New York State Defenders Association

Veterans Defense Program

2021 Report

Defending Those Who Defended Us
Letter from the Director

Dear Friends:

Veterans come home to their communities with training, experiences, and a military ethos that remain with them for the balance of their lives. Unfortunately, some also return with war wounds such as Post-traumatic Stress Disorder and Traumatic Brain Injury that can result in involvement in the criminal justice system.

These brave men and women, who voluntarily sacrifice on our behalf, deserve our best efforts to ensure that they receive fair and therapeutic dispositions from our courts. In the following pages, you will come to appreciate the assistance provided by the Veterans Defense Program (VDP), and how the program seeks to promote and contribute to the vigorous representation of our veterans and positive outcomes for them in the courts.

Thank you to the New York State Legislature for funding the VDP, and thank you to our many supporters and partners, particularly the NYS Council of Veterans’ Organizations and the defense attorneys who represent veterans around the state.

It is the VDP’s honor and responsibility to assist these brave men and women to ensure that no veteran becomes lost in the system and each receives the help they have so clearly earned and need in order to make a successful transition home.

Gary A. Horton, Director
Veterans Defense Program

This report covers the VDP activities from **12/1/2020 to 12/1/2021**.

The Veterans Defense Program 2021 Report front cover is the signature colors of the Coast Guard.
This year’s VDP Report is dedicated to one of our Case Managers, Sergeant First Class (SFC) Juan Sosa (U.S. Army Reserve), who is currently deployed.
Mission

The Veterans Defense Program provides training, support, and legal assistance to promote trauma-informed, client-centered representation of veterans and service members involved in New York State’s criminal and family court systems.

Vision

Every justice-involved veteran receives specialized legal representation from an attorney who understands their military experience and culture, the effects of those experiences, and who can present this information to the court in support of therapeutic outcomes.

Values

Develop Military Cultural Competence
Therapeutic Alternatives to Incarceration
Open Access to Services
Restore Healthy Vets to Their Families & Communities
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 legal representation for people who cannot afford an attorney.

Defending Those Who Defended Us
The 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 growing crisis in the number of veterans with service-related mental health illnesses who were lost in the criminal justice system.

Legal Support Services for Justice-Involved Veterans
Staffed by award-winning attorneys with deep experience working with veterans, the VDP is committed to helping public defense attorneys provide high quality and trauma-informed representation to veterans. Veterans with Post-traumatic Stress Disorder (PTSD) and other service-connected conditions who are facing criminal charges need treatment and an alternative resolution process rather than incarceration. The VDP attorneys provide innovative and case-specific legal assistance to defenders in criminal and family court cases. These services include mitigation, records retrieval, resources, mentoring, and advice regarding military culture and its impact on their veteran clients. The VDP staff assist in expediting the release of both U.S. Department of Defense and U.S. Department of Veterans Affairs (VA) records. The VDP also provides veterans with guidance and referrals to VA programs and other veteran’s services.

Training Programs
The VDP attorneys conduct continuing legal education training across the state for hundreds of public defense attorneys and give presentations to Bar Associations, government agencies, and veteran organizations. NYSDA is an accredited provider of Mandatory Continuing Legal Education.

Peer-to-Peer Veteran Mentoring
The VDP Veteran Peer-to-Peer Mentors provide counseling, support, and expert referrals to help hundreds of veteran clients annually access treatment and address legal, health, benefits, social services, housing, employment, and other issues.
Intersection of Military Service, Mental Health, and Criminal Justice

Any military service can exact a toll on a person’s physical and/or mental health, and the “unseen wounds” suffered during the intense conditions of combat and multiple, lengthy deployments can be severe. Studies report that depressive disorders, substance abuse, PTSD, and Traumatic Brain Injury (TBI) among veterans are at epidemic proportions.

Of the 718,000 Vietnam, Gulf, and Post-9/11 veterans in the state, approximately 215,670 are estimated to have PTSD, TBI, or depression. Studies show up to 50% of those veterans are untreated. (Sources: Invisible Wounds of War: Psychological & Cognitive Injuries, Their Consequences & Services to Assist Recovery, RAND Corporation, 2008; Veterans & Health in NYS, New York State Health Foundation, 2017.) The U.S. Department of Veterans Affairs and the National Academy of Medicine report that veterans with mental health conditions are at significant risk of arrest as their trauma symptoms may lead them to criminal conduct.

