

**TESTIMONY OF**

**JOSEPH BELLO**

**ON BEHALF OF THE NEW YORK CITY  
VETERANS ADVISORY BOARD**

**BEFORE**

**THE NEW YORK CITY COUNCIL  
COMMITTEE ON VETERAN'S AFFAIRS**

**RE: INTRO. 2354-A**

**CITY HALL  
(Virtual)  
NEW YORK, NY**

**September 27, 2021**

Chair Dinowitz, CM Vallone, members of the Council's Veterans Committee.

Thank you for giving me the opportunity to testify this morning on behalf of the chair and leadership of the New York City Veterans Advisory Board regarding Intro. 2354-A.

The board chair, Ms. Wendy McClinton expresses her disappointment at not being able to attend but thanks the committee for this opportunity to hear from the board. While the board was late in learning about this bill, its details and the subsequent changes, we remain committed to advising and assisting both DVS and this committee by sharing our thoughts and knowledge on this and any other subject.

Regarding Intro. 2354-A, the board would like to address several items, as well as make recommendations for the committee's consideration.

In regard to Chapter 75 § 3101 of the City Charter, the board is unclear why the administration and DVS, thru this bill, are looking to amend the current definition of a veteran for New York City by adding those on active military service.

**Federal statute 38 U.S. Code § 101** defines the term "veteran" to mean "a person who served in the active military, naval, air or space service, and who was discharged or released therefrom under conditions other than dishonorable."

**Chapter 75, § 3101 of the City Charter** is almost (except for the recent addition of space service) identical in its definition.

In fact, **Chapter 75, § 3102 of the City Charter** prescribes the powers and duties of the DVS Commissioner as having the duty to inform and assist members of the Armed forces AND veterans.

**§ 31-109 of the NYC Administrative Code** (Reporting requirements) defines a veteran as "a person who has served in the Armed Forces, National Guard or Reserves of the United States"

As an example, for years now (consistent with the city's definition of a veteran), the [IDNYC card with the Veteran designation](#) has been available to all those who served on active military service and who have been separated from the military with any discharge except dishonorable.

Finally, the Merriam-Webster Dictionary defines a veteran as:

- a : a former member of the armed forces or;
- b : an old soldier of long service

In fact, **38 U.S. Code § 101** even has a separate section which defines active-duty service. Given all these examples, the board is again unclear why the administration is attempting to re-define veterans to include active military servicemembers. Further, the board was confused as to why certain services were added to this bill while others were not.

**As such, the board does not recommend adding the language listed in Section § 3101 of this bill** but keeping the current definition; with consideration for on-going and future changes on both the Federal and State level; and in case any future legislation should come before this body which may affect services and resources within NYC.

As for Section **3103 (a)** regarding adding two additional members to the board, this has been an initiative the board has advocated for and recommended to the Mayor and Speaker in our last two annual reports. The board believes that the voices of family members, spouses, domestic partners, survivors, and caregivers of a veteran, who have supported the veteran and lived through separation, transitions hardships or even loss, is an important constituency not only to the board, but to our community. **The board supports this section of the legislation.**

As to Section **3103 (b)**; several years ago, in keeping with Section 3103 (iv) - determining our own rules and procedures, - the board elected to have three elected officers, a chair, vice chair and secretary. These positions are listed in our by-laws and serve one-year terms. **As such, we recommend and request the position of Secretary be added to this Intro. and codified into section b.**

Regarding Section **3103 part (d)**; the board questions the use of the sentence: “additional information deemed by the department to be relevant.”

To be clear, the DVS website currently maintains a list of all members appointed to serve on the board, including bios and dedicated e-mail addresses per § 31-104 of the administrative code. Additionally, the boroughs we represent, our terms and who we were appointed by are listed within our annual reports, which can be viewed on DVS webpage.

While we have no issue with listing those items on DVS’s webpage (its already public), the board is unclear by what “additional information deemed by the department” would be relevant, especially if there is nothing in this bill that states the department should be required to at least consult with the board.

Finally, as one of the charges of the VAB is to advise the Commissioner on all matter concerning veterans; we would like to see language included to this Intro. that would **codify a DVS employee as the advisory boards liaison and define those duties.** We would be happy to discuss this further.

In conclusion, the board hopes to see the recommendations and changes we’ve outlined be given full consideration and we look forward to meeting chair Dinowitz in the near future. Finally, speaking in my own capacity, I hope to see CM Vallone’s Intro. 1616-2019, which would require DVS to include critical data in its reporting, including the number of senior veterans it serves, move out of committee, and become law.

This concludes my testimony. Thank you for your time and I’m available for any questions you may have.



## Restoration of Honor Act Key Points & Benefits

### 1. DVS is Accepting Applications for Restoration of New York State

**Benefits:** Any individual with prior military service who was discharged under conditions that were other-than-honorable (OTH) or general under honorable conditions may apply for restoration of New York State veterans' benefits if the discharge resulted from:

- Post-Traumatic Stress Disorder (PTSD)
- Traumatic Brain Injury (TBI)
- Military Sexual Trauma (MST)
- Sexual Orientation or Gender Identity

### 2. Determinations Will Be Made Within 90 Days of a Complete Application:

All applications received will be given careful consideration, and individuals applying may be asked for additional documentation so the circumstances of their case can be more fully understood and considered.

### 3. To Learn More and Apply:

Visit <https://veterans.ny.gov/content/restoration-honor-act>

### 4. New York State Benefits Potentially Restored:

Based on the individual's service eligibility, potential New York State benefits to be restored may include: Blind Veteran Annuity; Extra Credits on Civil Service Exams; 55-c Eligibility; Transfer Rights if a Civil Service position is abolished; Inclusion in the Temporary Hire Portal for Post-9/11 Veterans; Entrepreneurial Assistance Programs; Parking Fee Exemptions for SUNY and CUNY students; State Teachers Retirement System Military Service Credit Buyback; Veterans Tuition Award; Regents Award; Scholarship for Children with Spina Bifida of Vietnam Veterans; Operation Recognition; Voter Registration Rights for a Veteran Deployed During Registration Period; Gold Star Parent Annuity; Supplemental Burial Allowance; Eligibility for Interment in a State Veterans Cemetery; Indigent Burial Reimbursement Program; NYS Service-Disabled Veteran-Owned Business Certification; Cold War Certificate; Silver Rose Certificate; State Commission of Correction Membership; Discounted hunting, fishing, and trapping licenses; Waiver of fees for notarizing documents; Peddlers' License preference; Property leasing exceptions and preferences for Veterans Service Organizations; Restoration of insurance broker licenses; Leaves of absence on Veterans Day, Memorial Day, & Independence Day; State Veterans Home eligibility; Nursing License Exam exemptions; Public Housing Admissions; Veterans Real Property Tax Exemptions; Veterans Aid provided by County Welfare Districts; Specialty License Plates for Veterans; Veterans distinguishing mark on driver's license and on non-driver's ID cards.



