

Forgotten Service, Lasting Wounds:

Military Veterans and the Death Penalty

Introduction

In 1957, Harvey Collins died on the gallows in Washington state. Known to family and friends as a “sweet kid” and “mama’s boy,” he had joined the Marines and then the Army as a young man.¹ He was decorated for his bravery in the Pacific during World War II, fought in the bloody siege of Iwo Jima, and rose to the rank of captain. But his life faltered in the years that followed. He was discharged after he stole and crashed an Army plane in a suicide attempt.² He ultimately admitted to murdering three strangers and was sentenced to death for killing a motel proprietor with a Japanese sword he’d brought home as a souvenir from the war. “They taught me how to kill...I just didn’t forget how,” he told an investigator.³ He waived his appeals and sought his own execution. His last words were, “I ask forgiveness for everything I’ve done.”⁴

The Supreme Court ushered in the modern era of the death penalty with its decisions in *Furman v. Georgia* (1972) and *Gregg v. Georgia* (1976), which resulted in widespread changes in the administration of capital punishment. One thing that didn’t change, however, was the arrival of deeply traumatized military veterans like Mr. Collins on death rows across the country.

A “well-adjusted child who was polite, obedient, and respectful toward others,”⁵ Patrick McDowell enlisted in the Marines while still in high school. He was sent to the heart of the combat zone in Iraq, where he was promoted to sergeant and earned awards including the Navy and Marine Corps Achievement Medals. He held the prestigious position of radio operator and security detail for the Battalion Commander. But on his return, he struggled with PTSD and became addicted to methamphetamines. When his veterans’ treatment program shut down due to the onset of the COVID-19 pandemic, he spiraled; his grandmother said he seemed like a “dead man walking.”⁶ Following three days of drug use and no sleep, he shot a police officer during a traffic stop. He pleaded guilty and asked the jury to sentence him to death.⁷ Though one juror voted against the death penalty, which would have resulted in a life sentence in nearly every other state,⁸ Florida sentenced Mr. McDowell to death on July 17, 2024.

For thousands of years, military veterans have returned home only to face new battles.⁹ Physical and psychological trauma from military service, without proper treatment, can result in lasting injuries and struggles that lead a disproportionate number of veterans to have contact with the criminal legal system.¹⁰ Some, like Mr. Collins and Mr. McDowell, end up on death row. Ten years after *Battle Scars* drew international attention to this issue, the Death Penalty Information Center has assembled the first comprehensive list of veterans sentenced to death in the modern era. This report — *Forgotten Service, Lasting Wounds* — offers a detailed exploration of these cases, their connection with the trauma experienced during military service, and their treatment within the legal system.

Acknowledgements

The Death Penalty Information Center (DPI) is a national non-profit organization providing the media, policymakers, and the general public with data and analysis on issues concerning capital punishment and the people it affects. For more than 35 years, DPI has been the preeminent national resource for timely and trustworthy information about the death penalty. DPI does not take a position on the death penalty itself but is critical of problems in its application.

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Executive Summary

- Though the Supreme Court has recognized the importance of military service in capital mitigation, the legal system has not always ensured this in practice. **Many veterans have been executed without a jury ever hearing meaningful information about their service.** According to best practices, a capital defendant's military service is an essential part of their story for a jury to consider.
- While most military veterans never commit crimes following their service, data confirm a tragic **"battlefield-to-prison" pipeline** for a substantial minority. Jeffrey Hutchinson, executed this year in Florida, was one of many who suffered from the physical and psychological hazards of military service, including Post-Traumatic Stress Disorder (PTSD), traumatic brain injury (TBI), and neurotoxin exposure. According to the Council on Criminal Justice, these conditions are "significantly associated with a greater likelihood of criminal justice system involvement among veterans."
- At least **226** military veterans have been executed—**14%** of all people executed in the modern era (1972-present).
- 2025 is among the **deadliest years** for veterans on death row. Seven veterans have been executed and three more are scheduled for execution, representing **22%** of all people executed or under warrant this year.
- Veterans are overrepresented on death rows across the US. About **200** veterans remain on death row—**10%** of people facing execution today, while just 6% of the public are veterans.
- The pattern of sentencing veterans to death is widespread: **42 states**, the federal government, and the military have sentenced **807** veterans to death since 1972.
- Our country has sentenced to death veterans from every major conflict since World War II, who served in every branch of the armed forces, and held every rank from private to colonel.
- **Florida is an outlier.** The state has sentenced at least 117 veterans to death—more than any other state—accounting for nearly 15% of the total. In the past five years, no state has sentenced more than one veteran to death, except Florida, which has sentenced five. Florida has executed five veterans in 2025, drawing sharp criticism from veteran advocacy groups, and has scheduled the execution of two more veterans shortly after Veterans Day. Florida conducted over two-thirds of the executions and scheduled executions of veterans in 2025.
- The vast majority (66%) of death-sentenced veterans who served in active combat served in **Vietnam**. A third of these individuals have been executed. The Vietnam War impacts capital cases to this day: 75-year-old Vietnam veteran Joseph Ables was sentenced to death this year, 79-year-old Vietnam veteran Richard Jordan was executed, and 20 others remain on death row.
- Like capital cases generally, **racial disparities** are apparent in capital cases involving veterans. Over three-quarters (77%) of death-sentenced veterans were executed for killing only white victims.
- Over 40% of veterans later sentenced to death experienced **addiction** at some point in their lives, compared to 11% of all veterans and 12% of the general public.
- The mental and physical injuries some veterans suffer can result in **intergenerational trauma**—meaning their children are also harmed by those injuries. Dozens of death-sentenced people suffered serious trauma related to their parent's military service.

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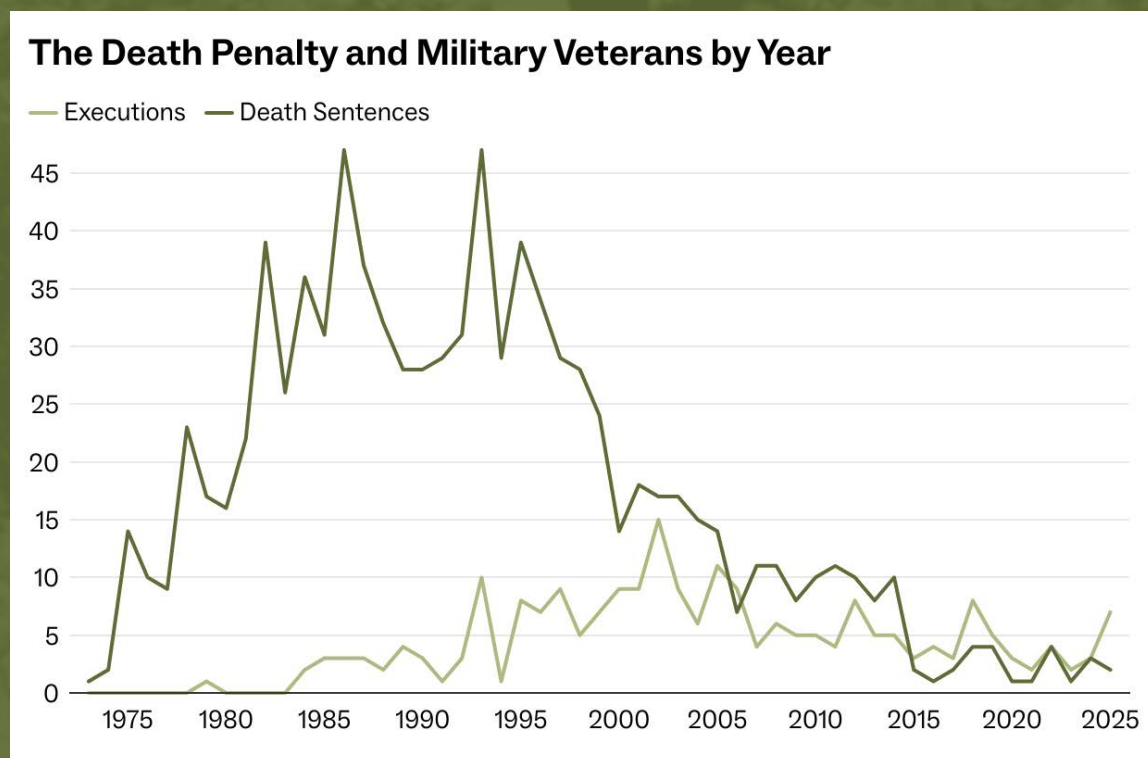
Endnotes

1. [Hanging Is Demand Of Kentucky Attorney For “Sweet Mama’s Boy” Turned Killer](#), The Cincinnati Enquirer, Mar. 25, 1955.
2. [Flier Taken Into Custody](#), The Daily Chronicle, Jan. 9, 1954; [Captain Who Stole Army Plane Flown Back To Fort Sill](#), Brownwood Bulletin, Jan. 10, 1954.
3. [State v. Collins](#), 50 Wn.2d 740, 760 (1957).
4. [Harvey Collins Dies On Gallows For Sword Murder](#), Peninsula Daily News, Dec. 3, 1957.
5. See Melanie Kalmanson, [Nassau County: Patrick McDowell sentenced to death](#), Tracking Florida’s Death Penalty, Jul. 21, 2024, quoting Capital Sentencing Order.
6. Robert Grant, [‘Dead man walking:’ Family, military members describe McDowell’s personality change after deployment](#), Action News Jax, Apr. 22, 2024. See also Marilyn Parker, Francine Frazier, and Frank Powers, [Mentor says he blames himself for the downfall of man who killed Nassau County deputy](#), News4JAX, Apr. 22, 2024; First Coast News, [Witness testified confessed Nassau County cop killer was a stand-up Marine years before murder](#), Apr. 19, 2024; Marilyn Parker, [Drug use, PTSD, military service influenced Patrick McDowell’s state-of-mind on night he killed deputy, expert testifies](#), News4JAX, Apr. 23, 2024.
7. Against the advice of his attorneys, Mr. McDowell addressed the jury and told them, “I deserve what I gave him,” and “make me pay for it.” See News4JAX The Local Station, [‘Make me pay for it’: Deputy killer reads statement before closing arguments in sentencing trial](#), YouTube, Apr. 25, 2024; Joanna Putman, [‘Make me pay for it’: Fla. Jury recommends death penalty for convicted cop killer](#), Police1, Apr. 26, 2024.
8. Patrick McDowell was sentenced to death by a jury vote of 11-1, which would have resulted in a life sentence in every state except Florida and Alabama. Though the murder occurred in 2021, and Mr. McDowell entered his guilty plea in March 2023 while Florida still required unanimous death sentences, a judge ruled that Florida’s April 2023 law allowing non-unanimous death sentences applied to the case. See Frank Powers, [Judge: Jurors don’t need to be unanimous to recommend death penalty for man who killed Nassau County deputy](#), News4JAX, Apr. 3, 2024.
9. See, e.g., Owen Rees, Kathryn Hurlock, and Jason Crowley, eds., [Combat Stress in Pre-modern Europe](#) (2022); Walid Khalid Abdul-Hamid and Jamie Hacker Hughes, [Nothing New under the Sun: Post-Traumatic Stress Disorders in the Ancient World](#), 19 Early Science and Medicine 549 (2014).
10. See, e.g., Ryan Holliday, [Suicide Among Justice-Involved Veterans: Understanding Risk and Meeting Needs](#), Council on Criminal Justice (2023); Ugur Orak, [From Service to Sentencing: Unraveling Risk Factors for Criminal Justice Involvement Among U.S. Veterans](#), Council on Criminal Justice (2023); E.B. Elbogen, M. Amuan, E. Kennedy, S.M. Blakey, R.C. Graziano, D. Hooshyar, J. Tsai, R.E. Nelson, M.E. Vanneman, A.L. Jones, and M.J. Pugh, [Criminal legal involvement among recently separated veterans: Findings from the LIMBIC study](#), 46 Law and Human Behavior 385 (2022).

Chapter One

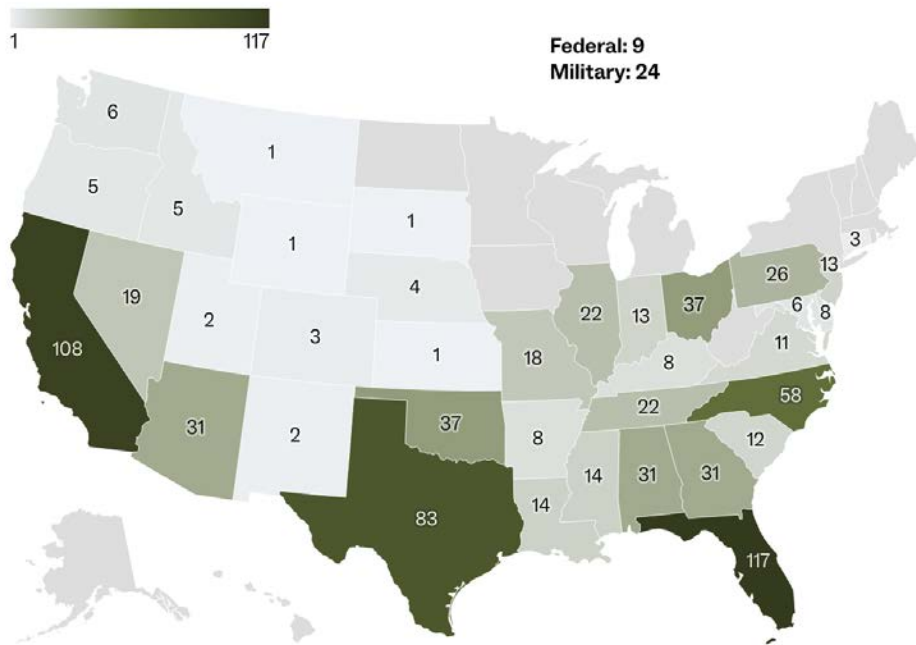
Front Lines: Data on Veterans and the Death Penalty

According to new research by the Death Penalty Information Center, 14% of people executed in the United States and 10% of people awaiting execution today once served our country as members of the Armed Forces. Veterans on death row are overrepresented compared to the 6% of the general public that served in the military.¹ Expanding upon DPI's widely covered estimates in the 2015 report *Battle Scars*,² DPI now offers a comprehensive new database of more than 800 veterans sentenced to death in the modern era.³ These veterans include survivors of every major conflict since World War II; members of every branch of the military; and individuals of every rank from private to colonel.



Veterans Sentenced to Death by State

1972 - Present



Death Sentence Trends Among Veterans

In the modern era, 807 veterans have been sentenced to death by 42 states, the federal government, and the military.⁴ At least one military veteran has been sentenced to death in the United States every year since 1973, peaking at 47 veterans in 1986 and 1993. Death sentences of veterans have declined sharply since the 1990s, in line with all new death sentences, and have remained in the single digits for over a decade. However, about 200 military veterans remain on death row, mostly relics of a bygone era when use of and support for the death penalty was much higher.⁵ They represent 10% of the roughly 2000 prisoners on death row today.

The number of veterans removed from death row because their original conviction or sentence was flawed exceeds the number of veterans who were executed. One-third (268) of veterans sentenced to death were later removed from death row because they were resentenced to life or less, had their sentence commuted, or were exonerated, compared to 226 who were executed.

Death-Sentenced Military Veterans by Case Outcome



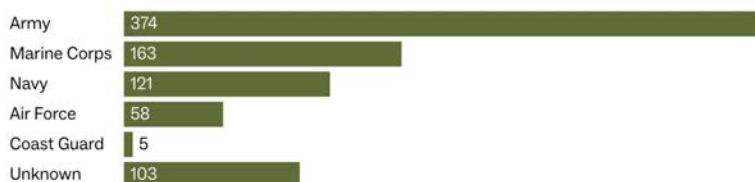
■ Includes Exonerations (14), Commutations (30), and Resentenced to Life or Less (224).

Approximately one-fifth of the veterans DPI identified served in a major conflict. The largest contingent, over one hundred, served in the Vietnam War, followed by 22 veterans of the Gulf War.

About 10% of people were sentenced to death for crimes that occurred while they were still in the military.

DPI found that over 40% of veterans later sentenced to death experienced addiction at some point in their lives, compared to 11% of all veterans⁶ and 12% of the general public.⁷ In Chapter 2, we discuss the comorbidity between combat-induced physical and mental trauma, substance abuse, and criminal justice involvement among veterans in greater detail.

Death-Sentenced Military Veterans by Branch of Service



Reserves and National Guard are included within their home branch. The 16 people who served in multiple branches are counted in each branch.

Execution Trends Among Veterans

Of the 1648 people executed in the modern era, 226 (14%) were military veterans. From available records, DPI identified exact or approximate length of service for 168 (74%) of them, who together served 685 years in the military, averaging 4 years of service each. Of those individuals whose discharge status DPI was able to ascertain, the vast majority (81%) received Honorable or Under Honorable Conditions discharges.

The percentage of veterans among those executed has in some years exceeded 20%, with a high of 32% in 2018.¹³ At least one veteran has been executed every year since 1984. In 2025, states have so far executed seven veterans — a seven-year high that coincides with an uptick in executions nationally. Three more veterans are scheduled to be put to death before the end of the year, making 2025 among the deadliest years for veterans, with veterans comprising 22% of those executed or currently scheduled to be executed.¹⁴

Vietnam Veterans, Facing Death Again

By December 1973, when the first military veteran was sentenced to death in the modern era, the United States had already withdrawn the last of its troops from Vietnam.⁸ But the war cast a shadow over the American legal system that persists to this day. At least 106 people who fought in Vietnam were later sentenced to death; one-third (33) have been executed. About 40% of death-sentenced Vietnam veterans had a known PTSD diagnosis,⁹ and many had been exposed to Agent Orange, a toxin that causes neurological damage. Vietnam veterans account for 13% of all veterans sentenced to death in the modern era and 15% of those executed.¹⁰ Over a half-century later, Vietnam veterans are still facing death at the hands of their government: on April 4 this year, 75-year-old Joseph Ables was sentenced to death in Florida,¹¹ and on June 25, Mississippi executed 79-year-old Richard Jordan. Mr. Jordan's jury never heard that he had served three tours in Vietnam so that his brother could return home, that he was highly decorated as a helicopter pilot, or that he suffered from PTSD after the war.¹² At least 20 Vietnam veterans remain on death row.



Race and Gender Trends Among Veterans Facing the Death Penalty

The racial disparities that have been extensively documented regarding use of the death penalty¹⁵ are also apparent in cases involving veterans. Black veterans are overrepresented among those executed: 23% of executed veterans were Black,¹⁶ compared to just 13% of all American veterans.¹⁷ The “race of victim” effect¹⁸ — showing that the death penalty is more likely to be imposed and carried out in cases involving white victims — appears strongly in capital cases involving veterans. Over three-quarters (77%) of veterans were executed for killing only white victims,¹⁹ while 12% were executed for killing only Black victims.²⁰ Similarly, 72% of veterans were sentenced to death for killing only white victims,²¹ compared to 13% who killed only Black victims.²² By contrast, 41% of all homicide victims in the United States are white and 56% are Black,²³ and rates of homicide victimization have been several times higher for Black people than white people during the entire modern era of the death penalty.²⁴

About 42% of Black veterans sentenced to death were ultimately removed from death row through resentencing, commutation, or exoneration, compared to about 30% of white and 27% of Latino/a veterans. At six, the number of Asian veterans sentenced to death is quite small, but five (83%) of those individuals have been removed from death row by the same means.

