monthly payment. Compensation may be paid to surviving spouses and children – such benefits are not based on need. Compensation may also be paid to surviving parents, but the parents must be needy.

Practice Point: Advocacy in service connected cases may focus on establishing a proper paper trail to connect injuries to service.

²⁴ <http://costsofwar.org/article/us-veterans-and-military-families>

²⁵

<http://www.vba.va.gov/bln/21/compensation/index.htm>

Pension Program²⁶ pays monthly benefits to “war time” veterans who are disabled from working by medical condition or age. It is a need based benefit and requires that the veteran have limited or no assets and income. Pensions may also be paid to needy surviving spouses or children.

Veterans and surviving spouses may also be eligible for additional pension benefit amounts if they qualify for **Aid and Attendance or Housebound Pension** described at § 6.2, below.

Practice Point:

Use the Referral Checklist for VA Cash Benefits (Appendix, below) and then contact experts housed in various Veterans Projects/Services in a Legal Services Program listed in §8.6 Resources, below.

Veterans Claims Assistance Act of 2000²⁷ [38 U.S.C. § 5103; § 5013A](#)

The Act now requires the Veterans Administration upon receiving a substantially complete application, to notify claimants of any information and medical and lay evidence that is necessary to substantiate the claim and help claimants in obtaining that evidence.

Legal Services and Veterans Claims: 2011 and Beyond

Pursuing claims for VA financial benefits requires mastery of a complex area of the law. In *Legal Services for Struggling Veterans - Then and Now (2009)*,²⁸ Steven K. Berenson, Director, Thomas Jefferson Veterans Legal Assistance Clinic in San Diego, explains why most legal services field programs have not developed expertise in these issues.

²⁶<http://www.vba.va.gov/bln/21/pension/>

²⁷

http://www.nvlsp.org/Information/ArticleLibrary/VA_Benefits/VETBEN-CLAIMSHELP.htm

²⁸

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1616885

Yet, he asserts, the return of Iraq and Afghanistan servicemembers promises that vets are sure to become a greater part of our client base for public benefits, housing and family law cases. Although we may not have the resources to begin a benefit claims practice, we should be able to identify when clients — vets, their dependents or survivors — may have a claim for VA benefits and refer them.

Some wise advice from Mary Ellen McCarthy, a former legal services advocate, now Counsel to the Senate Committee on Veterans Affairs: “Often I hear that legal aid advocates ‘don’t see many veteran’s issues.’ I believe that this occurs because advocates often fail to ask if the client is a veteran or a family member of a veteran.”²⁹

§ 8.0 Resources, below, describe referral sources including legal aid organizations, pro bono programs and veteran service organizations who are doing VA Claims work. Also see **Appendix: Referral Guide for VA Benefits**, below.

4.0 EDUCATION

4.1 Needs

Compared to the U.S. general population, a higher percentage of veterans are high school graduates than non veterans. However, a smaller percentage of veterans are college graduates than non veterans.

Few veterans use their education benefits. Vietnam veterans are the highest users while Gulf War veterans are the lowest. Student loans are the most common source of education assistance for students; VA educational assistance is the least.

For veterans who do try to take advantage of education benefits, combat experience complicates the transition from soldier to student. Generally, student vets fall into these two groups:

²⁹ *What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status* <http://www.illinoisprobono.org/calendarUploads/CR%20article%20by%20McCarthy-Status.pdf>

- Reservists and National Guardsmen, usually in their 30s or older, back from combat duty they never really bargained for and now finally able to pursue the college education they always wanted;

- Soldiers in their 20s, who went into active duty shortly after high school, deployed overseas and came back aged beyond their years.

Some veterans have trouble collecting the government money that is supposed to pay for college, or they discover that the benefits aren't nearly enough to cover tuition and other bills. While classmates may complain about homework and hangovers, many vets struggle with post-traumatic stress disorder, the effects of traumatic brain injury, lost limbs and a range of chronic medical problems. Medications such as anti-depressants, sleep aids and painkillers interfere with a student's ability to focus.

Student veterans often don't want to admit they have a disability and won't seek help, even though they would qualify for an accommodation under the Americans with Disabilities Act.

There is no single place student vets can go, present their military record and get useful information telling them what help they're entitled to.³⁰

College Assistance and Substandard schools³¹

U.S. Department of Education has concluded that more than 100 for-profit colleges in the

³⁰ *Deserving Design: The New Generation of Student Veterans* by Cheryl Branker (North Carolina State University)

http://vets.arizona.edu/clearinghouse/documents/deserving_design.pdf

³¹ *GI Bill funds flow to for-profit colleges that fail state aid standards* by Center for Investigative Reporting (Jun 28, 2014)

<http://cironline.org/reports/gi-bill-funds-flow-profit-colleges-fail-state-aid-standards-6477>

country are so dependent on taxpayer money that they would be violating an anti-profiteering law if not for a loophole that excludes GI Bill funds and Department of Defense tuition assistance to active duty military.³²

Over the last five years, more than \$600 million in college assistance for Iraq and Afghanistan veterans has been spent on California schools so substandard that they have failed to qualify for state financial aid. The Center for Investigative Reporting found that the GI Bill is supporting for-profit companies that spend lavishly on marketing but can leave veterans with worthless degrees and few job prospects.

California is the national epicenter of this problem, with nearly 2 out of every 3 GI Bill dollars going to for-profit colleges. For example, the University of Phoenix in San Diego, since 2009, has received \$95 million in GI Bill funds - more than any brick-and-mortar campus in America, more than the entire 10-campus University of California system and all UC extension programs combined.

A University of Phoenix associate degree costs \$395 a credit – nearly 10 times the cost at a public community college. The overall graduation rate at its San Diego campus is less than 15% according to the U.S. Department of Education, and more than a quarter of students default on their loans within three years of leaving school.

4.2 Laws

The GI Bill — the generic term comprising various education assistance programs administered by the Department of Veterans Affairs — provides benefits to veterans, service

³² *Taxpayer funds are lifeline for more than 100 for-profit schools* by Center for Investigative Reporting (October 9, 2014)

<https://beta.cironline.org/reports/taxpayer-funds-are-lifeline-for-more-than-100-for-profit-schools/>

members, and some dependents of disabled or deceased veterans.³³

The Post-9/11 Veterans Educational Assistance Act of 2008 or “New GI Bill” [PL 100-28]

The Act’s main provisions³⁴ include funding 100% of a public four-year undergraduate education to a veteran who has served three years on active duty since September 11, 2001. The Act also allows the veteran to transfer benefits to a spouse or children after serving (or agreeing to serve) ten years. Most full Post-9/11 benefits took effect August 2009.

