New York State Defenders Association
Veterans Defense Program
2016 Annual Report
Defending Those Who Defended Us
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*Case Study veteran names have been changed for privacy protection. All photos are from VDP supporters.
Introduction to the Veterans Defense Program

Defending Those Who Defended Us

The Veterans Defense Program (VDP) provides training, support, and legal assistance to promote trauma-informed effective representation of veterans and service members in New York State’s criminal and family court systems. The first of its kind in the nation, the VDP was launched in response to a crisis situation as growing numbers of veterans with service-related mental health illnesses were lost in the criminal justice system.

Promoting Justice & Fairness
The Veterans Defense Program (VDP) is a project of the New York State Defenders Association (NYSDA), a statewide non-profit organization working to improve the quality and scope of publicly supported legal representation for people who cannot afford a lawyer.

Invisible Wounds of War
Studies report that depressive disorders, substance abuse, Post-traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI) among veterans are at epidemic proportions. Of the 1,076,261 veterans in the state, approximately 322,878 are estimated to have PTSD, TBI, or depression. Studies show 50% of those veterans are untreated. (Sources: Invisible Wounds of War: Psychological & Cognitive Injuries, Their Consequences & Services to Assist Recovery, RAND Corporation, 2008. U.S. Bureau of Statistics, 2015, including Post-9/11, Gulf, Vietnam, Korean, and WWII veterans.)

PTSD and TBI are linked to incarceration, antisocial behavior, and violence among veterans. Moreover, the numbers are expected to increase. According to the VA, the veteran population will increase 46% between 2014 and 2019. (VA 2014.)

Veterans Legal Support Services
Staffed by award-winning attorneys with deep experience working with veterans, the VDP is committed to giving veterans access to the best possible legal representation. Veterans with battle-borne illnesses need treatment and an alternative resolution process in the criminal justice system. The VDP attorneys provide innovative and case-specific legal assistance, research, and consultation in criminal and family court veteran cases.

The VDP’s goal is to ensure that each veteran has an effective advocate; each veteran’s story is properly presented to a judge, jury, and prosecutor; and veterans get the treatment they need and deserve.

VDP Deputy Director, Art Cody, a retired Navy Captain and Afghanistan veteran, describes the need for VDP: “The most vulnerable of our returning warriors, those who have been injured either physically or mentally and are now in the criminal justice system because of those injuries, are often somehow removed from those ‘troops’ that we support. We support the troops and thank them for their service until they get arrested. Very often their military experiences, which a civilian judge or jury would have a very difficult time understanding, are at the core of their involvement in the criminal justice system. It is difficult for a civilian judicial system to understand what it means to undergo rocket attacks 5 days a week for months on end or know what it is like to spend days crouched in a bunker in fear for your life. That has an effect on you that is difficult to recover from when you get back home. The VDP’s goal is to ensure
that each veteran has an effective advocate; each veteran’s story is properly presented to a judge, jury, and prosecutor; and veterans get the treatment they need and deserve.”

On a daily basis, the VDP advises public defense attorneys representing veterans on military culture and its impact on clients, service-related mental health issues, and client-centered legal approaches focused on treatment and sentencing mitigation. The VDP assists attorneys during every step of a case, from pre-trial motions to sentencing and re-entry. For instance, VDP attorneys will conduct in-depth research and interviews, make court presentations, and write mitigation memoranda. The VDP provides direct legal representation or comprehensive “second chair” assistance in strategic cases.

Training Programs
The VDP attorneys conduct continuing legal education trainings across the state for hundreds of public defense attorneys and presentations to bar associations, government agencies, and veteran organizations. An Accredited Provider of Mandatory Continuing Legal Education, NYSDA VDP trainings receive excellent reviews. For the Training Calendar, go to: https://nysda.site-ym.com/

Expert Referrals & Guidance
The VDP staff guide defenders on obtaining appropriate military or mental health experts. Veterans who call the VDP receive guidance and expert referrals on criminal defense or family court issues, as well as VA programs and veteran service organizations.

An Invaluable Service for Veterans
The VDP is supported by over 70 veteran and mental health groups, including the American Legion, AMVETS, Disabled American Veterans, Marine Corps League, Military Order of the Purple Heart, New York State Council of Veterans Organizations, United War Veterans Council, National Alliance for Mental Illness-NYS, Veterans of Foreign Wars, and a majority of county public defense programs, such as Brooklyn Defender Services, Legal Aid Society of Suffolk County, Ontario County Public Defender Office, and Legal Aid Bureau of Buffalo.

The Veterans Defense Program—the only program of its kind in the nation—provides training and legal assistance to attorneys defending veterans and advocates a treatment-oriented approach for veterans suffering from the invisible wounds of war.
Summary of VDP
2016 Activities & Accomplishments

• In 2016, the VDP assisted 308 veterans and trained 622 public defenders representing veterans in New York State’s criminal and family court systems.

• In the 164 cases where the VDP attorneys provided direct representation or substantial legal assistance, an encouraging 62% of veteran clients received treatment.

Legal Assistance Provided in 308 Veteran Criminal Justice Cases

■ Public Defense Backup Support:
The VDP served as a day-to-day backup resource for attorneys in more than 120 county-based public defender offices, legal aid societies, and assigned counsel programs, and for individual veterans and their families. The VDP’s assistance provides a second chance for veterans who have lost their way and facilitates a treatment-oriented mitigation approach focusing on restoration and rehabilitation. The following is a summary of the legal assistance that VDP attorneys and program staff provided to justice-involved veterans and their public defense attorneys in 308 cases.

