



# Leave No Veteran Behind

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The Inquiry into Former Armed Service Personnel in Prison visits the United States of America



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# Executive summary

The high numbers of veterans appearing in the criminal justice system have been a matter of concern in both the UK and in the USA in recent years. This paper examines the American experience of the issue and its response to it, following a visit to the US by the Howard League for Penal Reform's inquiry into former armed service personnel in prison.

## Similar profiles

In many ways, veterans in the US and UK experience similar problems upon leaving the military: housing, mental health, employment, relationship breakdown and substance misuse are problems all too frequently encountered. Both countries are seeing similar proportions of ex-service personnel on the streets or in prison, having struggled over varying periods of time with the transition back to civilian life.

Prisons in both countries tell the same story, of men who have offended many years after service, often committing serious violent or sexual crimes:

- Veterans are less likely to be in prison than the general population;
- Over 99 per cent of veterans in prison are male;
- Veterans in prison are likely to be older, with more than one in three US veterans in prison having served in Vietnam;
- Veterans in prison are more likely to be violent;
- Veterans in prison are more likely to be sentenced for sexual offences.

## Post-traumatic stress disorder (PTSD)

Reported rates of PTSD among veterans are very different for the UK and US, with UK estimates at 4 per cent and US estimates at around 20 per cent. Reasons for these differences are unknown, although there are various theories that attempt to explain the apparent discrepancy.

The US now routinely screens for PTSD, depression, problem drinking and military sexual trauma. PTSD screening is not done in the UK, though plans are underway for a UK/US trial. Nonetheless, other explanations for the discrepancy include the difference in healthcare systems in the two countries. With no universal healthcare in the US, are some veterans pushed to seek a PTSD diagnosis in order to access free healthcare?

## **Specialist government support**

The US has a long-standing federal Department of Veterans Affairs, separate from the Department of Defence, as well as specialist veterans courts for justice-involved veterans. Focused outreach work is done in the community and in prison to ensure veterans receive all the support on offer. By contrast, most specialist services in the UK are provided by a huge voluntary sector. Provision can be patchy and awareness is poor.

## **Veterans courts**

For those veterans who do fall through the net, veterans courts have been operating in the US since 2008, and are now spreading across the country. These specialist courts offer tailored support for veterans who have committed non-violent offences to get their lives back on track. Crucially, ex-service mentors guide each veteran through the court process and make sure their housing, mental health, employment and substance misuse issues are dealt with. The inquiry team visited the first veterans court, in Buffalo, NY, which currently boasts an impressive 0 per cent recidivism rate (Russell 2010).

This report examines the American system in relation to the aftercare given to those who have served and then leave the military, and what lessons the system in England and Wales can learn from it.

# Background

The Howard League for Penal Reform launched an independent inquiry into former armed service personnel in prison in November 2009.

The inquiry aims to discover why so many veterans find themselves caught up in the criminal justice system after they have left the services. It is vital that the complex needs of armed forces personnel are adequately addressed and that we do everything we can to help those who serve their country adjust to civilian life.

The inquiry will make detailed recommendations on its findings. It will review the support offered by the various voluntary sector organisations and that provided by the armed services. It will consider more structured approaches following active service.

The inquiry is chaired by Sir John Nutting QC, one of the country's leading barristers. The inquiry's advisory group comprises:

- Admiral the Lord Boyce GCB OBE DL
- General the Lord Guthrie of Craigiebank GCB LVO OBE DL
- Major General David Jenkins
- Wing Commander Dr Hugh Milroy, Chief Executive of Veterans Aid
- Chris Sheffield, former governor of Liverpool and Manchester prisons
- Elfyn Llwyd MP

Since its launch in November 2009, the inquiry has:

- Held oral evidence sessions with experts and key stakeholders;
- Issued a call for written evidence;
- Conducted qualitative, semi-structured interviews with 29 prisoners in three prisons in England;
- Visited Grendon and Everthorpe prisons in England, pioneers in the national Veterans in Custody Support programme;
- Visited the Military Corrective Training Centre in Colchester;
- Attended the Veterans Aid hostel for homeless veterans in London;
- Met with key stakeholders and practitioners in Scotland;
- Travelled to the United States of America (USA) to visit a veterans court, a prison and meet with policymakers.

It is that final visit which this briefing paper addresses.