These findings comport with statistics showing that Black people are more likely to be exonerated in capital cases,²⁵ and more likely to have experienced official misconduct as a contributing factor to their wrongful conviction. Based on DPI’s Innocence Database, official misconduct was a contributing factor in the conviction or sentence of 80% of Black death-sentenced exonerees,²⁶ compared to 61% of white death-sentenced exonerees.²⁷

Only one female veteran has been executed: Army veteran Kelly Gissendaner in Georgia in 2015. She was one of just three female veterans sentenced to death.²⁸

Florida: An Outlier in Sentencing and Executing Veterans

Florida stands out in its treatment of veterans. The state has sentenced 117 military veterans to death, more than any other state, accounting for nearly 15% of all veterans sentenced to death in the modern era.²⁹ Patrick McDowell is a case in point. Florida has sentenced five veterans to death since 2020, while no other state has sentenced more than one. At the same time, the state rolled back procedural safeguards in capital cases, including requirements for unanimous death sentences³⁰ and proportionality review.³¹

Florida has executed 24 veterans — one-fifth of the state's total executions, and second only to Texas. In 2025, five of the seven veterans executed as of the date of this report were put to death by the state of Florida: Edward James, Jeffrey Hutchinson, Edward Zakrzewski, Kayle Bates, and Norman Grim. Florida plans to execute Marine Corps veteran Bryan Jennings on November 13, two days after Veterans Day, and Army veteran Richard Randolph on November 20.

Three veterans have also been exonerated from Florida's death row.³²

Amid Florida's record-setting year of executions,³³ many veterans have called on Governor Ron DeSantis, himself a former naval officer who served in Iraq, to show mercy. This year the governor declared Florida “the most veteran-friendly state in the nation”³⁴ — while also signing death warrants for more veterans than any previous Florida governor.³⁵ “We can never be a veteran friendly state when our leader is signing off on their deaths at the hands of the State,” 165 veterans wrote in an August 13 letter to Gov. DeSantis. “We urge you now to lead from a place of bravery, to return to the honor code from your service, and to stop setting the

"Deep Wounds": John Thuesen

John Thuesen was just 18 years old when he joined the Marines after the terrorist attacks of 9/11. He "skipped high school graduation to attend boot camp." While stationed in Iraq, Mr. Thuesen spent most of his time "beyond the base's security perimeter[] as a machine gunner on a Humvee...patrolling to draw out enemy fire." He also "had to shoot vehicles that did not stop to be searched," and on one occasion "was ordered to open fire on a vehicle that was later discovered to have a civilian family with young children inside."

In a 2024 order authorizing Mr. Thuesen to proceed with several key claims in federal court, U.S. District Court Judge Keith P. Ellison described Mr. Thuesen's military service in great detail, recognizing that these "events caused profound mental trauma" and noting that the "horrors of war left deep wounds in Thuesen's mental state when he returned in 2005."

Back home, Mr. Thuesen's "friends and family noticed significant changes in his demeanor," including that he would "startle easily," "cry when he drank," "seemed disconnected from reality," "became possessive and jealous," and "would grieve acts he had committed to keep his fellow soldiers safe." Judge Ellison quoted directly from Mr. Thuesen's habeas petition: "Gone was the usually social and engaged young man Mr. Thuesen had been prior to going off to war." Mr. Thuesen's drinking worsened, and after experiencing suicidal thoughts he sought help from the VA, but his "treatment was brief" and surface level. He seemed to temporarily improve with a new relationship until his girlfriend tried to distance herself. He fatally shot her and her brother while in the throes of a PTSD crisis.

At trial, his attorneys presented evidence of his military service, but "against the advice of several doctors and attorneys that trial counsel consulted with, they chose not to present a PTSD expert, nor did they provide a detailed explanation of exactly how Thuesen's PTSD may have contributed to the shootings." Judge Ellison recently ruled that Mr. Thuesen could proceed with claims that his trial counsel provided ineffective assistance by failing to "investigate, develop, prepare, and present evidence that would have explained and contextualized his PTSD." Mr. Thuesen remains on death row while his appeals are pending.

"This case is a tragedy on all sides," Judge Ellison noted. "Thuesen is a disturbed individual whose life bears the scars of his honorable service. Numerous experts have linked his violent actions to trauma from the horrors of war. [He] raises serious challenges to his conviction and sentence."

Source: Thuesen v. Lumpkin, 2024 WL 1468366 (S.D. Tex. March 31, 2024).

Endnotes

1. Katherine Schaeffer, [The changing face of America's veteran population](#), Pew Research Center, Nov. 8, 2023. Based on data collected by the U.S. Census, between 1980 and 2020, veterans averaged roughly 11.5% of the population of the U.S. The high was 18% in 1980. As of 2022, the U.S. Census estimates that veterans comprise 6.2% of the current U.S. population.
2. Based on data from select states, DPI estimated in *Battle Scars* that 10% of those on death row served in the military. At the time, approximately 3000 people were on death row across the country; that number has fallen to approximately 2000 today. DPI's new findings confirm that about 10% of people on death row are veterans, while even more — 14% — of those executed had served.
3. The “modern era” of the death penalty is typically counted from June 29, 1972, when the U.S. Supreme Court struck down all existing capital sentencing statutes in *Furman v. Georgia*.
4. These veterans together account for 914 death sentences, driven largely by resentencings.
5. 165 of the veterans under Active Death Sentence, or 83%, were first sentenced to death before 2010. 125 (63%) were first sentenced to death before 2000.
6. Jenni B. Teeters, Cynthia L. Lancaster, Delisa G. Brown, and Sudie E. Back, [Substance use disorders in military veterans: prevalence and treatment challenges](#), 8 Subst. Abuse Rehabil. 69 (2017).
7. Substance Abuse and Mental Health Services Administration (SAMHSA), Highlights for the 2023 National Survey on Drug Use and Health 5 (2023). SAMHSA found that 30.5 million adults (12%) “perceived that they ever had a substance abuse problem.”
8. Following the U.S. Supreme Court's 1972 decision in *Furman v. Georgia*, some states reformulated their sentencing laws and began imposing new death sentences. The first military veteran to receive such a sentence was Howard Virgil Lee Douglas in Florida, who was sentenced to death by judicial override on December 4, 1973 (a sentence that would be illegal today, and eventually resulted in him being resentenced to life in prison). See David Terry, [Polk Man Handed Death Sentence](#), The Tampa Tribune, Dec. 5, 1973; *Douglas v. State*, 575 So. 2d 165 (Fla. 1991). Mr. Douglas had asked the judge to impose death after the jury recommended life. His military service was noted in court records. See *Douglas v. State*, 328 So. 2d 18 (Fla. 1976). The last U.S. forces exited Vietnam on March 29, 1973. See Ronald H. Spector, [The fall of South Vietnam](#), Encyclopaedia Britannica, last updated Sep. 18, 2025.
9. 42/106. DPI only included individuals in this count where records indicated that a doctor formally diagnosed PTSD. Numerous others made claims of PTSD or displayed symptoms, but it was not clear whether a formal diagnosis had been obtained. Therefore, the count of death-sentenced Vietnam veterans who suffered from PTSD is likely much higher.
10. 106/807; 33/226.
11. John Guerra, [Ables gets death for killing deputy](#), Highlands News-Sun, Apr. 5, 2025.
12. Press Release, [Richard Gerald Jordan Executed by the State of Mississippi](#), Mississippi Office of Capital Post-Conviction Counsel, Jun. 25, 2025. Mr. Jordan was the oldest and longest-serving prisoner on the state's death row before his execution, and the first person to be executed after being sentenced to death four times for the same crime. His three previous death sentences were overturned due to constitutional errors. Before his fourth sentence, the state agreed to a plea deal for life in prison in part based on Mr. Jordan's “record of honorable service and disability incurred in the military during the Vietnam War,” but the state later reneged on that promise and pursued a fourth death sentence. See Leah Roemer, [New Analysis: Capital Cases Overturned At Least Four Times Illustrate How Pervasive Prosecutorial Misconduct Contributes to High Cost of Death Penalty](#), Death Penalty Information Center, May 8, 2025.
13. The years where veterans exceeded 20% of those executed were 1979 (1/2, 50%), 1989 (4/16, 25%), 1993 (10/38, 26%), 2002 (15/71, 21%), 2018 (8/25, 32%), and 2019 (5/22, 23%). An additional 11 years had rates of veteran executions over 15%.
14. As of October 31, 7 of 41 people executed this year were veterans. If all currently scheduled executions proceed, 10 of 46 people executed this year will have been veterans. Marine Corps veteran Bryan Jennings is scheduled for execution in Florida on November 13 as is Army veteran Richard Randolph on November 20, and Army veteran Harold Nichols is scheduled for execution in Tennessee on December 11.
15. See, e.g., Death Penalty Information Center, [Ways that Race Can Affect Death Sentencing](#), accessed Sep. 23, 2025.
16. 51/226.
17. See Schaeffer, n. 1.
18. See, e.g., Frank R. Baumgartner, Amanda J. Grigg, and Alisa Mastro, [#BlackLivesDon'tMatter: race-of-victim effects in US executions, 1976-2013](#), The Politics of Protest (2020); Catherine M. Grosso, Jeffrey A. Fagan, and Michael Laurence, [The Influence of the Race of Defendant and the Race of Victim on Capital Charging and Sentencing in California](#), 21 J. Empirical Legal Stud. 482 (2024); Frank R. Baumgartner, Emma Johnson, Colin Wilson, and Clarke Whitehead, [These Lives Matter, Those Ones Don't: Comparing Execution Rates by the Race and Gender of the Victim in the U.S. and in the Top Death Penalty States](#), 79 Alb. L. Rev. 797 (2015); David C. Baldus, Charles Pulaski, and George Woodworth, [Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience](#), 74 J. Crim. L. & Criminology 661 (1983);
19. 175/226.
20. 28/226.
21. 585/807.
22. 104/807. These statistics reflect race-of-victim findings among capital cases generally. In the modern era, 75% of the victims of executed prisoners were white. See Death Penalty Information Center, [Executions by Race and Race of Victim](#), accessed Oct. 10, 2025.
23. Lizabeth Remrey, [Homicide Victimization in the United States, 2023](#), U.S. Department of Justice Bureau of Justice Statistics 3 (2025).

24. See Council on Criminal Justice, [Chart: Homicide Victimization by Race and Sex](#), Trends in Homicide: What You Need to Know (2023). For underlying data, see Centers for Disease Control and Prevention, [Table 29. Death rates for homicide, by sex, race, Hispanic origin, and age: United States, selected years 1950-2016](#) (2017).
25. 54% (108/201) of capital exonerees are Black, compared to 35% (71/201) who are white.
26. 86/108.
27. 43/71.
28. Angelina Rodriguez of California was resentenced to life in 2024. Skylar DeLeon, who transitioned to female after being sentenced to death, remains on death row in California.
29. 117/807.
30. See Sydney Kashiwagi, [DeSantis signs bill eliminating unanimous jury decisions for death sentences](#), CNN, Apr. 20, 2023; [S.B. 450](#), Ch. 2023-23, Laws of Florida.
31. See *Lawrence v. State*, 208 So.3d 544 (Fla. 2020); Jim Ash, [Supreme Court Ends Proportionality Review in Death Penalty Cases](#), Florida Bar, Nov. 3, 2020; Loana Nardoni, [Florida's Removal of Safeguards for Defendants on Death-Row: Comparative Proportionality Review](#), 49 Fla. St. U. L. Rev. 357 (2022).
32. The veterans exonerated from Florida's death row, with branch of service and year of exoneration, are Ralph Wright (Air Force, 2017), Robert Cox (Army, 1989), and Delbert Tibbs (Army, 1977). Florida is tied with Pennsylvania for the greatest number of veterans exonerated from death row. To learn more see Chapter 3, as well as Appendix 3: Exonerated Veterans.
33. See Melanie Kalmanson, [Norman Grim Executed 10/28/2025](#), Tracking Florida's Death Penalty, Oct. 28, 2025. Mr. Grim was Florida's 15th execution of 2025. The state's previous record was 11 executions in 1936 and 1942. See Melanie Kalmanson, [Florida hits all-time high for executions, Tracking Florida's Death Penalty](#), Sep. 18, 2025.
34. Press Release, [Governor Ron DeSantis Signs Legislation to Support Florida Veterans and Their Families](#), Executive Office of the Governor, Jun. 6, 2025.
35. Florida Governors Rick Scott and Jeb Bush each authorized the executions of seven veterans, while Mr. Jennings and Mr. Randolph are scheduled to be the eighth and ninth veterans executed during Gov. DeSantis' tenure. Gov. Bush served from January 5, 1999 to January 7, 2007, during which the following veterans were executed (branch of service, date of execution): Bennie Demps (Marine Corps, 6/7/2000); Dan Hauser (Army, 8/25/2000); Robert Glock (Army, 1/11/2001); Newton Slawson (Army and Navy, 5/16/2003); Glen Ocha (Army, 4/5/2005); Arthur Rutherford (Marine Corps and Marine Corps Reserves, 10/18/2006); and Danny Rolling (Air Force, 10/25/2006). Gov. Scott served from January 4, 2011 to January 7, 2019, authorizing the executions of: Oba Chandler (Marine Corps, 11/15/2011); Manuel Pardo (Navy and Marine Corps Reserves, 12/11/2012); Paul Howell (Army, 2/26/2014); Robert Henry (Marine Corps, 3/20/2014); Chadwick Banks (Army, 11/13/2014); Michael Lambrix (Army, 10/5/2017); and Patrick Hannon (Navy, 11/8/2017). Since Gov. DeSantis took office after Gov. Scott, he signed execution warrants for Bobby Joe Long (Army, 5/23/2019); Duane Owen (Army, 6/15/2023); Edward James (Army, 3/20/2025); Jeffrey Hutchinson (Army, 5/1/2025); Edward Zakrzewski (Air Force, 7/31/2025); Kayle Bates (National Guard, 8/19/2025); Norman Grim (Navy, 10/28/2025); Bryan Jennings (Marine Corps, scheduled 11/13/2025); and Richard Randolph (Army, scheduled 11/20/2025).
36. Letter to Governor Ron DeSantis, [Veterans Stand Against Executions of Fellow Veterans](#), Aug. 13, 2025. See also Alaijah Brown, [Florida Gov. DeSantis speeds up pace of executions as veterans plead for mercy](#), Tallahassee Democrat, Aug. 13, 2025; Chris Benson, [U.S. vets ask Florida governor to end death penalty for military vets](#), UPI, Aug. 11, 2025; David Greenwald, [Plea to Gov. DeSantis: Stop Executing Veterans on Florida's Death Row](#), Vanguard, Aug. 14, 2025.

Chapter Two

Fog of War: The Effects of Military Service

“We sent him to Vietnam. We didn’t help him when he came back. We let him linger in the hills up here for 20 years without treatment. We missed our chance to put him in an environment that would be safe for him and others. And now, to get rid of this mentally ill person, [the court system has decided] ‘Let’s just kill him.’”

- Attorney Gary Johnson, testifying in a competency hearing for death-sentenced prisoner Clawvern Jacobs, 1989¹

While most military veterans never commit crimes following their service, data confirm a tragic “battlefield-to-prison” pipeline for a substantial minority. About one-third (31%) of veterans have been arrested following their service, compared to fewer than one-fifth (18%) of civilians.² The Council on Criminal Justice found that “[c]ombat exposure and its associated physical and mental health problems (e.g., PTSD, TBI, mood disorders, and substance use disorders) are significantly associated with a greater likelihood of criminal justice system involvement among veterans,” and TBI alone “is associated with a 59% increase in the odds of justice involvement among veterans.”³

Research suggests that veterans are more likely to have contact with the criminal legal system if they also have certain risk factors, including adverse childhood experiences (ACEs), homelessness, or “bad paper discharges.”⁴ Additionally, “military service members are more likely than their civilian counterparts to have socioeconomic and family characteristics, ACEs, and personality traits that, without targeted intervention and support systems, may increase their risk of criminal justice involvement.”⁵

When veterans commit capital crimes, their attorneys have a duty to investigate their life and experiences to uncover “any aspect of a defendant’s character or record and any of the circumstances of the offense” that may provide a basis for a sentence less than death.⁶ In addition to military service being a potential mitigating factor, veterans may have suffered psychological trauma, physical injury, or neurotoxin exposure in the military that could affect their eligibility for capital punishment or the jury’s assessment of their culpability. Whether those service injuries were properly diagnosed and treated are also critical factors for juries to consider.



Jeffery Hutchinson, Courtesy of the Hutchinson Family

“The whole community must come together to bridge the gulf and properly welcome this generation of veterans. When they stumble and fall into the criminal justice system, as we know many of them will, we in the defense bar have an additional, solemn role to play, in helping them up and bringing them the rest of the way home.”

– Brock Hunter, defense attorney and Army veteran⁷

The execution of Jeffrey “Ranger” Hutchinson on May 1, 2025, resulted in a swell of protest and anger from the veteran community. Mr. Hutchinson was convicted of shooting his girlfriend and her three children to death following months of escalating mental health problems and a night of heavy drinking.



Veterans protesting the execution of Jeffrey Hutchinson at Florida State Prison, raising a flag with the statement "All Gave Some, Some Gave All," May 1, 2025. Courtesy Floridians for Alternatives to the Death Penalty.

A group of 132 veterans delivered a letter (below) to Florida Governor Ron DeSantis on the eve of the execution, but Gov. DeSantis, who alone set Mr. Hutchinson's execution date, ignored this plea.

Jeffrey "Ranger" Hutchinson is one of us. A decorated U.S. Army veteran, Jeff served our nation with honor from 1986 to 1994 as both a Paratrooper and an Army Ranger, roles that demand elite training, unshakable discipline, and extraordinary sacrifice.

He fought in some of the most dangerous missions during the Gulf War, operating behind enemy lines in the volatile Four Corners region where Kuwait, Saudi Arabia, and Iraq meet. He was exposed to repeated concussive blasts and deadly chemicals, including sarin nerve gas released during coalition bombings, leading to permanent brain damage and Gulf War Illness, a condition that was not fully recognized when he returned home. Jeff suffered from neurocognitive impairment, hallucinations, paranoia, and uncontrollable aggression — symptoms we now understand were not character flaws but the result of traumatic brain injury and chemical warfare exposure. But instead of receiving care, Jeff was met with silence. The science was not there. The VA was not there. His government was not there. Now, the State of Florida is preparing to execute him.

We write to you not to excuse his actions, but to demand that we, as veterans, recognize the undeniable truth: Jeff came home injured by war. His mind was a casualty, just like any limb lost in combat. To execute him now is not justice. It is a failure of responsibility. It is the final abandonment of someone our country broke and then left behind. As veterans, we know what it means to serve, and we know what it means when no one comes for you after the fight.

We cannot be silent.⁸

Psychological Trauma

When the first modern death sentences were imposed following the U.S. Supreme Court's decision in *Furman v. Georgia* (1972), Post-Traumatic Stress Disorder (PTSD) was not yet recognized by the psychiatric community as a specific diagnosis. Soldiers have experienced the psychological effects of war for thousands of years, using names such as "nostalgia," "soldier's heart," "battle fatigue," and "Vietnam syndrome." Their symptoms, however, were sometimes met with skepticism and dismissiveness, preventing veterans from receiving the care or leniency they deserved.⁹ PTSD became an official diagnosis in 1980, and scientific consensus has since confirmed that the condition is a serious disorder that impacts soldiers differently, with potentially devastating effects if untreated.¹⁰ Indeed, our modern scientific understanding of psychological trauma owes much to the study of veterans.¹¹ Yet the legal system has been slow to recognize and give full consideration to PTSD and its relationship to the criminal behavior of veteran defendants.