Justice-involved veterans often do not have the funds to hire an attorney and are represented by public defenders. Public defense attorneys are undertained to represent veterans who suffer from the invisible wounds of war. Public defenders often lack the knowledge necessary to translate the combat experience of their clients, which may have led to or played a role in their criminal behavior. Only 7% of Americans are veterans. Thus, it is unlikely that the judges presiding over their cases and the prosecutors pursuing charges are veterans who understand the military experience.

Significant progress has been made with the advent of Veterans Treatment Courts to provide a therapeutic health-based approach, responding to the mental health crisis among justice-involved veterans. Veterans with mental health illnesses in the criminal justice system—the most vulnerable of our returning warriors—deserve an alternative resolution process with treatment and rehabilitation. Incarcerating veterans for medium-level crimes, such as assault and burglary, when mental health treatment is needed and available, closes the door to substantial opportunities for healing, family restoration, and becoming a productive member of society. Many veterans organizations, including the New York State Council of Veterans’ Organizations, support an alternative treatment track for veterans whose crimes stem from service-related injuries.
**Client-Centered Approach**

**LEGAL SERVICES**
- Help Attorneys Collect and Interpret Military and VA Records
- Provide General Case Consultations
- Provide Veteran-specific Mitigation

**TREATMENT**
Connect Veterans with PTSD, TBI, Depression & Substance Abuse Treatment.

**PRISON ASSISTANCE**
Assist with letters of Commitment, VA Disability Forms, Time Credit Issues, and 440 Motions.

**MENTORING & REFERRALS**
Provide Veteran Peer-to-Peer Mentoring, and Referrals & Guidance on Family & Civil Issues.

**VA BENEFITS COORDINATION**
Coordinate Services & Communication with the VA Veterans Justice Outreach Specialists & Veteran Service Officers on Veterans’ Benefits.

**ACTIVE DUTY AND RESERVES**
Advocate with the Soldier’s Command and JAG Officers for Retention, or Favorable Discharge in the Event of a Separation Board.
Summary of Veterans Defense Program Activities and Accomplishments in 2021

242

The VDP provided legal and technical assistance, and peer-to-peer mentoring to 242 veterans.

$93 Million

Over the last 5 years, the VDP helped hundreds of justice-involved veterans to be diverted into treatment and probation, avoiding hundreds of years of incarceration, saving the State $93 million.

In 2021, the VDP avoided 170.5 years of incarceration for our justice-involved veteran clients at a cost savings of just over $10 million. Over the last 5 years, the VDP has saved, on average, $18.6 million a year in incarceration costs.*

34 Mitigation Briefs

In 2021 the VDP wrote Mitigation Briefs in 34 cases in 15 counties across New York. Each Mitigation takes approximately 50 hours to complete. The client’s primary attorney uses Mitigation Briefs in plea negotiation and as sentencing mitigation. Each Mitigation contains information regarding the client’s military experience and training and the effects of their experience and training, so that prosecutors and judges have a clear understanding of the person before them.

For overburdened defense attorneys, the VDP’s preparation of these in-depth and time intensive Mitigation Briefs is a lifesaver.

* The cost saving is calculated by taking the maximum number of incarceration years for the original charge and subtracting the number of years imposed at sentencing. The cost of incarcerating a prisoner for a year in New York State is $60,000. (NYS Assembly Committee on Correction Report, December 2018, https://nyassembly.gov/write/upload/postings/2019/pdfs/20190319_0085751.pdf).
The VDP website received 1,582 hits during the past year. The website also has a Contact Us Link, so that users can contact the VDP 24/7.

https://www.nysda.org/page/VDPWelcome
The Justice System often fails to identify Veterans

**COMBINED WITH**

Civilian Judges, Prosecutors, and Defense Attorneys who lack understanding of Military Culture

**COMBINED WITH**

Veterans in need of treatment for Substance Abuse, PTSD, TBI, Depression, Anxiety, etc.