## Division of Veterans' Services

### Restoration of Honor Fact Sheet

- Authorizes the New York State Division of Veterans' Services (NYS DVS) to restore **State Veterans Benefits** to Veterans who have an other-than-honorable (OTH) or a General (Under Honorable Conditions) due to Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), Military Sexual Trauma (MST), Sexual Orientation, or Gender Identity or Gender Expression.
- Does not change a Veteran's official federally issued character of discharge
- Considers only the Veteran's time in service, not conduct after service
- NYS DVS will assist Veterans in accessing their Official Military Personnel File
- NYS DVS shall afford "liberal consideration," employing the standards described by the Hagel, Carson, and Kurta Memorandums issued by the United States Department of Defense, to all evidence provided by the Veteran. If the Veteran can demonstrate that PTSD, TBI, MST, Sexual Orientation, or Gender Identity or Expression was at least as likely as not the reason for the Veteran's General or OTH discharge from military service, then NYS DVS will resolve the matter in the Veteran's favor.
- NYS DVS will provide an appeal process for Veterans who are denied. The *de novo* appellate review will be conducted by Appellate Unit leadership of NYS DVS, in conjunction with the General Counsel of NYS DVS.
- A list of New York State benefits for which the Veteran will now meet the character of discharge requirements will be available to them upon a favorable decision



## Restoration of State Veterans Benefits Instructions

In 2019, the Restoration of Honor Act was signed into law in New York State. The Restoration of Honor Act authorizes the New York State Division of Veterans' Services (NYS DVS) to restore access to State Veterans Benefits to Veterans who have an Other-Than-Honorable Discharge (OTH) or a General Under Honorable Conditions Discharge due to Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), Military Sexual Trauma (MST), Sexual Orientation or Gender Identity to an Honorable Discharge.

This does not change a Veteran's official character of discharge on their discharge paperwork.

This determination refers solely to a Veteran's character of discharge for the purposes of qualifying for specific New York State benefits for Veterans and their families.

NYS DVS will provide an initial decision within 90 days of the receipt of the completed application.

When necessary, NYS DVS will assist Veterans in obtaining the Veteran's complete and unredacted Official Military Personnel File, a review of which is necessary for NYS DVS to render a decision on the Veteran's application. Please note that the 90 days for NYS DVS to render a decision will not begin until NYS DVS has a complete application, to include the complete and unredacted Official Military Personnel File, in hand.

Once NYS DVS renders a decision, the Veteran will have 120 days from the date on which the decision is issued to appeal the original decision. This *de novo* review will be conducted by the Appellate Unit leadership of NYS DVS, in conjunction with the General Counsel of NYS DVS. The appellate decision will be final.



## Application Packet:

### Mandatory

1. Restoration of State Veterans Benefits Application
2. Complete Official Military Personnel File
3. Personal statement (signed) describing precisely why your assigned character of service was unjust and why an upgrade to a higher character of service is appropriate.
4. If applicable, an award letter from the United States Department of Veterans Affairs verifying that you have a service-connected rating for your disability.

### Only applicable for those demonstrating less-than-honorable discharge was caused by mental health condition (i.e. PTSD, TBI, MST) during service:

1. If symptoms of a disability incurred or aggravated during your military service (e.g., Post-Traumatic Stress Disorder, Traumatic Brain Injury, Military Sexual Trauma) caused you to act in a way that led directly to your less-than-honorable discharge, provide:

- (a) Evidence of the medical diagnosis of the disability (or disabilities) that led to these actions;
- (b) Evidence your disability originated or worsened during your military service;
- (c) Signed explanation by the Veteran of how the diagnosed medical disability (or disabilities) led to the less-than-honorable discharge;
- (d) If applicable, an award letter from the United States Department of Veterans Affairs verifying that you have a service-connected rating for your disability.

### Optional

Supporting letters from individuals who can sincerely vouch for the Veteran's good conduct and character *in the military*.

Evidence of any medals, commendations, and decorations earned during your military service.

Applications should be sent to the following address or email:

**New York State Division of Veterans' Services**  
**ATTN: Appellate Unit**  
**2 Empire State Plaza, 17th Fl**  
**Albany, NY 12223**

Email: [inclusion@veterans.ny.gov](mailto:inclusion@veterans.ny.gov)

Legal questions regarding the application of benefits under the Restoration of Honor can be sent to: [generalcounsel@veterans.ny.gov](mailto:generalcounsel@veterans.ny.gov)



### Restoration of State Veterans Benefits Application

Full Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Branch of Service: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Discharge Status: \_\_\_\_\_

Reason for Restoration of State Veterans Benefits:

Post-Traumatic Stress Disorder (PTSD)

Traumatic Brain Injury (TBI)

Military Sexual Trauma (MST)

Sexual Orientation

Gender Expression

Do you need assistance in accessing your Official Military Personnel File? (If you select "yes",

please fill out and include the SF-180)

Yes    No

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Send to:

New York State Division of Veterans' Services

ATTN: Appellate Unit

2 Empire State Plaza, 17th Fl

Albany, NY 12223

Email: [inclusion@veterans.ny.gov](mailto:inclusion@veterans.ny.gov)

# REQUEST PERTAINING TO MILITARY RECORDS

Requests from veterans or deceased veteran's next-of-kin may be submitted online by using eVetRecs at <http://www.archives.gov/veterans/military-service-records/>  
To ensure the best possible service, please thoroughly review the accompanying instructions before filling out this form. PLEASE PRINT LEGIBLY OR TYPE BELOW.

## SECTION I - INFORMATION NEEDED TO LOCATE RECORDS (Furnish as much information as possible.)

1. NAME USED DURING SERVICE (last, first, full middle)	2. SOCIAL SECURITY #	3. DATE OF BIRTH	4. PLACE OF BIRTH			
5. SERVICE, PAST AND PRESENT (For an effective records search, it is important that ALL service be shown below.)						
	BRANCH OF SERVICE	DATE ENTERED	DATE RELEASED	OFFICER	ENLISTED	SERVICE NUMBER (If unknown, write "unknown")
a. ACTIVE						
b. RESERVE						
c. STATE NATIONAL GUARD						

6. IS THIS PERSON DECEASED?  NO  YES - **MUST** provide Date of Death if veteran is deceased: \_\_\_\_\_

7. DID THIS PERSON **RETIRE** FROM MILITARY SERVICE?  NO  YES

## SECTION II - INFORMATION AND/OR DOCUMENTS REQUESTED

### 1. CHECK THE ITEM(S) YOU ARE REQUESTING:

**DD Form 214 or equivalent.** Year(s) in which form(s) issued to veteran: \_\_\_\_\_

This form contains information normally needed to verify military service. A copy may be sent to the veteran, the deceased veteran's next-of-kin, or other persons or organizations, if authorized in Section III, below. **An UNDELETED DD214 is ordinarily required to determine eligibility for benefits.** If you request a DELETED copy, the following items will be blacked out: authority for separation, reason for separation, reenlistment eligibility code, separation (SPD/SPN) code, and, for separations after June 30, 1979, character of separation and dates of time lost.