# Visit to the United States of America

The inquiry team travelled to the USA from 6 to 9 September 2010. During this time, the inquiry visited:

- **Buffalo Veterans Treatment Court**, the first court that specialised and adapted to meet the specific needs of veterans. It is used as a model for other treatment court programs being created in other parts of the country.
- **Department of Veterans Affairs (VA)**, the second largest federal department of state in the US, after the Department of Defence. It has three main functions and a larger budget than the UK's National Health Service: the administration of the veterans healthcare system; the administration of veterans' benefits, compensation and pensions; and maintenance and development of the country's veterans' cemeteries.
- **Bureau of Justice Statistics, Department of Justice**, which collects data on crime and corrections in the US. Research mainly comes in the form of establishment surveys and inmate censuses of the nation's jails and prisons, which report 12-13 million receptions a year. The Bureau of Justice Statistics has been reporting on the US veteran prison population since 1981, and the next survey is due in 2012.
- **Jessup Correctional Institution (JCI)**, a maximum/medium security prison. The inquiry team met with the Incarcerated Veterans of JCI group, who spoke eloquently of their experiences since military service and what they think could be done to reduce the number of veterans coming into contact with the criminal justice system.
- **Crownsville State Veterans Cemetery**, which operates the only program in the nation where incarcerated veterans who were not dishonorably discharged work to restore veterans cemeteries. We observed this being done and were able to speak to prisoners on work details.

## The statistics

The Bureau of Justice Statistics (BJS) has been reporting on the US veteran prison population since 1981, and the next survey is due in 2012. This survey covers 90,000 prisoners.

Most striking when looking at the last survey (2004) is the similarity between the veteran prison population in the US and in England and Wales. In particular, imprisoned veterans in both countries tend to be older and to have committed more serious offences, with sexual offences being particularly over-represented.

The bullet points in *Figure 1* summarise key points from the last BJS survey, and, where relevant compare these with information from the recent analysis of the veteran population in English and Welsh prisons carried out by the Ministry of Defence (2010). Both analyses suggest that veterans are less likely to offend than the general population, that the majority of veterans in prison will have offended a significant time after leaving the forces, and that veterans are most likely to be in prison for violent and sexual offences:

### *Figure 1: US veterans in prison: facts and figures*

- 10 per cent of state prisoners reported prior service in the US armed forces, down from 12 per cent in 1997 and 20 per cent in 1986. The UK government estimates that 3.5 per cent of English and Welsh prisoners have served in the armed forces, although an estimate by the probation union Napo has also put the figure of English and Welsh veterans in prison at 9.1 per cent;
- Overall, there were an estimated 140,000 veterans among the American prison population in 2004;
- The average length of military service for incarcerated veterans was four years;
- An estimated 62 per cent had received an honourable discharge;
- 99 per cent were male, compared to 99.6 per cent in England and Wales;
- 65 per cent were over 55 (compared to 17 per cent of non-veteran prisoners). In England and Wales, 29 per cent are over 55, which compares to 9 per cent of the general prison population being 50 or over;
- This particularly high proportion of older prisoners is partly explained by the fact that of those veterans in American prisons who served during wartime, the majority (35.6 per cent of all veterans in prison) served during the Vietnam War;
- Veterans were less likely to commit an offence. In England and Wales, veterans are thought to be 30 per cent less likely to end up in prison, and in the USA, veterans are less than half as likely to be in prison as other adult males;

- While veterans were less likely to commit an offence those who did were more likely than the non-veteran population to be in prison for violent and sexual offences. Among State prisoners, 57 per cent of veterans were categorised as ‘violent offenders’, compared to 47 per cent of non-veterans. In the UK, 32.9 per cent of veterans are in prison for violence against the person, compared to 28.6 per cent of the non-veteran prison population.
- The prevalence of sexual offences is also marked in both jurisdictions. 23 per cent of veterans were in US prisons for sexual offences, compared to 9 per cent of civilian prisoners. In England and Wales, 25 per cent of veterans are in prison for sexual offences, compared to 11 per cent of the civilian prison population. Interestingly, we heard anecdotal evidence that sexual offences in theatre against female soldiers are a growing concern for the US military;
- Those veterans categorised as ‘violent offenders’ were more likely to victimise females (60 per cent compared to 41 per cent of non-veteran violent offenders), minors (40 per cent compared to 20 per cent of non-veteran violent offenders) and relatives (25 per cent compared to 11 per cent of non-veteran violent offenders);
- Veterans are expected to serve 22 months longer, on average, than civilians (112 months compared to 90 months).