Eligibility for the several programs depends on when the veteran served in the military. Generally, education benefits must be used during active duty or within 10 years of the end of service.³⁵

Some states such as California provide for tuition waiver for veterans’ dependents and non-resident vets.³⁶

Reform for GI Bill funding

Federal legislation introduced in July 2014 to prevent for-profit colleges from gaming the federal aid system and exploiting veterans died within 15 minutes of being introduced. This was the fifth failure since the new GI Bill took effect in 2009 — nearly all legislation aimed at modifying it has failed. During that time, the amount of money for-profit education firms have spent on lobbying has skyrocketed.³⁷

³³

http://www.gibill.va.gov/resources/education_resources/ describes federal education benefits

³⁴

http://www.gibill.va.gov/benefits/post_911_gibill/index.html

³⁵ For detailed information on eligibility and benefits, go to www.gibill.va.gov/

³⁶ <https://www.calvet.ca.gov/veteran-services-benefits/education>

³⁷ <https://beta.cironline.org/reports/legislation-to-close-loophole-in-gi-bill-college-aid-dies-in-minutes/>

In 2014, California lawmakers unanimously approved legislation designed to prevent for-profit schools from preying on veterans at taxpayer expense as the session drew to a close this week – but not before the bill’s author, Jim Frazier D-Fairfield, removed most of its significant provisions. As enacted, AB2099 bars about two dozen of the state’s 121 unaccredited schools from receiving GI Bill money.

Facing opposition from the for-profit education industry, Frazier removed, in April, the provision that would have barred colleges, such as the University of Phoenix, from receiving GI Bill money if they failed standards the state has set for its own financial aid program, Cal Grants. In May, he removed another section that would have required schools to tell regulators whether veterans graduate or find jobs.³⁸

Defending the New GI Bill

The Iraq Afghanistan Veterans of America (IAVA) is leading a campaign – Defend the New GI bill!

It has great materials including compelling infographics, a loan calculator, links to where to complain about rip-offs and how to determine whether a school is worth the veteran’s investment of GI funds.³⁹

University of San Diego Law School Veterans Clinic focuses on this issue.⁴⁰

³⁸ *California lawmakers approve stripped-down reform for GI Bill funding* by The Center for Investigative Reporting (Aug. 29, 2014) <https://beta.cironline.org/reports/california-lawmakers-approve-stripped-down-reform-for-gi-bill-funding/>

³⁹ <http://newgibill.org/defend-the-new-gibill/#resources>

⁴⁰ <http://www.sandiego.edu/veteransclinic/>

5. EMPLOYMENT

5.1 Needs

The unemployment rate for veterans who served since 2001 dipped slightly in 2013 to 9% according to the Bureau of Labor Statistics Report (March 2014).⁴¹ This percentage is down from 9.9% the year before, but well above overall civilian unemployment levels of around 7% over the same period.

The youngest veterans, aged 18-24, posted an ultra-high jobless rate of 21.4%. The report documents that, despite training and job skills acquired in the military, young veterans of recent conflicts have generally encountered more difficulty in finding work than civilians.

States with the highest unemployment rate among veterans were Michigan and New Jersey, both with over 10%. States with the lowest rates were Delaware, Iowa, North Dakota, Vermont and Virginia, all under 4%.

While service members are often promised saleable skills and job opportunities they wouldn't have access to otherwise, the reality is that veterans often feel discriminated against and overlooked in the workplace.

Sixty-percent of hiring organizations polled in a June 2010 Society for Human Resource Management survey said that translating military skills to a civilian job experience could pose a challenge in hiring veterans and 46% said the same about hiring those who suffer from post-traumatic stress disorder and other mental health issues.⁴²

National Guard and Reserve Members

The Uniformed Services Employment and Reemployment Rights Act (USERRA) requires

employers to continue to employ Guard and Reserve members when they return from duty. The federal agencies — Labor, Defense, Justice and Office of the Special Counsel — responsible for administering USERRA rights are performing inadequately. Service members are returning home only to realize that their deployment has put their jobs at risk. For example, among post-9/11 returning Reservists and National Guard:⁴³

- Nearly 11,000 were denied prompt reemployment.
- More than 22,000 lost seniority and thus pay and other benefits.
- More than 15,000 didn't receive the training they needed to return to their former jobs.
- Nearly 11,000 didn't get their health insurance back.
- In 2006, 77% of reservists and National Guardsmen with reemployment problems reported not seeking assistance of any kind, indicating failure to educate and reach out to returning servicemembers to inform them of their rights.
- Almost half of reservists (44%) and National Guardsmen who filed a USERRA complaint with the Department of Labor reported being dissatisfied with DOL's handling of their case — up from 27% dissatisfaction in 2004 — and more than a third reported that DOL's response was not prompt.
- 23% of reservists and National Guardsmen surveyed in 2006 who could not find a job post-deployment said that they were unemployed because their previous employer did not promptly rehire them as required by law.

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<http://www.pbs.org/newshour/rundown/unemployement-rate-among-veterans-drops-remains-high/>

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<http://www.shrm.org/Research/SurveyFindings/Articles/Pages/EmployingMilitaryPersonnelRecruitingVeterans.aspx>

⁴³ Senate Focuses Attention on Veteran Employment Issues (April 14, 2011)

<http://www.unleashthemonster.net/federal/senate-focuses-attention-on-veteran-employment-issues/>

- Almost a third of reservists (28%) surveyed in 2006 reported not receiving information on USERRA/reemployment rights during their activation or deactivation.

- The percentage of reservists and National Guardsmen who experienced difficulty getting reemployment assistance from government agencies rose from 27% (2004) to 29% (2006).

DOL's Fiscal Year 2013 USERRA Report to Congress describes USERRA violations as reported to the Veterans' Employment and Training Service (VETS).⁴⁴

5.2 Laws

Unemployment Benefits (UCX)

The Unemployment Compensation for Ex-servicemembers (UCX) program provides benefits for ex-military personnel who were on active duty and separated under honorable conditions. The law of the State under which the claim is filed determines benefit amounts, number of weeks benefits can be paid, and other eligibility conditions. See [California Employment Development Department FAQs](#) on federal claims.⁴⁵

The Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 U.S.C. § 4301 et seq. provides job protection and rights of reinstatement to employees who participate in the National Guard and Reserve. The Act seeks to ensure that service members are entitled to return to their civilian employment and reinstated with the seniority, status, and pay rate they would have obtained had they remained employed by their civilian employer.

The law also protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the armed services. Department

⁴⁴http://www.dol.gov/vets/programs/userra/USERRA_Annual_FY2013.pdf

⁴⁵ http://www.edd.ca.gov/unemployment/FAQ_-_Out_of_State_Military_and_Federal_Claims.htm

of Labor has comprehensive resources including two on-line trainings.⁴⁶

The National Committee for Employer Support of the Guard and Reserve (ESGR), an agency within the Office of the Assistant Secretary of Defense for Reserve Affairs, operates programs directed toward U.S. employers, employees, and communities to ensure understanding of the role of Reserve component members.