**An UNDELETED copy will be sent UNLESS YOU SPECIFY A DELETED COPY by checking this box:**  I want a **DELETED** copy.

**Medical Records** Includes Service Treatment Records, Health (outpatient) and Dental Records. **IF HOSPITALIZED (inpatient) the FACILITY NAME and DATE (month and year) for EACH admission MUST be provided:** \_\_\_\_\_

**Other** (Specify): \_\_\_\_\_

2. **PURPOSE:** (Providing information about the purpose of the request is **strictly voluntary**; however, it may help to provide the best possible response and may result in a faster reply. Information provided will in no way be used to make a decision to deny the request.)

- Benefits (explain)  
 Employment  
 VA Loan Programs  
 Medical  
 Genealogy  
 Correction  
 Personal  
 Other (explain)

Explain here: \_\_\_\_\_

## SECTION III - RETURN ADDRESS AND SIGNATURE

1. **REQUESTER NAME:** \_\_\_\_\_

2.  I am the MILITARY SERVICE MEMBER OR VETERAN identified in Section I, above.

I am the VETERAN'S LEGAL GUARDIAN (**MUST submit copy of Court Appointment**) or AUTHORIZED REPRESENTATIVE (**MUST submit copy of Authorization Letter or Power of Attorney**)

OTHER

I am the DECEASED VETERAN'S NEXT-OF-KIN (**MUST submit Proof of Death. See item 2a on instruction sheet.**)

\_\_\_\_\_  
(Relationship to deceased veteran)

\_\_\_\_\_  
(Specify type of Other)

3. **SEND INFORMATION/DOCUMENTS TO:**  
(Please print or type. See item 4 on accompanying instructions.)

4. **AUTHORIZATION SIGNATURE: I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the information in this Section III is true and correct and that I authorize the release of the requested information.** (See items 2a or 3a on accompanying instruction sheet. Without the Authorization Signature of the veteran, next-of-kin of deceased veteran, veteran's legal guardian, authorized government agent, or other authorized representative, only limited information can be released unless the request is archival. No signature is required if the request is for archival records.)

Name \_\_\_\_\_

Street \_\_\_\_\_ Apt. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

\* This form is available at <http://www.archives.gov/veterans/military-service-records/standard-form-180.html> on the National Archives and Records Administration (NARA) web site. \*

Signature Required - Do not print \_\_\_\_\_ Date \_\_\_\_\_

Daytime phone \_\_\_\_\_ Fax Number \_\_\_\_\_

Email address \_\_\_\_\_

**Testimony by the New York Legal Assistance Group (NYLAG)  
Before the New York City Council Committee on Veterans regarding:  
Assistance for Veterans Seeking to Upgrade Discharge Status**

**September 27, 2021**

Chair Dinowitz, Council Members, and staff, good morning and thank you for the opportunity to speak to the Veterans Committee about assistance for veterans seeking to upgrade their discharge status. My name is Ryan Foley, and I am the Supervising Attorney of the Veterans Practice at the New York Legal Assistance Group (NYLAG), a nonprofit law office dedicated to providing free legal services in civil matters to low-income New Yorkers. The New York Legal Assistance Group uses the power of the law to help New Yorkers in need combat economic, racial, and social injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves military veterans, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence survivors, persons with disabilities, patients with chronic illness or disease, low-wage workers, members of the LGBTQ community, Holocaust survivors, and others in need of free civil legal services.

Given the level of need in New York City's diverse veteran population, NYLAG operates two veteran-specific legal programs. We have a medical-legal partnership with the Bronx and Manhattan VA Medical Centers and a community-based program that provides

comprehensive services to veterans and their families, regardless of their discharge status and eligibility to use the VA Healthcare System.

Less than one-month ago, the longest war in our nation's history, the War in Afghanistan, ended after nearly twenty years. Since 2001, more than 775,000 U.S. troops had deployed to Afghanistan. When the withdrawal was announced, there was a surge in active servicemembers and military veterans seeking mental health support. The Veterans Crisis Line, which provides crucial emergency mental health assistance to veterans, reported a spike of 40% in calls and an increase of 98% in texts. The Secretary of the VA put out a message, encouraging former service members who were struggling with mental health to reach out to the VA, stating "we at VA are here for you." However, that message may not have reached the estimated 500,000 veterans across the United States who received less than honorable discharges, including the more than 100,000 veterans who received less than honorable discharges since the start of the War in Afghanistan.

A less than honorable discharge means that a former servicemember will not be entitled to the full range of benefits that their military service would otherwise grant them. Veterans who receive a General discharge will not be entitled to educational benefits, which are crucial for servicemembers transitioning back to civilian life. Veterans who receive an Other Than Honorable or Bad Conduct discharge often find they have a complete bar to VA benefits. This includes critical resources such as VA disability benefits and access to VA healthcare.

Studies have found a direct correlation between mental health issues and less than honorable discharges, making the lack of access to disability benefits and healthcare for this segment of the veteran population even more dire. Veterans with a PTSD diagnosis are eleven times more likely to have a less than honorable discharge and veterans who reported military sexual trauma in service are 35% more likely to have a less than honorable discharge. There are

also significant racial disparities in the military justice system, as minority veterans across the different branches of service are substantially more likely to face disciplinary actions, which often lead to less than honorable discharges. This combination of lack of access and traumatic experiences leaves veterans with a less than honorable in a situation where they are seven times more likely to deal with housing insecurity, 50% more likely to face incarceration, and experience double the risk of suicide.

Veterans who received a less than honorable discharge are permitted to apply for a discharge upgrade, but the process is difficult, slow, and near impossible to navigate without a legal advocate. Successful applications require extensive record collection and analysis, which has increased in difficulty as a result of massive backlogs and pandemic closures of important record keepers like the National Personnel Records Center (NPRC). For veterans dealing with significant mental health conditions, applications may require obtaining detailed medical opinions explaining how conduct in service was a consequence of the mental health condition. Applications also require detailed legal arguments explaining the errors or injustices that may have occurred during the servicemembers' military service and discharge. Once a discharge upgrade application is submitted, the veteran must then wait for a decision, which depending on their branch of service, dates of service, and whether they requested a hearing, may take several years.

Persevering through the difficult process of compiling a discharge upgrade application is invaluable because the benefits of a successful application cannot be overstated. A favorable discharge upgrade will result in a change in status and entitle the veteran to vital VA services and financial benefits. A change in discharge status can remove housing, employment, and immigration barriers. The new status also helps by removing the stigma associated with a less than honorable service, a status that may have been the result of mental health struggles, the

veteran's sexual orientation, or the unjust and inequitable social and structural conditions, which categorically disadvantage minority veterans

NYLAG is extremely grateful to the City of New York for its investment in legal services for veterans. NYLAG has been the recipient of funding through the Legal Services for Veterans Initiative since its inception and because of that funding, we have been able to assist veterans with thousands of cases in the areas of veterans' benefits, public benefits, housing, consumer protection, and advance planning. NYLAG is excited to now receive funding from the NYC Department of Veterans' Services specifically aimed at assisting veterans with less than honorable discharges apply for discharge upgrades. This new funding demonstrates New York City's commitment to uplifting a veteran population that is frequently overlooked and often most in need. We look forward to working with the City and NYC DVS to make sure our former service members know this assistance is available, recognizing many of the individuals eligible for this assistance may not identify as veterans because of their discharge status. NYLAG is committed to utilizing the expertise of our 300+ attorneys, paralegals, and financial counselors to comprehensively address the different and diverse civil legal needs of these struggling veterans as we work to upgrade their discharge status and connect them to their rightful benefits.