(Bureau of Justice Statistics 2004, Ministry of Defence 2010, Ministry of Justice 2009, Napo 2008)

The inquiry team visited the Jessup Correctional Institution (JCI) in Maryland on its visit to the USA, where we met with a veteran inmate group of around 40 prisoners. Many were older, and several claimed to have served in Vietnam. Jessup, a medium-maximum security facility, certainly reflected the statistical trends, as have the veteran groups the inquiry has encountered in its visits to English prisons. It was also notable that the JCI veterans group had been allowed to self-organise within the prison, with seemingly minimal supervision from prison staff. In England, on the other hand, the veterans groups we have encountered were more likely to be set up in collaboration with prison staff, while also being more tightly supervised.

In 2008, there were 23 million veterans living in the USA (Department of Veterans Affairs), of a population of 305 million (Population Reference Bureau 2008). A report by the Royal British Legion (2005) estimated that there were 4.8 million veterans in the UK, putting the proportion of veterans at a slightly higher rate than in the US (7.5 per cent and 8 per cent respectively).

Considering this, we might reasonably expect the proportion of English and Welsh veterans in prison to be correspondingly higher than the 10 per cent figure found in the US. As has been stated, however, the government’s official estimate is relatively low at 3.5 per cent. While it is intriguing that the US figure is close to the 9.1 per cent estimate of the probation union Napo, more research would be required before any confident claim could be made about this apparent correspondence.

# Factors leading to offending

## Homelessness

Homelessness in the veterans community represents a substantial problem in both the US and the UK. The Department of Veterans Affairs estimates that there were 107,000 homeless American veterans each night in 2009, and as many as twice this number may have experienced homelessness in the course of the year.

In the UK, the problem may not be nearly as stark but homelessness remains a concern. A 2008 report found that an estimated six per cent of London's current non-statutory ('single') homeless population claimed to have served in the Armed Forces (Centre for Housing Policy 2008). This represents a substantial drop from the proportion (approximately one quarter) alleged in the mid-1990s. Numbers continue to drop, with CHAIN (Combined Homelessness and Information Network) reporting three per cent of rough sleepers alleging a military connection (Broadway Homelessness and Support 2010). Service charities are monitoring this situation closely.

The Department of Veterans Affairs has responded to its figures by pledging to end homelessness among veterans by 2014. In the meantime, the Department provides 14,000 transitional housing beds, 2,100 residential rehabilitation treatment beds, and 30,000 vouchers for permanent supported housing.

## Mental health

In the USA, the Department for Veterans Affairs' Veteran Health Administration (VHA) treated 5.74 million patients in 2009. Of these, 25 per cent were treated for a mental health problem. For returning veterans, mental health problems are the second most common diagnoses noted in the veteran's medical record. Currently, the top mental health diagnosis for returning US veterans is post-traumatic stress disorder, or PTSD (53 per cent of those reporting mental health disorders), and the numbers are rising, with an increase of 44 per cent in those treated for PTSD since 2006.

Reported rates of PTSD among veterans are very different for the UK and US, with UK estimates at 4 per cent and US estimates at around 20 per cent. Reasons for these differences are unknown, although there are various theories that attempt to explain the apparent discrepancy.

In Washington DC, it was suggested to us by VHA officials that the reason for the low reporting rates in the UK is that the US now routinely screens for PTSD, depression, problem drinking and military sexual trauma. PTSD screening is not done in the UK, though plans are underway for a UK/US trial.

On the other hand, the inquiry had earlier received oral evidence from Professor Simon Wessely, Director of the King's Centre for Military Health Research, which posited other possible explanations. The relevant summary of this oral evidence reads:

*“There are various possible explanations: increased fighting in recent years and greater numbers of casualties; longer deployment periods (12 to 15 months in the USA, compared to six months in the UK); the larger number of reservists used in the USA (33% against 10% in the UK). But the most startling statistic is the steady increase in the rates of PTSD that happen when personnel come back from deployment – in some studies doubling over six months and more. Some studies are reporting for example that up to 35% of reserve forces for example now have PTSD.*

*“These differences are surprising. US and UK forces recruit from broadly similar backgrounds, and have been fighting in the same wars, using similar tactics. One difference however might be about eligibility for health care. In the UK all service leavers are automatically entitled to healthcare, regardless of how long they have served or whether or not they have a service related disability. That is not automatically the case in the USA.”* (Howard League for Penal Reform 2010)

In particular, the suggestion that US veterans are more likely to report PTSD and/or other mental health needs in order to secure support from the VHA is one we have heard anecdotally from several sources in the UK but it is not a supposition that was recognised by the VHA officials we met with in Washington DC.