**RESULTS IN**

Veterans lost in Prisons and Jails
VDP Staff in a Zoom Meeting (L-R Top Row) Program Coordinator Dee Quinn Miller, Deputy Director Roy Diehl, Case Manager Michael White. (L-R Middle Row) Staff Attorney Elyse Sheehan, Director Gary Horton, Staff Attorney Blair Hill. (Bottom Row) Case Manager Richard Henry. Missing: Case Manager Juan Sosa, currently deployed.
Army Reservist. Mr. Stone’s military career included being called to active duty and deployed to Afghanistan on two separate occasions, in April of 2012 and February of 2013. His Military Occupational Specialty (MOS) was Combat Engineer. An Army website describes the job of a combat engineer: “As a Combat Engineer, you’ll work quickly and skillfully to help soldiers navigate while on combat missions by constructing bridges, clearing barriers with explosives, and detecting and avoiding mines and other environmental hazards. You'll provide expertise and come up with quick and creative engineering solutions, constructing fighting positions, fixed and floating bridges.”

It goes without saying that using explosives for demolition and clearing and disarming land mines and improvised explosive devices are extremely dangerous assignments. During his service, Mr. Stone was awarded an Afghanistan Campaign Medal with Campaign Star, a National Defense Service Medal, a Global War on Terrorism Service Medal, an Army Service Ribbon, an Overseas Services Ribbon, an Armed Forces Reserve Medal with M Device, and a NATO Medal.

Mr. Stone’s military accomplishments and the value he brought to his fellow soldiers are even more incredible when considering the significant mental injuries he suffered during his service. His VA records reflect a diagnosis of Post-traumatic Stress Disorder (PTSD) related to military combat and a 70% Service Connected Disability rating for PTSD. At the VA, he reported: “I want patience, I want peace with what happened, I want the anger that I have to subside. I want to let go of survivor's guilt.”

Mr. Stone’s military trauma, as described in his VA records, included that he was: “Involved in an IED where he was injured, only survivor in the truck. Veteran had to shoot a pregnant woman who they didn't know was pregnant. She wasn't listening as they told her to stop approaching them. They didn't know if she had a bomb. Veteran was the gate guard gunner. He shot three warning rounds.”

Mr. Stone suffered more trauma while serving than many of us do in a lifetime, and some of those traumatic events caused moral injury. On admission to the VA, he described his continuing PTSD symptoms: “He stated that he has become very reclusive, isolated, drinking all day and using medical Cannabis; having problems maintaining relationships, and feeling angry and depressed frequently.”

He was separated from the Army Reserves with a General under Honorable Conditions Discharge. His involvement in the criminal justice system stemmed from an incident that involved criminal possession of a weapon. Weapons charges are not at all unusual in cases involving veterans. This is directly traceable to their military training and enculturation.

The VDP prepared a Mitigation Memorandum that his attorney presented to the prosecution and the court. His attorney subsequently reported to the VDP: “With the benefit of your input, the [prosecution] dropped the C-violent gun charge, so he plead to the D, and misdemeanor d.w.i., avoided state prison and will end up with some local time and probation. He, and I, are relieved, and grateful for your assistance.”

“All client names have been changed to protect their privacy. The photos used are representative of the veterans the VDP assists.”
Marine Lance Corporal (LCpl) Williams* immigrated to the United States as a child and enlisted in the Marine Corps as a lawful permanent resident. At the time he enlisted, he wrote that this was “the chance to change myself and my future, for the challenge, respect, discipline and the life of a Marine.”

After completing training as an aviation mechanic, he was selected to work on one of the Corps’ most advanced aircraft, the MV-22 Osprey, a high-tech aircraft that takes off like a helicopter but flies like an airplane, carrying up to 32 marines or ten tons of equipment from ship to shore. This assignment reflected the confidence LCpl Williams had earned for his skills, his discipline, and his reliability.

Over the course of the next four years, LCpl Williams’s duties had him at sea with an amphibious Marine landing force in the Eastern Mediterranean during some of the worst fighting in Syria, and he and his force were prepared to act if the nation’s leaders decided to intervene. He extended his service twice. Initially he agreed to extend his service by an additional year. Later, when his unit was ordered to take part in extensive exercises with NATO partners in Norway, he extended his enlistment again in order to meet the unit’s staffing needs and to provide continuity for the exercise.

The exercise itself was successful, but the fleet was hit by a huge, late autumn storm that was so severe that two of the three huge amphibious warships taking part were forced to return to port due to structural damage to one of the ships and injuries to members of their crews.