The ESGR **Ombudsman Program**⁴⁷ provides “third party assistance” and informal mediation services to employers and members of the National Guard and Reserve. It works in conjunction with the Veterans’ Employment and Training Service (VETS), U.S. Department of Labor. Volunteer members are trained to help resolve employment conflicts that can result from military membership, training, or other service requirements protected under USERRA.

Information Point: Veterans and Military Families Employment Project at the Employment Law Center (San Francisco) represents veterans in employment matters including MST. It also has useful question and answer publications.⁴⁸

The Department of Labor’s The Veterans’ Employment and Training Service (VETS) provides grants to states and local non-profits to prepare veterans “to obtain meaningful careers,

⁴⁶ Sign up for UASASERA 101 at <http://www.dol.gov/vets/programs/userra/main.htm>; <http://www.dol.gov/compliance/laws/comp-userra.htm>

⁴⁷ <http://www.esgr.org/site/USERRA.aspx>

⁴⁸ <https://las-elc.org/veterans-and-military-families-employment-project>; <https://las-elc.org/factsheets/military-reservists-job-and-benefit-protection>;

maximize employment opportunities and protect employment rights.”⁴⁹

State Law

Many states also protect the employment status of those who serve in the armed forces.⁵⁰ As a federal law, USERRA preempts any state law that is less protective of servicemembers’ employment and reemployment rights.

California law, for example, prohibits public and private employers from discharging or discriminating against employees because they are members of the state or U.S. military or are ordered to duty or training (*Mil. and Vet. Code* §§ 394, 395) California laws also provide military leave rights and benefits including leave for training and continuation of health care and other benefits.

California Fair Employment and Housing Act (FEHA)

Employees and job applicants with military or veteran status qualify for protection under the FEHA, which makes it unlawful to discriminate against or harass a person on the basis of either military or veteran status.

Prohibited practices under the FEHA include:

- Refusal to hire or employ a person on the basis of military or veteran status;
- Refusal to select the person for a training program leading to employment on the basis of military or veteran status;
- Actions that bar or discharge a person from employment or from a training program leading to employment on the basis of military or veteran status;
- Discrimination against a person in compensation on the basis of military or veteran status;

⁴⁹ <http://www.dol.gov/vets/index.htm>

⁵⁰ Find state laws here: <http://www.blr.com/HR-Employment/Benefits-Leave/Military-Service-USERRA>

Discrimination in the terms, conditions, or privileges of employment on the basis of military or veteran status; or

Harassment based on military or veteran status.

FEHA permits employers to inquire about an applicant’s military or veteran status for the purpose of awarding a veteran’s preference as permitted by law.

Reasonable Accommodation

The Americans with Disabilities Act (ADA), USERRA and California’s FEHA all require employers to make reasonable efforts to accommodate veterans with disabilities. Nearly 45% of returning veterans from Iraq and Afghanistan are seeking compensation for service-related injuries. Many of the injuries may qualify as disabilities under these laws.

Overcoming Barriers to Employment⁵¹

Experienced advocates believe that some veteran unemployment is attributable to employer perception that veterans will not do well in their jobs due to mental health issues. To become competitive, veterans need support in breaking this perception.

Several policies and programs also support the return of veterans to civilian employment including hiring preferences and work opportunity tax credits (WOTC)⁵² that provide up to \$4,800 for each qualified veteran.

Veterans Opportunity to Work and Hire Heroes Act of 2011 (VOW Act) mandates that all servicemembers separating from military service participate in the Department of Labor’s Transition Assistance Program (TAP)⁵³ that assists transitioning servicemembers in

⁵¹ *Overcoming Barriers to Employment for Veterans: Current Trends and Practical Approaches* by Rick Little and Nikola Alenkin (August 2011) <http://www.publiccounsel.org/tools/publications/files/-USC-Policy-Brief-1.pdf>

⁵² <http://www.doleta.gov/business/incentives/opptax/>

⁵³ <http://www.dol.gov/vets/programs/tap/>

translating the skills acquired in the military to civilian employment. Transition Assistance Program Audit Act (S. 1104), requires a formal assessment of the TAP program every three years.⁵⁴

6. HEALTH CARE

6.1 Needs

No Health Insurance for many

Over a million veterans—or one in 10 veterans under age 65—and nearly a million of their family members lack health insurance coverage nationwide.⁵⁵

Veterans often have distinct health care needs and health insurance options. While health care through the VA is available to many veterans, priority and access are based on service-related disabilities, income level, and other factors. This means that many low-income veterans are eligible for VA health care, but don't live close to VA facilities or don't know that VA care is available.

While the VA provides health care for certain beneficiaries of veterans, VA care is not an option for other uninsured family members of veterans.⁵⁶ Coverage through Medicaid or the Children's Health Insurance Program (CHIP) is currently available to some veterans and family members who have low incomes, but Medicaid eligibility for adults is quite limited in most states: the median income eligibility level for parents is just 61% FPL,⁵⁷ and only nine states offer comprehensive Medicaid coverage to

⁵⁴ <http://www.gao.gov/products/GAO-14-144>

⁵⁵ Haley J and Kenney GM. "Uninsured Veterans and Family Members: Who Are They and Where Do They Live?" Washington: The Urban Institute, 2012. <http://www.urban.org/publications/412577.html>

⁵⁶ http://www.va.gov/opa/publications/benefits_book/benefits_chap01.asp

⁵⁷ Federal Poverty Level numbers: <http://aspe.hhs.gov/poverty/index.cfm>

nondisabled, non-pregnant adults without dependent children.

A Harvard/Cambridge Hospital Study Group found 1,700,000 veterans who have served have no health coverage. "America's Neglected Veterans"⁵⁸ found that white veterans are most likely to have Medicare or other health care coverage while Hispanic veterans are least likely to have such coverage. American Indian and Alaska Natives, the study found, were most likely to be not receiving any medical care at all.

The study concluded that the Veterans Administration cannot handle the task of caring for all veterans and all their medical needs. The study recognized the need for universal health care.

