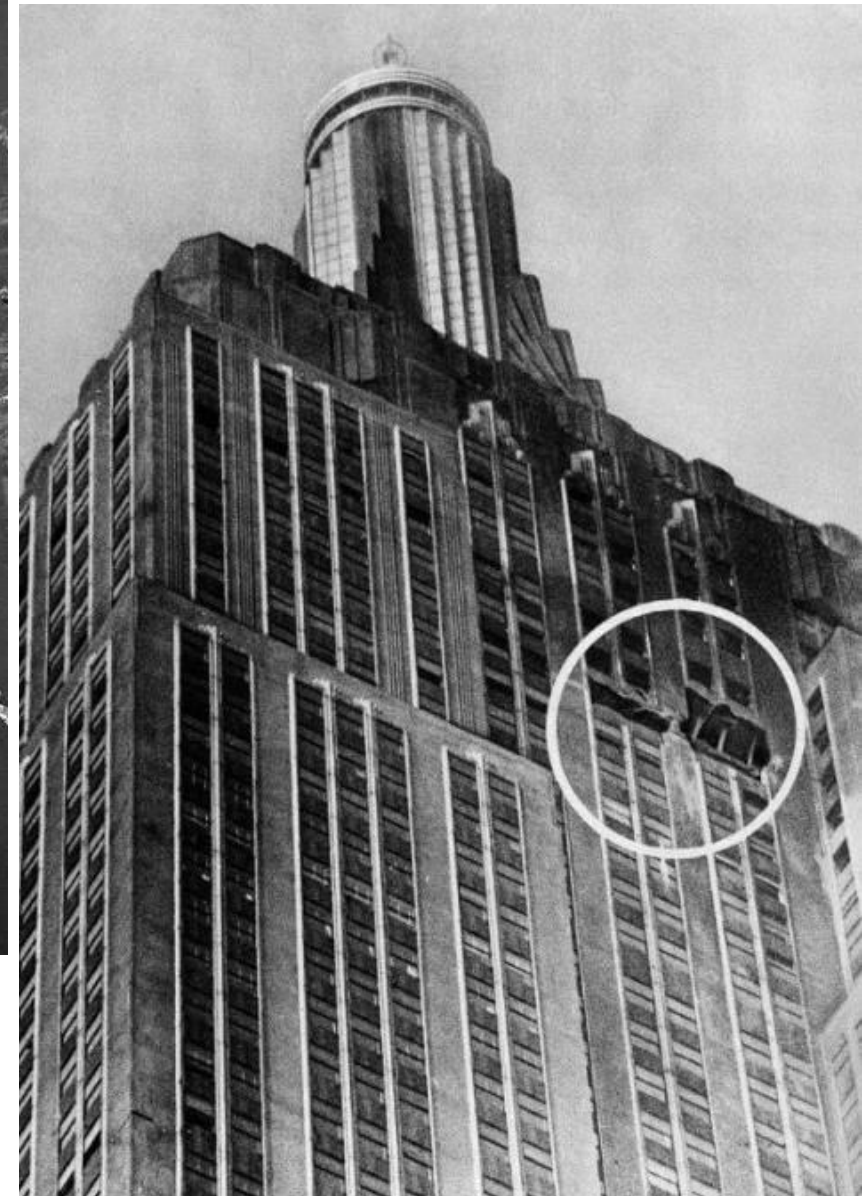




Veterans in Court

- Justice Eileen Moore



Welcome to Active Duty

Thank you for your service!

Fine Print: Injury suits will be dismissed.



stus.com

Feres v. United States, 340 U.S. 135





Approximately one-third of veterans self-report having been arrested and booked into jail at least once, compared to fewer than one-fifth of civilians.

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August 2022**





- Veterans who have served in the military since September 11, 2001 have seen more combat deployments and redeployments than any previous group of service members.