Thank you for the opportunity to testify today. We look forward to engaging in further discussions about serving our veteran communities and improving their access to critical legal services and other resources.

Respectfully submitted,

New York Legal Assistance Group



**Testimony to the New York City Council's Committee on Veterans  
Delivered virtually on September 27, 2021  
by Ashton Stewart, SAGEVets Program Manager**

Thank you, members of the New York City Council Committee on Veterans, for holding this oversight hearing. My name is Ashton Stewart, and I am the manager of SAGEVets, SAGE's statewide program for lesbian, gay, bisexual, and transgender (LGBTQ) veterans. Support from the New York City Council has been instrumental to our SAGEVets program – allowing SAGE to engage older LGBTQ veterans across this great city and making a real difference in the lives of many older LGBTQ veterans.

SAGE is the country's first and largest organization dedicated to improving the lives of lesbian, gay, bisexual and transgender (LGBTQ) older people. Founded in New York City in 1978, SAGE has provided comprehensive social services and programs to LGBTQ older people for more than four decades. SAGEVets is one of SAGE's programs and, in fact, is the only program in the state designed for older LGBTQ veterans.

New York is home to approximately one million men and women who served their country in the Armed Forces – many of whom are LGBTQ. New York City and State are among the top ten cities and states with the highest concentrations of gay and lesbian veterans, both in number and per capita. In fact, the Urban Institute estimates there are over 38,000 lesbian and gay veterans living in New York State, with 17,000 residing in New York City.

According to a survey by the New York State LGBTQ Health and Human Services Network, 56% of those LGBTQ people who were veterans were over the age of 50. Many LGBTQ older veterans in New York are struggling and yet, are not accessing the services they need. In fact, according to the New York State LGBTQ Health and Human Services Network:

- 43% of lesbian, gay and bisexual vets live at under 200% of the Federal Poverty line; for transgender veterans, this number was nearly 60%
- 30% of lesbian, gay and bisexual veterans were homeless; 46% of transgender vets were homeless
- 34% of lesbian, gay and bisexual veterans were food insecure; over 61% of transgender vets struggle with food insecurity
- 30% of lesbian, gay and bisexual veterans and 48% of transgender vets fear discrimination from providers

SAGEVets was created to identify, support, and improve access to care among older LGBTQ veterans across the city and state and to respond to the swelling needs described above. Further, to elevate the visibility of older LGBTQ veterans and their unique needs, SAGEVets

program works in partnership with veteran service programs throughout the city to provide legal information and referrals for VA benefits including medical, pension, and education.

Serving older LGBTQ veterans is a difficult task, since most of these individuals served while the military enforced anti-LGBTQ policies followed by the discriminating Don't Ask Don't Tell (DADT) policy that began in 1994 and lasted for almost 18 years. Recently, we have seen legislative and policy changes that have aided our work and we applaud the legislators who have championed these improvements. In New York, the Restoration of Honor Act (ROH) was signed into law in 2020 providing an opportunity for LGBTQ veterans who were discharged with an other than honorable discharge with the opportunity to have their discharge upgraded to honorable thereby granting them access to veteran benefits offered by the State.

Also, just last week, on September 20<sup>th</sup> of this year, the ten-year anniversary of the repeal of DADT, the VA announced that it will "[reverse the harm done to all LGBTQ+ veterans](#)" by offering health care and benefits to veterans discharged under the DADT policy. This announcement will go far in aiding the estimated 14,000 veterans who were discharged under this discriminating policy, but unfortunately, it does nothing for the estimated 100,000 who were discharged for being LGBTQ between WWII and 1994 when DADT began.

Additionally, through our work, we discovered another policy gap for veterans who are ineligible at the VA despite the new policy announced last week. [In 1980 the VA enacted a requirement](#) for veterans to serve a minimum 24 months of active duty in order to qualify for healthcare and services. Even with an honorable discharge, we have seen veterans denied care at the VA when they fall short on the 24-month requirement. This includes those who were discharged for their sexual orientation and gender identity. We are actively working with the New York City Department of Veterans' Services (DVS) on addressing this policy gap seeking a legislative solution and together have discovered that there are close to 10,000 LGBTQ veterans discharged within the first 24 months of their service.

SAGEVets works on a case-by-cases basis advocating on behalf of older LGBTQ veterans, who often struggle identifying as a veteran. We highlight experiences and challenges of those who served prior to and during DADT. This year we nominated a 54-year old veteran who is a victim of Military Sexual Trauma (MST) into the NYS Veterans' Hall of Fame. His name is Gaston Roberge, and up until this year, he did not consider himself a veteran. Gaston hails from a long line of military men and women. Growing up in a military family, Gaston dreamed of a life-long career in the U.S Army. As a young cadet in the JROTC, Gaston was groomed to realize his dream. Unfortunately, a traumatic event occurred during basic training that abruptly ended his career and made a detrimental impact on his future. In 1987, Gaston was a victim of MST (military sexual trauma) by a gang of fellow recruits. He did not immediately report the incident, fearing retaliation. A short time later, Gaston tried to take his own life. That is when Gaston went to the base Chaplain, believing that there would be some amount of justice. However, the Chaplain became angry when hearing about the incident, and could not tolerate listening to Gaston, accusing him of lying and denying any wrongdoing by the perpetrators. Gaston was promptly issued an Entry Level Separation due to a "personality disorder" with no investigation, no medical exam, and no medical diagnosis from a doctor.

Gaston's story is sadly all too common, but his patriotism and his courage to overcome his experience is remarkable. The trauma that survivors of MST carry, followed by the "disorder" non-medical diagnosis on his discharge papers have weighed heavily on Gaston's life. For almost 35 years, Gaston has struggled with a mental health diagnosis, physical disabilities, and living in isolation. It wasn't until he connected with SAGEVets that he recognized himself as a veteran and began to recover from this trauma. We are currently assisting Gaston with an ROH application that is offered to survivors of MST. Gaston is honored for his nomination into the New York State Senate Veterans Hall of Fame and is grateful to his New York State Senator, Brad Hoylman, for believing in him. He hopes that this story will encourage others who have suffered a similar fate to begin their journey to healing.

There are varying degrees of what constitutes recognition as a veteran, primarily based on time served and discharge status. Fortunately, DVS considers anyone who served at least one day in the U.S. military to be a veteran, regardless of discharge status. This definition of who qualifies as a veteran is crucial to our work at the local level. It is our opinion that anyone who has taken the oath of enlistment to "solemnly swear to support and defend the Constitution of the United States" deserves the privilege of identifying themselves as a veteran. This would include those who received punitive discharges such as dishonorable and bad conduct discharges, who despite the circumstances of what led to the discharge, deserve to receive health care at the VA. Veterans who have received punitive discharges should also have the opportunity to appeal those decisions reviewed in a process similar to the ROH where applications are reviewed and vetted by the New York State Division of Veterans' Services. We would urge the City Council to allow a similar process to take place at the local level. It is also our belief that there are at times unwarranted punitive discharges issued and we would urge New York State to amend the ROH to open the review process to these veterans.