During his service, LCpl Williams took the initiative to complete, on his own time and in addition to his regular duties, multiple technical training courses on technical aspects of heavy trucks and equipment. By the time he left the service, he had earned multiple awards and medals.

Leaving the Marine Corps for civilian life was not an easy transition. LCpl Williams lost the tight connections he had with the dozens of Marines he had lived and worked with for years, as well as the sense of purpose and drive that went with active military service. Losing his “military bearing” one evening, he drank heavily while barbecuing steaks, only to wake up in jail after being charged with second-degree menacing and obstruction of breathing.

Fortunately, he sought mental health assistance at a Veterans Administration center where the Veterans Justice Outreach coordinator referred him to the VDP for help. The VDP attorney in turn helped him connect with the county Legal Aid Society. His attorney made very effective use of the VDP summary of his service record, which helped explain the connection between his mental state at the time of the incident and his service as a Marine. This effective representation provided a solid basis for the prosecution to agree to an adjournment while he continued his care and treatment with the VA, and ultimately the charges were reduced to a violation in order to minimize the impact on LCpl Williams’s life.
**Navy Veteran** George*, in January of 2020, contacted the VDP to advise that he was homeless and indigent and facing a felony DWI charge. He was living out of his truck in Suffolk County, New York. The VDP immediately jumped into action by finding safe, veteran-specific, temporary housing and contacting numerous resources that would eventually assist him to get permanent housing. The VDP then arranged for him to see a Social Worker at the Northport Veterans Medical Center where he underwent treatment for Alcohol Use Disorder and PTSD. The VDP obtained all the necessary forms and signatures for access to Mr. George’s military and medical records, in preparation for a mitigation brief.

Just a few weeks later, the COVID-19 pandemic struck Long Island with a vengeance. This meant that Mr. George would have to quarantine in his temporary housing and his court case would stall as judges, lawyers, and court staff waited for guidance from the Office of Court Administration. Because of the delay in his case, Mr. George experienced profound anxiety over not being able to resolve his legal problems. He was desperate to get his life on track and felt that the mental health treatment he was receiving helped him make profound improvements. He was ready to live a sober life with purpose, re-engage in the workforce, and give back, as a peer, to his fellow veterans.

The challenges the VDP clients faced during the height of the COVID-19 pandemic trickled down to the VDP staff. We received many calls from clients anxious about their court cases and COVID and we answered every one. Mr. George called often and our VDP Case Manager, Juan Sosa, would talk him through his anxieties and refer him to his mental health professional and his Alcoholics Anonymous sponsor.

During that time, the court assigned Mr. George an attorney and the VDP began working with the attorney to prepare a mitigation brief for the court. Through the brief, the VDP was able to provide the court with an understanding of who Mr. George was outside of his legal case and how he had already begun utilizing the resources available to get, and remain, sober. Mr. George had also secured permanent housing and started using his veteran’s benefits to learn a new trade and find employment.

In October of 2021, Mr. George was admitted into the Veteran’s Treatment Court Program in Suffolk County. Mr. George shared: “Ms. Hill and Mr. Sosa are outstanding people and VDP is a fantastic organization that I wish more people knew about.” He looks forward to completing the program and continuing his success with sobriety.
The Veterans Defense Program

Process

Intake Interview

Conduct In-Depth Interview with Veteran Defendant

Coordinate & Confirm Substance Abuse Treatment

Investigate Military Background, Request Records

Seek Therapeutic Alternatives to Incarceration

Coordinate & Confirm VA Treatment for PTSD, TBI, and/or Depression

Write Mitigation Memos & Motions for the Court

Restoration to Family & Community

Coordinate & Confirm VA Treatment for PTSD, TBI, and/or Depression

Conduct In-Depth Interview with Veteran Defendant

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Investigate Military Background, Request Records