Long Waits

Tens of thousands more veterans than previously reported are forced to wait at least a month for medical appointments at Veterans Affairs hospitals and clinics, according to an updated audit of 731 VA medical facilities released in June 2014. More than 56,000 veterans were waiting more than 90 days for an initial appointment and about 46,400 veterans still have never gotten an appointment despite seeking one over the past decade, the report said.⁵⁹

Mental Health Issues

Claims from the Iraq and Afghanistan war veterans involve different injuries from those of the past, most notably Post Traumatic Stress Disorder (PTSD), major depression, and Traumatic Brain Injury (TBI), the "signature wounds" of current conflicts due to their prevalence. These disabilities are more difficult to manage and take more time and resources to address.⁶⁰

⁵⁸ <http://www.citizen.org/publications/release.cfm?ID=7339>

⁵⁹ http://www.huffingtonpost.com/2014/06/19/va-medical-facilities_n_5513464.html

⁶⁰ *Invisible Wounds of War - Summary and Recommendations for Addressing Psychological and Cognitive Injuries* (Rand 2008)

Fewer than half of the vets who need mental health assistance actually receive it. And the number of vets who receive mental health referrals may be artificially low because vets tend to under report need for mental health services.

Another problem for those who receive referrals for follow up care is delay in the delivery. A 2011 survey of VA social workers, nurses and doctors found that more than 70% of respondents think the VA lacks the staff and space to meet the needs of growing numbers of veterans seeking mental health care. The survey was requested by the Senate Committee on Veterans Affairs after a 2011 hearing at which veterans diagnosed with post-traumatic stress disorder and other mental health issues describe long waits for treatment that could raise the risk of suicide.

On average, 18 veterans commit suicide every day, according to the VA.⁶¹

Military Sexual Trauma (MST)

Military Sexual Trauma is sexual assault or harassment that occurs within a military setting. Servicemembers experiencing MST also may face these complications: they live and work with the perpetrator during and after the trauma; they report to their perpetrator; they fear their fellow soldiers may distrust them and accuse them of breaking unit cohesion; and they fear negative consequences to their careers.⁶²

Almost 20% of women screened at the VA have experienced MST; while 1.1% of males have experienced it. Sixty per cent of those with MST also suffer from PTSD.

<http://www.rand.org/pubs/monographs/MG720z1.html>

⁶¹ <http://veterans.senate.gov/hearings.cfm>

⁶² See “Trauma Sets Female Veterans Adrift Back Home” by Patricia Leigh Brown http://www.nytimes.com/2013/02/28/us/female-veterans-face-limbo-in-lives-on-the-street.html?hp&_r=2&

6.2 Laws⁶³

Veterans are not automatically entitled to VA health care, contrary to common belief and promises made to many service members during their service. VA health care is principally for treating veterans with service-connected conditions, certain combat veterans, and low income veterans.

The Veterans Healthcare Eligibility Reform Act of 1996 [P.L. 104-262] [38 U.S.C. § 1710](#)

established national standards of access to health care services for veterans and required that most veterans be enrolled to receive care. When enrolled, each veteran is assigned to one of eight “priority groups.”⁶⁴

Veterans automatically enrolled include these groups:

1. Veterans who are 50% or more service connected disabled and 100% disabled pension recipients;
2. Veterans who’ve been discharged in the past 12 months with a disability claim not yet rated;
3. Veterans seeking care for a service connected disability.

Under [38 U.S.C. § 1722](#), three categories of veterans are eligible for cost-free VA hospital and outpatient care because they are “unable to defray the expenses of necessary care.” Their net worth must be less than \$80,000 and they must

- be eligible for Medicaid,
- be receiving VA pension, and
- have “attributable income” under set limits.

⁶³ <http://www.va.gov/healtheligibility/> describes federal health benefits for veterans and dependents. See also VA Health Care Eligibility & Enrollment Glossary

<http://www.va.gov/healtheligibility/Library/Glossary/>

⁶⁴ The eight groups are listed at <http://www.va.gov/healtheligibility/Library/pubs/HealthCareOverview/#PriorityGroups>

Medicaid Expansion under the Affordable Care Act

More than four in 10—or an estimated 535,000 uninsured veterans—have incomes below 138% FPL. These people are eligible for Medicaid under the ACA if their state – like California -- participates in the Medicaid expansion.⁶⁵

If their state did not participate in the expansion, they are likely ineligible for Medicaid because in most states the median income eligibility level for parents is 61% FPL.⁶⁶ Only nine states offer comprehensive Medicaid coverage to nondisabled, non-pregnant adults without dependent children.

Military Sexual Trauma (MST)

Veterans may be eligible for service connected or disability benefits for injuries or illnesses related to MST. See 3.0 Disability, above.

Every VA facility provides free care for mental and physical health conditions related to MST. Vets need not have a VA disability rating (be “service connected”) to receive these services and may be able to receive services even if not eligible for other VA care. Vets need not have reported the incidents when they happened or have other documentation that they occurred.

Information Point: Information and resources on MST on VA Mental Health site under Military Sexual Trauma.⁶⁷

⁶⁵ Haley J and Kenney GM. “Uninsured Veterans and Family Members: State and National Estimates of Expanded Medicaid Eligibility Under the ACA” Washington: The Urban Institute, 2013. <http://www.rwjf.org/content/dam/farm/reports/issue-briefs/2013/rwjf40514>

⁶⁶ Federal Poverty Level numbers: <http://aspe.hhs.gov/poverty/index.cfm>

⁶⁷ <http://www.mentalhealth.va.gov/msthome.asp>

[Women Veterans Health Care](http://www.womenshealth.va.gov/)⁶⁸ provides information on health care services available to women Veterans, including comprehensive primary care as well as specialty care such as reproductive services, rehabilitation, mental health, and treatment for military sexual trauma.

Several organizations filed suit against the Department of Veterans Affairs (VA) in July 2014 seeking to end VA gender disparities and discriminatory policies that plaintiffs argue violate equal protection under the law.⁶⁹

PTSD is the most common mental health condition experienced by survivors of Military Sexual Trauma. The majority of MST-related PTSD claims are submitted by women and the VA refuses to accept MST survivors’ lay testimony alone to establish eligibility for compensation. As a result, the VA continues to deny MST-related disability compensation claims at a significantly higher rate than other PTSD claims, according to the lawsuit.

A common pathway to homelessness for women is MST from assaults or harassment during their service.⁷⁰ §7.1 Housing, Needs, below.

Aid and Attendance and Housebound Benefits⁷¹

Veterans and survivors who are eligible for a VA pension and require the aid and attendance of another person, or are housebound, may be eligible for additional monetary payment. These benefits are paid in addition to monthly pension, and are not paid without pension eligibility.

⁶⁸ <http://www.womenshealth.va.gov/>

⁶⁹ <http://www.law.yale.edu/academics/18613.htm>; Yale Law School’s [Veterans Legal Services Clinic](http://www.law.yale.edu/academics/18613.htm)

⁷⁰ “Trauma Sets Female Veterans Adrift Back Home” by Patricia Leigh Brown http://www.nytimes.com/2013/02/28/us/female-veterans-face-limbo-in-lives-on-the-street.html?hp&_r=2&

⁷¹

http://www.benefits.va.gov/pension/aid_attendance_housebound.asp

A&A is the highest level awarded to veterans or surviving spouses who require assistance with their daily living such as dressing, bathing, cooking, eating etc. The care can be provided in the home by either outside agencies or family members.