SAGE is deeply grateful for the support of the New York City Council and the Committee on Veterans. We look forward to our ongoing collaboration with the Council in our shared work to ensure that our City's older LGBTQ veterans can access the care, services that they deserve.

# **VETERAN ADVOCACY PROJECT**

**THE COUNCIL OF THE CITY OF NEW YORK**

COMMITTEE ON VETERANS  
Chair Dinowitz

**DUALS & Int. No. 2354-A**

Testimony by Coco Culhane, Esq.  
Executive Director  
September 27, 2021

# VETERAN ADVOCACY PROJECT

Good morning, Chair Dinowitz and members of the Veterans Committee. My name is Coco Culhane. Thank you for the opportunity to speak today about Veterans accessing discharge upgrade services and the city's definition of "veteran". I am the executive director of the Veteran Advocacy Project. I sit on the New York State Discharge Upgrade Advisory Board, I teach a law school seminar and clinic that focuses on veterans with less than honorable discharges, and I served on the advisory board for the ABA's newly published Discharge Upgrade Manual.

VAP provides free legal services to low-income veterans and their families with a focus on those living with post traumatic stress, brain injury, and substance use disorders. Our organization serves veterans in three areas: criminal defense with mitigation services in capital cases nationally and felony cases in New York, civil legal services centered around housing, and our veterans law practice, which specializes in representing veterans with less than honorable discharges before the Departments of Veterans Affairs (VA) and Defense (DOD). Since launching our discharge practice nearly ten years ago, we have investigated and reviewed well over 1,000 cases and our Discharge Upgrade Clinic, a pro bono network of attorneys we have trained, has taken on over 100 upgrade applications.

I want to thank both the City Council for its commitment to this population—with multiple hearings in the last several years—and the Mayor's Office and Department of Veterans Services for investing in correcting the injustices that these veterans have experienced. The new Discharge Upgrades Legal Assistance Services (DUALS) program is a *real* commitment to the work that it takes to win these cases and we are excited as this partnership with DVS is growing. When an upgrade is successful, it can lift a veteran and their family out of poverty; it can provide access to the GI Bill and change a family for generations; and it can provide health care and benefits that the COVID-19 pandemic has made painfully clear are crucial lifelines that too many New Yorkers do not have.

## Mental Health Services Are Imperative

VAP focuses on veterans with mental health conditions and the Committee Report for this hearing highlighted a statistic we often cite: that in a four year period recently, 62 percent of servicemembers with misconduct discharges had already been diagnosed with post traumatic stress disorder (PTSD) or a condition with symptoms related to behavior leading to discharge.<sup>1</sup> Yet, we must always keep in mind that mental health does not exist in a vacuum and systemic racism, sexual assault, discrimination against individuals' sexual orientation, and other forms of prejudice are still prevalent in the military and in our civilian structures, courtrooms, and

---

<sup>1</sup> From 2011-2015, of the servicemembers who had a diagnosis of PTSD or TBI that manifested in a misconduct administrative separation, 62 percent had already been diagnosed with PTSD or similar, and only 4 percent received honorable discharges, compared to about 80 percent of the military overall. "Actions Needed to Ensure Post-Traumatic Stress Disorder and Traumatic Brain Injury Are Considered in Misconduct Separations," GAO-17-260: Published: May 16, 2017. Publicly Released: May 16, 2017.

# VETERAN ADVOCACY PROJECT

prisons,<sup>2</sup> aggravating existing and causing new traumatic injuries. The data is bleak: Black men are disciplined at twice the rate of their counterparts in the military.<sup>3</sup> New York City's population is about 25 percent Black/African American and its veterans 28 percent, yet over 60 percent of VAP's clients identify as such.<sup>4</sup> Sexual assault survivors are twice as likely to receive a less-than-honorable discharge.<sup>5</sup> One of the burdens of a bad paper is that it comes with disproportionate consequences—lifelong stigma, shame, economic barriers, and a sense of alienation for what could have been a devastating assault; or for what may have been only one drag on a joint someone handed you, one attempt to feel calm for a moment, to silence the heartbeat pounding in your ear drums; or maybe you just showed up late a lot<sup>6</sup> and now you are viewed by civilians as having a criminal record for the rest of your life.

Along with psychological healing, upgrades have the potential to bring millions of federal dollars into the city. Though they are a band-aid on the systemic problems we are all working to address as a community, an upgrade can lift families out of poverty one at a time; for one family or one veteran they may be the doorway to a new life. Upgrades offer opportunity for change: access to post-secondary education, health care, housing vouchers, etc.. There are so many aspects of a veteran's life impacted by discharge status. Certain numbers, that VAP testifies about frequently, bear repeating:

- Involuntary discharges are the second highest predictor of homelessness.<sup>7</sup>
- A successful discharge upgrade opens the door to over \$7.8 million for a single veteran over a lifetime when counting only the top four benefits that VAP's clients use.<sup>8</sup>

---

<sup>2</sup> A 2012 federal study by the Bureau of Justice Statistics showed that 55% of incarcerated veterans had been diagnosed with a mental health disorder compared to 43% of non-veterans; 23% of incarcerated veterans have been diagnosed with PTSD, more than double non-veterans.

<sup>3</sup> Vanden Brook, Tom. "Black troops as much as twice as likely to be punished by commanders, courts," USA TODAY (June 7, 2017), available at: <https://www.usatoday.com/story/news/politics/2017/06/07/black-troops-much-twice-likely-punished-commanders-courts/102555630/>.

<sup>4</sup> Department of Veterans Services, New York City Veterans Demographics, City of New York, available at: <https://www1.nyc.gov/assets/veterans/downloads/pdf/NYCveterandemographics.pdf> (citing American Community Survey 2016), available at: <https://www2.census.gov/library/visualizations/2015/comm/vets/ny-vets.pdf>.

<sup>5</sup> *Getting It Right: "Bad Paper" Legislation That Works*. Prepared for House Veteran Affairs Committee, Subcommittee on Health Legislative Hearing on H.R 918 and others March 29, 2017. Submitted by Swords to Plowshares, with the Assistance of Veterans Legal Clinic at Harvard Law School.

<sup>6</sup> 10 U.S.C. § 886.

<sup>7</sup> See: Gundlapalli AV, Fargo JD, Metraux S, et al. *Military Misconduct and Homelessness Among US Veterans Separated from Active Duty, 2001-2012*. *JAMA*. 2015;314(8):832–834. doi:10.1001/jama.2015.8207.

<sup>8</sup> The calculation looks at a single veteran from age 28 to 82, assuming access to 100 percent service-connected disability compensation, 36 month/credits of GI Bill at 2021 BAH rates for an E2 with dependents for New York City zip codes, excluding Staten Island (or any others that may have changed since last identified, plus a HUD VASH voucher and primary care via the Veterans Health Administration. The model assumes a modest COLA but does not account for employment income or other growth opportunities provided by those benefits. It also omits the cost savings for the city, which means the total fiscal benefit for the city is significantly higher than this figure.