PTSD may result from a wide range of traumatic events, but military personnel have a heightened risk of certain traumas, including near-death experiences; seeing others die or causing death; contact with human remains; experiencing or witnessing a severe injury; and surviving blast explosions.¹² "Moral injury," where a person witnesses or must engage in behavior that conflicts with their deeply-held beliefs, can also cause serious trauma.¹³ As a sergeant, Mr. Hutchinson was ordered to conduct a damage assessment after a strike on Iraqi soldiers. He had to count "dozens of blown-apart bodies" and carry them into trucks. He also drove down the Baghdad Highway, known as the "highway of death," which was "littered with eviscerated bodies."¹⁴

Experts say that approximately one-third of veterans may suffer from PTSD, and veterans who suffer from PTSD are 60% more likely to be arrested for violent offenses than veterans who do not.¹⁵ Due to continuing barriers in diagnosis and treatment, these numbers are likely an undercount.

PTSD symptoms fall into four categories: reliving the traumatic event, such as through dreams or "flashbacks"; avoiding reminders of the trauma; arousal; and negative thoughts and mood. The sustained hypervigilance of PTSD can lead to aggressive and impulsive behavior, sleeplessness, and difficulty maintaining relationships, focusing on daily routines, and meeting work obligations. Many veterans who suffer from PTSD become dependent on drugs and alcohol to temporarily numb their symptoms, but substance abuse can cause further instability, behavior, and judgment problems. PTSD may also worsen symptoms of other conditions like depression, anxiety, bipolar disorder, and schizophrenia.¹⁶

New Wars, Familiar Traumas

As a child, Thomas Loden was physically and sexually abused by family members and a church leader, and he had attempted suicide several times before he joined the Marine Corps at age 18. He flourished in the strict structure of the military, earning the rank of gunnery sergeant and receiving awards including the Navy and Marine Corps Commendation Medal and the Good Conduct Medal. His commanding officer described him as “a poster Marine” and “the hardest charging Marine I have ever had work for me.”

But Mr. Loden’s service during the Gulf War exposed him to many attacks on his unit, and he witnessed the death of a close friend. After leaving the military, he fought nightmares, flashbacks, and anxiety, becoming a heavy alcohol and drug user even as he balanced a prestigious job on the Marine Corps’ Anti-Terrorism Security Team. After raping and killing a 16-year-old girl while heavily intoxicated, he attempted suicide, carving “I’m sorry” into his chest. He pleaded guilty and waived a jury for trial and sentencing, so a factfinder never heard the evidence of his childhood and military trauma. He was executed by the state of Mississippi on December 14, 2022.¹⁷

Two decades before Mr. Loden, Richard Foster’s case followed a similarly tragic trajectory, illustrating how PTSD has affected multiple generations of veterans. Mr. Foster voluntarily enlisted in the Army in 1969 and deployed to the Mekong Delta of Vietnam, a mazelike landscape of rivers and dense marshes where he served as a helicopter door gunner. He accidentally killed his best friend, a fellow soldier, when his gun discharged by mistake.¹⁸ Like many service members in Vietnam, he was introduced to amphetamines that helped him work longer and harder hours,¹⁹ and he returned from the war addicted to drugs and wracked with guilt. He was sentenced to death for shooting a store owner during a robbery. He waived his appeals and was put to death in Texas on May 24, 2000. His father testified at his trial that he “had been a fine person until he returned home from Vietnam.”²⁰

Neurotoxin Exposure

For decades, scientists and physicians struggled to identify the source of the mysterious constellation of symptoms experienced by Mr. Hutchinson and over a quarter of the other veterans of his era, collectively termed “Gulf War Illness” (GWI): fatigue, dizziness, chronic pain, insomnia, headaches, brain fog, and memory problems. A 2022 study found that exposure to sarin gas, a nerve agent held in Iraqi weapons facilities that seeped into the bodies of American soldiers when those facilities were bombed, was “strongly associated” with GWI.²¹ Mr. Hutchinson’s duties to locate weapons behind enemy lines and call in airstrikes placed him in close proximity to the An Nasiriyah and Khamisiyah bunker explosions without sufficient protective gear.²²

Among the veterans who signed the letter and protested Mr. Hutchinson’s execution outside Florida State Prison was Brent Schneider, a public defender who fought in Iraq and Afghanistan and wore his Army uniform to the execution vigil. He told a PBS reporter that he believed Mr. Hutchinson’s exposure to sarin gas, among other details, wasn’t properly considered in court. Mr. Hutchinson forfeited any federal court review of his case because his state-appointed attorneys missed the critical filing deadline.²³ “If I put the uniform on, maybe that will be enough to register a demand signal with the right person,” Mr. Schneider said.²⁴

Sarin gas is not the only chemical substance that is associated with long-term harm to service members. During the Vietnam War, the American military sprayed 19 million gallons of the chemical defoliant Agent Orange and other herbicides on large swaths of the Vietnamese countryside, poisoning both U.S. military service members and Vietnamese civilians.²⁵ In the years that followed, these populations suffered from higher rates of cancer and organ disorders, and the children of those exposed to the chemical were more likely to be stillborn or have serious physical and developmental disabilities.²⁶ Recent research suggests that Agent Orange may also cause brain degeneration similar to Alzheimer’s disease.²⁷

In conflicts in Afghanistan and Iraq, the military relied for decades on massive open “burn pits” to dispose of waste, including petroleum, plastics, munitions, and medical materials. These pits were “ubiquitous” during the Gulf War, as veterans’ advocacy groups noted in an amicus brief filed in Mr. Hutchinson’s case, including two located adjacent to his encampment.²⁸ The Department of Defense is now in the process of closing all burn pits and the Department of Veterans Affairs (VA) has recognized a long list of “presumptive conditions” associated with exposure, including over a dozen forms of cancer as well as serious respiratory ailments like asthma and emphysema.²⁹ Burgeoning research also shows that burn pit exposure “increases the risk of mental health conditions and brain injuries,”³⁰ with exposed veterans experiencing higher rates of “accelerated cognitive decline” and increased risks of “neurodegenerative diseases.”³¹

Soldiers have suffered toxin exposure stateside as well. U.S. military bases function like small cities, serving thousands of people with centralized housing, food, water, and waste management. Marines and their families stationed at Camp Lejeune, North Carolina between 1953 and 1987 unknowingly consumed water contaminated with harmful chemicals.³² The VA now provides those residents with financial compensation and recognizes presumptive conditions associated with the contaminated water, including neurobehavioral problems. At least nine Marines later executed were stationed at Camp Lejeune during this time period.³³

Veterans, Suicide, and the Execution of “Volunteers”

In the United States, military veterans die by suicide at twice the rate of non-veterans.³⁴ Veterans with diagnoses of PTSD,³⁵ TBI,³⁶ or Substance Use Disorder (SUD)³⁷ are even more likely to take their own lives. In the past two decades, the media has reported on an increasing number of tragic incidents involving service members or veterans who kill others and then themselves.³⁸ Robert Card, who had “tremendous” brain damage likely caused by long-term blast exposure as an Army Reserve grenade instructor, killed 18 people in a mass shooting in Maine in 2023;³⁹ Albert Wong, a highly decorated Afghanistan veteran with PTSD, killed three employees in 2018 at the Veterans Home of California, where he had been treated;⁴⁰ and Eusebio Lopez, who had suffered TBIs from roadside bombs in Iraq and Afghanistan, killed two young Marines at Quantico’s Officer Candidate School in 2013.⁴¹ All three men died from self-inflicted gunshot wounds.⁴²

The Death Penalty Information Center found that suicide and suicidal behavior is common among death-sentenced veterans, whose service-related conditions may worsen amid the harsh, isolating conditions of death row. The percentage of veterans who abandoned their appeals and were executed is slightly higher than for nonveterans (13% vs. 10%).⁴³ This phenomenon is known as “volunteering,” and is often associated with suicidal ideation. Among executed veterans, volunteers were more likely to have served in major conflicts compared to non-volunteers (28% vs. 19%).⁴⁴ About 17% of people who volunteered in the modern era served in the military.⁴⁵

Norman Grim, a Navy veteran, was executed in Florida on October 28 after waiving his appeals.⁴⁶ He had refused to let his attorney present any mitigating evidence, so the jury never heard about his military service.⁴⁷ Mr. Grim’s father was a Navy officer who suffered from alcoholism and was violent with Mr. Grim.⁴⁸

At least eight veterans have taken their own lives on death row.⁴⁹ Four veteran suicides took place in California alone, with three of them occurring in 18 months in 2012-13, indicating a possible “suicide cluster.”⁵⁰ In 2019, Army veteran Scott Dozier died by suicide on death row in Nevada after repeatedly requesting an execution date for three years.⁵¹ His life had been shaped by early traumatic experiences, including the suicide of his grandfather, a Pearl Harbor veteran and Air Force lieutenant colonel, when Mr. Dozier was five years old.⁵²

DPI has documented a significant racial disparity among execution volunteers generally,⁵³ but the disparity is even more pronounced among military veterans. Out of 29 veteran volunteers, 28 (97%) were white men. While white men make up less than one-third of the U.S. population, they account for about two-thirds of suicides — a disparity that has “puzzled” researchers.⁵⁴ It is not clear which factors contribute to the overrepresentation of white men among military veteran volunteers on death row.

Seven of the eight veterans who died by suicide were also white men; the most recent, Odell Corley, was Black. Mr. Corley, a former Marine who also went by the name Nasih Khalil Ra’id, died in December 2023 on federal death row in Terre Haute, Indiana. Other prisoners reported that Mr. Corley had “deteriorate[ed]” since the government moved death-sentenced prisoners to a different part of the facility with limited access to exercise — which had previously “kept depression at bay” for Mr. Corley. He told friends and family he planned to take his own life. Billie Allen, a fellow prisoner, told media that Mr. Corley had “asked me a few days before his death to help him file a motion to be executed... But I didn’t help him.”⁵⁵ A year after Mr. Corley’s suicide, President Joe Biden commuted the death sentences of 37 federal prisoners to life without the possibility of parole.⁵⁶

Traumatic Brain Injury and Physical Deterioration

During World War I, there was a term for the headaches, confusion, memory loss, and physical and behavioral changes experienced by some soldiers exposed to repeated artillery explosions: “shell shock.” At the time, some experts argued that the symptoms resulted from blasts jostling the brain, while others came to believe that the symptoms resulted from “nerves,” unrelated to blast exposure. But 21st-century research has confirmed there was merit to the initial concept of shell shock all along: repeated blast exposure, even at low levels, can cause traumatic brain injury (TBI).⁵⁷ Just as the sports world has been upended by research on chronic traumatic encephalopathy (CTE), recent scientific developments illustrate that the scope of traumatic brain injury in the military extends far beyond what was previously known.



Recent investigations have found heightened rates of suicide, addiction, and arrests among soldiers who held specialized positions across the Armed Forces, including Marine Corps gunners involved in a long-range shelling campaign against the Islamic State⁵⁸; Air Force mechanics exposed to the roar of jet takeoff, described as “piercing their skull from the mouth up and ripping off the top of their head”⁵⁹; and Navy Top-Gun pilots, whose planes accelerate so fast that their brains press to the backs of their skulls.⁶⁰ The effects accumulate over the course of years, over thousands of exploded artillery shells, flights, or days on duty.

Affected service members may experience wide-ranging symptoms including severe headaches, vertigo, and frightening hallucinations. However, they often struggle to obtain an appropriate diagnosis or medical treatment because their symptoms do not necessarily fit

“All the gun crews filled out questionnaires to screen for post-traumatic stress disorder, and took tests to detect signs of traumatic brain injuries from enemy explosions. But the crews had been miles away from the front lines when they fired their long-range cannons, and most never saw direct fighting or suffered the kinds of combat injuries that the tests were designed to look for. [...] The cannon blasts were strong enough to hurl a 100-pound round 15 miles, and each unleashed a shock wave that shot through the crew members’ bodies, vibrating bone, punching lungs and hearts, and whipping at cruise-missile speeds through the most delicate organ of all, the brain. [...] The resulting blast was several times louder than a jet taking off.”

– Dave Philipps, *The New York Times* (2023)

In addition to the sarin gas that entered his lungs and bloodstream, Mr. Hutchinson “felt a blast wave move through his body” when ammunition bunkers exploded.⁶¹ He was later diagnosed with TBI. Several other veterans sentenced to death served in roles that may also have caused long-term brain damage, years before such effects were identified.⁶²

“Think of it like a rubber band. Stretch a rubber band a hundred times and it bounces back, but there are micro tears forming. The hundred-and-first time, it breaks.”

– Gary Kamimori, retired Army blast researcher⁶³

Veterans may also struggle due to the grueling physical conditioning of military service. Lack of sleep can cause mood instability, memory issues, and hallucination, which are exacerbated when waking hours are spent in intense physical exertion. A recent investigation documented a disturbing trend of suicide among Marine Corps drill instructors, who work round-the-clock hours training recruits and often experience chronic sleep deprivation.⁶⁴ Service members may find it difficult to break these habits after they are discharged, and insomnia may especially become problematic if they are also battling substance abuse or mental health issues connected with their service.

Jeffrey Hutchinson pushed his body to its limits while training in the Army’s elite Ranger School. “To prepare for Ranger School, Sgt. Hutchinson underwent a four-week training program requiring him to sleep an average of four hours per night, ration his food, and train to his physical limits,” veterans advocacy groups wrote in an amicus brief in his case. He was among the 12% of his class who completed the program. “Sgt. Hutchinson’s Army training also exposed him to artillery and concussive simulators, smoke grenades, and flash bangs from as close as twenty yards.”⁶⁵

Physical and Mental Anguish: Tyrone Johnson



Tyrone Johnson dedicated eight years of his life to his country, serving honorably as a corporal in the Marine Corps and a sergeant in the Army.⁶⁶ With a bachelor's degree in criminal justice and a master's degree in human services, he went on to pursue several positions in the legal system, including working as a paralegal for the Florida Attorney General's Office's Child Services Division and the Supreme Court of South Carolina. By many measures, Mr. Johnson's life looked like a success.

However, behind these accomplishments was a long and well-documented struggle with mental illness and personal trauma, beginning as a child, when he experienced physical and emotional abuse in his household. During his military service he specialized as a cannoneer, where he was exposed to an untold number of blasts at close range. Then in 2000, while in the Army, Mr. Johnson was hit by a 200-pound artillery shell that crushed his ankle, requiring surgery and resulting in years of severe pain.⁶⁷ According to Mr. Johnson's father, he went through "mental anguish" in the Army and "did not come out the same person."⁶⁸

Mr. Johnson experienced Obsessive Compulsive Disorder (OCD) and suicidal thoughts in the years that followed, and in 2012 he attempted to take his own life by walking into traffic. He sought treatment at the VA, which diagnosed him with anxiety and depression the following year. One VA doctor observed that Mr. Johnson had a "pervasive pattern of aggressive reaction when faced with loss."⁶⁹

In June 2017, he was committed to a psychiatric hospital for inpatient mental health care. Then, on December 31, 2017, his son Devin died by suicide, just one day before Mr. Johnson's 42nd birthday⁷⁰ — a devastating blow that profoundly deepened Mr. Johnson's psychological distress. Expert testimony at trial explained that at that point, Mr. Johnson's "emotional 'dam'... had burst," and his ability to control his impulses unraveled.⁷¹

In fall 2018, Mr. Johnson underwent another ankle surgery for the injury he suffered during his Army service. He also sought treatment from the VA for his deteriorating mental health issues on October 9. Less than two weeks later, on October 21, Mr. Johnson and his girlfriend got into an argument which intensified when the girlfriend began hitting him.⁷² In an attempt to remove himself from the domestic violence situation, Mr. Johnson called his father and asked him to drive down immediately to take him home to South Carolina.⁷³ However, before his father arrived, the altercation escalated, with Mr. Johnson shooting and killing his girlfriend and her son. Mr. Johnson called 9-1-1 immediately and cooperated with law enforcement following his arrest but was ultimately tried for capital murder.

The trial court recognized a wealth of mitigation evidence that painted a fuller picture of Mr. Johnson's life and impaired mental state. Three statutory mitigating circumstances were identified: (1) he committed the offense while under the influence of extreme mental or emotional disturbance; (2) he had no significant history of prior criminal activity; and (3) his ability to understand or control his actions at the time was impaired. Additionally, the court accepted thirty non-statutory mitigating factors, including Mr. Johnson's honorable military service, educational achievements, professional background in the legal system, and continued efforts to seek help at the VA. During his statement to the jury, Mr. Johnson said: "This heart-wrenching tragedy was definitely never for a second premeditated...I am truly remorseful and deeply sorry."⁷⁴

When evaluating mitigation, a "comprehensive, consistent, coherent, and credible presentation" of mitigating evidence that humanizes the defendant is often the difference between a sentence of life and death.⁷⁵ While the substantial amount of mitigating evidence in Mr. Johnson's case might have been enough to save him from the death penalty in a different state, in Florida he was sentenced to death. Likewise, a different appellate court could have evaluated these factors and determined that the death penalty was disproportionate for Mr. Johnson. But the Florida Supreme Court "decline[d] Johnson's invitation to conduct a comparative proportionality review"⁷⁶ on appeal, with Justice Jorge Labarga lamenting that the Court has "abandoned our decades-long practice of comparative proportionality review in the direct appeals of sentences of death."⁷⁷ At the same time Florida has weakened its death sentence review process, it has accounted for 50% of new death sentences of veterans since 2020, and executed five veterans and counting this year.

Interventions and Treatment Gaps

The military provides veterans with healthcare through the VA and has acknowledged some responsibility for exposing its service members to several major health hazards. But recognition has often come slowly, and only after years of advocacy by veterans and their families.⁷⁸ And for too many, resources and benefits for service-related injuries have come too late — or not at all.

The Promise to Address Comprehensive Toxics (PACT) Act of 2022 represents a watershed expansion of health coverage for veterans and their families exposed to burn pits, sarin gas, Agent Orange, and other chemicals.⁷⁹ Prior to the Act's passage, between 2004 and 2020, the VA had "denied almost 80% of veteran disability claims related to chemical exposure in the Gulf War, under the belief that medical conditions could not be service-related when occurring so long after military members had been discharged."⁸⁰ Despite evidence to the contrary, the VA also maintained for years that Agent Orange was harmless⁸¹ and that there was nothing wrong with the water at Camp Lejeune.⁸² Some military leaders historically showed public disdain for PTSD, dismissing soldiers who sought treatment as weak.⁸³ Many soldiers still refuse to seek medical treatment for their symptoms because they fear they will be sidelined from their positions and judged harshly by their peers.⁸⁴

"Members of the military have to function at a very high level and that takes a toll. We are taught to mask anything that is wrong with us, to adapt and overcome. Military culture looks at asking for help as a liability, from recruitment to training to the rest of one's career."