Housebound is a lower pension amount. Applicants do not need as much assistance as A&A, but still require help with daily living activities.

Since A&A and Housebound allowances increase the pension amount, people who are not eligible for a basic pension due to excessive income may be eligible for pension at these increased rates. Veterans or surviving spouses may not receive A&A benefits and Housebound benefits at the same time.

The Caregivers and Veterans Omnibus Health Services Act of 2010⁷² (PL 111-163) [[38 U.S.C. § 1720G](#); [38 CFR Part 71](#)] authorizes a wide range of new services to support certain caregivers of eligible post 9/11 veterans.⁷³

Basically, veterans must have incurred or aggravated a serious injury (including traumatic brain injury, psychological trauma, or other mental disorder) in the line of duty, which requires a designated caregiver to assist with personal care functions for a minimum of six continuous months at home.

The Caregiver must be at least 18 years old, a family member or live with the veteran full time, and demonstrate the ability to perform caregiver services.⁷⁴

State Medical Care Programs

States may have medical care programs for veterans residing in them. CalVet Homes

⁷²http://veterans.senate.gov/upload/Caregivers_part%201.pdf

⁷³<http://www.caregiver.va.gov/>

⁷⁴

http://www.caregiver.va.gov/pdfs/CaregiverFactSheet_Apply.pdf

provide long-term care to resident veterans. Veterans who are age 55 and above and discharged from active military service under honorable conditions, are eligible to apply for admission. The age requirement is waived for disabled or homeless veterans needing long-term care.⁷⁵

7. HOUSING

7.1 Needs

The overwhelming majority of VA housing assistance focuses on home ownership. This approach has excluded from housing assistance women, non-whites, people who can't satisfy regulations of private lenders, and all those veterans who cannot afford or who do not want (for whatever reason) home ownership.

Information Point: For an excellent analysis of government housing policies to veterans, see *“National Ingratitude: The Egregious Deficiencies of the U.S. Housing Programs for Veterans and the “Public Scandal of Veterans’ Homelessness”* by Florence Wagman Roisman, law professor and former National Housing Law Project staff attorney.⁷⁶ Florence also considers the reasons and potential cures for these inadequacies and inconsistencies.

Homelessness⁷⁷

The major housing issue for low income veterans is homelessness. A top priority for homeless veterans is secure, safe, clean housing that offers a supportive environment free of drugs and alcohol.

⁷⁵<https://www.calvet.ca.gov/calvet-programs/veteran-homes>

⁷⁶

<http://indylaw.indiana.edu/instructors/roisman/veterans.pdf>

⁷⁷National Coalition of Homeless Veterans gives detailed data at

http://www.nchv.org/index.php/news/media/background_and_statistics/ as does the veteran's group, Stand Down at <http://www.standdown.org/homeless.html>

More than half a million veterans experience homelessness each year. They are significantly over-represented in the homeless population: 9% of the adult population, but 27% of the homeless population.

One in every four homeless males is a veteran. Women veterans are three times more likely to be homeless than non veteran women. A common pathway to homelessness for women is military sexual trauma, or MST, from assaults or harassment during their service, which can lead to post-traumatic stress disorder.⁷⁸ [A UCLA School of Medicine study](#) found that 53% of homeless female veterans has experienced military sexual trauma, and that many women entered the military to escape family conflict and abuse.⁷⁹

Only about 32% of homeless veterans have VA benefits. California has the nation's largest population of homeless veterans – more than 19,000 at any point in time as of 2009.^{80 81} The overwhelming majority of homeless veterans are disabled. Their disabilities, according to the VA, include arthritis, mental illness, high blood pressure, rheumatism/joint problems and PTSD. Nearly half (47%) of homeless veterans are Vietnam War veterans.

More than half a million veterans experience homelessness each year, a striking signal that

⁷⁸ See “Trauma Sets Female Veterans Adrift Back Home” by Patricia Leigh Brown <http://www.nytimes.com/2013/02/28/us/female-veterans-face-limbo-in-lives-on-the-street.html?hp& r=2&>

⁷⁹ http://graphics8.nytimes.com/packages/pdf/us/20120228_vets/women_vet_homelessness.pdf

⁸⁰ <http://boxer.senate.gov/en/press/releases/071411b.cfm>

⁸¹ Homeless vets listed by California County http://www.cdva.ca.gov/Files/VetServices/County_HomelessPopulation.pdf

more half a million subsidized rental units are needed to house homeless vets.

Child Support Issues⁸²

Many homeless or near homeless veterans are non-custodial parents with child support issues. Child support debt can make it more difficult for veterans to find employment and housing and can also be a psychological barrier to reestablishing family relationships. Homeless veterans have identified the need to resolve child support issues as one of their major concerns.

Working with veterans presents a particular challenge for child support agencies because many veterans do not live in the states that have jurisdiction of their child support cases. They are likely to have high child support arrears and may not be motivated to pay support because the children are no longer dependent on their custodial parents for support and care.

Likewise, programs and individuals working with veterans may not identify outstanding child support issues, or know to ask the child support agency for assistance. They may not understand the ways that high child support debt can have an adverse impact on housing and employment.

7.2 Laws

Information Tip: *Helping Veterans Overcome Homelessness⁸³* by Rick Little and Stacy Garrick Zimmerman at Center for Veterans Advancement, Public Counsel Law Center, describes homeless veterans, helpful resources, and two innovative legal programs—alternative sentencing statutes and veterans courts—to link at-risk veterans to potentially lifesaving treatment and lower their risk of homelessness.

⁸² https://www.acf.hhs.gov/sites/default/files/programs/css/veterans_in_the_caseload.pdf

⁸³ <http://www.publiccounsel.org/tools/publications/files/CLEARING-HOUSE-RVW.pdf>

The Commission on Homelessness and Poverty educates the bar and the public about homelessness and poverty and the ways in which the legal community may assist. The Commission and VA have partnered on three initiatives aimed at addressing homelessness among veterans:

- (1) fostering replication of Veterans Treatment Courts;
- (2) supporting the Veterans Justice Outreach Initiative; and
- (3) removing barriers to housing and self-sufficiency by addressing child support arrears.⁸⁴

Two programs provide domicile and medical care for homeless vets:

- Health Care for Homeless Veterans (HCHV) [[38 U.S.C. § 2031](#); [38 CFR Part 63](#)] is provided in community based locations and is time limited – on average six months.
- Domiciliary Care for Homeless Veterans (DCHV) serves veterans who are mentally ill. It is based at VA medical centers and is time limited.⁸⁵

Together these two programs, serve only 13,000 to 15,000 homeless veterans per year. When veterans are discharged from HCHV and DCHV, many of them are discharged without housing.