■ Direct Representation Provided on Six Key Veteran Criminal Justice Cases:
The VDP attorneys represented six veterans whose cases addressed a systemic problem, established a precedent, or presented a great need requiring an extensive expenditure of time and assistance. The VDP’s zealous representation resulted in case victories and veterans were saved from incarceration, provided leniency by the court, and were sentenced to treatment to address their mental health issues and/or substance abuse. For example, the VDP produced Motions, Sentencing Memoranda, 440 Resentencing Motions, Bail Release Memoranda, and Motions to Dismiss in the Interest of Justice, and made numerous court appearances, in a number of cases.

• U.S. Army Specialist CJ Thomas* The VDP’s direct representation resulted in the young Afghanistan-deployed Army soldier with PTSD receiving a reduced sentence and VA treatment. CJ was held in jail for almost two years pre-trial for a first-time offense of residential burglary. The VDP filed a Criminal Procedure Law 440 Motion seeking an order vacating the 8-year sentence imposed by the original judge and CJ’s sentence was reduced by 3 years. He was released on Post Release Supervision in January 2017, and returned home. He is enrolled in outpatient Mental Health and Substance Abuse Treatment, is seeking employment, and continuing his college education using his Post-9/11 Veteran Educational Benefits.

■ Substantial Assistance Provided on 158 Criminal Defense Cases; Positive Results Included 62% of the Veteran Clients Receiving Treatment:
The VDP attorneys provided substantial assistance to defense counsel representing veterans in 158
cases, including conducting veteran client interviews, obtaining military or medical experts, and writing case-specific legal documents, such as in-depth Mitigation Memoranda, Bail Release Memoranda, and Motions to Dismiss in the Interest of Justice.

- **U.S. Army Specialist Rick Jones**
The VDP provided substantial assistance to this veteran's public defender including mitigation, a Clayton Motion, and participating in trial strategy planning. Jones, who acted in self-defense and was originally charged with Murder 2nd Degree, accepted a Manslaughter plea with a sentencing cap of 7 years. The VDP attorneys presented witness direct testimony in a sentencing hearing. Through the VDP's intervention with the NYS Department of Corrections & Community Supervision, Jones was placed in the Incarcerated Veterans Program at Mid-State Correctional Facility, with a conditional release date of 2020, a substantial reduction from the 25 years to life sentence he originally faced.

- **Assistance Provided to Defense Counsel or Veterans & Their Families on 150 Criminal or Family Court Cases:** The VDP attorneys provided legal assistance to defense counsel representing veterans in 150 cases, providing strategic defense advice on how to obtain military and VA records, assistance with expert referrals, including military culture and medical experts. The VDP provided referrals to family court and civil attorneys. The VDP holistically aided veteran clients with treatment needs, homelessness, mentoring support, benefit questions and other issues.

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*Defending Veterans in Criminal Court*
VDP Deputy Director Art Cody and VDP Director Gary Horton speaking at the June 2016 training in Buffalo, NY, cosponsored by the Legal Aid Bureau of Buffalo.
Comprehensive Training Provided for 622 Lawyers Defending Veterans

■ **VDP Intensive Point Person Training:** The VDP offered 3 intensive “Point Person” trainings to 30 Public Defender Offices resulting in at least one attorney in each office able to serve as an internal point person, trained to serve as a knowledgeable veteran representation resource for their office and as liaisons to the VDP.

■ **VDP Legal Trainings:** The VDP provided extensive legal training to 592 public defenders, legal aid society attorneys, and assigned counsel in New York State through 20 national, statewide, and regional training workshops and conferences. The trainings provided Continuing Legal Education (CLE) credits for attorneys. The trainings received very positive reviews.

■ **14 Educational Workshops and Conference Presentations:** The VDP legal staff also traveled throughout the state to provide educational presentations to 14 organizations and 680 people working on public defense, criminal justice, and veteran mental health issues, such as the American Legion, Batavia City Police Department, Fortune Society, Nassau County Bar Association, NYC Bar Association, Mental Health Association of NYS, NYS Association of Criminal Defense Lawyers, NYS Council of Veterans Organizations, and the VFW Ladies Auxiliary. The VDP provided information on its services, treatment-oriented legal approach and resources, and facilitated discussions among groups about how to best meet the needs of justice-involved veterans and service members.

*Veteran names were changed to protect their privacy.*
Veterans Defense Program
Case Distribution by County
2016

*Does not include minor consults or out-of-state contact.