Whatever the exact picture relating to PTSD, it is undoubtedly true that mental health is central to the US approach to looking after and supporting veterans in the community. There are over 1,000 medical centres and outpatient clinics and over 20,000 mental health staff, including staff at every medical facility with expertise in PTSD, substance use disorders and the mental health consequences of military sexual trauma.

It is also worth adding that the VHA is concerned as to the effect of traumatic brain injury (TBI), which psychiatrists have linked to increased aggression and impaired social judgement - factors which, in themselves, can lead to offending. While we saw no academic evidence looking at TBI and incarcerated veterans as such, it was notable that the relationship between TBI and offending was a live issue in the US, whereas the condition is rarely highlighted in England and Wales.

## **Drugs**

In the UK, discussion of substance misuse as a problem for the Armed Forces focuses almost entirely on alcohol. However, in the US, substance misuse is recognised as a particular problem for veterans, with an

acceptance that both drugs and alcohol contribute to offending behaviour among the nation's veterans: "The veteran population is just as susceptible to alcohol and substance abuse as other populations in America... However, of the 256,000 veterans in need of treatment for illicit drug use in the past year, only 20 percent had received treatment." (Russell 2010)

On the other hand, experts in the UK point the finger specifically at alcohol when it comes to substance misuse in the armed forces. Alcohol misuse is listed as the number one mental health problem for the UK armed forces by the King's Centre for Military Health Research, followed by depression and PTSD. Nonetheless, 11 per cent of UK veterans in prison are serving sentences for drug-related offences (Ministry of Defence 2010) and illicit drug use may feature as a factor in the offending in a number of other categories.

Recognising drugs as an issue allows the US to intervene early and be proactive in its response to substance misuse. The next section describes how the Department for Veterans Affairs coordinates its response to justice-involved veterans and these identified factors that can lead to offending.

# The US response

*Figure 2* outlines the multiple points at which interventions can be made to help US veterans in the criminal justice process. These include:

## **Veterans Justice Outreach (VJO)**

The Department of Veterans Affairs (VA) Veterans Justice Outreach (VJO) programme aims to provide timely access to VA services for veterans involved in the criminal justice system, with the aim of diverting as many as possible from criminalisation and custody.

In communities with justice programmes for veterans (such as the veterans courts), this involves the Department of Veterans Affairs taking the initiative in ensuring that veterans are referred swiftly. In those areas where no such programmes exist, the VA works with local justice partners in trying to make sure the veteran's needs are met as effectively as possible during their processing through the criminal justice system.

VJO work is based in the 153 VA medical centres across the USA. With a heavy emphasis on mental health, the aim is to ensure that veterans with mental illness and/or traumatic brain injury are not "sucked in" to a one-size-fits-all criminal justice system.

## **Healthcare for Re-entry Veterans (HCRV)**

US veterans are unable to access Department of Veterans Affairs benefits in prison, and this poses a particular problem for those approaching release, which the HCRV programme is only beginning to address.