In 1992, VA and HUD created the HUD-VA Supported Housing (HUD-VASH) program for homeless veterans who have severe psychiatric or substance abuse disorders. Homelessness Prevention and Rapid Re-Housing (HPRP) and Continuum of Care (CoC) Homeless Assistance Programs also were added later.⁸⁶

⁸⁴

http://www.americanbar.org/groups/public_services/homelessness_poverty/pages/HomelessVetsJustice.html

⁸⁵ <http://www.va.gov/homeless/dchv.asp>

⁸⁶ <http://hudhre.info/VeteransAssistance/>

HUD-VASH provides vouchers to help homeless veterans get into private rental housing through Housing Choice Voucher (HCV) rental assistance. Veterans who participate in the program also benefit from VA supportive services, including job training, education and counseling.⁸⁷ From 2008-2012, California has received 8,140 housing vouchers through HUD-VASH, listed here by location and number as well as updated for 2014.⁸⁸

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements (24 CFR Section 982). However, the 2008 Consolidated Appropriations Act (Public Law 110-161) allows HUD to waive or specify alternative requirements for any provision of any statute or regulation affecting the HCV program in order to effectively deliver and administer HUD-VASH voucher assistance.

The alternative requirements are established in the HUD-VASH Operating Requirements (including the waivers and alternative requirements from HCV program rules), which were published in the Federal Register on May 6, 2008.

Information Point: Find the operating requirements, notices, guidance, and other helpful tools and resources on [HUD-VASH Voucher web page](#).⁸⁹

HUD has put together a one-stop spot on housing for veterans. It lists HUD homeless veteran programs and initiatives, as well as resources, publications, and relevant links to

⁸⁷ <http://www.va.gov/HOMELESS/HUD-VASH.asp>;
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash

⁸⁸

<http://portal.hud.gov/hudportal/documents/huddoc?id=vash-sites.xls>

⁸⁹

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash

agencies and organizations. It also provides local contact information for each program.⁹⁰

Addressing Child Support Arrears⁹¹

The Office of Child Support Enforcement -VA-ABA Collaboration Project began in January 2010 in nine cities recruited as pilot sites: Atlanta, Baltimore, Boston, Chicago, Los Angeles, Minneapolis, San Diego, Seattle, and the District of Columbia. *Ending Homelessness Among Veterans: The OCSE-VA-ABA Collaboration Project* describes the strategies, models, and outcomes as well as the individual projects including those in Los Angeles and San Diego.⁹²

Compromise of Arrears Program (COAP)⁹³

Parents may be able to compromise debt that accrued because their child received public assistance when they failed to pay court ordered child support. California Family Code § 17560(f)(1)(B) increases the potential compromise for parents who have been, or are currently, reservists or members of the National Guard that have been activated to military service.

Compromise of Arrears Program Policy & Procedures by California Department of Child Support Services (Ninth Edition September 2011)⁹⁴ describes the rules and procedures.

⁹⁰ <http://hudhre.info/VeteransAssistance/>

⁹¹ [http://www.acf.hhs.gov/programs/css/resource-library/search?area\[5919\]=5919;](http://www.acf.hhs.gov/programs/css/resource-library/search?area[5919]=5919;)

⁹² https://www.acf.hhs.gov/sites/default/files/ocse/ending_homelessness_among_veterans.pdf

⁹³ <http://www.childsup.ca.gov/Payments/CompromiseofArrearsProgram/tabid/131/Default.aspx>

⁹⁴ <http://www.childsup.ca.gov/portals/0/resources/docs/manuals/COAP%20Policy%20and%20Procedure%20Manual.pdf>

Orange County Department of Child Support Services (Lawyer's Corner – Legal Issues)⁹⁵ has the most complete discussion of the Compromise of Arrears (COAP/CAO-FR).

Tulare Department of Child Support Services lists information for Military Personnel and Veterans⁹⁶ through links to the HHS Office of Child Support Enforcement.⁹⁷

8.0 RESOURCES

8.1 Practice Manuals

The National Veterans Legal Services Program (NVLSP) represents veterans and trains other lawyers and service representatives, lay advocates, who are trained and pass an examination, may represent veterans before Veterans Affairs and the Court of Veterans Appeals. NVLSP was the first federally funded legal services project devoted solely to serving vet legal needs. <http://www.nvlsp.org/>

NVLSP's Veterans Benefits Manual, updated annually, is the most thorough publication on VA disability benefits. The “bible” for advocates representing on veterans claims, it is a must have resource.

The Veterans Consortium Pro Bono Program

NVLSP is a key partner in the Veterans Consortium Pro Bono Program, which recruits and trains attorneys in veterans' law and helps unrepresented veterans who have filed appeals at the U.S. Court of Appeals for Veterans Claims. The Program will review any appeal to Court of Appeals for Veterans Claims and provide a pro bono lawyer if the case meets listed criteria. <http://www.vetsprobono.net/>

⁹⁵ <http://www.css.ocgov.com/legal/atty/issues/coa>

⁹⁶ http://co.tulare.ca.us/government/child/military_information.asp#Veterans;

⁹⁷ <http://www.acf.hhs.gov/programs/css/military-veterans>

The American Servicemembers and Veterans Survival Guide is an online consumer guide for vets and current service members. It describes benefits and services and how various agencies work in practice. This resource is a good first place for advocates new to the area and a great source for clients.

<http://www.nvlsp.org/images/uploads/survivalguide.pdf>

What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status by Mary Ellen McCarthy

“Often I hear that legal aid advocates ‘don’t see many veteran’s issues.’ I believe that this occurs because advocates often fail to ask if the client is a veteran or a family member of a veteran. “

~ Mary Ellen McCarthy

This great article helps advocates who don’t know much about VA benefits to identify what a veteran, veteran dependent or survivor of a veteran may be entitled to. It contains a quick screening guide to help advocates ask the right questions and refer clients to resources.

From [September-October 2009 Clearinghouse Review](#); free access from Illinois Pro Bono here: <http://www.illinoisprobono.org/calendarUploads/CR%20article%20by%20McCarthy-Status.pdf>

8.2 Advocacy Organizations

Swords to Plowshares

An advocacy organization in San Francisco that is unique in its comprehensive range of services for needy vets, including counseling and case management, housing, and employment and training. It also provides legal representation to veterans seeking VA benefits. <http://www.swords-to-plowshares.org/>

Veterans Service Organizations (VSOs)

Most of these organizations provide representation for veterans without regard to the veteran's membership in the organization.

American Legion

Maintains a list of American Legion Department Service Officers who are available to assist veterans and their dependents and survivors apply for any

federal or state benefit to which they may be entitled.