New York City Region

*New York City – 12%
Veterans Defense Program Testimonials

What Veterans Are Saying About the VDP

“We appreciate the fact that the VDP is there for the support of veterans. Gary Horton has been a Godsend to us and our son. He has given us hope for justice…I hope the VDP continues its great service so that others like my son will get the help they need, when they need it.”
Cathy Schillaci, Mother of U.S. Army Veteran, Rome, NY

“Thanks to the legal assistance of Captain Cody of the VDP, I am not in jail on a 5 year weapons charge. Their Mitigation Memorandum to the court explained my severe PTSD, suicidal depression and my traumatic incidences in Afghanistan and advocated a treatment-oriented approach. After hearing my story, the judge and DA both supported 3 years probation with PTSD treatment, saving me from incarceration and getting me into treatment.”
Peter Eliot*, U.S. Army Veteran, Queens, NY

“Thank you guys for everything you’ve done. I owe you and I look forward to making you guys proud. I have a long ways to go to get myself right, but I wouldn’t be where I am right now if it was not for you guys.”
CJ Jones*, U.S. Army Veteran, formerly at a correctional facility and now home in Upstate NY

“I just wanted to say thank you so much for the time and effort you put in to make my situation better. I am currently at the…Correctional Facility in the Veterans dorm. They lost my property during transit and everyone helped me out with lending me clothes and stuff…These Veteran dorms are great…Its really good to see that in such a flawed system that there are guys like you who devote so much time and energy to make other people’s situations better for them and their families…Thank you.”
Matt Tarisino*, U.S. Marine Veteran, New York Correctional Facility

“I am a U.S. Marine and Iraq War veteran who has PTSD and TBI. The VDP’s assistance proved to be invaluable to me and my public defense attorney. When I was arrested, I was humiliated and degraded by police officers…until Gary stepped in to help…I know personally how important it is to have the help of the VDP attorneys; if it was not for them stepping in I would likely be sitting in a jail cell now…The VDP was there to help me when no one else was. Veterans who find themselves caught in the legal system need the VDP—without them we are lost in the criminal justice system. The VDP’s assistance gave me a second chance.”
Terry Thomas*, U.S. Marine Veteran, Binghamton, NY
“Words will never describe the amount of gratitude that I wish to express to you. The VDP has been a blessing to my family and I. In late 2015, I lost my job. I was running out of money and time to provide for my family. I was falling deeper and deeper into depression from the PTSD that I suffered from as a Marine serving my country. You took the time to help me and my family. As a result my friend, I am able to work, and slowly pay back my arrears that I owe. You neither judged me nor made me feel like a poor father for losing my job. Thank you from the bottom of my heart for such a wonderful program. I am doing better with help from the VA, and I hope to continue to find my path. You are a blessing, and I will tell anyone who asks.”

Sandy Larosa*, U.S. Marine Veteran, formerly from Rochester, NY

“Thank you from the bottom of my heart for such a wonderful program. I am doing better with help from the VA, and I hope to continue to find my path. You are a blessing, and I will tell anyone who asks.”

Jeremy Castile*, U.S Army Veteran, Halfmoon, NY

“I could have never made it this far without your help. The work that you provide to veterans is more than just help, it is heavenly sent.”

Theo Lancaster*, NYS National Guard, Correctional Facility

“I am writing to express my gratitude for all the work the VDP has done for our veteran son Joe*. Joe is diagnosed with being bipolar and suffers from PTSD. Joe, through his actions, became involved in legal and medical challenges… I shudder to think how things would have gone without the help we received from Gary Horton and Dee Quinn Miller. They talked with his lawyer, and knew the agencies to contact that would be of help. They were able to coordinate a program that would help our son with both his legal and mental issues. Gary and Dee have the knowledge, the connections, and the professional experience to say and do the right things that result in progress. They have compassion for veterans and their families. I was amazed that Gary and Dee always found time to listen to our many questions and work until they found the needed answers. They treated our son respectfully, and always found time for Joe when he needed to talk... The VDP makes New York State a better place to live and raise a family.”

Art and Carol Scott* on behalf of their son Joe*, U.S. Army, Batavia, NY

“You’ all were a huge help when it came to keeping me mentally fit during this whole process. I still cannot thank you enough brother.”

Grizzly Bob*, U.S. Army veteran, Albany, NY
“Thank you so much for your help over the last 15 ½ months. Your service is a blessing! I really would not like to imagine what things would be like through this process without the VDP.”
*Rick Jones*, U.S. Army veteran, NY Correctional Facility

“I have completed my 49 hours of community service, the court has dismissed my two motor vehicle charges, and I have a year to pay a $755 fine. I am also going to DUI classes on Long Island...This experience has changed my life. I have moved into a Sober House and go to therapy and now have 3 months of sobriety as of today. I wanted to thank Gary and Dee for being supportive throughout my case. I can’t thank you guys enough.”
*James Peterson*, U.S. Army, Long Island

“Our statewide veteran council, representing 24 veteran groups, such as the Marines, VFW and Disabled American Veterans, strongly support the critically important work of the VDP. A number of our members have been helped by the VDP and their advocacy for mitigation and treatment to heal a veteran’s battle-borne illness. Justice-involved veterans need the VDP. The VDP is truly defending those who defended America.”
*Tom DeMeo, President, NYS Council of Veterans Organizations*

**What Government Officials Are Saying About the VDP**

“The VDP is needed to serve the Veteran who is at extreme risk when entering the judicial system. Their unique ability to provide training, support, and legal assistance for Veterans who may have untreated service-related illnesses can keep service members from being overwhelmed by the legal system. The VDP’s assistance provides a second chance for Veterans by facilitating a treatment-oriented mitigation approach. The VDP’s assistance has led to impressive results.”
*Eric J. Hesse, Executive Director, New York State Division of Veterans’ Affairs*