# VETERAN ADVOCACY PROJECT

- This population of veterans has a suicide rate that is nearly three times the rate of other veterans.<sup>9</sup>

While the VA's suicide data published last month showed a slight decline in veterans taking their own lives,<sup>10</sup> it is all pre-pandemic data and we would be foolish to think that the last 18 months have not ended or even reversed the trend.<sup>11</sup> As a city we still have much to do. The Mayor's Office of Community Health states on their site, there is no "federal guarantee of mental health care.... The challenge has fallen on cities, states, and localities to care for their people." For veterans whose discharge characterization bars them from receiving VA health care, these words could not be more important. Communities must provide the support that the VA withholds. That is why it is disappointing to see that the City's Mental Health Plan for All website has a Veterans section with no veterans' mental health providers listed.<sup>12</sup>

Given the suicide rate of the individuals who served,<sup>13</sup> the 20th anniversary of the September 11 attacks, everything that has happened in Afghanistan with the fall of Kabul and our failed evacuation of allies that left many Operation Enduring Freedom veterans struggling with complex emotions about the war<sup>14</sup>—given this confluence of stressors creating demand for mental health services, the Road Map For All is precisely the kind of community outreach and commitment this population needs.<sup>15</sup>

---

<sup>9</sup> See Bryan, CJ. "On Deployment and Military Suicide Risk." *JAMA Psychiatry*. 2015;72(9):949–950. doi:10.1001/jamapsychiatry.2015.0671.

<sup>10</sup> Shane, Leo, *Veteran suicides decreased 7 percent in 2019 to lowest level in 12 years*, MIL TIMES, Sept. 9, 2021; amiable at: <https://www.militarytimes.com/veterans/2021/09/08/veteran-suicides-decreased-7-percent-in-2019-to-lowest-level-in-12-years/>.

<sup>11</sup> Pandemics exacerbate the risk factors associated with suicide: economic stress, isolation, increased anxiety and depression, and, for the elderly there are self-isolation factors such as limited numbers of relationships, decreased literacy, and difficulty with access to digital resources. For further reading, see: Liang A, PS. Suicide Risk in the COVID-19 Pandemic. *Johns Hopkins Psychiatry Guide*. 2021. Available at: [https://www.hopkinsguides.com/hopkins/view/Johns\\_Hopkins\\_Psychiatry\\_Guide/787393/all/Suicide\\_Risk\\_in\\_the\\_COVID\\_19\\_Pandemic](https://www.hopkinsguides.com/hopkins/view/Johns_Hopkins_Psychiatry_Guide/787393/all/Suicide_Risk_in_the_COVID_19_Pandemic) (citing: Santini ZI, Jose PE, York Cornwell E, et al. Social disconnectedness, perceived isolation, and symptoms of depression and anxiety among older Americans (NSHAP): a longitudinal mediation analysis. *Lancet Public Health*. 2020;5(1):e62-e70).

<sup>12</sup> The only thing listed is Mission: VetCheck, which is a terrific program VAP has participated in for the last year. However, it is not a mental health provider. It is volunteers who may connect the veteran with provider options. It's layers to get help when every barrier matters. Every phone call that has to be made risks losing the follow through of the veteran-caller. There are specialized providers who should be listed there. Other categories and populations on the site have non-governmental agencies listed. Why not Veterans? The City has an entire database of providers via VetConnect, now Unite NYC. Why are we making veterans go through an extra step when mental health is on the line and the suicide rate is double the general population?

<sup>13</sup> Ramchand, Rajeev, *Suicide Among Veterans: Veterans' Issues in Focus*, Santa Monica, Calif.: RAND Corporation, PE-A1363-1, 2021, available at: <https://www.rand.org/pubs/perspectives/PEA1363-1.html>.

<sup>14</sup> Shane, Leo, *More Vets Reaching Out for Crisis Line Help Amid Afghanistan Collapse*, MIL TIMES (Aug. 31, 2021), available at: <https://www.militarytimes.com/veterans/2021/08/31/more-vets-reaching-out-for-crisis-line-help-amid-afghanistan-collapse/>

<sup>15</sup> If you click through to NYC Well and search "veteran" to find mental health services, the first page of results gives you ten organizations. Five are advocacy—legal services providers. If you are in any way distressed, coming

# VETERAN ADVOCACY PROJECT

## Partnerships and Forensics

When veterans with less-than-honorable (LTH) discharges come to VAP seeking legal assistance, our first step is asking about health care. Finding treatment is almost always required in our process—not only because it serves as the evidence, but to support the veteran-client through what can be a retraumatizing experience, digging back into memories that are raw and painful. Most of our clients did not seek mental health services while on active duty (which makes that 62 percent figure all the more disturbing), so we must prove there was a trauma, a trigger, something that caused the onset of their condition. We have to ask these former servicemembers to tell us about the darkest moments of their lives. Without access to the VA, it is a struggle to find appropriate mental health services and we are in one of the best cities in country when it comes to these resources.

VAP's partnerships with providers that specialize in military-related trauma have waitlists. As we address the wounds of injustice, nearly all of these cases come with deep psychological wounds that are more critical. The importance of a basic understanding of the veteran's experience is crucial to treatment. We see how dramatically a small amount of cultural sensitivity and competency training can make a difference in building trust. Too few of New York State and New York City's community clinics have this training or knowledge.<sup>16</sup> This is one of the reasons that we partner with and train the Community Healthcare Network's veterans program, so that we can be confident that a basic foundation of military knowledge is present among their providers.

Along with treatment, most of our cases require expensive forensic evaluations by experts. Again, most of our clients do not have medical proof of their conditions in service. Forensic psychiatrists and psychologists in this setting are trained to review former servicemembers' conduct and examine how psychology played a role in the legal circumstances at issue. Doctors review official military personnel files, service treatment records, interview collateral witnesses, such as family members and friends, and conduct psychological testing, before producing a report for an attorney that renders an opinion about underlying causes of behavior. This time-intensive process is standard in criminal cases and other areas of law, but it is not an expense that is customary in civil legal services. It is an investment that pays off: VAP's track record shows that the win rate for cases *doubles* when a forensic evaluation is used to support the application arguments.

---

across these kinds of results is a barrier.

This resource is crucial because less than half of veterans use the VA at all—not just for health care but for health care or any benefit. Of the 49 percent of veterans who access the VA, 25 percent use health care benefits. Those stats mean that a little over 12 percent of veterans access the Veterans Health Administration ("VHA"). And that is only the veterans who qualify for VA and VHA services. See VA Utilization Profile 2017, National Center for Veterans Analysis and Statistics, Department of Veterans Affairs, *available at*: <https://www.va.gov/vetdata/utilization.asp>.

<sup>16</sup> According to a 2018 RAND report, only 2.3 percent of New York State's civilian health care providers are ready to provide high-quality care to veterans.

# VETERAN ADVOCACY PROJECT

VAP has developed relationships with forensic psychiatric programs at medical schools around New York and beyond, but our capacity is limited. Unless pro bono firms take cases and pay for private practitioners, which is not always possible depending on the pro bono program, cases often have to wait for a psychiatric fellow to have an opening—this could add another year to a veteran's wait.