<http://www.legion.org/departments/officers>

Disabled American Veterans (DAV)

Links to local web sites to find representatives who can help veterans access their benefits and current service members transition to civilian life.

<http://www.dav.org/veterans/Default.aspx>

Iraq and Afghanistan Veterans of America (IAVA)

IAVA is the first and largest nonprofit, nonpartisan organization for new veterans, with over 200,000 Member Veterans and supporters nationwide. It has health, employment and education programs.

<http://iava.org/>

Paralyzed Veterans of America (PVA)

The PVA works through a national network of National Service Offices to provide services to paralyzed veterans, their families, and disabled veterans. These services range from bedside visits to guidance in the VA claims process to legal representation for appealing denied claims.

http://www.pva.org/site/c.ajIRK9NjLcJ2E/b.6306243/k.9E32/Veterans_Benefits.htm

Veterans of Foreign Wars (VFW)

VFW created National Veterans Service, a nation-wide network of skilled VFW Veterans Service Officers to help vets “wade through all the bureaucratic red tape.” Search by state here.

<http://www.vfw.org/Assistance/National-Veterans-Service/>

Vietnam Veterans of America (VVA)

Dedicated to Vietnam-era veterans and their families, among its services, VVA advertises a hot line **1-800-273-8255**, available 24/7— for veterans in emotional crisis and need help immediately. All calls are confidential. <http://www.vva.org/>

8.3 Government Agencies - Federal Federal – Department of Veteran Affairs

The VA has a comprehensive web site including regulations and manuals. For example—

- *Federal Benefits for Veterans, Dependents and Survivors* (2012 Edition) gives a succinct overview of all veteran's benefits.

http://www.va.gov/opa/publications/benefits_book.asp

- *The A-Z Health Index* provides multiple ways to access the topics and features on Veterans Health websites. The index will continue to evolve as additional topics are added.

<http://www.va.gov/health/topics/>

- *Veterans Crisis Line* - confidential toll-free hotline, online chat, or text. Veterans and their loved ones may call **1-800-273-8255** and **Press 1**, [chat online](#), or send a text message to **838255** to receive confidential support 24 hours a day, 7 days a week, 365 days a year

<http://veteranscrisisline.net/>

8.4 Government Agencies - State

Find a list of all **State/Territory Veterans Affairs Offices** at <http://www.va.gov/statedva.htm>

California Department of Veteran Affairs

<https://www.calvet.ca.gov/>

CalVet provides special programs, benefits and services for California veterans and their families summarized in the *California Veterans Resource Book*

[https://www.calvet.ca.gov/VetServices/Documents/Veteran %20Resource %20book 2014.pdf](https://www.calvet.ca.gov/VetServices/Documents/Veteran%20Resource%20book%202014.pdf)

Cal Vet District offices assist veterans and their dependents in obtaining VA benefits through the process of application and representation of claims.

<https://www.calvet.ca.gov/VetServices/Pages/District-Offices.aspx>

County - Veterans Service Officers (VSOs)

In each California County, a County Veterans Service Officer provides services and advocacy to veterans, their dependents and survivors. Find the California Association of County

Veterans Service Officers (CACVSO) list here.
<http://www.cacvso.org/page/2011-1-22-13-52-31/>

8.5 Articles

The Movement Toward Veterans Courts by Steven Berenson - 2010 May-June

Clearinghouse Review

Military veterans return home from overseas conflicts with “invisible wounds” of combat—posttraumatic stress disorder, major depression, and traumatic brain injury. These wounds can lead to a veteran's ultimate involvement in the legal system. Jurisdictions have launched veterans court initiatives to tackle the unique problems that bring about such involvement and resolve the problems in a manner such that healing is fostered and recidivism prevented. Advocates should be aware of the value of these courts and of some considerations in creating such initiatives.

<http://povertylaw.org/clearinghouse/article/movement-toward-veterans-courts>

Legal Services for Struggling Veterans - Then and Now (2009) by Steven K. Berenson

Written for a symposium to celebrate the 100th anniversary of Southeastern Minnesota Regional Legal Services (SMRLS), this article discusses how struggling veterans have not generally been considered an appropriate demographic group to provide free civil legal assistance. It also lays out the challenges in representing veterans, particularly those returning from the Iraq and Afghanistan conflicts and recent initiatives to increase the free civil legal assistance.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1616885

Legal Needs of Veterans, Servicemembers and their Families

September-October 2009 Clearinghouse Review <http://povertylaw.org/clearinghouse/510>

- Let Us Meet the Needs of Military Veterans, Servicemembers, and Their Families
- Special Considerations When Representing Military Veteran Clients
- Issues Raised by Military Service in the Context of Family Law Cases

- Establishing a Successful Veterans Benefits Project: Two Perspectives

- Five Tips that Pro Bono Attorneys Need to Know When a Servicemember Is a Party to a Family Law Case

- Appointment Practice Under the Servicemembers Civil Relief Act: The Duties of Court-Appointed Counsel

- Using the Transitional Jobs Strategy to Help Chronically Unemployed Veterans

- What the Fowlkes? How Fleeing-Felon Rules Apply to Veterans

- A Guide to Military Child Care

- Helping Veterans Overcome Homelessness <http://www.publiccounsel.org/tools/publications/files/CLEARING-HOUSE-RVW.pdf>

- An Introduction to Legal Services and Protections for Military Personnel and Their Family Members

- What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status

- A Case for Federal Oversight of Military Sexual Harassment

- Employment Law and How the Uniformed Services Employment and Reemployment Rights Act Protects Servicemembers

- Advocating Benefits for Veterans

- Immigration Issues Faced by U.S. Servicemembers: Challenges and Solutions

Homeless Veterans Justice Initiative
The Commission on Homelessness and Poverty educates the bar and the public about homelessness and poverty and the ways in which the legal community may assist. The Commission and VA have partnered on three initiatives aimed at addressing homelessness among veterans:

(1) fostering replication of Veterans Treatment Courts; 18 courts in California⁹⁸

⁹⁸http://www.americanbar.org/groups/public_services/homelessness_poverty/initiatives/homeless_courts.html

(2) supporting the Veterans Justice Outreach Initiative; and

(3) removing barriers to housing and self-sufficiency by addressing child support arrears. http://www.americanbar.org/groups/public_services/homelessness_poverty.html

8.6 Veterans Projects/Services in a Legal Services Program

Disability Rights California - Protection & Advocacy for Individuals with Traumatic Brain Injury (PATBI) Program
<http://www.disabilityrightsca.org/pubs/543401.pdf>

Employment Law Center
<https://las-elc.org/fact-sheets>

Golden Gate University Law's Veterans Legal Advocacy Center
<http://law.ggu.edu/clinics-and-centers/veterans>
Hosts an Annual Veterans' Law Conference

Inner City Law Center - Homeless Veterans – Los Angeles
<http://www.innercitylaw.org/homeless-veterans/>

Legal Aid Foundation of Los Angeles – Veterans Justice Center
<http://www.lafla.org/service.php?sect=govern&sub=veterans>

Public Counsel - Center for Veterans Advancement – Public Counsel (Los Angeles)
http://www.publiccounsel.org/practice_areas/center_for_veterans_advancement
CVA has useful publications and links to local resources.