“We need lawyers with the training necessary to facilitate the defense of our wounded warriors. The VDP is a resource with the potential to impact thousands of veterans in the New York region. With their past achievements and anticipated future successes, the program could become a model for others like it across the nation...[with] far-reaching significance.”
*U.S. Senator Kirsten Gillibrand*

“I wanted to share with you and your staff how much the City of Batavia Police Department appreciated the training you did for us regarding interacting with veterans. Half of the department participated, and the feedback from all the officers was extremely positive. The skills around helping to quickly establish credibility with a veteran and how to better engage veterans was very valuable, and I know our officers are regularly utilizing the skills learned and enhanced in your training...We are very fortunate to have the VDP right in our own backyard and to be able to easily access training and resources...Thank you for helping us to be better prepared to serve the needs of veterans in our community.”
*Shawn Heubusch, Police Chief, Police Department, Batavia, NY*
"I created the nation's first Veterans Treatment Court in Buffalo, NY, to address the unique needs of veterans especially those suffering from the invisible wounds of war, such as PTSD, TBI, military sexual trauma and major depression. I support the VDP as the program is filling a critical gap in New York’s criminal justice system by training and educating public defense attorneys to effectively represent wounded warriors charged with a criminal offense, and to facilitate mitigation, treatment and restoration. I commend the VDP for its important work in helping justice-involved veterans regain their status as productive members of society.

Honorable Judge Robert T. Russell, Jr., City Court Judge, Buffalo Veteran Treatment Court

What Public Defense Attorneys & Veteran Organizations Are Saying About the VDP

“The VDP has gone above and beyond in supporting our members engaged with the criminal justice system…The VDP remains one of the most trusted veteran-specific pro bono legal advisers. It would be impossible to overestimate the impact of the VDP on the lives of New York’s military community.”

Dre Popow, Executive Director, Veterans Rebuilding Lives, Astoria, NY

“The Veterans Outreach Center serves over 1,000 veterans yearly and many are in need of legal services. Our members appreciate the important work of the VDP to help veterans and service members who find themselves with a family court or criminal court legal matter. VOC is supportive of the great work the VDP does. We see firsthand the lives it impacts.”

Todd Baxter, Executive Director, Veterans Outreach Center, Rochester, NY

“As Senior Counsel, recently, I had the pleasure to work closely with the VDP on behalf of one of my clients and I declare without hesitation that this program is an invaluable resource for criminal defense attorneys with veteran clients…I am grateful for the in-depth knowledge and attentive assistance Gary Horton and Art Cody provided to me…Young men and women who return from combat have experienced events that only those who fought before them can truly understand. The VDP plays a vital role in educating those who represent veterans and those who sit in judgment of said veterans. It is truly vital that the VDP continue to do the same for other veterans.”

Daniel Russo, Esq., Foley, Griffin, LLP, Garden City, NY

“It would be impossible to overestimate the impact of the VDP on the lives of New York’s military community.”

The unique challenges of effectively representing veterans and service members, especially those suffering from untreated mental health disorders, highlights the importance of the work of the VDP. As a leader of a public defense organization that represents many veteran clients, I can attest that the exceptional training provided by VDP attorneys Gary Horton and Art Cody is an invaluable resource.”

Lisa Schreibersdorf, Executive Director, Brooklyn Defender Services, Brooklyn, NY

“My client was sentenced to time served (about 4 months) and 3 years supervised release with the condition that he successfully complete the VA substance abuse program. We are pleased with this sentence. Thank you again Art for all your time and the excellent mitigation letter you wrote on his behalf. I have no doubt it made a difference.”

George Baird, Esq., Office of the Federal Defender for the Northern District of New York
“Thank you for the assistance of NYSDA's VDP in achieving the best possible result for my client. Your mitigation letter was instrumental in my being able to convince the Erie County District Attorney's Office to divert from their strict plea policy and offer my client a revocable plea to Driving While Intoxicated. Upon my client’s successful completion . . . the DA will revoke my client's plea and offer a plea to a non-criminal offense thereby preventing my client from having a criminal record. It was obvious from the detail provided in the mitigation letter that you and your office spent many hours interviewing my client and reviewing his military records. Equally remarkable is the fact that your office provided its services pro bono. With the number of veterans returning home and suffering from mental and emotional trauma, I strongly believe that your office will be instrumental in assisting and preventing many more veterans from incurring a criminal record or worse, losing their freedom due to the criminal justice system’s failure to properly identify veterans that are in need of treatment due to their combat service rather than routine prosecution. I sincerely hope that your office will continue offering its services pro bono due to the fact that many veterans simply cannot afford the high quality of representation your office provides.”
Mark J. Dunford, Esq., Orchard Park, NY

“I am writing in support of the VDP . . . Recently, I was assigned the case of a WWII veteran who was charged with harassment and criminal contempt. The basis of the charge was my client playing Taps on his bugle in his own home during the day, which annoyed his neighbor. Despite extensive conversations with the Suffolk County District Attorney's Office, no resolution was agreed upon and the case was set down for trial...After explaining to Mr. Cody of the VDP the case against my client, he began to diligently work on this case with me. Not only was he able to help my office procure the essential documentation to prove my client's military service, he, with extreme patience, explained to me how to interpret these documents. It should be noted that the crux of the People’s case rested on their belief that my client did not in fact serve in World War II, which was proven wrong at trial...