– Sherman Gillums Jr., retired Marine Corps officer and former executive at Paralyzed Veterans of America⁸⁵

Despite the PACT Act, persistent funding gaps, "severe" staffing shortages, and bureaucratic paperwork requirements keep some service members and veterans from accessing the medical care they desperately need.⁸⁶ In August 2025, the VA Inspector General reported that all 139 Veterans Health Administration medical centers had a staffing shortage, and "severe" staffing shortages increased 50% since 2024.⁸⁷ A stunning 94% of VA health facilities reported a severe shortage of doctors, while 79% reported a severe shortage of nurses. Amid federal spending cuts by the Trump Administration, as of May 2025, the VA had a net loss of 15,000 workers and 45% fewer job applications compared to the year before.⁸⁸ "It shouldn't be easier to enlist in the military than it is to get good health care," argues Jenn Kerfoot, an Afghanistan veteran and executive for a healthcare access startup. "And it shouldn't be easier to go to war than to come home from it."⁸⁹

Since Vietnam, the military has relied on pharmaceuticals to keep soldiers fit for duty. Mental and physical pain are managed with mood stabilizers and painkillers. By some estimates, 10% of soldiers in Iraq had prescriptions for painkillers, even as “the army admitted there was likely widespread abuse.”⁹⁰ Indeed, many young men returned home from Vietnam with addictions to the drugs supplied by the American military.⁹¹ Overmedication to help soldiers deal with the traumas of war may defer symptoms temporarily — but at the possible expense of a soldier’s long-term health and well-being. Addiction is a key risk factor for criminal legal system involvement among veterans, multiplying odds of arrest threefold.⁹²

“In short, the administration of stimulants by the military contributed to the spread of drug habits that sometimes had tragic consequences — because amphetamine, as many veterans claimed, increased aggression as well as alertness. [...] By merely alleviating soldiers’ symptoms, antipsychotic medicines and narcotics brought immediate but temporary relief. Drugs taken without proper psychotherapy only assuage, suppress, or freeze the problems that remain deeply embedded in the psyche. Years later, those problems can explode unexpectedly with multiplied force.” – Lukasz Kamienski, journalist

Dave Philipps, military correspondent for *The New York Times*, documented a pattern of murders committed by soldiers returning to Fort Carson, Colorado, in the late 2000s following a grueling combat tour in Iraq. The Army’s 506th Infantry Regiment, known as the “Lethal Warriors,” had a murder rate one hundred times greater than the national average.⁹³ When the soldiers showed symptoms of PTSD such as substance abuse, aggression, and suicidality, which often resulted in behavior problems, the Army blamed preexisting conditions and moved to discharge them via a process called “chaptering out.”⁹⁴ The soldiers received “bad paper” discharges — Other than Honorable, Bad Conduct, or Dishonorable — that barred them from receiving VA medical care. As Mr. Philipps wrote in his separate investigation of long-range gunners who also displayed a higher incidence of violent behavior following their service, those “who started acting strangely after the deployments were simply dismissed as problems, punished for misconduct and forced out of the military in punitive ways that cut them off from the veterans’ health care benefits that they now desperately need.”⁹⁵

“Young veterans are overwhelmingly resilient. In the course of writing the story of the Lethal Warriors, I have spoken to a number who went through hell after they returned from Iraq but are now doing fairly well. They healed on their own. In most cases, the body has a natural ability to rebuild. They have jobs. They have moved out of their parents’ basements. Some are going to school. Many of them said time was the best medicine. That is why minimizing exposure to guns and drugs and other high risk behaviors is particularly critical. Given time, most veterans can regain equilibrium. The risk is that some will upend their lives before that happens.”

– Dave Philipps, *Lethal Warriors* (2012)⁹⁶

Courtney Lockhart, a member of the Lethal Warriors, was one such soldier who — after suffering profound trauma in the military and without appropriate healthcare and resources — went on to commit a devastating crime. The day Mr. Lockhart arrived in Ramadi, Iraq, for his assignment with a large artillery unit at age 19, thirteen rockets hit the base. On one occasion, he was almost killed when a mortar landed twenty feet away from his Humvee as he opened the door. “I prayed for like an hour after that...I could not stop crying,” he told Mr. Philipps, who interviewed him in jail. He stopped sleeping after two mortars came through the roof one night. A few months later, a mortar came through the hatch of an armored howitzer, and Mr. Lockhart watched as the three men inside the vehicle were burned alive by 155 exploding rounds. “I used to play basketball with them, and we all just had to stand there and watch them die,” he told Mr. Philipps. “Those guys, there was nothing left of them but their dog tags. I would try not to think about it, but I would have to drive past that burned-out Paladin every day.” The only surviving soldier from that same howitzer crew killed his wife and then himself four months later. Mr. Lockhart said his breaking point came when his “best friend” and father figure, his platoon sergeant, was killed by an IED while driving to his leave.⁹⁷

Back at Fort Carson, Mr. Lockhart “lied his way through the health assessments” after seeing “other soldiers punished, ostracized, or overmedicated if they said they had PTSD.” But he was suffering: he “would find himself trembling under his bed with no idea how he got there” when he heard cannon practice. He began drinking heavily, carrying a gun, and smoking marijuana to alleviate his symptoms. Then he failed a drug test and a short time later got in a fight in the cafeteria over a fortune cookie. Instead of receiving medical treatment, he was court-martialed and sent to military prison for seven months.⁹⁸ He was then dishonorably discharged — cutting him off from VA medical care.⁹⁹

Home in Alabama, his mother barely recognized her son, who shut himself in his bedroom while battling flashbacks and hallucinations. Three years after he returned from the war, he kidnapped and killed a young college student in a random attack that he struggles to explain. At least seventeen other soldiers stationed at Fort Carson were also arrested for murder or attempted murder in the years following their return.¹⁰⁰

At his 2011 trial, Mr. Lockhart’s jury heard about his mental struggles, but the expert psychiatrist hired by his attorney wrongly failed to diagnose him with PTSD. The jury nevertheless unanimously recommended that Mr. Lockhart be sentenced to life without parole and not death. The judge overruled the jury¹⁰¹ and sentenced him to death, citing the flawed defense expert PTSD testimony. In subsequent proceedings, qualified experts did confirm Mr. Lockhart’s PTSD diagnosis. Though the practice of judicial override is now illegal, Mr. Lockhart remains on death row.¹⁰²

Children of War: Military Service, Intergenerational Trauma, and the Death Penalty

Adam Frank never fully returned from Vietnam. He painted over the windows, booby trapped his home, tore the cabinets and refrigerator from the walls, and woke up screaming in the night. He killed family pets in front of his children and threatened to kill them too, sometimes parking their car on train tracks or filling the house with gas. His daughter Antoinette became his particular target. While being treated for PTSD, Adam told his VA psychiatrist that he had choked 2-year-old Antoinette and thrown her across the room; the VA recommended that Antoinette be removed from his custody. But their recommendation was not enforced and Adam's abuse escalated. He held Antoinette captive and raped her repeatedly from the time she was 11, impregnating her three times.¹⁰³

As a 23-year-old rookie police officer managing the effects of a horrific childhood, Antoinette tried to mentor a young drug dealer. But advocates say he took advantage of her kindness: he robbed a restaurant they visited and killed three people, coercing Antoinette at gunpoint into participating with his plan. While her codefendant was resentenced to life, Antoinette remains the only woman on death row in Louisiana. She won a hearing in 2025 to present further evidence, including that she was forced at gunpoint to hurt the victims.¹⁰⁴ Two jurors have attested "that they would have voted for a life sentence if they knew about Antoinette's background."¹⁰⁵

Antoinette Frank is one of dozens of death-sentenced people identified by DPI who suffered serious trauma related to their parent's military service.¹⁰⁶ If untreated, the mental and physical injuries some veterans suffer can result in trauma in their children¹⁰⁷ — trauma that is essential for a jury to consider when assessing a person's culpability for a capital crime.

Even with the best of intentions, a parent's military service may still affect their children in significant ways. Anthony Wainwright was conceived only six months after his father Ken, who had been exposed to Agent Orange, returned from Vietnam.¹⁰⁸ Agent Orange is a "dioxin," a toxic chemical compound that can damage the genes passed down to offspring.¹⁰⁹ Despite evidence of harm as early as the 1970s, the VA has conducted little research into how Agent Orange affects the children of veterans.¹¹⁰ According to his attorneys, Anthony exhibited symptoms associated with Agent Orange exposure throughout his life, including low intellectual functioning, developmental impairments, poor impulse control, and tremors.¹¹¹

"Anthony's condition is the result of his father's heroism in Vietnam, and a Nation that chose to turn a blind eye to the problems manifest in children like him," a medical expert who examined Anthony concluded.¹¹² Florida executed him on June 10, 2025. "Although Mr. Wainwright did not serve in the Vietnam War...he was catastrophically and immutably cognitively damaged from it," his attorney argued. "Unlike Veterans, who make knowing sacrifices for our country in the face of grave risks, Mr. Wainwright had no such choice."¹¹³

Endnotes

1. William Keesler, [Clawvern Jacobs sentenced to death for murder of student](#), *The Courier-Journal*, Sep. 2, 1989.
2. Ryan Holliday, *Suicide Among Justice-Involved Veterans: Understanding Risk and Meeting Needs*, Council on Criminal Justice (2023).
3. Ugur Orak, *From Service to Sentencing: Unraveling Risk Factors for Criminal Justice Involvement Among U.S. Veterans*, Council on Criminal Justice (2023). See also E.B. Elbogen, M. Amuan, E. Kennedy, S.M. Blakey, R.C. Graziano, D. Hooshyar, J. Tsai, R.E. Nelson, M.E. Vanneman, A.L. Jones, and M.J. Pugh, *Criminal legal involvement among recently separated veterans: Findings from the LIMBIC study*, 46 *Law and Human Behavior* 385 (2022).
4. Veterans Justice Commission, *From Service through Reentry: A Preliminary Assessment of Veterans in the Criminal Justice System*, Counsel on Criminal Justice (2022).
5. Orak, n. 3.
6. *Lockett v. Ohio*, 438 U.S. 586, 604 (1978); see also American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.7 and Commentary, 31 *Hofstra L. Rev.* 913, 1015-27 (2003).
7. Brock Hunter, [Special Considerations in Representing Veterans, Veterans Defense Project](#) (2014).
8. Letter to Governor Ron DeSantis, *Veterans Stand Against the Execution of Jeffrey "Ranger" Hutchinson*, Apr. 30, 2025.
9. Matthew J. Friedman, *History of PTSD in Veterans: Civil War to DSM-5*, National Center for PTSD, last updated Mar. 26, 2025.
10. See, e.g., Emmeline N. Taylor, Christine Timko, Amia Nash, Mandy D. Owens, Alex H.S. Harris, and Andrea K. Finlay, *Posttraumatic Stress Disorder and Justice Involvement Among Military Veterans: A Systematic Review and Meta-Analysis*, 33 *Journal of Traumatic Stress* 804 (2020); Maria L. Pacella, Bryce Hruska, and Douglas L. Delahanty, *The physical health consequences of PTSD and PTSD symptoms: A meta-analytic review*, 27 *Journal of Anxiety Disorders* 33 (2013); Maurizio Pompili, Leo Sher, Gianluca Serafini, Alberto Forte, Marco Innamorati, Giovanni Dominici, David Lester, Mario Amore, and Paolo Girardi, *Posttraumatic Stress Disorder and Suicide Risk Among Veterans: A Literature Review*, 201 *Journal of Nervous and Mental Disease* 802 (2013).
11. *Recognition and study of Vietnam veterans' psychological distress led to early diagnoses like "Vietnam Syndrome" and "Post-Vietnam Syndrome," which in turn led to the development of the official PTSD diagnosis*. See Morgan Godvin, *How Veterans Created PTSD*, *JSTOR Daily*, Nov. 9, 2021. See also Judith Herman, *Trauma and Recovery: The Aftermath of Violence—from Domestic Abuse to Political Terror* (1997).
12. Association for Behavioral and Cognitive Therapies, *ABCT Fact Sheets: Military Posttraumatic Stress Disorder*, accessed Jul. 31, 2025. See also Chen Xue, Yang Ge, Bihan Tang, Yuan Liu, Peng Kang, Meng Wang, and Lulu Zhang, *A Meta-Analysis of Risk Factors for Combat-Related PTSD among Military Personnel and Veterans*, 10 *PLoS ONE* (2015).
13. Id. See also Sonya B. Norman and Shira Maguen, *Moral Injury*, National Center for PTSD, last updated Mar. 25, 2025.
14. *Hutchinson v. Florida*, 24-7079, Brief of Veterans' Advocacy Groups as Amici Curiae in Support of Petitioner 24 (2025).
15. Taylor et al., n. 10. See also Sonner Kehrt, *'Consequences of War'—Veterans Incarcerated at Higher Rates and Face Longer Sentences*, *The War Horse*, Apr. 18, 2024.
16. ABCT, n. 12.
17. Mina Corpuz, *Marine's troubled life set to end with execution*, *Mississippi Today*, Dec. 14, 2022.
18. *Escaped killer scarred by Vietnam experience*, UPI Archives, Aug. 5, 1986.
19. See Lukasz Kamienski, *The Drugs That Built a Super Soldier*, *The Atlantic*, Apr. 8, 2016.
20. *Foster v. State*, 779 S.W.2d 845, 849 (Tex. Ct. Crim. App. 1989).
21. Robert W. Haley, Gerald Kramer, Junhui Xiao, Jill A. Dever, and John F. Teiber, *Evaluation of a Gene-Environment Interaction of PON1 and Low-Level Nerve Agent Exposure with Gulf War Illness: A Prevalence Case-Control Study Drawn from the U.S. Military Health Survey's National Population Sample*, 130 *Environmental Health Perspectives* 1 (2022). See also UT Southwestern Medical Center, *UTSW genetic study confirms sarin nerve gas as cause of Gulf War illness*, May 11, 2022; Matt Saintsing, *Gulf War Illness symptoms baffled scientists. Until now.*, *Disabled American Veterans (DAV)*, Sep. 29, 2022.
22. Brief of Veterans' Advocacy Groups at 24.
23. See Leah Roemer, *The "Fiction of Agency": Jeffrey Hutchinson Is the Latest of Many Executed After Attorneys Missed Deadlines to File Federal Appeals*, *Death Penalty Information Center*, May 28, 2025.
24. Joshua Barajas, *The U.S. is executing more people this year, and Florida is leading the way*, PBS, Jul. 30, 2025.
25. *VA News*, 10 things every Veteran should know about Agent Orange, Mar. 10, 2015.
26. See, e.g., Cleveland Clinic, *Agent Orange Effects*, last reviewed Feb. 10, 2023; Duong Trung Le, Thanh Minh Pham, and Solomon Polachek, *The long-term health impact of Agent Orange: Evidence from the Vietnam War*, 155 *World Development* (2022).
27. Suzanne M. de la Monte and Ming Tong, *Agent Orange Herbicidal Toxin-Initiation of Alzheimer-Type Neurodegeneration*, 97 *Journal of Alzheimer's Disease* 1703 (2024). See also Corrie Pikul, *Exposure to Agent Orange damages brain tissue in ways similar to Alzheimer's disease*, *Brown University*, Feb. 13, 2024.
28. Brief of Veterans' Advocacy Groups at 2, 23.
29. U.S. Department of Veterans Affairs, *Airborne Hazards and Burn Pit Exposures*, accessed Aug. 4, 2025.

30. Patricia Kime, Burn Pit Exposure Linked to Higher Rates of Mental Health Disorders, Brain Injury, Military.com, Jul. 22, 2025; see Christian Hoover, Amal N. Trivedi, Anila Bello, William J. Culpepper, Gabrielle G. Hoover, Joseph Gasper, Rachel Gaither, Lan Jiang, Christopher Rennix, Aaron Schneiderman, Gregory A. Wellenius, Susan R. Woskie, and David A. Savitz, Deployment to Military Bases with Open Burn Pits and Mental Health Conditions and Injury Mortality among U.S Veterans, *J. Occup. Environ. Med.* (2025).
31. Athena W. Brooks, Brian J. Sandri, Joshua P. Nixon, Timothy R. Nurkiewicz, Paul Barach, Janeen H. Trembley, and Tammy A. Butterick, Neuroinflammation and Brain Health Risks in Veterans Exposed to Burn Pit Toxins, *25 Int. J. Mol. Sci.* 9759 (2024).
32. U.S. Department of Veterans Affairs, Camp Lejeune water contamination health issues, accessed Aug. 4, 2025. Other stateside toxins include asbestos in military facilities and chemicals used for the maintenance and function of intercontinental ballistic missiles [ICBMs], among other risks. See, e.g., Thomas Novelty, They Stood Sentry over America's Nuclear Missile Arsenal. Many Worry It Gave Them Cancer, *Military.com*, Mar. 7, 2024 (describing cancer clusters amidst "missileers" who oversee launch controls for ICBMs on American bases); Thomas Novelty, Unprotected: Troops Spent Decades Elbow-Deep in Dangerous Chemicals to Keep Nuclear Missiles Working, *Military.com*, May 30, 2024 (describing cancer clusters amidst "maintainers" on American bases exposed to toxic chemicals that kept ICBMs functioning); John E. Till, Harold L. Beck, John D. Boice Jr., H. Justin Mohler, Michael T. Mumma, Jill W. Aanenson, and Helen A. Grogan, Asbestos exposure and mesothelioma mortality among atomic veterans, *98 Int. J. Radiat. Biol.* 781 (2022) (observing higher rates of mesothelioma among Navy members stationed on ships with known asbestos content).
33. Military records from the National Personnel Records Center on file with DPI show the following executed Marine Corps veterans were stationed at Camp Lejeune between 1953-87: David Livingston Funchess (stationed 1965 and 1968-69; executed 1986), Kenneth Albert Brock (stationed 1972-73; executed 1986), Sean Patrick Flanagan (stationed 1979; executed 1989), Robert Thomas Sidebottom (stationed 1981-84; executed 1995), Manuel "Manny" Babbitt (stationed 1967; executed 1999), John Dennis Daniels (specific dates at Camp Lejeune unknown, military service 1976-79; executed 2003), Arthur Dennis Rutherford (stationed 1968-69; executed 2006), Oba Chandler (stationed 1966; executed 2011), and Billie Wayne Coble (specific dates at Camp Lejeune unknown, military service 1965-71; executed 2019).
34. Office of Suicide Prevention, 2024 National Veteran Suicide Prevention Annual Report, Part 2 of 2: Report Findings, U.S. Department of Veterans Affairs 8 (2024) (finding that the unadjusted suicide rate in 2022 was 34.7 per 100,000 for veterans and 17.1 per 100,000 for nonveterans). See also Rajeev Ramchand and Tahina Montoya, *Suicide Among Veterans*, RAND, May 22, 2025.
35. See Office of Suicide Prevention, n. 1, at 33 (finding that the suicide rate for VHA care recipients with PTSD was 51.3 per 100,000 in 2022); Jenna A. Forehand, Vincent Dufort, Jaimie L. Gradus, Shira Maguen, Bradley V. Watts, Tammy Jiang, Nicholas Holder, and Brian Shiner, Association of PTSD Severity and Death by Suicide, *23 Br. J. Psychiatry* 1 (2022) (finding that "[a]ny level of PTSD symptoms above the minimal threshold for symptomatic remission...was associated with double the suicide mortality rate at one month after assessment").
36. Trisha A. Hostetter, Claire A. Hoffmire, Jeri E. Forster, Rachel Sayko Adams, Kelly A. Stearns-Yoder, and Lisa A. Brenner, Suicide and Traumatic Brain Injury Among Individuals Seeking Veterans Health Administration Services Between Fiscal Years 2006 and 2015, *34 J. Head Trauma Rehabil. E1* (2019) (finding that suicide risk was 2.19 times greater for VHA care recipients with TBI compared to those without TBI).
37. See Office of Suicide Prevention, n. 1, at 33 (finding that the suicide rate for VHA care recipients with Substance Use Disorder was 89.3 per 100,000 in 2022 and ranged as high as 236.7 per 100,000 for veterans with sedative use disorder).
38. Based on a review of data from the National Consortium for the Study of Terrorism and Responses to Terrorism (START) at University of Maryland, The Intercept reported this year that the number of people with military backgrounds who commit extremist crimes has increased from 7 per year in 1990-2010, to nearly 45 per year since 2011. Nick Turse, U.S. Military Service is the Strongest Predictor of Carrying Out Extremist Violence, *The Intercept*, Jan. 2, 2025. Additionally, START found that military service was the "single strongest individual-level predictor" of becoming a "mass casualty offender." People with military backgrounds were 2.41 times more likely to be mass casualty offenders than those without. National Consortium for the Study of Terrorism and Responses to Terrorism, Profiles of Individual Radicalization in the United States (PIRUS): Mass Casualty Extremist Offenders with U.S. Military Backgrounds, University of Maryland (2023). START concluded that "service members and veterans are not more likely to radicalize to the point of violence than members of the general population," but "when service members and veterans do radicalize, they may be more likely to plan for, or commit, mass casualty crimes, thus having an outsized impact on public safety." *Id.* at 5. While this military-specific data does not include whether the offender died by suicide, other research suggests that suicides of mass violent offenders have increased concurrently. See Ragy G. Girgis, Hannah Hesson, Gary Brucato, Jeffrey A. Lieberman, Paul S. Appelbaum, and J. John Mann, Changes in Rates of Suicide by Mass Shooters, 1980-2019, *29 Arch. Suicide Res.* 317 (2025) (finding that 40.5% of mass shooters from 2000-19 took or attempted to take their own lives compared with 23.2% of mass shooters from 1980-99).
39. Dave Philipps, Profound Damage Found in Maine Gunman's Brain, Possibly From Blasts, *The New York Times*, Mar. 6, 2024. See also David Sharp and Patrick Whittle, Evidence of traumatic brain injury in shooter who killed 18 in deadliest shooting in Maine's history, *Associated Press*, Mar. 7, 2024; Joel Brown, BU CTE Center: Lewiston, Maine, Mass Shooter Had Traumatic Brain Injury, *The Brink*, Mar. 7, 2024.