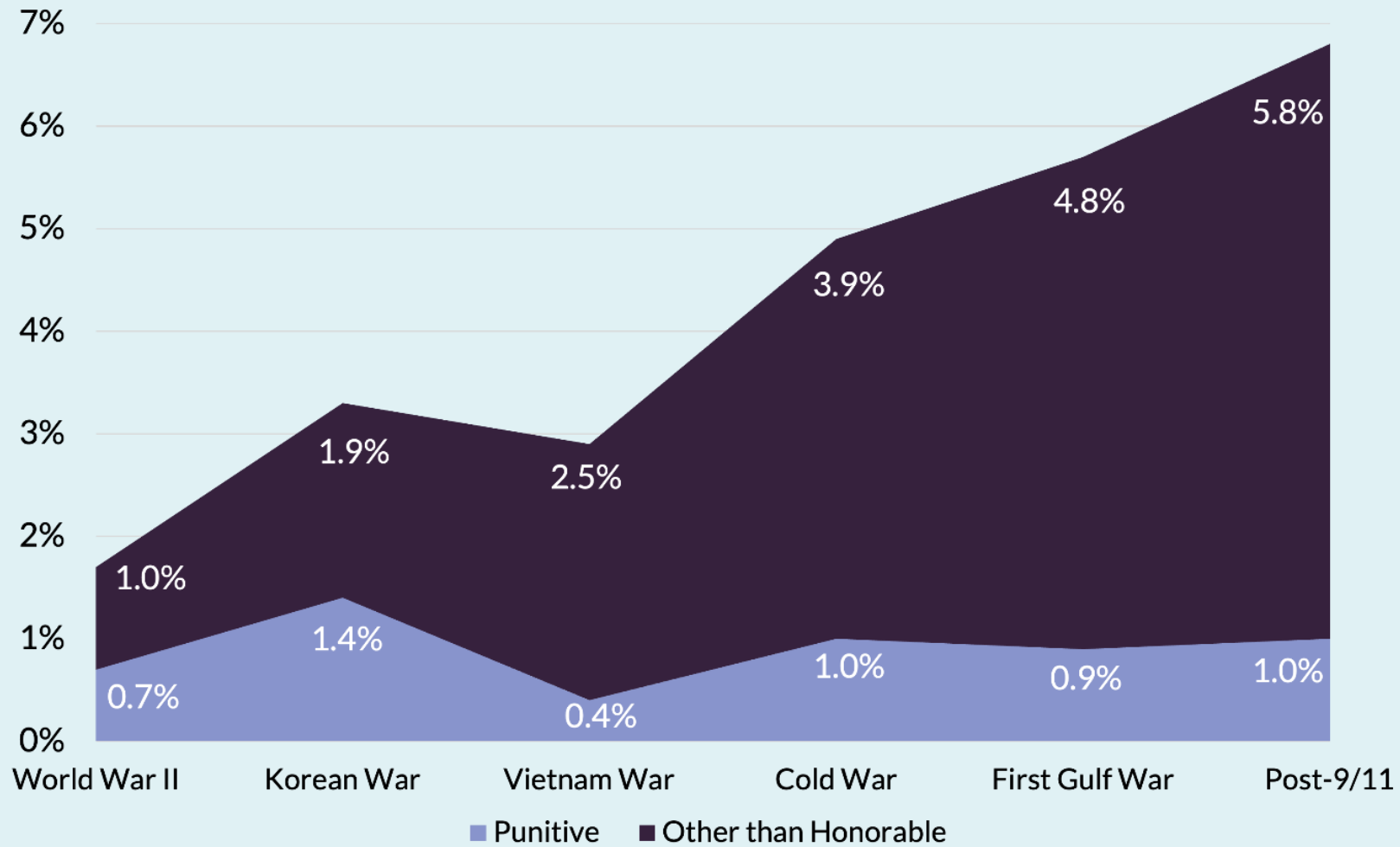





The VA will not provide treatment to veterans who are incarcerated.