With the necessity of both forensic work and mental health trauma treatment to ensure this population's sustainable recovery, Columbia University's PTSD & Veterans Research Center and VAP recognized a unique opportunity to work together. Our program will deliver services that increase efficiency for medical providers, attorneys, and veterans alike, and will maximize success in our programs by using an interdisciplinary approach that bolsters the work of each expert. The collaboration can address immediate mental health needs, while also working on opening the door to a lifetime of resources; and, ultimately, leave veterans in a position of health, able to use those resources, to build successful lives for themselves and their families. As we develop this partnership—addressing trauma, mental wellbeing, family members and secondary trauma, access to justice/health/housing—we will empower veterans so that they can rebuild their lives. We hope that in bringing this program to life, we can work with DVS to set a new standard of best practices for trauma-related upgrade work.

## LGBTQ Veterans

There are a few changes that have created a lot of media attention around discharge status and left many questions hanging. Last week, on the tenth anniversary of the repeal of "Don't Ask, Don't Tell"—a directive that mandated that servicemembers hide their sexuality while the statute in our U.S. Code that said their sexual orientation was illegal remained on the books—the VA announced that individuals who were discharged under the policy would no longer be barred from the VA. However, most servicemembers who were discharged under this policy were separated with *Honorable discharges*. The standard that was used, keeping thousands of individuals living in fear: no Statement, Act, or Marriage could be observed or else the servicemember would be discharged. The real problem advocates come across is that these individuals were discharged just short of the 24 months of active duty requirement to receive the VA medical package—not that they received less-than-honorable discharges.

The difficult cases, where misconduct was used as a pretext for what was actually discrimination, require advocacy involving tracking down evidence and potential witnesses—usually from so many decades ago that many are no longer with us. On Friday, I had to call a client who was a supply corps officer in the Navy. In the 1970s, he fell in love with an enlisted sailor, only to be found out by command. The pressure was unbearable for his partner and they decided that since his partner was an enlisted sailor he should take a deal to testify against the our client, the officer, who was then able to resign in lieu of general court-martial. Our client received an Other Than Honorable discharge. Together the two moved away from the base and spent the rest of their

# VETERAN ADVOCACY PROJECT

lives together until his partner, the enlisted sailor, died of AIDS-related complications many years later. Now approaching the end of his life, our client had hoped to use the medical care of the VA. The Board for Correction of Naval Records removed the narrative reason for separation from his discharge papers last week, so they no longer say, "Homosexual Acts," but they still say "Under Conditions Other Than Honorable" because the Board found that he had engaged in fraternization among ranks. He was discharged nearly 50 years ago and has led the life of a model citizen, becoming a nurse and dedicating himself to the care of others; yet, the board showed him no clemency.

## The Memos

The Kurta and Wilkie Memos have rushed in a new era of advocacy for our small area of law. Reading the documents, many people believe that mental health cases are now straightforward. Trauma, misconduct, discharge... just explain the nexus to the Board. However, the Boards are not following these memos.

One of our clients, a Marine now in his late 30s, experienced severe combat trauma in Afghanistan. Some of the most difficult stories are those from veterans who have permanent psychic wounds from memories of watching children die or finding their small bodies. This veteran was diagnosed in service with PTSD after finding the charred remains of two small boys after his unit called in an airstrike to the area. His misconduct was a substance use disorder that manifested only once he was home from the war: a drunken display of disorderly behavior that included urinating on a building. The Naval Discharge Review Board acknowledged his combat service and his PTSD, as diagnosed by their DOD physician, and then denied his application with little explanation other than: we don't think that's why you engaged in misconduct. I have been calling this veteran and emailing him periodically over the last month, since Kabul fell and we all watched as Afghan families, interpreters and their children, were left pressed up against the welded-shut metal gates of Hamid Karzai International Airport, screaming for their lives as the last Marine left the airfield August 30 ahead of schedule. I have yet to reach him.

After losing on documentary review, the Marine is waiting for his hearing,<sup>17</sup> which from submission of the application form to appearing before the board is about 25 months and likely increasing from all of the pandemic backlogs in record center and at the Review Boards themselves. He has little to do while he waits. A year ago our client had a baby girl but has been unable to be a parent with his hypervigilance, constant nightmares, and cannot support her with because his Other Than Honorable discharge has kept him from securing a job. He cannot even make enough money to get a car to drive to see her in New Jersey. Every military/veteran charity he has applied to for assistance rejects him when finding out he has a bad discharge.

---

<sup>17</sup> The Board had to shut down entirely and figure out a secure way to handle PII with staff working remotely. With more public awareness for the issue, backlogs are piling up and the Boards are understaffed.

# VETERAN ADVOCACY PROJECT

I share these examples of our losses to demonstrate how difficult a battle an upgrade can be. We did not get a forensic evaluation for the Marine who fought in Afghanistan. Why repeat what the DOD's own doctors diagnosed him with already, we thought. We were wrong. We can only hope that will be the difference; otherwise, it is years more waiting for the next board in the administrative process at DOD: the Board for Correction of Naval Records.<sup>18</sup> Then, if he loses there, a new board where you cannot make an appearance nor submit any new evidence, will review your case and make another decision before the case can be appealed in federal court.<sup>19</sup> It is almost comical how bureaucratically inefficient and pointless this new board review is – or it would be if it didn't add years to a process in which someone's life and future are on the line.

## Int. No. 2354-A.

VAP supports the expansion of the definition of the word "veteran" as proposed in 2354-A. We applaud the Mayor and Councilmember Dinowitz for counting anyone who served as a first step in accurately assessing the needs of military veterans in New York City. There is often great push back when something like this is proposed or when those deemed "less-than" are offered some kind of clemency. The VA is currently rewriting the regulation regarding Character of Discharge status and VA eligibility. One of the questions they have asked for further comments on is whether individuals with bad discharges gaining access to the VA will denigrate the service of veterans with Honorable discharges. I would imagine there are similar concerns with this definition of veteran in New York City. However, what seems to get lost in those concerns is the idea that individuals with unjust discharges did not deserve their Other Than Honorable or sometimes even Dishonorable Discharge. Even so, this new definition does not confer an Honorable status upon a veteran with a Dishonorable discharge. Nor does it offer that veteran a home loan or health care for life. Here, New York City is using the term in a way that counts service—not status. It does not take away from anyone else's accomplishments.

While we support the inclusion of veterans of all discharge characterizations, VAP believes it would be prudent in other areas of the definition to use words in a manner consistent with their use in similar statutes and regulations. "Active duty" means someone is currently serving and may never have been released from service before. The city can conduct outreach to all military families and military-affiliated individuals, so the confusion of creating "veteran" as both someone who has not been released and has, at the same, time seems unnecessarily contradictory—particularly for veterans who may already have a hard time determining eligibility issues.

---

<sup>18</sup> See 10. U.S.C. § 1552.

<sup>19</sup> See 10 U.S.C. §1553a.

# VETERAN ADVOCACY PROJECT

The proposed definition pulls from various parts of 38 U.S.C. § 101, which is extensive and depends on factors outside its own subsections. For New York City to create its own parallel but simplified version, it seems that either one broad term should be defined and used that encompasses all uniformed services, or the elements that are pulled from Section 101 should also include specifically listing all services.