40. Bill Hutchinson, Gunman in deadly hostage incident was highly decorated Army veteran, ABC News, Mar. 11, 2018; Associated Press, Army veteran who killed three women 'hero who clearly had demons' – mayor, The Guardian, Mar. 11, 2018.
41. Quantico Marine base killings report: Shooter suffered brain injury, News Leader, Dec. 16, 2013; In Depth: Questions linger about blame for OCS murder-suicide, Military Times, Dec. 4, 2013.
42. Other examples of military men who committed murder-suicides include Christopher Dorner, a former naval reservist and LAPD officer who targeted police officers and their family members across Southern California in 2013, killing four (see Jon Kelly, Christopher Dorner: What made a police officer kill?, BBC News, Feb. 16, 2013); Wade Page, an Army veteran turned white supremacist who killed six worshippers at a Sikh temple in Wisconsin in 2012 (see Eyder Peralta, Researcher: Temple Gunman Said Military Experience Drove Him To Hate, NPR, Aug. 8, 2012); Leonard Eglund, an active duty Army captain recently returned from Iraq and Afghanistan, who killed four people in a domestic violence attack in 2011 (see Crimesider Staff, Va. army captain sought in 4 deaths found dead in Pa., CBS News, Aug. 29, 2011); and Michael Nicholaou, a Vietnam veteran who murdered his ex-wife and her daughter in 2005 (see Alexandra Zayas, His bullets cut families' hope for answers, Tampa Bay Times, Jan. 8, 2006). On New Year's Day 2025, active-duty Green Beret Matthew Livelsberger detonated explosives in a Cybertruck in Las Vegas and took his own life, causing injuries to seven people. He had deployed three times to Afghanistan and had been struggling with mental health issues. See Anne Flaherty, Cybertruck explosion: Green Beret's suicide death revives questions about PTSD, brain health risks, ABC News, Jan. 11, 2025; Josh Margolin, Luke Barr, Matt Seyler, Aaron Katersky, and Ivan Pereira, What we know about Cybertruck explosion suspect Matthew Livelsberger, ABC News, Jan. 3, 2025. Law enforcement has killed veterans in similar violent incidents, a phenomenon sometimes referred to as "suicide by cop": Shamsud-Din Jabbar, an Army veteran who killed 14 people in a New Orleans truck attack, also on New Year's 2025 (see Pierre Thomas, Josh Margolin, Aaron Katersky, Luke Barr, Bill Hutchinson, and Meredith Deliso, New Orleans truck attack suspect: What we know about Shamsud-Din Jabbar, ABC News, Jan. 2, 2025); Derrick Williams, an Iraq and Afghanistan veteran who helped rescue trapped civilians during Hurricane Katrina and suffered from PTSD, who was killed by police officers in a shootout on January 13, 2025 (see Olivia George, Man killed in shootout with D.C. police was veteran with PTSD, mother says, The Washington Post, Jan. 15, 2025; Juliana Valencia, Paul Wagner, Sophia Barnes, and Taylor Edwards, 3 police officers shot, suspect killed after opening fire in Northeast DC lobby, police say, NBC Washington, Jan. 13, 2025); and Aaron Alexis, a Navy veteran with mental illness who killed 12 in a mass shooting at the Washington Navy Yard in 2013 (see Mariano Castillo and Chelsea J. Carter, 2008 arrest led to Washington Navy Yard shooter Aaron Alexis' Navy discharge, CNN, Sep. 17, 2013).
43. Of 226 executed veterans, 29 were volunteers, compared to 140 of 1422 nonveterans. These numbers are current as of October 31, 2025.
44. Of executed veterans, 8 of 29 volunteers were known to have served in a major conflict, compared to 37 of 197 non-volunteers.
45. Of 169 volunteers, 29 were military veterans (17.1%). These numbers are current as of October 31, 2025.
46. See Kalmanson, Ch. 1, n. 30.
47. Grim v. State, 841 So.2d 455, No. SC01-256, Answer Brief of Appellee 3-4 (Fla. 2003).
48. Id. at 24-26.
49. Many states do not disclose cause of death for individuals who die on death row, preventing a comprehensive survey. DPI reviewed cause of death records for veterans in California, Texas, North Carolina, and Ohio, as well as media reports of suicides by death-sentenced veterans in other jurisdictions. The eight veterans, with branch of service and year of suicide, are James Lee Crummel (Army, 2012), Justin Alan Helzer (National Guard, 2013), Terrance Charles Page (Army, 2008), and Timothy Russell (Army, 2013) in California; Gregory Dickens (Army, 2014) in Arizona; Jared Jones (branch unknown, 2017) in Oklahoma; Scott Dozier (Army, 2019) in Nevada; and Odell Corley (a.k.a. Nasih Khalil Ra'id) (Marine Corps, 2023) on federal death row.
50. See Madelyn S. Gould and Alison M. Lake, The Contagion of Suicidal Behavior, Contagion of Violence: Workshop Summary, Institute of Medicine and National Research Council (2013).
51. Maurice Chammah, The Volunteer, The Marshall Project, Jan. 18, 2018 (updated Jan. 6, 2019).
52. Michelle Rindels, Drugs, dismemberment led 'great kid' Scott Dozier to Nevada's death row, The Nevada Independent, Jul. 11, 2018.
53. See Leah Roemer, New Analysis: Death-Sentenced Prisoners "Volunteer" for Execution at Ten Times Civilian Suicide Rate, Death Penalty Information Center, Oct. 24, 2024.
54. Austin Frakt, What Can Be Learned From Differing Rates of Suicide Among Groups, The New York Times, Dec. 30, 2020.
55. George Hale, Man found dead on federal death row planned suicide in final weeks, WFIU, Jan. 4, 2024.
56. See The Death Penalty in 2025: Clemency, Death Penalty Information Center (2025).
57. See, e.g., Caroline Alexander, 'Shell Shock'—The 100-Year Mystery May Now Be Solved, National Geographic, Jun. 9, 2016; Ann C. McKee and Meghan E. Robinson, Military-related traumatic brain injury and neurodegeneration, 10 Alzheimers Dement. 1 (2014). According to McKee and Robinson, "mTBI is the most common traumatic brain injury affecting military personnel; however, it is the most difficult to diagnose and the least well understood."
58. Dave Philipps, A Secret War, Strange New Wounds, and Silence From the Pentagon, The New York Times, Nov. 5, 2023.
59. Austin Campbell, [The Business of Killing: Newly Released Data Reveals Air Force Suicide Crisis After Years of Concealment](#), The Intercept, Oct. 27, 2025.
60. Dave Philipps, Top-Gun Navy Pilots Fly at the Extremes. Their Brains May Suffer., The New York Times, Dec. 8, 2024.

61. Brief of Veterans' Advocacy Groups at 25.
62. For example, Thomas Loden, Richard Foster, and John Thuesen all served in gunnery positions.
63. Philipps, *A Secret War*, n. 58.
64. Kelsey Baker and Drew F. Lawrence, In one of the Marines' most iconic jobs, a stunning pattern of suicide, *The Washington Post*, Feb. 11, 2025.
65. Brief of Veterans' Advocacy Groups at 22.
66. Dan Sullivan, Tampa jury hears of defendant's mental struggles as they weigh death penalty, *Tampa Bay Times*, Nov. 16, 2021.
67. *Id.*
68. FOX 13 News Staff, Death Penalty Recommended for Man Who Killed Girlfriend and Her Young Son Over What to Watch on TV Fox 13 News, Nov. 17, 2021.
69. Sullivan, n. 66.
70. Dan Sullivan, Tampa Jury to Weigh Death Sentence For 10-Year-Old's Murder, *Tampa Bay Times*, Nov. 15, 2021.
71. *Johnson v. State*, 397 So.3d 626, 634 (Fla. 2024).
72. *Johnson*, 397 So.3d at 631; Dan Sullivan, As Death Penalty Looms, Tampa Jury Hears of Mother and Son Slayings, *Tampa Bay Times*, Nov. 8, 2021.
73. *Johnson*, 397 So.3d at 631-32.
74. Natalie Weber, Tampa Judge Imposes Death Sentence for Child's Killing, *Tampa Bay Times*, Dec. 12, 2022.
75. John H. Blume et. al, Competent Capital Representation: The Necessity of Knowing and Hearing What Jurors Tell Us About Mitigation, 36 *Hofstra Law Rev.* 1035, 1038 (2008).
76. *Johnson*, 397 So.3d at 643. The majority of state supreme courts review a death sentence on direct appeal for proportionality; the court compares the mitigating and aggravating factors present in the case to those in other capital and non-capital cases in the state to ensure consistent outcomes. The Florida Supreme Court decided in a 2020 case that such review was not required in the state. See Ch. 1, n. 31, for further context, and Lawrence, n. 31, at 556 (Labarga, J., dissenting).
77. *Id.* at 644 (Labarga, J., concurring in result only).
78. See, e.g., Dave Spiva, 'The Most Significant Piece of Veterans Legislation in History,' *Veterans of Foreign Wars*, Feb. 22, 2023 (noting that the PACT Act "covers reforms that have been advocated for a generation").
79. See PACT Act Overview, U.S. Department of Veterans Affairs, accessed Aug. 14, 2025.
80. Brief of Veterans' Advocacy Groups at 17.
81. See, e.g., Charles Ornstein and Terry Parris Jr., VA Officials Pledge New Studies Into Effects of Agent Orange, *ProPublica*, Jul. 1, 2016; Ismael Rodriguez Jr., 'We've Been Fighting This for 55 Years,' *Veterans of Foreign Wars*, Nov. 15, 2021.
82. See, e.g., Laurel Beckley-Jackson, "Don't Drink the Water": The Camp Lejeune Water Contamination Incident, 44 *Documents to the People* 4 (2016); Barbara Barrett, Warnings about Lejeune's tainted water unheeded for years, *The Olympian*, updated Jun. 23, 2015.
83. General George Patton, a key military leader in World War II, famously believed that "battle fatigue" was not real, as did some other American officers. See Friedman, n. 9. Research has found that "military leadership style plays a significant role in service members' and Veterans' willingness to seek assistance for mental health concerns." See James J. McGuffin, Shelley A. Riggs, Emily M. Raiche, and Daniel H. Romero, Military and Veteran help-seeking behaviors: Role of mental health stigma and leadership, 33 *Mil. Psychol.* 332 (2021).
84. See, e.g., Robert Hammer, Military Health System Confronts Stigma Surrounding Mental Health Care, *Health.mil*, Jun. 6, 2023; Marie-Louise Sharp, Nicola T. Fear, Roberto J. Rona, Simon Wessely, Neil Greenberg, Norman Jones, and Laura Goodwin, Stigma as a barrier to seeking health care among military personnel with mental health problems, 37 *Epidemiol. Rev.* 144 (2015); Sadie F. Dingfelder, The military's war on stigma, 40 *Monitor on Psychology* 52 (2009).
85. Jennifer Steinhauer, A General Fights to Destigmatize Mental Health Issues: 'There's a Shame if You Show Weakness,' *The New York Times*, Mar. 19, 2022.
86. See, e.g., Jenn Kerfoot, Unseen battles: The harsh realities of veterans' access to health care, *Stat*, Apr. 29, 2024; Linda F. Hersey, Severe Shortages of Doctors and Nurses Have Persisted for a Decade at VA Facilities, Report Finds, *American Legion*, Aug. 8, 2024; Thomas Novelly, Troops, Veterans Advocates Want to See the PACT Act Better Track Toxic Exposures, *Military.com*, Jul. 9, 2025.
87. Office of Healthcare Inspections, *OIG Determination of Veterans Health Administration's Severe Occupational Staffing Shortages Fiscal Year 2025*, *Veterans Health Administration* (2025).
88. See Meryl Kornfield, Every VA medical center has severe staffing shortages, audit finds, *The Washington Post*, Aug. 12, 2025.
89. Kerfoot, n. 86.
90. Philipps, *Lethal Warriors* at 12. See also National Institute on Drug Abuse, Substance Use and Military Life *DrugFacts*, accessed Aug. 5, 2025.
91. See Kamienski, n. 19.
92. Orak, n. 3 (finding that "substance use disorder and substance abuse are associated with 2 to 3.5 times greater odds of arrest among veterans").
93. Philipps, *Lethal Warriors* at 6.

94. *Id.* at 105-06.
95. Philipps, *A Secret War*, n. 58. See also Marisa Peñaloza and Quil Lawrence, *Special Series: Veterans and Other-Than-Honorable Discharges: A Bad Discharge Can Disqualify Veterans from Benefits and Health Care*, NPR, Dec. 8-11, 2013.
96. Philipps, *Lethal Warriors* at 252-53.
97. *Id.* at 247-48.
98. *Id.* at 248-49.
99. *Lockhart v. State*, 163 So.3d 1088, 1134 (Ala. Ct. Crim. App. 2013).
100. Dan Edge, *Fort Carson soldiers' killing spree after Iraq combat*, BBC, Aug. 25, 2010.
101. Web Staff, *Judge imposes death penalty, outbursts delay trial*, WTVM, Mar. 4, 2011.
102. In 2013, Supreme Court Justice Sonia Sotomayor, joined by Justice Stephen Breyer, cited Mr. Lockhart's case as an example of the injustice of judicial override. See *Woodward v. Alabama*, 571 U.S. 1045, 1053 n. 7 (2013) (Sotomayor, J., dissenting).
103. See Sandra L. Babcock, *Antoinette Frank: Facing Execution While the Crime's Mastermind Serves Life*, Cornell Center on the Death Penalty Worldwide, Oct. 5, 2023; *Anti-Violence Women's Groups, Letter Requesting Clemency for Antoinette Frank*, Sep. 25, 2023; *State v. Frank*, 957 So.2d 724 (La. 2007).
104. John Simerman, *In Antoinette Frank death row case, judge rebuffs AG Liz Murrill's takeover attempt*, NOLA, May 15, 2025.
105. Babcock, n. 103.
106. See, e.g., *State v. Gamble*, 63 So.3d 707, 715-16 (Ala. Ct. Crim. App. 2010) (vacating LaSamuel Gamble's death sentence because trial counsel had knowledge of his father Leo Gamble's "military service in Vietnam, his subsequent violence, erratic behavior, and drug and alcohol dependencies," but did not further investigate or present this evidence at trial); *People v. Edwards*, 57 Cal.4th 658, 686-89 (2013) (Robert Edwards' father William, a two-tour Army pilot in Vietnam who also previously served in the Marines, terrorized Robert, including whipping him, making him rub stool on himself if he had an accident, and stabbing his hands with forks at the dinner table); *State v. Moore*, 222 Ariz. 1 (2009) (Julius Moore's father "suffered from depression and flashbacks related to his service in the Vietnam War," "had stopped communicating with his family" before Julius' offense, and testified at trial that "his children grew up watching him kill himself by drinking"). For the full list of people identified by DPI, see Appendix 1: *Death-Sentenced Individuals Affected by Parents' Military Service*. Note that this list is extensive but not comprehensive.
107. See, e.g., Fianna Sogomonyan and Janice L. Cooper, *Trauma Faced by Children of Military Families: What Every Policymaker Should Know*, National Center for Children in Poverty (2010); Chadley R. Huebner, *Health and Mental Health Needs of Children in US Military Families*, American Academy of Pediatrics (2019); Jennifer L. Price, *Fact Sheet: Children of Veterans and Adults with PTSD*, American Academy of Experts in Traumatic Stress (accessed Jun. 20, 2025); Walter Forrest, Ben Edwards, and Galina Daraganova, *The intergenerational consequences of war: anxiety, depression, suicidality, and mental health among the children of war veterans*, 47 *International Journal of Epidemiology* 1060 (2018); Jennifer Trautmann and Jeanne Alhusen, *Impact of deployment on military families with young children: A systematic review*, 63 *Nursing Outlook* 656 (2015); Tara Galovski and Judith A. Lyons, *Psychological sequelae of combat violence: A review of the impact of PTSD on the veteran's family and possible interventions*, 9 *Aggression and Violent Behavior* 477 (2004); Robert Rosenheck and Alan Fontana, *Transgenerational effects of abusive violence on the children of Vietnam combat veterans*, 11 *Journal of Traumatic Stress* 731 (1998); Jean C. Beckham, Loretta C. Braxton, Harold S. Kudler, Michelle E. Feldman, Barbara L. Lytle, and Scott Palmer, *Minnesota multiphasic personality inventory profiles of Vietnam combat veterans with posttraumatic stress disorder and their children*, 53 *Journal of Clinical Psychology* 847 (1997); Jonathan Davidson, Rebecca Smith, and Harold Kudler, *Familial psychiatric illness in chronic posttraumatic stress disorder*, 30 *Comprehensive Psychiatry* 339 (1989).
108. *Petition for Certiorari, Wainwright v. Florida*, 605 U.S. ___, No. 24-7365, 8-16, 23-33 (2025); Jim Saunders, *Wainwright asks US Supreme Court to halt execution, cites pre-birth Agent Orange exposure*, WUSF, Jun. 6, 2025.
109. See, e.g., George J. Knafel, *An analysis of birth defects and developmental disabilities for children of participants of the Air Force Health Study*, 117 *Reproductive Toxicology* ___ (2023); Millissia Ben Maamar, Eric Nilsson, Jennifer L.M. Thorson, Daniel Beck, and Michael K. Skinner, *Transgenerational disease specific epigenetic sperm biomarkers after ancestral exposure to dioxin*, 192 *Environmental Research* ___ (2021); Matti Viluksela and Raimo Pohjanvirta, *Multigenerational and Transgenerational Effects of Dioxins*, 20 *Int. J. Mol. Sci.* 2947 (2019).
110. See *Wainwright Petition* at 11-16. In 2016, ProPublica and the *Virginian-Pilot* reported that federal officials had sidelined early research suggesting a link between Agent Orange and veterans' children's health conditions, and the VA had ignored numerous research recommendations by federal scientific advisory panels. Multiple sources suggested that the federal government was concerned about the potential cost of medical bills and lawsuits should the link be proven. The reporters analyzed the VA's own data and found that the "odds of having a child born with birth defects during or after the war were more than a third higher for veterans who say they handled, sprayed or were directly sprayed with Agent Orange than for veterans who say they weren't exposed or weren't sure." See Charles Ornstein, Hannah Fresques, and Mike Hixenbaugh, *The Children of Agent Orange*, ProPublica and *The Virginian-Pilot*, Dec. 16, 2016.
111. *Wainwright Petition* at 9-11. See also, e.g., *Veterans' Diseases Associated with Agent Orange*, U.S. Department of Veterans Affairs, last updated Jun. 24, 2025; Suzanne M. de la Monte, Anuva Goel, Ming Tong, and Busra Delikkaya, *Agent Orange Causes Metabolic Dysfunction and Molecular Pathology Reminiscent of Alzheimer's Disease*, 7 *J. Alzheimers Dis. Rep.* 751 (2023).