Kudos to CVA Director Rick Little and Public Counsel Vice President Paul Freese for their tireless advocacy on behalf of veterans.

Stateside Legal – Pine Tree Legal Assistance – National (website) StatesideLegal.org helps service members, veterans, their families and advocates to access benefits, better understand issues and find free legal help. It indexes the best legal information in an easy to use site. More at 1.7, above <http://statesidelegal.org/>

The Thomas Jefferson Veterans Legal Assistance Clinic (San Diego)

<http://www.tjls.edu/clinics/veterans-clinic>

University of San Diego Law School Veteran's Clinic

<http://www.sandiego.edu/veteransclinic/>

This clinic focuses on GI benefits at for profit schools.

VA Facilities - Free Legal Clinics

<http://www.va.gov/ogc/docs/LegalServices.pdf>

The VA currently provides office space to 46 legal service providers in 43 of its healthcare facilities. There are nine legal clinics in VA facilities in California staffed by volunteers. They include Ukiah, Santa Rosa, San Francisco, Oakland, Los Angeles, Mission Viejo and Garden Grove.

The National Veterans Legal Services Program (NVLSP)

<http://www.nvlsp.org/>

8.7 Pro Bono Resources – National Directory

http://www.va.gov/OGC/docs/PRO_BONO_RESOURCES.pdf listed at VA Office of Legal Counsel web site: <http://www.va.gov/OGC/LegalServices.asp>

Clinic in a Box – Texas Bar Association

Local bar associations can request a free “Clinic in a Box,” which contains everything an organization needs to host a veterans’ legal clinic — forms, folders, signs, office supplies, etc. Clinic in a Box Contents⁹⁹

8.8 Law Schools with Veterans’ Law Clinics

The Department of Veterans Affairs hosted the first national forum for law schools and legal organizations that provide free legal help to Veterans, called “Vet Law 2014.”

<http://www.va.gov/OGC/VetLaw.asp> Find

⁹⁹ <http://statesidelegal.org/how-start-legal-clinic-clinic-box>

Forum materials at the bottom of the page) include

Currently there are 29 law school clinics that serve veterans, but no list. John Marshall and Yale clinics are listed here because they have resources useful to practitioners.

The John Marshall Law School: Veterans Legal Support Center

<http://www.jmls.edu/veterans/> VLSC developed an electronic survey for Veterans Treatment Courts (VTCs) to provide a better understanding of the impact that VTCs have on the criminal justice system. Survey responses are updated. <http://www.jmls.edu/veterans/survey.php> California has two VTCs in Santa Ana and Ventura.

Yale Law School: Veterans Legal Services Clinic

<http://www.law.yale.edu/academics/veteranslegalservicesclinic.htm>

The web site describes the clinic’s work that provides examples for cutting edge legal work.

8.8 Webinars (on demand and free)

National Consumer Law Center Basics of VA Benefits (April 13, 2011)

[Presentation Recording](http://www.nclc.org/confere) [Recording](http://www.nclc.org/confere) <http://www.nclc.org/confere> [ncs-training/national-elder-rights-training-project.html">ncs-training/national-elder-rights-training-project.html](http://www.nclc.org/confere)

Practicing Law Institute (2013, 2014)

This webinar is offered annually with a few tweaks here and there. A webinar is scheduled for November 10, 2014. Go to PLI and use search to find. The agenda below is from 2013 program.

Advocating for Veterans - the Basics on Benefits, Discharge Upgrades and Cultural Competency (6.11 Hours)

Program Overview and Introductions*

[00:05:13] Michael Blecker, Theresa Mesa, Teresa Panepinto

- **Introduction to Benefits for Veterans with Disabilities** [01:05:15]
- **Service Connected Disability Compensation and Character of Discharge** [01:01:12]

- **Special Disabilities, Procedures and Practice Pointers** [01:00:30]
- **Veteran Cultural Competency: Combat to Community; Demographics, Cultural Characteristics, Myths and Stereotypes about Veterans** [01:00:10]
- **Military Discharge Upgrade and Review** [01:00:50]
- **Special Issues in Discharge Review** [01:00:10]

Appendix

Referral Checklist for VA Cash Benefits

I. Veteran Benefit Eligibility

For veterans, a dependent spouse, child, adult dependent child, or dependent parent of a veteran:

- Vet receives any cash benefits or health care from the VA
 - Contact VA to inquire if additional benefits are available
- Vet has a disability that was incurred or aggravated by active military service
 - Refer vet to apply for service-connected compensation and VA health care. Also screen for veteran pension eligibility.

II. Pension Eligibility

- Refer a veteran who meets all these criteria:
 - Is 65 or older or permanently and totally disabled
 - Discharged under conditions other than dishonorable
 - Served during a period of war, such as World War II, Korea, Vietnam, or after August 2, 1990
 - Resources: less than \$80,000 (exempt resources include home, personal belongings, vehicle for transportation)
 - Income: less than current income amount for pension - out-of-pocket medical expenses

III. Surviving Spouse Eligibility (Death Pension)

- Refer a survivor who appears to meet all these criteria to VA to apply for a death pension.
 - Is the surviving spouse of a vet
 - Married to vet at the veteran's death
 - Not remarried since the veteran's death
 - Vet Eligibility
 - Vet discharged under conditions other than dishonorable
 - Vet served during a period of war, such as World War II, Korea, Vietnam, or after August 2, 1990
 - Resources
 - Less than \$80,000 (exempt resources include home, personal belongings, vehicle for transportation)
 - Income: less than current death pension income for family size

IV. Dependency and Indemnity Compensation Eligibility (DIC)

- Veteran died of a service-connected disability or a disability that VA recognizes as presumptively service connected due to service during the Vietnam or Gulf war or due to prisoner-of-war status
- Survivor has not remarried
- Refer the survivor to VA to apply for Dependency and Indemnity Compensation (DIC).
- Survivor remarried after 12/31/03 and was at least 57
- Refer the survivor to VA to apply for Dependency and Indemnity Compensation (DIC). (DIC benefits are not available while the survivor is married).

Hat Tip to Mary Ellen McCarthy *What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status* <http://www.illinoisprobono.org/calendarUploads/CR%20article%20by%20McCarthy-Status.pdf>