

**Invited testimony of Brigadier General David “Mac” MacEwen
Veterans Justice Commission Director
Council on Criminal Justice
Before the Maryland House of Delegates Judiciary Committee
On HB 360, Automated Expungement, the Clean Slate Act of 2026
March 3, 2025**

Thank you, Chairwoman Bartlett and members of the Committee.

My name is Brigadier General David “Mac” MacEwen. I am a 33-year veteran of the US Army. Currently, I serve as the Director of the Veterans Justice Commission, an initiative of the Council on Criminal Justice. I am grateful for the opportunity to share the work of the Commission and its findings and recommendations. If implemented, these recommendations can be life-changing for many veterans, their families, and their communities.

The Council on Criminal Justice is an independent and nonpartisan invitational membership organization and think tank, serving as a center of gravity and incubator of policy and leadership for the criminal justice field.

In 2022, the Council assembled the Veterans Justice Commission (or VJC), chaired by former Secretary of Defense Chuck Hagel. The Commission’s research concluded that veterans who commit offenses as a result of service-related conditions represent a unique class of defendants in our criminal justice system. The conditions of their underlying criminality are often partially created by the government that prosecutes them. We send men and women to war knowing some will “bring the war home” via criminal conduct. It is a tragedy that those who once wore the cloth of our nation now wear the cloth of incarceration.

The charge of the VJC was figure out how we can better serve the men and women who have served our nation. Specifically, the VJC assessed the risk factors that drive veterans' justice-system involvement, the adequacy of transitional assistance for military service members as they reenter civilian life, and the effectiveness of the justice system response when veterans break the law. Chair Hagel and fourteen other leaders in science, the judiciary, the recovery field, healthcare, corrections, law enforcement, veterans' affairs, and the military issued three reports that included eleven findings and recommendations. Several of them are relevant to this hearing today.

The ones I want to focus on today are the Commission’s calls for statutory frameworks and second look policies that acknowledge the complex set of needs and risk factors of justice-involved veterans that are distinctive from those characteristics of civilians without a military background.

These proposals flow from studies that show that service-related trauma exposure, combined with increased incidence of mental health and substance use disorders, elevates veterans' risk of involvement with the criminal justice system. This is particularly true for veterans who have served in the military since September 11, 2001, because they have seen more combat deployments—and redeployments—than any previous cohort of service members.

Yet, once these individuals enter the civilian justice system, they face harsher outcomes than their civilian counterparts. Research on the sentencing and supervision of veterans in the justice system is sparse, but the few studies that have compared state prison sentences for veterans with non-veterans indicate that veterans are 22% more likely to be sentenced for violent crimes. That finding may explain why veterans are also 11% more likely than non-veterans to receive sentences of ten years or more, and 78% more likely to receive life sentences or the death penalty.

While mechanisms targeting justice-involved veterans on the system's front end exist, the VJC's careful consideration of current federal, state, and local policy suggests that they are relatively scarce, disconnected, and localized. Moreover, where existing initiatives have shown promise in early assessments, there is a lack of rigorous evaluation to guide the development and proliferation of best practices. Finally, data on justice-involved veterans is limited, making it difficult to identify the full scope of the problem.

The VJC's assessment of front-end interventions revealed that Veterans Treatment Courts (or VTCs) have become a popular approach to diverting veterans from incarceration, but the 600 such courts currently operating across the country vary widely in their approaches to legal incentives (e.g., allowing an individual to avoid a record of conviction) and eligibility. For example, a national survey of VTCs found that nearly 60% exclude veterans with at least one type of violent felony charge, while 35% do not permit veterans with "bad paper." This leaves the most traumatized veterans—those most in need of intervention—with the fewest options.

The Commission also found that twelve states have created post-conviction statutory schemes, separate from VTCs, that recognize veteran status as a mitigating factor in sentencing. Many of these statutes, however, are antiquated, in that they do not take sufficient account of mental health considerations and do not allow veterans the opportunity to avoid conviction records.

California and Minnesota have adopted two of the most comprehensive and well-developed veterans sentencing statutes. Notably, both provide veterans with significant legal incentives to address conditions underlying their criminal behavior. These two state laws provide useful frameworks and common elements that should inform statutory efforts to better support the nation's justice-involved veterans.

The Commission recommended that federal and state governments adopt statutory frameworks that incentivize and improve veterans' diversion, deferred adjudication, participation in treatment courts, sentencing mitigation, and record clearance.

This recommendation is best exemplified through the Commission's Model Policy Framework (MPF). The MPF calls for state statutes that:

- Permit courts to take veterans' military service into account at sentencing
- Create or expand judicial diversion and deferred adjudication programs that incentivize veterans to take responsibility for their actions and help them resolve the issues underlying their criminal behavior
- Permit participation using a broad definition of "veteran" and include veterans charged with felonies and most violent crimes (except those that would require predatory offender registration), as well as veterans who are not eligible for a VTC
- Ensure judges retain discretion to decide eligibility in individual cases
- Offer strong legal incentives, such as early termination of supervision and case dismissal, to encourage veterans to complete their individualized case plans and avoid the collateral consequences of a criminal conviction
- Clearly define the individualized behavioral goals that veterans must meet to successfully complete the programs, including restoration of victims/survivors
- Allow veterans to transfer supervision to their county of residence
- Ensure opportunities for victims/survivors and family members to be involved in the supervision and treatment process, including the opportunity to be heard at final case dismissal hearings

The Commission also recommends Congress and states should enact "second look" legislation that creates mitigation considerations for military service in resentencing, parole, and clemency processes and record clearance. These policies have been adopted in at least 12 states and the District of Columbia, but incarcerated veterans have few opportunities to request resentencing based on facts related to their military service. California is an exception. The state passed a penal code amendment that allows veterans suffering from one or more specified service-related conditions to seek resentencing.

Finally, the Commission recommended that employers prioritize the recruiting and hiring of justice-involved veterans. While "second chance" hiring is gaining momentum, there is currently no large-scale collaboration among industry and government leaders focused on hiring justice-involved veterans. Small businesses and large corporations, along with non-governmental organizations, should collaborate with correctional facilities, technology platforms, and community supervision agencies to support this initiative.

People who have served this nation through service in our armed forces have sacrificed to protect us. It is time to better recognize that sacrifice and take steps to ensure that our veterans are not lost in prisons and jails but instead receive interventions that both hold them accountable and help them resume their responsibilities to their families, their

communities, and their country. We must acknowledge the scars veterans bear from fighting for us and help them heal. We must do better. We must not leave them behind.