More importantly, Mr. Cody was willing to testify at my client’s Clayton hearing as an expert witness to explain the DD-214 to the Court, as well as to explain the multitude of reasons why it was an extreme dishonor to call my client anything other than a WWII veteran. He spoke to my client with the respect and honor that he deserved and elicited information out of him that was integral to the hearing. It is my firm belief that without the VDP, the state of veteran's affairs in New York would be dismal at best. I believe that every public defender should have an “Art Cody” available to help with these type of cases because they are nuanced and peculiar in their own special way. These are not issues that are taught in law school, nor are they issues that appear often in my course of practice. The VDP is an amazing tool that every defense attorney, whether in the public sector or private sector, should be able to avail themselves to in the course of their practice. I will forever be grateful for the assistance I received from the VDP. My client's charges were dismissed in the interests of justice...Mr. Cody was integral in helping me accomplish this feat and I thank him for his time, dedication and service.”
Stephanie Giancristofaro-Partyka, Esq., Legal Aid Society of Suffolk County, Central Islip, NY

“The VDP is an amazing tool that every defense attorney . . . should be able to avail themselves to . . .”
“Gary A. Horton, VDP Director, sent me a five page memo supported by ten pages of my client’s military service…The federal courts and VA owe much to Gary who took the time to learn about an individual defendant’s service records. Each individual is entitled to have his records explained and commented upon by someone like Mr. Horton who understands those who served our country in the military. Mr. Horton provides defense to many individuals who would otherwise go undefended.”

Robert G. Smith, Assistant Federal Public Defender, Rochester, NY

“During the summer, Gary and Dee came to our office and spent their time helping our attorneys and staff better understand the dynamics of working with veteran clients…Gary has written several mitigation letters that have helped our attorneys work out fair and appropriate sentences. The VDP is an asset to our office and to veterans living in the area who need help with legal mitigation.”

Leah Morrow, Paralegal Specialist, Ontario County Public Defender Office, Canandaigua, NY

“Over my 20 years as an attorney, I have represented many war veterans…Then, I was assigned the case of a decorated war veteran of wars of Iraq and Afghanistan, accused of killing a drug dealer inside a crack house in the City of Rochester. If not for the advice and assistance provided by Mr. Horton and Mr. Cody, we would not have been able to reach such a favorable resolution of this case. Your assistance helped me in two key areas of the case: working with my client and humanizing him before the Court and Prosecutors. The bail application memoranda that the VDP compiled did a wonderful job of portraying my client to the Judge and the DA as a person of strong personal and moral character. Repeatedly throughout our negotiations with Judge Argento, her secretary, and even her court security staff, [they] expressed their sympathy, concern and respect for my client…All these efforts were crucial to having them see Nick as a war hero, not just a drug addict…It simply would have been nearly impossible for me to obtain all the documents from the military we needed…without your knowledge and experience dealing with the military bureaucracy. In conclusion, I would like to say that the work of the VDP helped me assure that my client, carrying the scars and trauma of war, got the best representation possible. I encourage you to share my experience with those who fund this program. It is the least we can do for those who volunteer to sacrifice themselves to protect us.”

Michael C. Lopez, Esq., Office of the Monroe County Public Defender, Rochester, NY

“The experience and expertise offered by your staff, specifically Attorney Art Cody, was immeasurable in helping me understand what my client experienced as a combat veteran and how those experiences can significantly play a role in my client’s life after his service was complete. VDP’s mitigation brief was a significant portion of the information supplied to the Judge on behalf of the client and unquestionably played a vital role in the Court considering and ultimately granting a favorable disposition in the case. In short, VDP’s involvement as a key component in making a difference in the outcome of my client’s matter…I am grateful for the in-depth knowledge and attentive assistance the VDP provided both the Court and me. The importance of the VDP’s work to train and assist attorneys to effectively defend veterans and to seek mitigation and alternative dispositions with treatment and rehabilitation cannot be overstated.”

Brian J. Griffin, Esq., Foley Griffin, LLP, Garden City, NY

*Veteran names were changed to protect their privacy.*
An estimated 30% or 322,878 Vietnam & Post-9/11 Veterans have PTSD, TBI, or Depression in New York State

Significant treatment gaps exist. Only about 50% of Post-9/11 veterans with mental health issues are receiving treatment, and the estimates are much lower for Vietnam veterans.

The Institute of Medicine and the U.S. Dept. of Veterans Affairs report such veterans are at significant risk of arrest as their trauma symptoms can lead them to criminal conduct.

John Miller is a Vietnam era U.S. Army veteran and a Purple Heart recipient who originally sought the assistance of the VDP to deal with a long outstanding arrest warrant on a charge he was unaware of. The VDP succeeded in having the unfair warrant vacated. However, as a result of the warrant and the length of time that it took to resolve the case, Miller’s VA Disability Benefits were withheld for a period of time. In addition, the Veterans Benefits Administration was seeking approximately $66,500 in recoupment.

Due to the nature of the warrant, the VDP determined the recoupment and withholding of the veteran's benefits was unwarranted and illegal. The VDP documented the nature of the warrant and communicated with the Veterans Care Division. Through the VDP’s intervention, Miller was refunded $104,000 in wrongfully withheld benefits—which substantially helped him as he was in dire financial circumstances.

[The Judge stated,] “I thank you as well Mr. Cody [VDP Deputy Director] for your presence and insight. It was very, very helpful in closing the window on this case... Mr. Ivan, heal, integrate, become whole again, as you provided a great service to this country. We are thankful for that and want this wonderful disposition.”