Seek Therapeutic Alternatives to Incarceration

Write Mitigation Memos & Motions for the Court

Restoration to Family & Community
The uniqueness of the current pandemic has put limits on the way the VDP Case Managers obtain records for some clients. COVID-19 has caused massive delays at most of the U.S. Department of Defense’s record repositories. Record requests that used to take 30 to 120 days now take up to six months or more. Retrieving records from the Veteran Affairs Medical Centers (VAMC) across New York has also taken much longer than before; what used to take a few days to a couple of weeks now takes months. The VDP has been creative in finding alternative solutions. One way the VDP Case Managers have overcome these delays is by ensuring that clients who are eligible for eBenefits are able to access their accounts. Using this VA website helps fill the record retrieval gap when time is not on the clients’ side. We assist veteran clients in setting up their eBenefits accounts using the remote verification option for a Premium account; this allows the veteran more direct access to their military and VA medical records. For example, one veteran client needed to get his VA medical records to his eviction attorney for a court appearance the following day. When Case Manager Michael White called the VAMC where the client’s records were maintained, he was informed that the Release of Information Office was short staffed and the records could not be sent for approximately 30 days. Michael called the veteran and walked him through the process for accessing and downloading his VA records from eBenefits. In a short time, the client was able to secure a copy of his records for both the VDP attorney and the primary attorney who was handling his eviction case. The veteran told Michael, “You’re a life saver, thank you.”

With COVID looming, the VDP Case Managers (Juan Sosa, Michael White, and Richard Henry) were not able to conduct the usual amount of peer-to-peer counseling and outreach in their typical modes. Realizing the impact that COVID restrictions had on face-to-face peer outreach, the VDP developed alternative ways to further their veteran outreach.

For example, in late 2020, Yale Law School released a statement regarding a critical advancement in Post-9/11 veterans’ rights and benefits. Yale Law School and its partners obtained a settlement in the class action suit, *Kennedy v. McCarthy*, which provided certain veterans with the opportunity for discharge upgrades by the Army Discharge Review Board. More than 150,000 soldiers had been discharged with a less than honorable character since September 11, 2001. Veterans who have less than honorable discharges can be precluded from accessing some VA benefits and services and such discharges can affect a veteran’s mental wellness and overall pride in their service. According to the NYS Health Foundation’s October 2021 *New York’s Veterans* report, 13% of veterans in New York State are Post-9/11 era. The VDP’s Case Managers used the VDP’s database to search for current and prior clients who may meet the criteria for a possible discharge upgrade. In all, they identified 48 clients and the VPD reached out to each of them with information about the procedures required to apply for a discharge upgrade. Many clients were thankful for the outreach.
What Organizations & the Legal Community Are Saying About the VDP

“I just got back from court. Finished up the 440 motion for my client, the Iraqi interpreter for U.S. Army. DA consented. Judge signed the order today vacating the felony conviction and sentence. Entered plea to trespass. All is well. Celebrate. Thank you both so much for your help with this. Count it as a win for your project.” Alan Rosenthal, Law Office of Alan Rosenthal, Syracuse, NY

The "Behind the Badge with MCSO" podcast featured three people who provide services to individuals who have served our nation. Listen in as Todd Baxter, the Monroe County Sheriff, sits down with Vince Schillaci and Liz Gamache, Coordinators of the Intimate Partner Violence Assistance Program for the Finger Lakes VA Healthcare System, and Gary Horton, Director of the Veterans Defense Program with the New York State Defenders Association (NYSDA). A wealth of knowledge and services for those who have served us! “Special thanks to the both of you. These things exist because of your partnership.” Vince Shillaci, VJO

“I wanted to follow up and give you an update on Mr. Jones’s* case. The case was set to go to trial earlier this week, however the People lowered their offer on the jail portion, which helped with the agreed upon disposition. Sentencing is set for February. Thank you again for your assistance. It was very helpful in pushing the Court and DA to work out some better disposition than originally offered.” Zachary T. Wentworth, Public Defender, Chenango County

“The vital services provided by the Veterans Defense program is an invaluable asset and service to our veteran communities.” Senator George Borrello, 57th New York Senate District

“The mitigation paperwork you sent was extremely helpful! The original indication in this case was 1-3 years prison based upon his number of priors …. The DA’s office … came down to 6 months incarceration with an interim probation component, and if he is successful, the remainder of 5 years of probation …. The Judge, upon receiving the mitigation paperwork, agreed that the 6 months would be a CAP – and based upon arguments at sentencing she would consider less. …. In all, the client (and myself) were very appreciative of the work you guys put in! Veterans defense is an amazing resource and we are lucky to have them. Use them! 😊” Delton Caraway, Ontario County Public Defender’s Office