112. Wainwright Petition at 8.

113. *Id.* at 26. Mr. Wainwright forfeited federal habeas review because his attorney missed a filing deadline, and later lost opportunities to file certain state post-conviction claims because his appointed attorney did not meet with him for a decade and refused to authorize petitions filed by pro bono counsel. In theory, the Agent Orange claim could have been further explored and considered by courts if Mr. Wainwright had been given competent and zealous counsel for his appeals. See Leah Roemer, Anthony Wainwright, Executed June 10 in Florida, Lost Federal Appeals Due to Lawyers' Mistakes and Indifference and Was Denied Counsel of His Choice, Death Penalty Information Center, Jun. 11, 2025.

Chapter Three

None Left Behind: Veterans and the Death Penalty in Law

The military is inextricably woven into the political, cultural, and legal fabric of our country. Thirty-one presidents have served in the military, including three who held the highest rank in the Army.¹ The veterans who have assumed leadership positions include forty Supreme Court justices,² thousands of members of Congress,³ and dozens of Fortune 500 CEOs.⁴ Among them, there would be little dispute that the stress, tragedy, and loss that commonly occur during war leave both visible and invisible scars. As President Abraham Lincoln, himself a former captain in the Illinois Militia, said as the Civil War drew to a close: “Let us strive on to finish the work we are in, to bind up the nation’s wounds, to care for him who shall have borne the battle.”⁵ These words became the mission of the Department of Veterans Affairs (“VA”).

Unfortunately, as veterans struggle to heal from these scars, some end up as criminal defendants, in courtrooms where their sacrifices go unacknowledged and underappreciated. Many executed veterans and those who remain on death row never received proper consideration of their service to their country. Capital defense attorneys have an obligation to fully investigate their clients’ military background so they can strategically present this evidence in mitigation, and recent legal reforms show that lawmakers increasingly recognize how military service is an essential part of a criminal defendant’s story that bears on culpability.

Standards for Investigating Military Service

Under the American Bar Association’s Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, capital defense attorneys “have an obligation to conduct thorough and independent investigations relating to the issues of both guilt and penalty.”⁶ Specifically, capital counsel “needs to explore...[m]ilitary service, []including length and type of service, conduct, special training, combat exposure, health and mental health services.”⁷

The U.S. Supreme Court affirmed this principle in *Porter v. McCollum* (2009). George Porter’s inexperienced attorney conducted a shallow investigation and presented virtually no mitigating evidence, “which left the jury knowing hardly anything about him other than the facts of his crimes” — the shooting of his ex-girlfriend and her boyfriend.⁸ His attorney failed to uncover evidence about Mr. Porter’s “heroic military service in two of the most critical — and horrific — battles of the Korean War” and “his struggles to regain normality upon his return.”⁹ In Korea, Mr. Porter was shot in the leg but continued fighting alongside his unit in fierce hand-to-hand combat for days. He was wounded again just a few months later when his unit was surrounded; he had to break through enemy lines in a battle that killed all three of his platoon sergeants. Back at home, he “suffered dreadful nightmares,” “would attempt to climb his bedroom walls with knives at night,” and “began drinking so heavily that he would get into fights and not remember them at all.”¹⁰ Because of his attorney’s ineffectiveness, Mr. Porter’s jury heard none of these stories.

In a *per curiam* decision, the Supreme Court found that Mr. Porter’s death sentence was unconstitutional — and placed his military service front and center in their analysis. The Court began by recognizing that Mr. Porter “was both wounded and decorated for his active participation in two major engagements during the Korean War,” and “his combat service unfortunately left him a traumatized, changed man.” However, his “commanding officer’s moving description of those two battles was only a fraction of the mitigating evidence that his counsel failed to discover or present during the penalty phase of his trial.”¹¹ Had Mr. Porter’s counsel learned of and submitted that evidence, the Court held, it “might well have influenced the jury’s appraisal of Porter’s moral culpability.”¹²



In 2016, the U.S. Supreme Court denied review to Army veteran Clark Elmore, provoking a powerful dissent from Justices Sonia Sotomayor and Ruth Bader Ginsburg that the case “plainly meets” the standard for reversal relied on in *Porter*.

“His court-appointed lawyer, who had never tried a capital case before, knew that Elmore had been exposed to toxins as a young adult and that he had a history of impulsive behavior. A more experienced attorney encouraged Elmore’s lawyer to investigate whether Elmore had suffered brain damage as a young man. Instead of doing so — indeed, instead of conducting any meaningful investigation into Elmore’s life — Elmore’s lawyer chose to present a 1-hour penalty-phase argument to the jury about the remorse that Elmore felt for his crime. As a result, the jury did not hear that Elmore had spent his childhood playing in pesticide-contaminated fields and had spent his service in the Vietnam War repairing Agent Orange pumps. The jury did not hear the testimony of experts who concluded that Elmore was cognitively impaired and unable to control his impulses. The jury heard only from an assortment of local judges that Elmore had looked ‘dejected’ as he pleaded guilty to murder, not from the many independent witnesses who had observed Elmore’s searing remorse. The Constitution demands more.”¹³



Clark Elmore

DPI identified numerous death-sentenced veterans, like Mr. Elmore, whose attorneys did not investigate or present evidence of their clients’ military service to the juries who decided whether they should live or die.¹⁴

Because of his attorney’s inaction, Herbert Richardson’s jury never heard that he was “the only one to survive an attack that killed the rest of his platoon” in Vietnam. After returning home, Mr. Richardson experienced severe head pain, suicidal thoughts, and flashbacks, often yelling “Incoming!” at random.¹⁵ When he became infatuated with one of the nurses who treated him at a veterans hospital, he developed a delusional plan to set off a bomb, save the nurse “like he had saved people in Vietnam,” and win her affections. He was sentenced to death when the bomb instead killed a young girl.¹⁶ Mr. Richardson’s attorney did not even appeal his case and was later disbarred, while Mr. Richardson was put to death in the electric chair.



Standards for Presenting Military Service

Porter emphasized the importance of military service as a mitigating factor. The Supreme Court held that, had evidence of Mr. Porter’s military service been presented to the jury, the jury may have better understood his tragic crime and favored a more lenient sentence. The Court also recognized that a checkered military record could itself be evidence of the trauma of war that was worth submitting to the jury:

“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. The evidence that he was AWOL is consistent with this theory of mitigation and does not impeach or diminish the evidence of his service. To conclude otherwise reflects a failure to engage with what Porter actually went through in Korea.”

– *Porter v. McCollum* (2009)¹⁷

However, the Court has stopped short of requiring that defense attorneys present any particular type of mitigating evidence, instead emphasizing that attorneys must fully investigate their client’s background in order to make informed decisions about trial strategy.¹⁸ As the Court earlier noted in cases such as *Bell v. Cone* (2002), capital defense attorneys have wide latitude in *whether* and *how* they tell the story of their client’s military service. The Court recognized Gary Cone’s “posttraumatic stress from Vietnam...[and] Bronze Star decoration,”¹⁹ but held that his lawyer’s decision not to deliver a closing argument to the jury at the penalty phase — an opportunity to highlight his client’s military service and other mitigating evidence — was a valid “tactical decision” that did not prejudice Mr. Cone.²⁰

Some justices have disagreed, finding evidence of military service too important to exclude. Justice John Paul Stevens dissented in *Cone*, arguing that the defense attorney’s strategic choice meant that the jury was not reminded of Mr. Cone’s military service before deliberation or able to appreciate its nuanced impact on his life. The attorney failed to explain the

“mitigating effect of drug addiction incurred as a result of honorable service in the military,” Justice Stevens wrote, which “made it far less likely that the jury would treat either the trauma resulting from Cone’s tour of duty in Vietnam or other traumatic events in his life as mitigating.”²¹

Similarly, when the Court ruled in 2005 that evidence of Gregory Thompson’s military service and other mitigating factors must be excluded on appeal for procedural reasons, four dissenting judges argued that the evidence was “critically important.”²² Mr. Thompson’s “mood swings and bizarre behavior” in adolescence grew much worse “after a serious beating to his head that he suffered while in the Navy” at the hands of three fellow sailors.²³

“Trial counsel had had important indications that something was wrong. Indeed, counsel himself had sought an evaluation of Thompson’s mental condition. He also was aware of Thompson’s violent behavior in the military, and knew that Thompson had said he had had auditory hallucinations all his life. He was aware, too, of the changes in Thompson’s behavior. Should counsel not then have investigated further?”

– Justice Stephen Breyer, writing for four dissenting justices, *Bell v. Thompson* (2005)²⁴

Both *Cone* and *Thompson* serve as examples of cases in which the military service of capital defendants was not meaningfully considered by the juries that sentenced them to death. *Cone* in particular has been cited to support the “strategic” decisions of attorneys that result in the exclusion, misunderstanding, or misrepresentation of their client’s military service.²⁵

Even when evidence of military service *is* presented, it is not always recognized as a powerful mitigating factor — in part because information is often incomplete. Many appellate opinions make only a passing reference to the defendant’s military service because it was introduced at trial without critical details or context.²⁷

“There is something very unique about a normal young man or woman who volunteers to serve his or her country, who is trained to kill other people, who is sent to war by the government and exposed to combat, and then returns a changed person that ends up committing a capital crime. Some courts and states recognize the psychological wounds of war and try to give credit for the service of combat veterans in their sentencing calculus. Many courts, however, would rather ignore this elephant in the room than confront the reality that the combined effect of government-sponsored military training and combat exposure transforms men and women into something quite different from their former selves.”

– Maj. Anthony Giardino, attorney, Marine Corps²⁶

A defendant's military service has been judged to have "minimal"²⁸ or "no weight"²⁹ in sentencing. Judges and juries may not understand PTSD or may harbor their own biases about members of the military. In Richard Cooley's case, an appellate court cited his Army service as a reason to downplay the mitigating factor of his youth, reasoning that a soldier must be more mature and responsible for the crime he committed at 19 than other people of the same age; Mr. Cooley was later executed.³⁰ A trial court proceeded with sentencing Michael Fitzpatrick even though his requested military records had not yet arrived in the mail.³¹

A prosecutor argued to John Wesley Jones' jury that Mr. Jones' honorable discharge from the Army did not mitigate his case, because "Lee Harvey Oswald had also been honorably discharged from the military"; the North Carolina Supreme Court held that this comment was "not improper."³² In a 2004 ruling in Daniel Peterka's case, the Florida Supreme Court stated that "[m]ilitary service is not strong mitigation."³³ While some of these opinions were issued decades ago, many prisoners in these cases remain on death row, their military service reduced to an afterthought.

"For what it's worth, individually and not judicially, it's the Court's opinion that the post-traumatic stress syndrome is a copout that has been used by people...That's not a proper psychological problem that people have, that they have merely established this to cover up crimes that has [sic] been committed by the Vietnam Veterans."

– Judge James B. Blevins, Oklahoma trial of Robert Don Duckett, 1989³⁴



Served Their Country, Blocked from Serving on the Jury Because of Their Race

Instead of the hero's welcome they deserved, Black veterans faced discrimination and violence when they returned home from the Civil War, World War I, and World War II.³⁵ Black veterans from the South returned to the dangerous world of Jim Crow, where they were treated as second-class citizens despite their service. Though today the law demands equal treatment for Black veterans, it remains easier for some to serve their country than to serve on a jury. DPI identified over a dozen capital cases where prosecutors exercised peremptory strikes against Black veterans³⁶ — in line with a pervasive pattern of racial discrimination that has persisted throughout American history.³⁷

In some cases, prosecutors sought to twist Black jurors' honorable military service into a negative characteristic. The Georgia Supreme Court found that the state had violated the Constitution by striking all ten Black potential jurors in Willie Gamble's trial. To explain a strike of a young Black man who served six years in the Army, the prosecutor acknowledged he hadn't asked the details of the man's service, but told the judge, "Army [terms] are usually four and from my experience people don't come out of the service in six unless for some reason they're put out of the service." Plus, the prosecutor added, "he looks a little like the defendant."³⁸

Similarly, the prosecutor in Angelo Melendez's trial struck two Black veterans, excluding one because he had "killed before" as a Marine serving in Vietnam. The prosecutor explained that in his most recent capital trial, a veteran was "the one juror who held the jury out the longest... because he had taken a life before, the decision to take a life again personally caused him great distress." Therefore, the prosecutor reasoned, the veteran in this case should be struck because "he would have grave reservations on whether he could impose the death penalty" — even though the man had assured the court that his military service would "not make him hesitate to serve as a juror." The trial court and Supreme Court of California expressed concern because he "appeared to be a fine juror for the prosecution," but ultimately ruled the strike was about the man's military status and therefore race-neutral.³⁹

By contrast, prosecutors have often pointed to white jurors' military connections to bolster their credibility and leaned heavily on military rhetoric to exhort jurors to impose a death sentence. For example, in Raymond Brown's Alabama trial, prosecutors distinguished their strikes of young Black men by arguing that a young white juror's husband and father were veterans, which helped "outweigh" her age.⁴⁰ Prosecutors around the country have invoked their own or a family member's military service in closing arguments to urge the jurors to do their "duty" and vote for death,⁴¹ or argued that a defendant's young age is not a mitigating factor because people of the same age fought overseas.⁴²

"[A]s much as my father loathed what he had to do in World War II, as much as I hated what I had to [do] in Vietnam, duty, honor, and promises were more important than running away or hiding from my duty," the prosecutor told jurors in Brittany Holberg's Texas trial to encourage them to sentence her to death.⁴³ In short, prosecutors in capital trials have portrayed military service as a noble sacrifice akin to the jury's own role — all while shutting some Black veterans out of the jury box.

"I've seen slaughters in Vietnam. I never killed anybody. I never came close to being killed, but the danger was always there. [...] [T]raining is brutal in the Armed Forces. The things they show you, the things you go through, the public doesn't see. And I come back, and I don't like that anymore. And I see people that are being sentenced to death, and I sort of sympathize with them...overall the thought of people being put to death sometimes doesn't go well with me."⁴⁴

— Peter B., career service member struck from the capital jury of Catherine Thompson, California, 1993





"The sentencer must be able to feel the ground shake, smell the burning vehicles, and hear the screams."

-Art Cody, Director of the Center for Veteran Criminal Advocacy.

Reasonable and Competent Representation of Veterans in Death Penalty Cases

Defense experts make clear that acknowledging military service in the abstract is not enough: attorneys must identify and help the jury understand the details of their client's experience.⁴⁵ "It is not enough to say my client served," says Art Cody, Director of the Center for Veteran Criminal Advocacy. "The sentencer must be able to feel the ground shake, smell the burning vehicles, and hear the screams."⁴⁶ One person's deployment to Afghanistan in 2008 might be very different from another person's deployment in 2011. A defendant's military occupational specialty (MOS) can provide crucial insight: a field medic, a gunner, and a vehicle operator will have varied experiences and face distinct risks. Even if the client only completed a few days of boot camp, their military records may provide valuable mitigating evidence. For instance, Daniel Crispell was discharged shortly after enlistment at age 18 as "psychologically unfit," and days later he and a teenage friend killed a woman in the course of stealing her car. He received a new sentencing hearing in 2018 based on his attorney's failure to investigate and introduce extensive mitigating evidence, including his military records.⁴⁷

Military mitigation experts can offer critical assistance by helping defense attorneys, juries, and courts understand the complexities of their client's service. Such experts interpret dense service records and military jargon, explain the significance of specific medals or disciplinary infractions, and ask military witnesses the right questions. When military mitigation specialists are included as a member of the defense team, they can make the difference between a life or death sentence by ensuring that a full picture of the client's military service is considered early in the trial process.⁴⁸

Of course, no one understands the significance of military service better than veterans themselves. Helpful witnesses may include soldiers who served alongside the defendant, sergeants and commanders who supervised him, and experts with experience working with military clients. The same principle is also true of jurors. In 2011, Iraq veteran Joshua Stepp was sentenced to life by a North Carolina capital jury that included seven veterans. Mr. Stepp's attorney made his service-related PTSD a central component of his defense, calling numerous soldiers from his unit who testified about their own struggles with PTSD and Mr. Stepp's specific experiences. For example, Mr. Stepp once had to collect the limbs of comrades killed by a roadside bomb and carry them away in a pizza box. Multiple defense experts testified to his severe trauma, including a state psychiatrist who had diagnosed him with PTSD. Mr. Stepp's defense team also prioritized veterans during jury selection, and post-verdict interviews made clear that the jurors "were not impressed with the prosecution's attack on the defense's PTSD case," finding the strategy offensive.⁵⁰

Experts and thorough investigation can also reverse death sentences on appeal. In addition to Mr. Porter, other veterans have received relief because their military service was not sufficiently presented or considered at their capital trial.⁵¹ In overturning Carrus Buggs' death sentence as disproportionate to his crime, the Illinois Supreme Court highlighted his 21 years of service in the Marine Corps, Air Force, and Army; his honorable discharge; and his leadership positions as a corporal, staff sergeant, military policeman, and drill instructor.⁵²

Frederick Hopkins

In 2018, police approached a home in an upscale South Carolina subdivision to question a young man regarding a child abuse allegation. Suddenly gunshots rang out — the man's father, 74-year-old Fred Hopkins, had set up a "sniper's nest" in his den and opened fire. He killed two officers and wounded five others. State prosecutors sought the death penalty.

Mitigation investigation revealed that Mr. Hopkins had served 11 years in the Army's 101st Airborne Division, the famed "Screaming Eagles," where he earned several medals for marksmanship. Following the Vietnam War he repeatedly sought treatment for PTSD, and a doctor observed shortly before the killings that he appeared to be developing dementia. Mr. Hopkins later said that during the shootout he was responding to memories of a firefight in 1970 where 27 men in his unit perished. "While [PTSD and dementia] can in no way ameliorate the tragedy of his actions I firmly believe they provide a genesis for the explosion which resulted in the death of these two officers," said David Ferrier, an investigator with experience working with veterans, who reviewed Mr. Hopkins' military records.

Defense counsel successfully negotiated a plea deal where prosecutors agreed to drop their request for the death penalty, with the support of the survivors and victims' families, based on Mr. Hopkins' advanced age and mental condition. In 2023, he was sentenced to life without parole.⁴⁹

Jimmy Meders

Even if a capital client never saw combat or active duty, their military service is an essential part of their life story for the jury to understand when contemplating the appropriate sentence. Jimmy Meders had been serving for seven years in the National Guard when, in the midst of a struggle with addiction, he participated in a convenience store robbery that resulted in the death of a clerk.⁵³ His defense attorney presented evidence at trial that Mr. Meders was a “‘good soldier’ who earned recognition for ‘noteworthy and commendable’ dedication” to his country.⁵⁴ Mr. Meders drove and repaired Army vehicles, winning a badge for his “high degree of skill” in that role.⁵⁵



This mitigation helped persuade the jury to sentence him to life without parole (LWOP) — but they were constrained by Georgia law at the time, which only permitted life with parole sentences. The jury wrote a note to the judge asking if they could impose an LWOP sentence on Mr. Meders, but the judge denied their request, and the jury reluctantly voted for death. Georgia authorized life without parole just four years after the trial. Mr. Meders’ appellate team built a clemency case that strongly featured his military service and won the support of six jurors from his trial.⁵⁶ On March 10, 2020, Mr. Meders’ death sentence was commuted just six hours before he was scheduled to die.