People v Ivan, No. 1903-13 (Supreme Ct, Queens Co), Tr. at 22:19-21, 35:6-9 (Sept. 24, 2015).
Tony Calvaro is a U.S. Army veteran who served from 2007 to 2011, including a 13-month deployment to Iraq. Calvaro was a sniper scout who was awarded an Army Commendation Medal and a Combat Action Badge. When he returned home, the VA awarded him a 100% disability rating for both Post-traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). Calvaro was accused of breaking into his ex-girlfriend’s apartment and assaulting her, although the police did not immediately place him under arrest. Several days later, he called the VA Crisis Hotline, which in turn notified the County Sheriff’s Department that he might be a danger to himself or others and requested a “wellness check.” The Sheriff’s Department responded by sending a SWAT team to his house and an unfortunate eleven-hour standoff resulted. At the conclusion of the standoff, Calvaro was arrested on a felony for Menacing of a Police Officer and held on high bail.

The VDP entered the case at the request of the county Public Defender. Working in conjunction with the VA’s Veterans Justice Outreach Officer (VJO), the VDP first tried to facilitate a residential treatment placement, which was refused due to the nature of the charge. Initially, the District Attorney (DA) took a hard line and threatened to indict him for Burglary 1st Degree, a Class B felony carrying a maximum 25 years determinate sentence. The VDP participated in a conference with the veteran’s Public Defender, VJO, county Veterans Court Coordinator, DA, county Victim’s Assistance Officer, and representatives of the Sheriff’s Department presenting the client’s military history and his PTSD and TBI conditions. The DA questioned the accuracy of the dates of deployment as reported on the veteran’s DD-214. The VDP was able to resolve the issue by providing his Enlisted Records Brief. Then, a plea was offered for Burglary 2nd degree and Menacing a Police Officer. If Calvaro successfully completes his Interim Supervision, he can substitute a plea to Attempted Burglary 2nd and Attempted Menacing of a Police Officer and be sentenced to the balance of 5 years probation. Should he not successfully complete his Interim Supervision, he would receive the statutory minimum for Burglary in the 2nd Degree of three and a half years in state prison.

Calvaro was transported to the VA’s upstate residential treatment center by the VDP staff. After successfully completing the treatment, he entered the VA PTSD clinic inpatient program and completed that as well. He continues to recover with the help of outpatient treatment, and has six months left in Interim Supervision Probation. As a result of his treatment, he has started to heal and is restored to his family where he spends substantial time with his young daughter.

He continues to recover with the help of outpatient treatment . . . As a result of his treatment, he has started to heal and is restored to his family where he spends substantial time with his young daughter.
**U.S. Navy Veteran Suffering From PTSD, Finally Gains Access to Treatment**

Robert Johnson, a former U.S. Navy reservist first came into contact with the VDP as a result of a pending administrative separation proceeding on a civilian burglary conviction. The VDP provided mitigation assistance for him, resulting in a Board recommendation of retention. Although the Board’s recommendation was eventually rejected by the Navy Bureau of Personnel, Johnson received an Honorable Discharge. He next came in contact with the VDP as a result of a parole violation due to an alleged larceny. He was facing 5 years of incarceration based upon both the new charge and the parole violation. There was no doubt that Johnson would benefit from substance abuse treatment but providers were rejecting him based upon his previous conviction. The VDP worked with local private mental health providers who accepted him into their program despite his conviction, which provided the impetus for a disposition of treatment as opposed to incarceration. Johnson has completed his in-house treatment and is successfully undergoing outpatient therapy.

*Case Study veteran names have been changed for privacy protection.*

**Army Sergeant with PTSD from Service in Bosnia & Iraq Receives Leniency**

Sam White, a former U.S. Army Military Police Sergeant, is now a New York City bus driver. His military career included significant and repeated exposures to war crimes and the horrors of war. For example, one of White’s primary duties in Bosnia was to provide security for officials visiting the mass grave sites of Slobodan Milosevic’s ethnic cleansing campaign. Later, in the early hours of the Iraq ground war, he witnessed the rapid death of multiple Iraqi soldiers due to Coalition small arms fire. Memories of that violence remained with White and he was subsequently discharged from the Army due to diagnosed PTSD. He had no criminal record, but after service he was involved in an incident in which he was accused of impersonating a police officer through the use of a badge. The VDP assisted his primary counsel by providing an in-depth and documented review of his military history and an account of how the traumatic incidences had affected him. After reviewing the VDP’s mitigation briefing, the District Attorney reduced his charges to a non-criminal violation with one year probation, upon which time the violation will be dismissed.
The VDP is helping public defenders to fulfill their constitutional obligation to investigate their client’s military service and any related mental health issues that may have contributed to their offense, and to seek mitigation. In *Porter v. McCollum*, 558 U.S. 30 (2009), the United States Supreme Court ruled unanimously that public defenders must adequately investigate their client’s military background to include battle-borne mental health issues, such as PTSD, and reasonably present such evidence in mitigation. Although the defendant was a decorated Korean War veteran, his court-appointed counsel did not present evidence of his military service to the jury, and the Court reasoned this evidence might have swayed the jury. The counsel was found ineffective in this *per curiam* decision.