What Our Clients & Their Families Say About the VDP

“Mr. Smith’s* case was picked up by the New York Veterans Defense Program. With his military history, they built a case for extraordinary circumstances due to PTSD, documenting Smith’s attempts at treatment and presented it to the judge. When he appeared in court for sentencing, Mr. Smith was stunned. The judge, citing Mr. Smith’s efforts and progress, gave him probation under the condition of continued treatment. Referred to PTSD USA’s Camp Hope, he entered their residential program for almost a year. He got clean, stayed clean, and rekindled his relationship with God.” *Magazine Article written about a U.S. Marine Corps Client, NYC

“As a United States Navy Veteran’s wife, and the mother of two United States Marine Corps Veterans, I am greatly saddened that we were not made aware of this program prior to my son’s incident and going through the civilian court system. Veterans are unique individuals. Each has served our great country, making huge sacrifices, with honor and pride. However, now that we know about this outstanding program, we will be eternally grateful for everything the VDP have done, and everything they continue to do for our son and our family. The care, compassion, and professionalism of the New York State Defenders Association Veterans Defense Program is remarkable and should be duly noted. With sincere gratitude.” *U.S. Marine Corps Parent, Genesee County

“Thanks again, you don’t know how much someone believing me has meant. Thank you man. You guys saved me. Respectfully.” *U.S Navy Veteran Client, NYC

“For all that you do, in the quiet moments in the office and the challenging moments at court, I want to offer you thanks and gratitude. Thank you for your hard work and dedication to this noble work. You are a bright spot in a broken world.” *Clergy Advocate for Incarcerated U.S. Navy Veteran Client

“Roy- hey there I wanted to reach out n send a formal thank you out for the energy at which you helped me n others.so thank you sir, today is court in Greenville n I’m having so much anxiety within myself it’s hard to breath. But I know I have people in my corner that believe in me and that means the world. Please let me know where we stand with the military n my VA benefits….dd214 upgrade…. You can contact my family at any time. Thanks again sir hope to see you very soon. Semper fi.” *U.S. Marine Corps Client, Greene County

“I just wanted you both to know that Dean* was transferred to Groveland. He’s currently in general population, but should be moving to the Veteran’s dormitory once he meets with his ORC and his service is verified. I want to thank you both very much for everything. From the referral made to all the support in between. We both really appreciate all you have done and continue to do.” *Girlfriend of U.S. Air Force Veteran Client, Monroe County

“Thank you for everything. Thank you very much for your interest and assistance. Thank you for your letter about probable cause and warrant. Thank you for being there and for your kind consideration with these matters.” *Incarcerated U.S. Army Veteran Client
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**VDP provided no-cost Continuing Legal Education (CLEs) to over 430 attorneys across New York State.**
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<td>VDP Staff</td>
<td>3rd Annual Veterans Treatment Court Roundtable (VDP event)</td>
<td>Virtual Meeting</td>
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<td>March 2, 2021</td>
<td>Roy Diehl</td>
<td>New York State Bar Association (NYSBA) Veterans Committee. Review and Discussion of the movie <em>Homemade.</em></td>
<td>Panel Discussion</td>
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<td>Gary Horton</td>
<td>“Behind the Badge” Podcast with Todd Baxter, Monroe County Sherriff’s Dept., Rochester, NY</td>
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<td>NYSBA: Justice Involved Veterans: How Veterans Treatment Courts Relate to Military Experience</td>
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**2,812 people attended VDP Outreach Programs in 2021.**

Supreme Court Ruling on Effective Assistance of Counsel for Veterans

The VDP is helping public defenders 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 *per curiam* that public defenders must adequately investigate their client’s military background, including battle-borne mental health issues such as PTSD, and reasonably present such evidence in mitigation.

Although the defendant, Porter, 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 Court concluded that counsel was ineffective.

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.”
Veterans Defense Program Staff

Gary A. Horton, VDP Director. Gary directs the VDP, and provides training and legal assistance to justice-involved veterans in Western NY. Previously, he worked in public defense for over 30 years, 20 years of which he was the Chief Public Defender of Genesee County. He is past President of the Genesee Veterans Support Network, and served on NYSDA’s Board of Directors. He received the National Legal Aid & Defenders Association Kutak-Dodds Award in 2018; National Alliance for Mental Health-NYS Criminal Justice Award 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 the NYSDA 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.