Veterans in the Legal System: Recent Developments

According to the National Conference of State Legislatures, the number of incarcerated veterans in the United States is “likely much higher” than the estimated 70,000, “because many courts, law enforcement agencies, and correctional institutions lack a reliable and uniform process to identify and track veterans.”⁵⁷ Defendants might not disclose their own military service due to mental illness, personal reasons, or conflicting definitions of the word “veteran.”⁵⁸ Some advocates have proposed bills that would require law enforcement to verify a defendant’s military service using the VA’s Veterans Re-Entry Search Service (VRSS) database or other tools.⁵⁹ “[A]ttempts to identify individuals who have prior military service or veteran status should be done early and often,” writes David Pelletier, Project Director of Justice for Vets.⁶⁰

Other advocates have proposed formalizing the military mitigation process to ensure that the service of defendants is always given proper consideration in criminal cases. The Veterans Defense Project trains judges, lawyers, and court staff nationally on working with veterans, and seeks to pass model legislation establishing standards for veterans’ treatment in the legal system.⁶¹ The Center for Veteran Criminal Advocacy (CVCA) assists veterans and their counsel in capital cases (pretrial to clemency) across the country. “CVCA aids counsel in investigating, developing, and presenting the veteran’s military history — transforming the uncommon military experience into a human narrative that engenders comprehension and evokes compassion,” says CVCA Director and retired Navy Captain Art Cody.⁶² With the mission of “defending those who defended us,” New York’s Veterans Defense Program trains defense attorneys and offers expert support in criminal cases involving veterans and service members. The Program “strives to ensure that every veteran’s story is properly presented to the court with the goal of securing veterans the treatment they need and deserve and just, trauma-informed dispositions.”⁶³

Several states have passed laws in recent years to provide a more just legal process for veterans sentenced to death. Most death-sentenced people in the modern era were tried at a time when military service was only considered a non-statutory mitigating factor. Now, at least eleven states recognize veteran status as a statutory mitigating factor in sentencing, though some require a service-related diagnosis or an honorable discharge.⁶⁴ California goes further: a 2022 law provides that military veterans convicted of felonies may “request resentencing if the circumstance of suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of the person’s military service was not considered as a factor in mitigation at the time of sentencing.”⁶⁵

Since the first Veterans Treatment Court (VTC) was established in 2008, over 600 VTCs have opened across the country, supported by both state and federal funding. According to a recent academic survey of the VTC landscape, 48 states now have veteran-specific courts or dockets, including all death penalty states.⁶⁶ “VTCs offer a treatment-focused alternative to traditional criminal sanctions that acknowledges the sacrifice of military service, the propensity for trauma-inducing experiences as a result, and the unique contexts of having military experience that provide a community of support,” the survey authors wrote.

Several states, including Texas and Florida, allow for VTC treatment of veterans or service members charged with felonies, including violent offenses.⁶⁷ Many states require the defendant to show a nexus between their military service and a physical or mental condition that contributed to the charged offense. While it does not appear that any capital case has yet been handled through a VTC, these courts show growing recognition of veteran vulnerabilities and the value of a more holistic approach to representing veterans and service members.

“Before my conviction, I had done everything right. I served my country faithfully in the Army and was honorably discharged. I was employed. I had never been in trouble with the law before. If this could happen to me, it could happen to you or someone you love.”⁷⁶

– Joe D’Ambrosio, who served 23 years on death row before being exonerated in 2012 due to prosecutorial misconduct and junk science.

“I Had Done Everything Right”: Innocent Veterans Sentenced to Death

When a service member is convicted while enlisted, they are typically discharged from the military.⁶⁸ If the discharge is deemed Dishonorable or Bad Conduct, they risk losing their VA health care or pension benefits.⁶⁹ Similarly, veterans who are imprisoned will not receive any of their VA pension benefits until they are released.⁷⁰ Veterans who are charged in death-eligible cases also cannot access certain services, such as Veteran Treatment Courts and Veteran Justice Outreach Specialists, that are designed to help people whose service-related trauma may have contributed to their criminal offense.⁷¹ These programs are often only available to veterans charged with less serious crimes who plead guilty. As such, innocent veteran and military capital defendants are left with no avenues of assistance from the military.

DPI identified 14 veterans who were exonerated from death row. Kirk Bloodsworth and Ray Krone, two veterans who became prominent exonerees and activists, fought for years to prove their innocence with no help from the military service in which they once served. Mr. Bloodsworth, a three-time all-Marine champion discus thrower and former military police officer, served nine years in prison before becoming the first person on death row to be exonerated by DNA testing.⁷² Mr. Krone had served honorably for six years in the Air Force and was working at the U.S. Postal Service when he was charged with capital murder based on now-discredited “bite mark” science.⁷³ DNA testing later matched blood and saliva at the scene to a different man. Rigoberto Avila and Robert Roberson are two veterans on death row in Texas who are currently fighting to prove their innocence; both were convicted based on dubious forensic techniques that experts now criticize.⁷⁴ Mr. Roberson was scheduled for execution on October 16, 2025, but received a stay of execution on October 9.⁷⁵

The "Simply Disgraceful" Trial of Vietnam Veteran William Reaves

**"You can tell a true war story by the way it never seems to end.
Not then, not ever."**

- Judge Donald Middlebrooks, Southern District of Florida, vacating William Reaves' death sentence in 2015 (quoting Tim O'Brien, *The Things They Carried* [1990])⁷⁷

In 1969, twenty-year-old William Reaves arrived in Vietnam as a member of "Charlie Platoon" in the Army's Fourth Infantry Division. "Quiet, nice, and got along with everyone," was how fellow soldier Hector Caban described him when they first met. Mr. Reaves and his squad were assigned "search and destroy" missions, tasked with finding enemy combatants and snipers hiding in the jungle; often they would only learn a sniper was present when the "person in front of them got shot." Once, his squad was "ambushed from three directions" in an open field, killing half the American soldiers. During another patrol, "a soldier Mr. Reaves was close to was shot in the back with the bullet ripping through the stomach." As his friend Mr. Caban later testified, "We knew the guy was going to die because no matter how we wrapped him all his insides were coming out." Disobeying a direct order, "Mr. Reaves jumped onto the helicopter and held the wounded soldier" as he died.⁷⁸

These experiences deeply traumatized Mr. Reaves, and by the end of his tour, he was using heroin. After he returned home, his friends and family noticed that the "happy and likeable,"⁷⁹ "very respectable"⁸⁰ young man — the "model student" his childhood pastor thought might someday become a minister⁸¹ — was gone. Mr. Reaves "was anxious, tense, and hated people creeping up on him,"⁸² and his drug addiction worsened. He was "unable to participate in family dinners...and could not be approached without giving him warning."⁸³ In 1986, Mr. Reaves shot and killed a police officer while high on cocaine. He was convicted and sentenced to death in Florida by a jury vote of 10-2,⁸⁴ which would have resulted in a life sentence in nearly every other state today.⁸⁵

In 2015, Judge Donald Middlebrooks vacated Mr. Reaves' death sentence, finding that Mr. Reaves' trial attorney had been constitutionally ineffective because he failed to have his client's mental health properly evaluated and therefore did not discover or present his PTSD diagnosis.

The attorney, who had never before tried a capital case, admitted he was "overwhelmed" and requested co-counsel, which the prosecution opposed and the judge refused to appoint.⁸⁶ Among the attorney's failures was not sharing critical records with the expert he had retained. Without the records, which would have satisfied the criteria for PTSD, the expert testified that Mr. Reaves had "Vietnam Syndrome," an unofficial disorder that did not meaningfully explain the damage Mr. Reaves had suffered.⁸⁷ Under Florida law, the prosecution also successfully barred evidence of PTSD or "Vietnam Syndrome" from the jury as it deliberated his guilt.⁸⁸

Prosecutor: “What we are trying to avoid is some post-traumatic stress syndrome, having the doctor get on the stand and say, that, well, you know, he served in Vietnam, and — ”

Trial Judge: “They can’t — I’m not going to allow them to do that.”⁸⁹

When the defense introduced the “Vietnam Syndrome” diagnosis at the sentencing phase, the state told the jury that the defense expert had “invent[ed]” the condition. Later, after Mr. Reaves was already on death row, his post-conviction counsel obtained a determination from the VA that he was “100% disabled due to PTSD related to his military service.” His jury never heard this information.

Judge Middlebrooks also found that Mr. Reaves’ attorney was ineffective for failing to object to “outrageous testimony” presented by the prosecution about Mr. Reaves’ military record. The state called a former FBI agent who had never served in Vietnam, and who testified that Mr. Reaves’ numerous service medals were “automatically” given to soldiers. He testified further that Mr. Reaves “would not have received an honorable discharge except for the winding down of the Vietnam [W]ar.” Judge Middlebrooks found this testimony “utterly intolerable” and “simply disgraceful.” “I am amazed that this happened in an American courtroom,” the judge wrote. “If support for our troops is anything more than an empty slogan on a license plate, this should not be allowed to stand.”⁹⁰

The prosecution also presented a Vietnam platoon leader who “testified that none of the men in his company suffered from PTSD and that he was unaware of anyone in his years of military experience suffering from PTSD.” Judge Middlebrooks noted that Mr. Reaves’ inexperienced attorney did not object despite these claims being “almost certainly untrue.”⁹¹ The state “belittled Mr. Reaves’ service to his country” with virtually no opposition.⁹² Indeed, while Mr. Reaves’ attorney attempted to persuade the jury that his client’s military service should be considered as a mitigating factor, he clumsily argued in closing that Vietnam took “[s]ome essence, some part of his soul...[w]hatever it is that makes people good people.”⁹³

“An American soldier facing death at the hands of his government deserves effective representation,” Judge Middlebrooks concluded. “Mr. Reaves did not receive it.”⁹⁴ But in 2017, the Eleventh Circuit reversed Judge Middlebrooks’ decision and reinstated Mr. Reaves’ death sentence.⁹⁵ Mr. Reaves remains on death row today in Florida.

Endnotes

1. VA News, Our Veteran U.S. Presidents, U.S. Department of Veterans Affairs, Feb. 14, 2019.
2. Office of the Curator, Justices with Military Service, Supreme Court of the United States, last updated Nov. 3, 2023.
3. While the exact number of veterans who have served in the U.S. Congress is not publicly available, as of January 3, 2025, at least 12,583 individuals have served in the House, the Senate, or both since 1789. See Office of the Historian and Office of Art & Archives, Total Members of the House & State Representation, United States House of Representatives, last updated Jan. 3, 2025. The Congressional Research Service reported in 2014 that veteran status peaked as high as 75.2% in the House and 80% in the Senate, remained over 50% in both chambers for four decades in the mid-twentieth century, and currently hovers around 20% of members. See Ida A. Brudnick, R. Sam Garrett, Jennifer E. Manning, R. Eric Petersen, Jacob R. Straus, and Amber Hope Wilhelm, Representatives and Senators: Trends in Member Characteristics Since 1945, Congressional Research Service, Jan. 27, 2014.
4. See, e.g., Blake Stilwell, 11 Veterans Who Became CEOs of Fortune 500 Companies, Military.com, Oct. 26, 2022; Daniella Genovese and Ann Schmidt, Military veterans who became Fortune 500 CEOs, Fox Business, Nov. 11, 2024.
5. National Park Service, Lincoln's Second Inaugural Address, last updated Apr. 18, 2020.
6. American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, 31 Hofstra L. Rev. 913, 1015 (2003).
7. *Id.* at 1023.
8. *Porter v. McCollum*, 558 U.S. 30, 33 (2009).
9. *Id.* at 41.
10. *Id.* at 35-36.
11. *Id.* at 30.
12. *Id.* at 41 (internal citations and brackets omitted).
13. *Elmore v. Holbrook*, 580 U.S. 938, 938-39 (2016) (Sotomayor, J., dissenting from denial of certiorari).
14. See, e.g., *Patton v. State*, 973 P.2d 270, 304 (Okla. Crim. App. 1998) (trial attorney failed to present evidence of Eric Patton's military service, but appellate court deemed his ineffective assistance of counsel claim on this issue a "fishing expedition"; Patton was later executed); *Commonwealth v. Peterkin*, 511 Pa. 299, 321 (1986) (holding that evidence of Otis Peterkin's military service would not have "in any way mitigated the heinous nature of the crime" and was "of dubious value," so attorney was not ineffective for failing to present it; Peterkin later won relief on ineffective assistance and other grounds, see *Peterkin v. Horn*, 176 F.Supp.2d 342, 379 (E.D. Pa. 2001)); *Peterka v. State*, 890 So.2d 219, 236-37 (Fla. 2004) (holding that counsel's failure to investigate or present evidence of Daniel Peterka's National Guard service was not ineffective assistance because of potential for negative cross-examination, and alternatively, that it was not prejudicial because "military service is not strong mitigation"); *Simmons v. Epps*, 381 Fed.Appx. 339 (5th Cir. 2010) (finding that counsel's failure to request Gary Simmons' military and other records was "troubling" but not "constitutionally deficient"; Simmons was later executed).
15. Equal Justice Initiative, Herbert Richardson, accessed Jul. 14, 2025. See also Herbert Lee Richardson Clemency Petition (1989).
16. *Id.*
17. *Id.* at 43.
18. See *Strickland v. Washington*, 466 U.S. 668, 689 (1984) (internal citations omitted). "A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.' There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way."
19. *Bell v. Cone*, 535 U.S. 685, 701 (2002).
20. *Id.* at 702.
21. *Id.* at 712 (Stevens, J., dissenting).
22. *Bell v. Thompson*, 545 U.S. 794, 814 (2005) (Breyer, J., dissenting).
23. *Id.* at 820.
24. *Id.* at 821.

25. See, e.g., *Fautenberry v. Mitchell*, 515 F.3d 614 (6th Cir. 2008) (concluding that counsel's failure to present mitigation evidence of organic brain injury was a valid strategic decision because Fautenberry refused to undergo examination; dissent argued that counsel had obligation to further investigate brain damage, including a head injury Fautenberry suffered in the Navy); *Bartee v. Quarterman*, 574 F.Supp.2d 624, 652 (W.D. Tex. 2008) (counsel failed to obtain military records, but court held that Bartee "failed to present the state habeas court with any evidence showing any information available to...trial counsel...would have alerted reasonably diligent counsel of the possibility favorable evidence or information might be obtained from a review of petitioner's military [records]); *Sochor v. State*, 883 So.2d 766 (Fla. 2004) (counsel failed to provide military and other records to the doctors who examined Sochor, which court held was deficient, but did not prejudice Sochor). See also *Black v. Collins*, 962 F.2d 394 (5th Cir. 1992) (pre-dating *Cone* but holding that counsels' failure to introduce evidence of Black's PTSD from Vietnam because they feared the jury would believe Black would be dangerous in the future was a "strategic, tactical decision").
26. Anthony E. Giardino, *Combat Veterans, Mental Health Issues, and the Death Penalty: Addressing the Impact of Post-Traumatic Stress Disorder and Traumatic Brain Injury*, 77 *Fordham L. Rev.* 2955 (2009).
27. See, e.g., *Peterkin*, 511 Pa. at 321; *People v. Bradford*, 14 Cal.4th 1005, 1023 (1997); *Koon v. Dugger*, 619 So. 2d 246, 249 (Fla. 1993); *Largin v. State*, 233 So. 3d 374, 374 (Ala. Crim. App. 2015); *People v. Pearson*, 56 Cal.4th 393, 409 (2013); *State v. Reeves*, 233 Ariz. 182, 188 (2013).
28. See, e.g., *Anderson v. State*, 841 So.2d 390, 396 (Fla. 2003) (describing how trial court assigned "minimal weight" to Charles Anderson's five years of service in Coast Guard). The trial prosecutor in Mr. Anderson's case also sought to undermine his military service by suggesting that Mr. Anderson joined the Coast Guard in order to avoid being drafted into Vietnam service, even though Mr. Anderson was too young to have been eligible for the draft. See *Anderson v. Crews*, State's Response to Petition for Writ of Habeas Corpus 22-26, No. SC14-881, filed Jul. 7, 2014.
29. See, e.g., *State v. Craig*, 110 Ohio St.3d 306, 331 (2006) (assigning no weight to Donald Craig's 8 years of Army service because he was dishonorably discharged based on court-martial offenses of AWOL, assault, and theft); *Fitzpatrick*, 118 So.3d at 745 (despite discharge under honorable conditions, trial court assigned no weight to military service "because of reason for his discharge").
30. *State v. Cooney*, 46 Ohio St.3d 20, 41 (1989).
31. *Fitzpatrick v. State*, 900 So.2d 495, 524 (Fla. 2005). Mr. Fitzpatrick argued on appeal that "without the military records, which were requested but never received, the trial court should not have proceeded to sentence" him. The Florida Supreme Court ruled that even though the trial court didn't have the records, it was "apprised of Fitzpatrick's military background and specifically weighed the mitigation resulting from Fitzpatrick's military service when deciding whether death was the appropriate sentence." He later won relief on ineffective assistance of counsel regarding omissions related to forensic evidence in the case. *State v. Fitzpatrick*, 118 So.3d 737 (Fla. 2013).
32. *State v. Jones*, 339 N.C. 114, 160 (1994).
33. *Peterka*, 890 So.2d at 237.
34. *Duckett v. State*, 919 P.2d 7, 17 (Okla. Ct. Crim. App. 1995). Mr. Duckett was sentenced to death and executed in 2003. He was not a military veteran but had argued that he suffered from PTSD from being raped in prison and that PTSD contributed to his crime, which prompted the judge's comment. Mr. Duckett's counsel expressed concern that the jury may have heard the comment.
35. Equal Justice Initiative, *Lynching in America: Targeting Black Veterans* (2017).
36. See, e.g., *Lane v. State*, 327 So.3d 691 (Ala. Ct. Crim. App. 2020) (upholding strike of Black veteran even though prosecutor did not strike white Navy veteran); *People v. Miles*, 9 Cal.5th 513 (2020) (upholding strike of Black veteran who expressed concern about racial and class bias in criminal justice system); *People v. Hensley*, 59 Cal.4th 788 (2014) (upholding strike of Black Army veteran who served 21 years as a systems analyst, belonged to a disabled veteran's association, and had served on two prior juries based on prosecutor's argument that the potential juror was "very mechanical, very stiff," but reversing on other grounds). For the full list of cases DPI identified, see Appendix 2. This list is not comprehensive.
37. The Supreme Court held in *Batson v. Kentucky* (1986) that race-based juror strikes are unconstitutional. Prosecutors must satisfy *Batson* with a "race-neutral" explanation for striking a juror of color, but many have exploited this framework. Some district attorney's offices have trained attorneys how to target Black jurors for strikes using false pretexts. As a result, jurors of color, particularly Black jurors, have been systematically excluded from capital juries in the modern era. See, e.g., Lauren Hill and Leah Roemer, "He Looks a Little Like the Defendant": A Closer Look at the History of Racial Bias in Jury Selection, Death Penalty Information Center, Mar. 28, 2025; Equal Justice Initiative, "Race and the Jury: Illegal Racial Discrimination in Jury Selection" (2021); ACLU, *Fatal Flaws: Revealing the Racial and Religious Gerrymandering of the Capital Jury* (2025); Elisabeth Semel, Dagen Downard, Emma Tolman, Anne Weis, Danielle Craig, and Chelsea Hanlock, *Whitewashing the Jury Box: How California Perpetuates the Discriminatory Exclusion of Black and Latinx Jurors*, Berkeley Law Death Penalty Clinic (2020).
38. *Gamble v. State*, 257 Ga. 325, 328 (1987).
39. *People v. Melendez*, 2 Cal.5th 1 (2016).
40. *Ex parte Brown*, 686 So. 2d 490 (Ala. 1996).