The VDP assists public defenders in fulfilling the U.S. Supreme Court ruling that defense counsel must investigate a veteran defendant's military service & battle-borne mental health issues

The Supreme Court emphasized:

“Our Nation has a long tradition of according leniency to veterans in recognition of their service, especially for those who fought on the front lines as Porter did. Moreover, the relevance of Porter’s extensive combat experience is not only that he served honorably under extreme hardship and gruesome conditions, but also that the jury might find mitigating the intense stress and mental and emotional toll that combat took on Porter.” (*Porter v. McCollum*, 558 U.S. 30, 130 S.Ct. 447 (2009).)
VDP 2016 Legal Trainings & Educational Presentations

The VDP provided extensive training to 622 public defenders, legal aid society attorneys, assigned counsel attorneys, and judges in New York State. They also delivered educational presentations to 680 veterans, police officers, lawyers, and concerned citizens through 23 national, statewide, and regional trainings; workshops; and conference presentations. The trainings often provided Continuing Legal Education (CLE) credits for attorneys. The trainings continue to receive great reviews. (See evaluation comments on next page.)

VDP Legal Trainings

Bronx, Kings, New York, Queens, and Richmond Counties, 1/19/16, Defending the Most Vulnerable of Our Veterans, New York City Bar Association, New York, NY.

Queens County, 3/8/16, Best Practices for Representation of Veterans, Queens Law Associates, CLE, Queens, NY.


New York County, 6/9/16, Understanding Military Culture: A Primer for Defense Attorneys, Legal Aid Society, CLE, New York, NY.

Erie County, 6/17/16, Veterans Defense Issues, Legal Aid Bureau of Buffalo, CLE, Buffalo, NY.

National Training, 6/29/16 & 6/30/16, Representing Veterans in Capital Cases, National Capital Habeas Units Conference, Office of the U.S. Courts, Chicago IL.

Tompkins County, 6/30/16, Defense of Veterans, Tompkins County Assigned Counsel, CLE, Ithaca, NY.

National Training, 8/11/16 – 8/13/16, Defending Veterans in Criminal Court, Multi-Track Criminal Defense Seminar, New Orleans, LA.


Statewide Training, 9/15/16, Representing Veterans in Capital Cases, Federal Defender Services of Idaho, Boise, ID.

Greene County, 9/22/16, Veterans in Criminal Court, Greene County Magistrates, Leeds, NY.

Statewide Training, 9/27/16, Developing Military Cultural Competence, NYS Magistrates Association’s Conference, Lake Placid, NY.

**Evaluation Comments on VDP 2016 Trainings**

“Great training! Excellent subject. Very useful information.”

“Loved this! It provided so much information and everyone should have this knowledge. Judges and court attorneys should all have this training. It was great.”

“Lots of important information. Well presented.”

“Excellent CLE. One of the best, most practical and important ones we’ve had in a while.”

“How would we get such a wealth of information without this program? This is certainly one of the best seminars I’ve ever attended in terms of interest, quality of presentation and usefulness.”

“Outstanding program! Lots of vital important information. It should be repeated annually.”

“The presentations were very informative with ways to humanize our veteran clients.”

“Great, informative presentation with excellent resources!”

“The entire presentation was excellent. I got a lot out of it.”

“By far the most useful and informative talk in regards to veterans I’ve ever attended.”

“Thank you for an excellent training program. The attorneys got a great deal out of the presentation and will undoubtedly take advantage of your expertise in the future.”

Deanne Quinn Miller, VDP Program Coordinator, assists a Veteran with expert referrals and guidance on VA treatment and therapy programs at the Upstate Office in Batavia, NY.
VDP 2016 Educational Presentations


**New York County**, 1/29/16, *Introduction to Veterans in the Criminal Justice System*, Manhattan Veteran Treatment Court Steering Committee Meeting, New York, NY.

**Genesee County**, 3/14/16, *Officer Safety & Veteran Encounters*, Batavia City Police Training, Batavia, NY.

**Nassau County**, 3/22/16, *Veterans Defense Program*, Nassau County Bar Association, Mineola, NY.


**Statewide Conference**, 5/14/16, *Veteran Mental Health Issues*, NYS Mental Health Association, Batavia, NY.


**Monroe County**, 9/12/16, *What is the Veterans Defense Program?*, Monroe County Bar Association Veterans Committee, Rochester, NY.

**Statewide**, 10/13/16, *Treatment Approaches for Veterans in the Criminal Justice System*, NYS Council of Veterans Organizations, Stratton VA Medical Center, Albany, NY.

**Statewide**, 10/14/16, *Defending Veterans in Capital Cases*, Indiana Federal Community Defenders, Indianapolis, IN.


VDP Director Receives First-Ever Criminal Justice Award on Veterans Day from NAMI-NYS

On November 11, 2016, the National Alliance on Mental Illness-New York State (NAMI-NYS) celebrated Veterans Day by presenting awards to distinguished leaders on the forefront of improving the mental health and lives of our veterans. NAMI-NYS presented its first-ever Criminal Justice Award to VDP Director Gary A. Horton for his precedent-setting work assisting justice-involved veterans with mental health issues.
VDP Deputy Director Receives National Four Chaplains Humanitarian Award