Roy M. Diehl, VDP Deputy Director. Roy provides legal assistance to justice-involved veterans in the Hudson Valley, Bronx, New York, and Staten Island. He enlisted in the Army in 1984, was commissioned in 1998, and retired as a Lieutenant Colonel in 2015. His military career includes service in Germany during the Cold War, at Ground Zero in 2001, Iraq in 2005 with the NY Army National Guard’s 42nd Infantry Division, and four tours of duty at the Pentagon. Awards include the Army Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, and the New York Defense of Liberty Medal with WTC device. Over the course of 26 years in uniform he served as Senior Defense Counsel, International Law Officer, Operational Law Attorney, Russian Linguist, and Tank Gunner. Roy is a graduate of Albany Law School and the University of Toledo.

Blair Hill, VDP Staff Attorney. Blair provides legal assistance to justice-involved veterans in Central and Northern NY. A graduate of Hofstra University School of Law, she graduated summa cum laude from Montclair State University. She focused on Public Interest Law at Hofstra, interning with the VDP and Mercy Haven, and was a member of the Veteran Law Student Association and Veteran Legal Assistance Program. Previously, she worked at Sunrise House Foundation as a recreational therapist for people suffering from substance abuse; Nassau/Suffolk Law Services Veterans Rights Program; and Brooklyn Legal Services Corp., representing low-income tenants.

Elyse Sheehan, VDP Staff Attorney. Elyse joined the VDP as the Long Island staff attorney in 2021. She graduated as an International Relations Major, Pre-Law Minor from SUNY New Paltz and received her J.D. from Hofstra Law School. At Hofstra, she focused on Public Interest Law, interning with The Safe Center Long Island and Suffolk County Legal Aid’s Children’s Law Bureau. During law school she also worked as a Legislative Reporter for Assemblyman Felix Ortiz. Her most immediate employment prior to joining the VDP was at the Suffolk County Legal Aid Society District Court's Criminal Division as a Staff Attorney. She and her husband have two daughters.
Deanne Quinn Miller, VDP Program Coordinator. Dee assists with trainings and expert referrals, provides mentoring, and navigates the VA and Department of Defense systems to obtain military records for veteran cases at the VDP’s Batavia office. She has extensive knowledge of veteran issues and 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 in 2016, and a Women of Distinction Award in 2017 for her work with veterans. She is Director of the Forgotten Victims of Attica. She graduated *cum laude* from the SUNY University at Buffalo with a B.S. in Consumer & Family Studies. Dee has recently completed her memoir, *A Prison Guard’s Daughter, My Journey Through the Ashes of Attica*.

Michael White, VDP Case Manager. Michael mentors veteran clients by providing guidance, support, and expert referrals, as well as support to the VDP staff at the Batavia office. He retired from the Marine Corps as a Staff Sergeant in 2014 with 22 years of military experience, including deployments to Haiti, the Philippines, Korea, and Afghanistan. He has extensive firsthand knowledge of the many issues that veterans face as well as extensive knowledge of military culture, and VA health and education benefits. He graduated from University of Buffalo with a B.A. in Health and Human Services Community Mental Health, and is currently enrolled in the Master’s Program at the University of Buffalo.

Richard Henry, VDP Case Manager. Richard mentors veteran clients by providing guidance, support, and expert referrals, as well as support to the VDP staff. He served as a corporal (E-4) Motor Transport Operator for four years in the U.S. Marine Corps. During his service, he trained new Marine Corps Lieutenants in convoy operations during Logistics Officer Course field exercises. He was also attached to a small group in charge of training an advisory team prior to a deployment to Iraq. He graduated from SUNY Brockport College with a B.S. in Criminal Justice and Political Science, and is currently enrolled at the Albany Law School pursuing a J.D.

Juan Sosa, VDP Case Manager. Juan mentors veteran clients by providing guidance, support, and expert referrals, as well as support to the VDP staff in the Long Island office. He has a Biology degree from Mercy College. In 1993, he joined the U.S. Army Reserve as a Motor Transport Operator and deployed to Iraq twice, in 2002-03 and 2006-07. He has extensive firsthand knowledge of the many issues that veterans face and extensive knowledge of military culture. He is currently a Sergeant First Class with the 301st Information Operations Battalion, having completed over 31 years in the Army Reserve.
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