38 C.F.R.
Section 17.38 (c)(5)

ENLISTED SERVICE MEMBERS WITH BAD PAPER DISCHARGES



Source: The Veterans Legal Clinic at the Legal Services Center of Harvard Law School, 2020.

A group of military personnel, mostly women, are seen from behind, walking away from the camera. They are wearing olive green t-shirts and camouflage pants. The scene is outdoors, possibly on a military base or during a training exercise. The background is slightly blurred, focusing attention on the individuals in the foreground.

Despite a 23% increase in sexual assault reports between 2015 and 2020, military convictions plummeted by almost 80% in the same timeframe.

**Department of Defense 2016 – 2020 report
Sexual Assault Prevention and Response Office**



Those who experience military sexual trauma are significantly more likely to screen positive for PTSD, depression, anxiety, and substance abuse when compared to other service members

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Having a TBI is correlated with a 44% increase in later PTSD diagnosis

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August 2022





Research reveals that women are at least twice as likely as men to sustain PTSD when exposed to overwhelming events.





Common biases against veterans and military families:

1. Military Family Syndrome
2. Presumption of parental unfitness when parent has PTSD
3. A good parent would not volunteer for military service





GOODBYE
Don't Ask
Don't Tell
9/20/11

GOODBYE
Don't Ask
Don't Tell
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Don't Tell
9/20/11

Lt. Col. Dave Grossman

ON KILLING

The Psychological Cost of Learning to Kill in War and Society



Unabridged • Read by the Author

CIVIL CASES

- **Government Code:**

§ 12920	§ 12920.5	§ 12921	§ 12926	§ 12926.1
§ 12940	§ 12940.3	§ 12952	§ 12964	§ 12965
§ 12974	§ 12989.2	§ 19859		

- **Labor Code:**

§ 432.7

- **Mil. & Vet. Code:**

§ 395.06

- **Penal Code:**

§ 1170.9 § 1001.80

- **38 U.S.C.**

§ 4301 et seq.

**10 U.S.C. 2733a; 32 CFR 45
86 Fed.Reg. 32194-01 (June 17, 2021)**



Site for the list of class actions already filed:

<http://www.uscourts.cavc.gov/pscs.php?tab=class>

Site for CAVC's class action rules:

http://www.uscourts.cavc.gov/rules_of_practice.php?fullsite=yes

CRIMINAL CASES

Penal Code

§ 858	§ 1001.80	§ 1170.9
§ 1170.91	§ 1449	



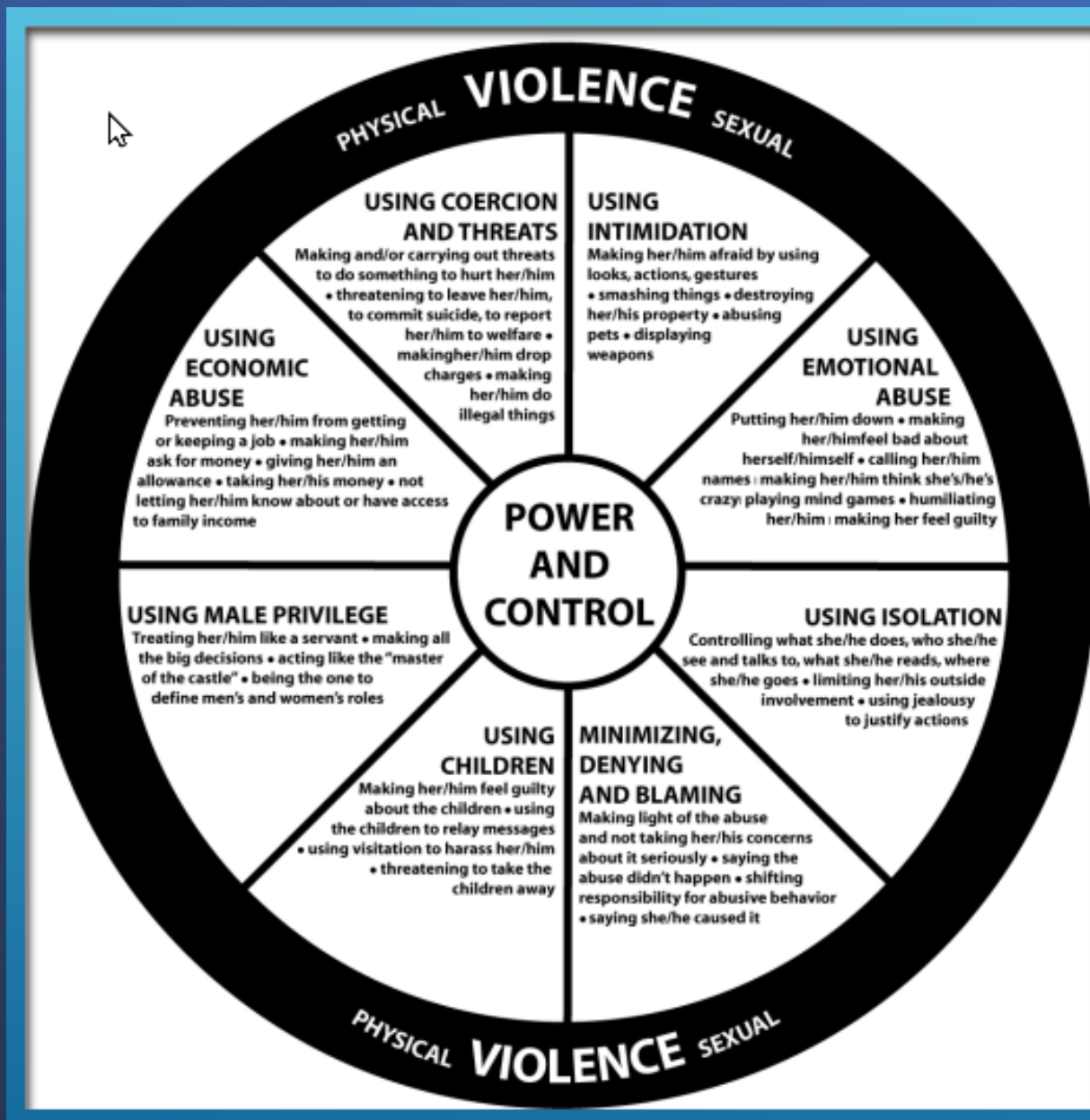
Veterans with PTSD have been found to perpetuate intimate partner violence at rates two to three times the national average.

Council on Criminal Justice
August 2022



In 2020, 525,000 veterans were treated for substance abuse disorders by the VA.

Council on Criminal Justice
August 2022



Family Code § 211.5

SECTION 1. [uncodified section, indicating legislative intent]

The Legislature finds and declares all of the following:

- (b) Nearly 1 in 5 veterans lives with a service connected mental health disorder or cognitive disorder.
- (c) The rate of major depression among soldiers was five times as high as civilians and the rate of post-traumatic stress disorder was nearly 15 times higher than the general public.
- (d) Having a mental health disorder, including a service-linked disorder, does not inherently make you more violent.
- (h) Service-linked mental health issues come with their own unique barriers, stigma, and complications.
- (i) There are existing services for veterans who have a criminal case pending.
- (j) Many veterans who find themselves involved in family court proceedings do not have a criminal case and are unable to access many of the wrap-around services provided to veterans that do.
- (k) Veterans should not have to break the law to be connected to services designed to support them.

- **Family Code § 211.5 will be effective January 1, 2024**
- **The court *shall* provide self-identified veterans with a list of resources**
- **The veteran may provide information about veteran status on Judicial Council form & serve it on other parties**

PERSON COMPLETING THIS FORM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: STATE BAR NUMBER (IF APPLICABLE):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: CASE NAME:	
NOTIFICATION OF MILITARY/VETERAN/RESERVE/ACTIVE STATUS	CASE NUMBER:

1. This form is about (name): _____ who is a party in this case.
2. The person listed in item 1 is:
- A current member of the state or federal armed services or reserves.
 A veteran of the state or federal armed services or reserves.
 Discharge Date: _____
3. I am the person listed in item 1.
 an attorney in the above entitled case.
 other (specify): _____

I am providing this notification to the court based on information and belief.