In October 2016, the New York State Council of Veterans Organizations presented the national Four Chaplains Humanitarian Award to VDP Deputy Director Art C. Cody. Tom DeMeeo, NYSCVO President stated, “The Chapel of Four Chaplains is founded upon one shining manifestation of our heritage, that of four Army Chaplains who, after giving their life jackets to soldiers who had none, linked arms and went down with the U.S.A.T. Dorchester, after it was torpedoed on Feb. 3, 1943.” The award is given for a lifetime of outstanding humanitarian service which has profoundly affected the quality of life in one’s community. Earlier, NYSCVO presented the New York State Defenders Association with a Distinguished Service Award in appreciation of NYSDA’s creation of the VDP.
Veterans Defense Program Staff

Gary A. Horton, VDP Director, directs and manages the VDP, providing training, support, and legal assistance to justice-involved veterans and service members, and the public defense attorneys representing them. Previously, his legal practice centered on public defense for over 30 years, serving as Chief Public Defender of Genesee County for the last 20 years. He is a founding member and past President of the Genesee Veterans Support Network, and served on NYSDA's Board of Directors for 12 years, including as Board Vice President. He received the first-ever Criminal Justice Award from the National Alliance for Mental Health-NYS in 2016, U.S. District Court for the Western District of New York Special Service Award in 2005, the NYS Bar Association Criminal Justice Section David S. Michaels Award in 2006, and NYSDA's Wilfred R. O'Connor Award in 2011. He has a J.D. from Hofstra University School of Law and a B.A. in Political Science from Hobart College.

Captain Art C. Cody, USN (Retired), VDP Deputy Director, combines his long military career experience with a legal focus on criminal mitigation in his work with the VDP. After his graduation from West Point, he served as a U.S. Army helicopter pilot in Germany, transitioned to the Navy Reserve, and flew with a Special Operations/Strike Rescue Squadron. His deployments include serving aboard USS Enterprise (CVN-65) in the response to 9/11 and as Staff Director of the Interagency Rule of Law Section at the U.S. Embassy, Kabul from 2011 to 2012. As a civilian lawyer, he represented criminal defendants for nearly 20 years, specializing in mitigation in death penalty appeals. He is the Chair of the Capital Punishment Committee of the New York City Bar Association and a recipient of the Thurgood Marshall Award for Capital Representation and the national Four Chaplains Humanitarian Award. Art graduated magna cum laude from Notre Dame Law School and obtained a Master's Degree from the University of Southern California.
**Deanne Quinn Miller, VDP Program Coordinator**, assists with trainings, provides counseling and expert referrals, and navigates both the U.S. Department of Veteran Affairs (VA) and Department of Defense systems to collect client military history information for veteran cases. She has extensive knowledge of veteran issues and VA benefits. Previously, she was Executive Director of the Genesee Veterans Support Network. She received the VA of Western New York’s Women Veterans Justice System Award for her work with veterans. She is a spokesperson and Director of the Forgotten Victims of Attica. She graduated cum laude from the University of NY at Buffalo with a B.S. in Consumer & Family Studies. She and her husband have two daughters, Aubrey and Cassidy.

**Michael White, USMC (Retired), VDP Case Manager**, provides direct support to the VDP attorneys, staff, and assists veteran clients with counselling and expert referrals. Michael retired from the Marine Corps in 2014 with 22 years of military experience, including deployments to Haiti, Philippines, Korea, and Afghanistan. He has firsthand knowledge of the many issues that veterans face and extensive knowledge of military culture and VA health and education benefits. He is working on his Associate's Degree in Human Services at Genesee Community College.

**Lynette Celedonia, VDP Clerical Assistant**, provides administrative support to the VDP attorneys and staff. She is completing her A.A.S. in Criminal Justice from Genesee Community College, and is working towards a B.S. in Community and Human Services. Lynette is a U.S. Navy veteran who served as an Illustrator/Draftsman (DM) in Seattle, WA and San Diego, CA. She has an A.S. in Liberal Arts from Monroe Community College, and was a Caseworker in the public welfare field.
A Special *THANK YOU* to Supporters

New York State Legislature

The VDP thanks the New York State Legislature for the critically important appropriation to the VDP in the 2016/2017 State Budget.

Special thanks to
NYS Senator Thomas Croci and NYS Assemblyman Michael DenDekker, Chairmen of the Senate Veterans, Homeland Security and Military Affairs Committee and Assembly Veterans Affairs Committees, and Senate Majority Leader John Flanagan and Assembly Speaker Carl Heastie.

Thanks also to the strong support of other state legislators, especially many members of the Senate and Assembly Veterans Affairs, Codes, Finance, Health, Judiciary and Ways & Means Committees.
We are proud to have received a grant from the Bob Woodruff Foundation. Join us in supporting our nation's injured post-9/11 service members, veterans, and their families by taking a #stand4heroes at: bobwoodrufffoundation.org/stand4heroes

Bob Woodruff, former co-anchor of “ABC World News Tonight,” was severely injured with TBI from a roadside bomb while reporting in Baghdad, Iraq. After his recovery, he and his wife created the Bob Woodruff Foundation in support of veteran service programs. The VDP attorneys spoke with Bob Woodruff at a Mental Health Foundation event in Saratoga Springs, NY.

Thank you to the NYS Bar Foundation for its strong support.

Thanks for the donation from the VFW Post 5861, EMW Rademacher Post, Elma, NY.
For information and assistance, contact the Veterans Defense Program.

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