The Coast Guard is not identified in the proposed definition, presumably because it is left out of 101(2); however, it is not omitted from that statute,<sup>20</sup> nor is it excluded by virtue of its move to Department of Homeland Security. The proposed new local law does not have the benefit of other sections to clarify the definition as Title 38 does: active duty in "United States Armed Forces" means Navy, Marines Corps, Army, Air Force, Space Force, Coast Guard, and their Reserve Components, per subsection (10). The oceanic services are also covered in 101 but get listed in the proposed bill. Therefore, it is VAP's recommendation that either a broad-based definition, such as "all uniformed services of the United States Armed Forces," such as can be found in subsection (21), be used so that any former servicemember will be included.

The legal distinction between "active duty" and "veteran" is one that impacts what health system one uses; what rights a person has in terms of how they conduct themselves, their political expression; entitlements; etc. Given how difficult DOD and VA systems can be to navigate under the best circumstances, redefining "veteran" to overlap with active status may only serve to add confusion.

Ultimately, we are thrilled to see such a progressive bill and look forward to working with DVS to assist all veterans, families, and caretakers in New York City.

Thank you for the opportunity to speak today.

---

<sup>20</sup> The Coast Guard can be found in the definition of "Armed Forces" in 38 U.S.C. 101 (21).

*New York City Council's Committee on Veterans  
Assistance for Veterans Seeking to Upgrade Discharge Status  
Monday, September 27th at 10:00am  
Testimony provided by NewYork-Presbyterian Military Family Wellness Center*

Good afternoon Chair Dinowitz, councilmembers, my name is Matthew Ryba, I am a Marine Corps combat veteran of Iraq and Afghanistan, and the director of community outreach and education at New-York Presbyterian's Military Family Wellness Center. Thank you for taking the time to hear my testimony today. I wanted to speak today on the importance of access to mental health care for veterans and how "bad paper" or other than honorable discharge status may affect that access to care.

Most recent data collected from the NYC Department of Veterans Services (NYC DVS) states there are 210,000 self-identified military veterans currently living in the five boroughs of New York City. Although the total number of veterans struggling with service connected mental health issues is unknown, recent studies have shown that in the general veteran population, 15 to 30% carry a diagnosis of PTSD or Major Depressive Disorder. Where publicly available treatment options, such as the Veterans Administration (VA) healthcare system provide invaluable resources to this community, about 50% of veterans refuse or do not qualify for VA services. Further, these numbers most likely exclude the very high risk population of veterans, those who do not identify as such due to bad paper, and as a result do not have access to benefits or resources.

We at the Military Family Wellness Center are proud to welcome these veterans to our clinics, regardless of discharge status. Since 2016, The New York–Presbyterian Military Family Wellness Center (MFWC) directed by Drs. Yuval Neria at Columbia University Irving Medical Center (CUIMC) and JoAnn Difede at Weill Cornell Medicine (WCM) has sought to bridge this treatment divide by providing cost-free, evidence-based assessment and treatment to local area veterans, active-duty service personnel, and their adult family members regardless of service era, disability rating, or discharge status. Since its inception, the MFWC has prioritized collaborations with regional public and private institutions, seeking to complement existing resources rather than to compete with or replace them.

Over the last five years the MFWC has served hundreds of New York's veterans suffering from PTSD, major depression, anxiety disorders, military sexual trauma (MST) and adjustment disorders. Both of our clinical sites, at the Columbia PTSD Research and Treatment Center and Weill Cornell Program for Anxiety and Traumatic Stress Studies are in-network providers listed on Vet Connect NYC. Since our clinics have been registered on we have

received close to 50 patient referrals from NYC DVS via Vet Connect NYC, a good number of which did not qualify for services elsewhere as a result of their discharge status.

This being said, we at the MFWC feel it is important to highlight that our clinics, along with many other service providers listed on Vet Connect NYC are non-profit organizations, who struggle to find funding in order to continue serving the veteran community of New York. While Vet Connect NYC serves an important purpose in connecting veterans to the resources they need, it is the nonprofit organizations providing veteran services that are in dire need of funding support in order to be able continue to offer these resources. Unfortunately, the MFWC, despite applying the last three years for funding from the City's veteran budget, as well as discretionary funding from the Veteran Committee members and councilmembers whose districts our clinics reside, have yet to gain any of this much-needed financial support.

At the Military Family Wellness Center, our clinicians and researchers have unparalleled experience working with military service members of all duty status. Many of our civilian faculty, clinicians, and staff have decades of experience caring for service members and their families. Our staff also includes several veterans who know firsthand the psychological impact that deployment and military severance may have on service members and their families.

Our innovative Center has distinct advantages in four areas: ease of access, minimal bureaucracy, confidentiality and privacy, and a wide range of high-quality treatment options. These treatments include short-term prolonged exposure therapy (PE), interpersonal therapy for PTSD and depression (IPT), and cognitive-behavioral therapy (CBT), as well as pharmacotherapy, emotion focused therapy for couples, and group CBT for insomnia- all of which over the course of the COVID-19 pandemic have been available via our secure, HIPPA compliant telemedicine platform, so our veterans can continue to receive their mental health care from the safety and comfort of their homes.

Recognizing the importance of access to care and veterans' benefits, our team at Columbia Psychiatry has formed a community partnership with the Veteran Advocacy Project (VAP). Our partnership will provide a vital resource to the city's veterans with less-than-honorable discharges as our programs combine psychiatry and advocacy to serve this population. While the idea for this collaboration began around discharge upgrades, it soon expanded and will assist veterans with bad paper in several ways: by providing treatment, representation, therapy for family members who are not served by the VA, evaluations for legal cases, and more. With some further development, we hope that our forensic psychiatric alliance with VAP will soon be a citywide asset for DVS and all of the veterans and families the agency intends to serve under its new DUALS program.

With specialized programing at Columbia's MFWC and advocacy services with VAP, this highly vulnerable population of veterans with less-than-honorable discharges will receive gold-standard evidence-based treatment and work with attorneys, experts in this field, to access the services they need and that their families need, too.

The challenges facing military families are enormous. Although the VA continues to provide most of the care to veterans, thousands of individuals seeking service-related mental health treatment in the New York region do not receive it—both military families and veterans with bad paper are especially vulnerable. The MFWC has established a record of excellence in addressing these gaps in service. Through focus on ease of access, privacy, and high-quality care, we have become a recognized and valued resource in the many military family communities. With the help of local government leaders, and community collaborators like the Veteran Advocacy Project and the New York City Department of Veterans Services, we hope to expand our scope of service and provide vital treatment to these highly-valued but under-served populations.

Councilmembers, thank you for your time, I would be happy to answer any questions you may have.



**Matthew Ryba**

USMC Veteran OIF/OEF

Director of Community Outreach and Education

Military Family Wellness Center

New York-Presbyterian/Columbia University Irving Medical Center

New York-Presbyterian/Weill Cornell Medicine

T| 347-949-1193

E| [Matthew.Ryba@nyspi.columbia.edu](mailto:Matthew.Ryba@nyspi.columbia.edu)

<http://www.nyp.org/mfwc>