Date: _____

 (TYPE OR PRINT NAME OF PERSON FILING THIS FORM)

 (SIGNATURE)

Notice

This form can be filed in any case type. If this form is being submitted in a criminal case, the court will send copies of the form to the county veterans service officer and the Department of Veterans Affairs.

Local County Veterans
 Services Office Information
 (to be provided by local court):

For court use only

No Filing Fee

No filing fee or court costs are to be charged for this form.

YOU SHOULD TALK WITH YOUR ATTORNEY (IF YOU HAVE ONE) ABOUT THE FOLLOWING INFORMATION

If you are a current or former member of the state or federal armed services or reserves, you may be entitled to certain rights under the law. Filling out form MIL-100 is a way you can let the court know about your military experience. This information may help the court consider possible benefits and protections in your case. This form can be used for any type of case and can be filled out at any time. Giving this information to the court is voluntary. The MIL-100 only needs to be filled out with the court one time per case.

NONCRIMINAL CASES

If you are a party to a noncriminal case (i.e., civil, family, juvenile, etc.), be sure to complete all the appropriate forms needed for your case.

For example, filing of this form does not substitute for the filing of other required forms or petitions in cases where you are filing:

- For relief from financial obligation during military service;
- A notification of military deployment and request to modify a support order; or
- For other relief under the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901-4043).

Please see *Notice of Petition and Petition for Relief From Financial Obligation During Military Service* (form MIL-010) and *Notice of Activation of Military Service and Deployment and Request to Modify a Support Order* (form FL-398).

CRIMINAL CASES

If you are a party to a criminal case, you are not required to have an honorable discharge, to have combat service, or to be accepted into or involved in a Veterans Court to be eligible for the possible rights and protections under the law.

If you are a current or former member of the state or federal armed services or reserves who may be suffering from sexual trauma, also known as military sexual trauma (MST), traumatic brain injury (TBI), posttraumatic stress disorder (PTSD), substance abuse, or mental health issues as a result of your military service, and charged with a crime, you may be eligible for certain rights under the law. Some examples of benefits of a defendant in a criminal case who is a veteran or is on active duty or in the reserves include possible consideration for alternative sentencing, restoration relief such as sealing your record, and diversion in misdemeanor cases.

Below is a brief description of possible rights and protections under the following California laws:

California Penal Code section 1170.9

- Treatment instead of prison or jail time for certain crimes;
- A greater chance of receiving probation;
- Conditions of probation deemed satisfied early, other than any victim restitution ordered;
- Felonies reduced to misdemeanors;
- Restoration of rights, dismissal of penalties, and/or setting aside of conviction for certain crimes;

California Penal Code section 1001.80

- Pretrial diversion program instead of trial and potential conviction and incarceration;
- Dismissal of eligible criminal charges following satisfactory performance in program;
- Arrest deemed to have "never occurred" as part of restoration of rights following successful completion of program;

California Penal Code section 1170.91

- The court must consider circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could result in a more lenient sentence.

If you submit this form in a criminal case, you must file it with the court and serve a copy of it on the prosecuting attorney and defense counsel.

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

- **Family Code § 3040 will be effective January 1, 2024**

- (d) (1) Commencing January 1, 2024, if a court finds that the effects of a parent's, legal guardian's, or relative's history of or current mental illness are a factor in determining the best interest of the child under subdivision (a), the court shall do both of the following:
 - (A) Provide the parent, legal guardian, or relative with a list of local resources for mental health treatment.
 - (B) State its reasons for the finding in writing or on the record.