In 2007, Congress authorized an appropriation of 247 million dollars for in research funding for the Deployment – Related Medical Research Program (DRMRP). Housed within the CDMRP (Congressionally-Directed Medical Research Programs), the DRMRP was tasked with the allocation of funding to researchers who were engaged in deepening our understanding of, and crafting responses to, combat related PTSD and TBI. Not long thereafter the SAMSHA-National GAINS CENTER, Public Research Associates (PRA) launched the first six of the now thirteen State Jail Diversion Pilots. Judge Robert Russell launched the first Veterans Treatment Court in Eerie County, New York. The Veterans Administration launched its After-Prison Initiative and, a year later its VA-VJO Initiative. In 2006, California amended section 1170.9 and MN followed suit with sentencing mitigation legislation. Texas, Illinois and other States have followed suit.

In the public view of the problem of “veterans-in-justice”, sentencing mitigation legislation and the Veterans Treatment Courts have become the public responses. In all too familiar fashion we long for the silver bullet, the perfect “fix” that will solve the problem so that we need not be bothered with it any longer.

In our haste to find that ideal and easy response we often forget to remember why we wanted to do something in the first place.

Virtually every article written on Veterans Treatment Courts begins with what has become a rote litany of long-term impacts; homelessness and housing barriers, employment barriers, addiction, civil rupture, disenfranchisement...extant responses sound great, but they neither remedy nor do they fully address the problems which spawned them.

Possible Preventative or Early Response Strategies for Veterans-in-Justice (Remarks prepared for the Pennsylvania Legal Foundation’s Teleconference, March 17th, 2012)

Good morning everyone and thank you for inviting me to participate in today’s conference and special thanks to Melvin Dill of the Veteran’s Legal Foundation of Pennsylvania and Mr. Terry Hubert, National Chair of the Vietnam Veterans Incarcerated Veteran’s Committee. I have taken the liberty of writing down what I am going to offer this morning, in the way of testimony or commentary due to the simple fact that—as anyone who knows me well will tell you—I love to “chase shiny objects” (I tend to digress a bit). I will be reading my written remarks because I wish to ensure that I am clearly understood and I do not wish to miss or exclude what I consider to be critical information.

I believe most of you will have received the document I drafted up over the course of the past week. It is by no means perfect and still requires a great deal of work, but I did my best in the time I had. In terms of personal background, I will note here that I am an Army veteran who was incarcerated a number of times, who experienced homelessness and who struggled with chronic substance disorder for years. I had two suicide attempts prior to my admission to the VA Hospital in St. Cloud, MN, where I was to spend two and one half years. I lost my family, went bankrupt and, by the time of my admission to VA I basically did not give a damn about much of anything. Following my discharge from the Veteran’s Administration well over a decade ago now, I went on to advocate for the improved crafting of responses in those areas I had experienced personally. I went on to do many things over the years,
ranging from working on the repeal of the MN Vagrancy Statute and the fielding of homeless outreach pilots in the State of Minnesota to orchestrating the Ban-the-Box initiatives in my home State and from laying the ground-work for the MN Veterans Sentencing Mitigation Legislation to serving as a Senior Justice Fellow with the Open-Society Institute in New York, housing my Fellowship out of the Justice Policy Institute in Washington DC. I guess you might say I know this stuff pretty well.

Personal introduction now aside it is my task this morning to try to provide you with some ideas around why the pre-eminent public responses to the problem of veterans-in-justice, which I understand to be the Veterans Treatment Courts and Sentencing Mitigation Legislation. We need to look at the criminal justice system, as well as, those working within and without such systems, as dots spread along the span of a continuum. We need to look at actions, reactions and responses along this continuum. In terms of response we may posit a “front end” and a “back end” along the continuum. By “front end” I would reference those types of response which occur either prior to or at the point-of-arrest or point of contact or those responses which occur pretrial or pre-plea. As we move along the continuum, toward the back-end, we come to post-plea or post-conviction responses (or forms of relief). Still further we come to the process broadly defined as “re-entry”. Re-entry is often ill-defined, but for our purposes here I define it as beginning at that point when an offender exits a correctional facility and, in my opinion, it lasts for the duration of one’s life. I define it thus as the long-term impacts will persist long after execution of sentence, often exceeding what might be deemed an appropriate period of punishment befitting the offense committed. In many ways, once arrested and convicted the imposition of sanctions never has a point of cessation.

The so-called “collateral consequences” (often referred to as the “unintended collateral consequences” of justice contact) such as the enduring legacy or digital footprints left by record of arrest and conviction impact the ability of an ex-offender to move forward with his or her life after sentence has been executed. The Kennedy Commission, the Justice Round-Table of the Urban Institute, the SEARCH Compendium and the Re-entry Policy Council have fully identified and articulated these collateral consequences, broadly categorizing them as follows; housing barriers, employment impacts, disenfranchisement, education bars or barriers, a range of family impacts which might be characterized as civil rupture and loss of eligibility for a wide range of benefits.