41. See, e.g., *Ruiz v. State*, 743 So.2d 1 (Fla. 1999) (reversing conviction and sentence for “egregious and inexcusable prosecutorial misconduct,” including that the prosecutor “urged the jurors to do their duty as citizens just as her own father had done his duty for his country in Operation Desert Storm,” as her father commanded a ship while battling cancer); *Acklin v. State*, 266 So.3d 89 (Ala. Ct. Crim. App. 2017) (prosecutor described his service history, said he felt “kinship” with one of the victims, and “described his emotions upon hearing the bugle play Taps at the victim’s funeral”); *State v. Lindsey*, 404 So.2d 466 (La. 1981) (prosecutor said he would have served in the Vietnam War if his number had gotten called, just as his father served in WWII, because “you must be strong” and “you have to pay a price for freedom,” and the jury needed to be strong to fight the “war of crime...in our own streets” by imposing death).
42. See, e.g., *Sneed v. State*, 1 So.3d 104 (Ala. Ct. Crim. App. 2007) (prosecutor argued that Mr. Sneed’s age at offense, 23, was not a mitigator because he could have been drafted to Vietnam if he’d been alive back then, and the “Middle East is full of young men from this country right now putting their life on the line that are far younger than Mr. Sneed was”); *People v. Box*, 23 Cal.4th 1153 (2000) (prosecutor argued that Mr. Box’s age at offense, 20, was not a mitigator because people his age were serving in Saudi Arabia); *State v. Bey*, 129 N.J. 557 (1992) (holding that prosecutor’s comment undermining Mr. Bey’s youth as a mitigator, that “of the fifty thousand people who are sitting in Saudi Arabia in our military, many of them are eighteen,” was “highly misleading” but properly cured by a trial court instruction).
43. *Holberg v. State*, 38 S.W.3d 137 (Tex. Ct. Crim. App. 2000). Ms. Holberg’s conviction and sentence were recently overturned due to prosecutorial misconduct. *Holberg v. Guerrero*, 130 F.4th 493 (5th Cir. 2025). However, the Fifth Circuit voted to vacate that decision and rehear the case en banc. See *Holberg v. Guerrero*, 145 F.4th 625 (5th Cir. 2025).
44. *People v. Thompson*, 1 Cal.5th 1043 (2016). Peter B.’s race was not clarified in the record. He was struck for cause because, though he said he could vote for death under certain circumstances, the prosecution successfully argued that his reservations about capital punishment — based on his combat experience — disqualified him. Under the law, jurors who oppose the death penalty can still serve in a capital case if they can set aside their beliefs and impose a death sentence. See also *Smith v. State*, 297 S.W.3d 260 (Tex. Ct. Crim. App. 2009) (upholding strike of a Vietnam veteran for cause because he said that he could follow the law but would struggle morally with taking a life).
45. See, e.g., Brockton D. Hunter and Ryan Christian Else, Legal Strategies for Defending the Combat Veteran in Criminal Court, 43 Mitchell Hamline L. Rev. 471, 497 (“the argument needs to describe the unique characteristics of the defendant by focusing in detail on exceptional service records, combat experiences, personal hardships caused by service, readjustment issues, service to the community”); Alison J. Lynch, Veterans on Death Row: Strategies for Mitigating Capital Sentences for Defendants with Military Service History, 32 Crim. Just. 4 (2018).
46. Personal correspondence on file with DPI.
47. Phil Ray, Court orders new hearing on inmate’s death sentence, Altoona Mirror, Sep. 26, 2018.
48. See, e.g., *Texas v. Metz* (2024) (defense team for Stewart Metz, Gulf War veteran with PTSD, negotiated plea to life for killing of police officer); *Missouri v. Calverly* (2025) (Steven Chase Calverly, Afghanistan vet with PTSD and a Purple Heart, waived jury trial in exchange for not seeking death and was sentenced to 40 years by judge); *Georgia v. Gibson* (2024) (defense team negotiated for state not to seek death for Jeremy Gibson, Iraq vet with PTSD). For more information, please contact Art Cody, Director of the Center for Veteran Criminal Advocacy, at acody@vetcrimadvocacy.org.
49. Jeffrey Collins, Man gets life sentence for killing 2 officers and wounding 5 in South Carolina ambush, Associated Press, Oct. 19, 2023; Jeffrey Collins, Estimated 129 guns found in home of police ambush suspect, Associated Press, Oct. 16, 2018.
50. Hannah Lommers-Johnson, Veterans and the Death Penalty: Defending the Lives of Veterans with Post-Traumatic Stress Disorder, Stanford Law School (2011).
51. See, e.g., *Ploof v. State*, 75 A.3d 840 (Del. 2013) (remanding for a “more explicit reweighing analysis” that incorporated Gary Ploof’s details of military service that were not presented at trial); *Groseclose v. Bell*, 130 F.3d 1161 (6th Cir. 1997) (vacating William Groseclose’s death sentence in part because, even though Groseclose testified to some details of his Navy service in Vietnam on a destroyer, his combat wounds, and his service medals, his attorney “failed to introduce Groseclose’s fairly impressive military record” as evidence); *State v. Savage*, 120 N.J. 594 (1990) (vacating Roy Savage’s death sentence due to attorney incompetence, including deeming evidence of his psychiatric hospitalization in the Navy “unimportant” and failing to investigate or present his Navy service as mitigation); *State v. Lawrence*, 44 Ohio St.3d 24, 33 (1989) (vacating Gary Lawrence’s death sentences because the aggravating factors did not outweigh the mitigating factors beyond a reasonable doubt, and noting his “voluntary military service” as one of his “redeeming traits” weighing against a death sentence).
52. *People v. Buggs*, 112 Ill. 2d 284, 294 (1986).
53. The state argued that Mr. Meders was the triggerman, while Mr. Meders maintained that one of his accomplices fired the shots that killed the clerk. The two accomplices were never charged and both testified against Mr. Meders at trial, though questions were raised about their role in the crime. See Jimmy Meders Clemency Petition 21-25 (2020).
54. *Id.* at 12 (2020).
55. *Id.* at 13.
56. According to Mr. Meders’ attorneys, “[e]very living juror who remembers the trial” supported LWOP for Mr. Meders. Two additional jurors were still alive but “suffer from significant health issues that impair their ability to recall the trial. See *id.* at 8.

57. Jim Reed and Lindsey Kirchhoff, *Justice-Involved Veterans: Honoring Service and Advancing Public Safety*, National Conference of State Legislatures (2024). See also Veterans Justice Commission, *Honoring Service, Advancing Safety: Supporting Veterans From Arrest Through Sentencing*, Council on Criminal Justice (2023).
58. For instance, only 2.7 percent of incarcerated people in California self-identified as veterans, while VA records showed that approximately 7.7 percent had a record of military service. See David Pelletier, *Dispatch from the Front Lines: Identifying the Veteran Population Within the Criminal Justice System 3*, Justice for Vets (2022).
59. *Id.* Only 11% of local jails used VRSS as of 2022, despite it being designed for criminal legal system use. The Council on Criminal Justice has suggested that Congress could incentivize state use of VRSS by conditioning federal funding for VTCs on its adoption. See Veterans Justice Commission, n. 57.
60. *Id.* at 4.
61. Veterans Defense Project, accessed Aug. 15, 2025.
62. Personal correspondence on file with DPI. See n. 48 for Capt. Cody's contact information.
63. Nancy J. Farrell, *Written Testimony 3*, Joint Legislative Public Hearings on the 2025/2026 Executive Budget Proposal, Feb. 12, 2025.
64. These states are Alaska (§ 12.55.155(d)), California (§ 1170.91(a)), Kansas (§ 21-6815(1)(F)), Minnesota (§ 609.1056), Nebraska (§ 29-4805), Nevada (§ 176.015), New Hampshire (§ 651:4-b (2015)), North Carolina (§ 15A-1340.16(e)(14)), Ohio (§ 2929.12(F)), Oklahoma (§ 22-973(a)), and Oregon (§ 137.090(2) (a)). Eight of these states (all but Alaska, Minnesota, and New Hampshire) retain the death penalty. Additionally, the Alabama Sentencing Commission recently recommended that veteran status be defined as a statutory mitigator. See Alabama Sentencing Commission, *Presumptive and Voluntary Sentencing Standards Manual* (2024). For examples of conditions imposed on the use of military service as a mitigator, see, e.g., the statutes for North Carolina (requiring honorable discharge), Oklahoma (requiring PTSD diagnosis), and Ohio (requiring service-related condition). See also National Conference of State Legislatures, *Justice-Involved Veterans: Honoring Service and Advancing Public Safety* (2024).
65. CA Penal Code § 1170.91(b)(1) (2024). See also California Legislative Information, SB-1209 Sentencing: members of military: trauma., Assembly Floor Analysis, Aug. 17, 2022. Legislative proponents of the bill argued: "Human decency and the interests of justice require that veterans who suffer mental illness as the result of their service should receive some consideration for their service-related impairments in the context of an appropriate punishment. Men and women who risked their lives for our country deserve, at the very least, the recognition that their sacrifices will be considered in assessing their appropriate level of punishment if they suffer from service-related trauma. Further, their history of military service demonstrates that they are good candidates for rehabilitation and are likely to return to society as productive, law-abiding members of society."
66. Sabrina S. Rapisarda, Kimberly R. Kras, Grace LeMoyné, Don Hummer, and Kelly Socia, *Veterans Treatment Courts: A Nationwide Review of Enacting and Eligibility State Statutes*, 19 *Vict. Offender* 32 (2024).
67. *Id.* at Table 5. See also Mark Dela Peña, *Veterans Treatment Courts: Broadening Eligibility for Veterans Convicted of Violent Offenses*, 73 *Cath. U. L. Rev.* 1 (2024).
68. Aaron Meyer, *Do You Get Kicked Out of the Military If You Go to Jail?*, Aaron Meyer Law, Oct. 15, 2024.
69. *Id.*
70. *Incarcerated Veterans*, U.S. Department of Veterans Affairs, accessed July 16, 2025.
71. See, e.g., *Veterans Justice Outreach Program*, U.S. Department of Veterans Affairs, accessed July 10, 2025; John W. Erickson Jr., *Veterans Treatment Courts: A Case Study of Their Efficacy for Veteran's Needs*, *International Journal of Law and Psychiatry*, Oct. 27, 2016.
72. Mary Wood, *Bloodsworth Recalls Trauma of Wrongful Conviction, Urges Support for DNA Testing*, *UVA Law*, October 6, 2004.
73. Ray Krone, *Letter in Support of Amending 2019 Factual Innocence Law*, Nevada Legislature, Accessed July 10, 2025; Ray Krone, *Innocence Project*, accessed July 10, 2025.
74. See Elizabeth Weill-Greenberg, *The Texas Appeals Court Upheld This Man's Death Sentence Despite New Scientific Evidence*, *The Appeal*, Apr. 1, 2020; John Grisham, *Will Texas Kill this Innocent Man?*, *D Magazine*, Sept. 5, 2024. Mr. Avila is a former Navy petty officer and Desert Storm veteran, while Mr. Roberson served in the Army.
75. Kayla Guo, *Texas court blocks execution of death row inmate Robert Roberson*, *The Texas Tribune*, Oct. 9, 2025.
76. Joe D'Ambrosio, *My Wrongful Conviction Shows Why Ohio Should Abolish the Death Penalty*, *Cleveland.com*, Jan. 19, 2022.
77. *Reaves v. Jones*, 2015 WL 13657202 (S.D. Fla. Sep. 28, 2017).
78. *Id.* at 5-6.
79. *Id.* at 5.
80. *Reaves v. Secretary*, 872 F.3d 1137, 1143 (11th Cir. 2017).
81. *Id.* at 1142-43.
82. *Reaves v. Jones* at 5.
83. *Reaves v. Secretary* at 1143.
84. Mr. Reaves was first sentenced to death in 1987; his conviction and sentence were reversed "because the state prosecutor had represented Mr. Reaves as a public defender in a previous case." See *Reaves v. Jones* at 2. His second trial in 1992, where he was sentenced to death by a 10-2 vote, and subsequent appeals are the subject of this piece.

85. Alabama (minimum 10 votes) and Florida (minimum 8 votes) are the only states that allow non-unanimous juries to impose death sentences.

86. *Reaves v. Jones* at 2.

87. “Vietnam Syndrome” has never been listed as a recognized diagnosis in the Diagnostic and Statistical Manual of Mental Disorders (DSM), published by the American Psychiatric Association. See *id.* at 6. Scholarship and advocacy regarding Vietnam veterans, which sometimes used the terms “Vietnam Syndrome” or “Post-Vietnam Syndrome,” contributed to the development of the PTSD diagnosis, which was first recognized in the DSM in 1980. See Godvin, Ch. 2, n. 10. By the time of Mr. Reaves’ 1992 trial, PTSD was recognized as the appropriate diagnostic framework to evaluate the psychological trauma veterans experienced from war, while “Vietnam Syndrome” carried no formal diagnostic weight.

88. In Florida, “[e]vidence of an abnormal mental condition not constituting legal insanity is inadmissible ‘for the purpose of proving either that the accused could not or did not entertain the specific intent or state of mind essential to proof of the offense, in order to determine whether the crime charged, or a lesser degree thereof, was in fact committed.’” See Florida Bar Standard Jury Instructions Committee – Criminal Cases, 3.6(a) Insanity and Comments, Florida Standard Jury Instructions in Criminal Cases 92-93 (2025). In other words, in most Florida cases, evidence of an “abnormal mental condition” like PTSD can only be introduced at the guilt phase if the defendant presents the affirmative defense of legal insanity.

89. *Reaves v. Jones* at 4.

90. *Id.* at 6, 27-29.

91. *Id.* at 7.

92. *Id.* at 5.

93. *Id.* at 9.

94. *Id.* at 43.

95. See *Reaves v. Secretary*, n. 79.

Conclusion

“It is certainly true that our nation has a tradition of according leniency to veterans, especially those who have fought on the front lines. It is also true that, particularly after Vietnam but continuing today, our recognition and appreciation of the wounds and enduring struggles caused by combat have been expressed more often in words than deeds.”

– U.S. District Judge Donald Middlebrooks (2015)¹

The history of humankind has been largely shaped by conflicts to seize power, subdue populations, defeat kings and dictators, and retaliate against enemies. But while the causes of war have not always have been honorable, soldiers are remembered differently. Most countries in the world declare a day of remembrance for their veterans; in the United States there are statues, parades, and national holidays. “Honor to the soldier and sailor everywhere, who bravely bears his country’s cause,” said President Abraham Lincoln.

Against this backdrop, this report asks the obvious question: why, then, are military veterans overrepresented among those sentenced to death and executed? The answers are deeply troubling: inadequate medical and mental health care for returning veterans with service-related injuries; an epidemic of self-medication with drugs and alcohol; overreliance on family members ill-equipped to care adequately for them; and the lasting effects of trauma — all of which lead some veterans to interact with the criminal legal system. Charged with violent crimes they frequently cannot explain or even remember, too many veterans are represented by defense lawyers who fail to present critical evidence about their military experience — and sentenced by juries who never learn how life-altering that experience was.

Some experts support a change in the law, arguing that military veterans should be categorically excluded from death penalty eligibility.² “To execute our brave men and women who have served in our armed forces is a betrayal,” says Air Force veteran Ron Wright, exonerated from Florida’s death row.³ “[T]his defendant deserves compassion from a society that in the first instance taught him to kill,” California Supreme Court Justice Stanley Mosk once wrote in the case of veteran Philip Lucero. “[H]e does not deserve death at the hands of the society he faithfully served.”⁴

The law may someday agree. But this report documents the many opportunities that the law currently provides when military veterans are prosecuted for the most serious crimes — and the tragic results when those opportunities are missed. By all accounts, the legal system must do better. Judges, prosecutors, and defense counsel must ensure that the experiences of veterans are meaningfully told, considered, and acknowledged. On Veterans Day 2025, this imperative could not be more urgent: seven veterans have already been executed this year, three more are scheduled to be executed, and two others, both suffering from combat-induced PTSD, have been sentenced to death.⁵

Methodology

Definition of Military Veteran

Federal law defines a military veteran as 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.” However, the definition of “veteran” varies based on context: criteria for veterans’ benefits differ from state to state, and many view members of the National Guard or Reserves as veterans even if they were not called to active duty. Foreign nationals can apply for U.S. citizenship after just one day of military service.

DPI consulted with experts in veteran capital defense, who were all themselves either veterans or current service members. They advised that a person’s military experience is relevant to a capital case even if they only donned their uniform for a single day.

For the purposes of this report, DPI defined a death-sentenced military veteran as anyone who served at least one day in the United States Armed Forces, including all discharge statuses and those who did not serve on active duty, before being sentenced to death by a state, the federal government, or the military. We did not include people who participated in ROTC or who only attended a military school or academy.

DPI was able to identify length of service for approximately 42% of death-sentenced veterans; of those, virtually all (93%) served at least six months. The service periods DPI found ranged from two weeks to 30 years, with an average of 4.7 years. Our data includes people sentenced to death and executed between June 29, 1972 and October 31, 2025. The vast majority (96%) were sentenced to death by a state, compared to 3% who were sentenced to death by the military and 1% by the federal government.

Research Strategy

In order to construct our database of veterans sentenced to death in the modern era, the Death Penalty Information Center relied on a wide range of sources, including court records, news articles, and attorney reports. We employed both “top-down” and “bottom-up” approaches to ensure the most comprehensive database possible.

We began by compiling a list of veterans from DPI’s internal and external records, with significant help from capital defense attorneys who identified or confirmed their clients’ military service. We then reviewed approximately 4000 capital cases on Westlaw that included military keywords. Additionally, we employed a targeted Google search that paired each of the approximately 9000 people in our Death Penalty Census with military keywords, yielding thousands of source matches. For executed veterans, we submitted public records requests to the National Personnel Records Center to obtain further information on their military service.

To establish someone as a veteran, we erred on the side of caution, requiring a clear reference to military service without any other possible interpretation. We sought multiple sources per person where possible and required that the evidence of service be affirmed by another individual or court, not just the defendant.

Please contact Leah Roemer at lroemer@deathpenaltyinfo.org with methodology questions or concerns, information regarding death-sentenced veterans who are not in our database, or source requests for a specific individual.

Endnotes

1. *Reaves v. Jones*, 2015 WL 13657202 *42 (S.D. Fla. Mar. 3, 2015), rev'd *Reaves v. Secretary*, 872 F.3d 1137 (11th Cir. 2017).

2. Art Cody, [Mentally disabled combat veterans should never get the death penalty](#), *The Hill*, Jun. 24, 2025.

3. Chris Benson, [U.S. vets ask Florida governor to end death penalty for military vets](#), *UPI*, Aug. 11, 2025.

4. *People v. Lucero*, 44 Cal.3d 1006 (1988) (Mosk, J., dissenting).

5. Military veterans executed and under warrant this year, with state, branch of service, and date of execution, include: Richard Tabler (TX, Marine Corps, 2/13), Edward James (FL, Army, 3/20), Jeffrey Hutchinson (FL, Army, 5/1), Richard Jordan (MS, Army, 6/25), Edward Zakrzewski (FL, Air Force, 7/31), Kayle Bates (FL, Army [National Guard], 8/19), Norman Grim (FL, Navy, 10/28), Bryan Jennings (FL, Marine Corps, scheduled 11/13), Richard Randolph (FL, Army, scheduled 11/20), and Harold Nichols (TN, Army, scheduled 12/11). Military veterans sentenced to death this year, with state, branch of service, and date of sentencing, include: Jonathan Monk (NC, Army, 3/27) and Joseph Ables (FL, Marine Corps, 4/4).