It is important to remember what happened during the Vietnam-era and in its wake. It is also important to remember what is now different. There was no commercial data-harvesting industry. We had yet to see the birth of .html and the world-wide web, as well as, the proliferation of the personal PC. The Data Privacy Act, passed in 1968 and amended in 1974, as well as, the commensurate passage of a wide range of State and Federal legislation governing the harvesting, storage and dissemination of information. The War on Drugs did not kick off in earnest until Reagan and what has been deemed “the race to incarcerate” by Marc Mauer has borne witness to a colossal rise in the number of people in our justice systems. We were yet to see Domestic Violence Statutes in most States, Three Strike Laws, Enhancements for Drug and Alcohol-related offenses, and a wide range of legislation governing the possession and use of firearms….as it just so happens these categories of criminal offense just happen to be amongst those for which, it seems, veterans are more likely to be arrested. It is important to remember what we did wrong,
but also to remember what is different in our society today—crafting responses in a vacuum, without these changes in mind will do little to ensure we do not screw up again.

In looking at the crafting of responses along our justice continuum and as that relates to veterans I often characterize our national resolve (to not repeat the mistakes made forty years ago) as follows; during and in the wake of the war in Vietnam we met large numbers of returning veterans with a set of punitive and reactive responses and we recognize, now, that a set of preventative or supportive responses would have been far more just, more humane. And in that recognition what have we done? The public responses crafted---VTCs and Sentencing Mitigation Legislation--largely operate, in most venues, on a post-plea, post-conviction basis. The records will still be there, impacting countless veterans in a fashion not dissimilar from that suffered by many a Vietnam veteran.

We did not just discover PTSD last year nor were Veterans Courts the first courts to work towards diversion of veterans. Indeed, specialty courts have conducted diversionary programs for many years now. We didn’t just discover that war sucks and it reverberates in the lives of soldiers and veterans for the whole of one’s life. None of this is new. What is new is the public willingness to do something different. Yet I have yet to hear a single Judge or Attorney working in this realm explain to me how sentencing mitigation legislation or veterans courts “fix” the cascading impacts that will be experienced by many Iraq and Afghanistan veterans over the upcoming decades will be substantially similar to those lived by Vietnam veterans. When I formed the coalition that began pushing for the MN Sentencing Mitigation Legislation for veterans I never thought, not for a minute, that we would rest on our laurels and quit pushing for amelioration of the rest of the impacts. Yet, that is what I see us doing now.

So what might we do differently this time? Well, first and foremost, we need to look at peers or peer-mentors. Here I do not mean crafting cogs to serve within the Veterans Courts. I mean training up young veterans to be advocates in their own right, on behalf of their fellow veterans. I need to further clarify that a veteran-peer, in a justice context, should not be defined by—or restricted to—service in the military. In this context a peer should also have some experience with the justice system, in a personal sense. For those who think that this is not critical I have a homework assignment. Go to any State or Federal Correctional facility and request permission to meet with combat veterans who are sitting in solitary. Ask them whether they would rather stay there or go back into combat and I would be willing to bet you the vast majority will opt to leave prison. It is important for us to understand what that means. It is also important to understand the woes of addiction or alcoholism, what it is to be homeless….these, too, should be taken into consideration in defining “peers”--in this and related contextual definitions of the term.

Peer-Mentors, well-trained and with aforethought in context, could do wonders in the realm of prevention. Yet, despite wide assent from a bevy of veterans organizations we do not fund them. In terms of prevention we might cull out cohorts of veterans most likely to experience justice contact and target them with more intensive readjustment strategies, hopefully making use of trained peers. We could do this by identifying using the CVSO system in most States. We do have a pretty good idea of which veterans will run greater risk of incarceration, yet we have failed to explore such simple strategies for extant systems seemingly have no interest in such intervention and prevention strategies.
Perhaps the greatest of missed opportunities resides in the realm of law enforcement preventative strategies such as providing CIT-trained officers with additional training for responding to veterans in crisis. Ride-alongs pairing up officers with young combat veterans is another possible strategy that seems, on the surface, a very wise idea. I view these as missed opportunities simply because, amongst a wide range of law enforcement agencies, there is a great willingness to do things they might not otherwise do— because many of the officers themselves, this time around, have served in Afghanistan or Iraq as Guardsmen or Reservists and the last thing they wish to do, if they can avoid it, is throw a fellow combat veteran in jail. Yet, here again we have not funded a variety of very sound strategies derived by law enforcement….what a colossal and ill-informed mistake! In Los Angeles, San Francisco, Santa Clara, Buffalo, Chicago, Austin and other cities members of the law enforcement have been doing innovative work, some of that work gravitating toward the “front end” of response methodologies.

In summation, it is my intention to work with stake-holders in Pennsylvania toward the crafting of the best of possible strategies as you move forward. We did not have an abundance of time this morning and, if you wish to receive more information on what I mention here we can pursue that exchange either via the exchange of e-mail or in subsequent telephone conversations I am fine with being contacted by anyone with questions and open to new ideas and hard work. I believe by now I have exhausted the seven minutes allocated to me during the course of this teleconference. Again, thank you very much for the opportunity to participate on this call and I look forward greatly to working with all of you as you move forward.

Guy Terrill Gambill
Soros-OSI Senior Justice Fellow, 2010-12
VIC TRI Veterans Village, Advisory Board of Directors
Director, Brass Tacks English
President & CEO GambillonJustice
Residence: 156 Avenida Charales, Jocotepec, Jalisco, Mexico
011-52-3336869097 (Guadalajara Office)
011-52-3877630684 (Lake Chapalal land-line\home office)
www.brasstacksenglish.com
http://www.gambillonjustice.com/home