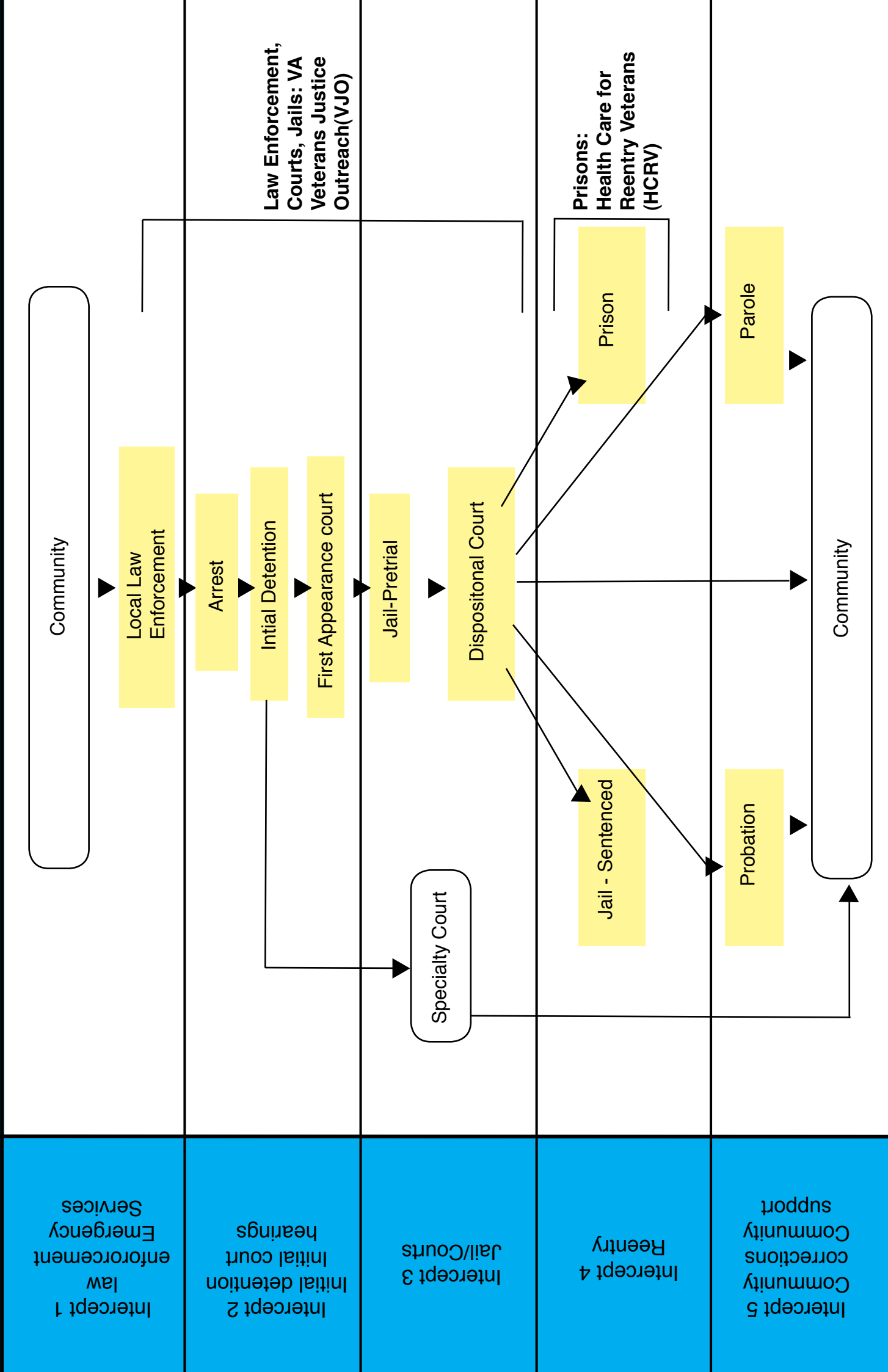
In 2004, approximately 75,000 veterans were released from prison. With increased risk of mental illness, homelessness and reoffending, this group of now being targeted with VA support to plan for release and successful reintegration into community living.

HCRV staff are now engaged with 955 of 1,319 state and federal prisons and have contacted 23,000 incarcerated veterans since September 2007. In the months prior to release, the HCRV works steadily with veterans in prison to plan for their needs in the community and offer support. This can include access to VA medical and mental health services, access to VA housing, addiction treatment, and education, training and employment support.

## **Crisis Intervention Teams**

Crisis Intervention Teams are a further component of the US response to veterans and offending behaviour. These are law enforcement officers who are specially trained to deal with mentally ill individuals. Law enforcement officers volunteer for the 40 hours' training, which gives them the tools they need to

Figure 2: Sequential Intercept Model



understand mental illness and to collaborate successfully with mental health services, so that veterans in crisis can be referred to designated VA medical centres, rather than arrested. To date, law enforcement officers are reporting reduced rates of arrest on calls relating to mentally ill individuals, and also reduced rates of injury to officers.

## **Veterans courts**

Perhaps the most distinct part of the US experience is the specialist veterans courts. The inquiry team visited the first of its kind, in Buffalo, New York state.

Presided over by the charismatic Judge Robert T. Russell, a City Court Judge in Buffalo, the mission driving the Buffalo Veterans Treatment Court is to rehabilitate veterans by diverting them from the traditional criminal justice system and providing them with the tools they need in order to lead a productive and law-abiding lifestyle. Judge Russell does not sentence, but monitors veterans as they go through the programme. Veterans must have acknowledged their guilt to be referred to the veterans court by local law enforcement agencies or courts in other jurisdictions.

With 43 per cent of veteran state prisoners and 46 per cent of veteran federal prisoners meeting the criteria for drug abuse, the court aims to intervene with any reported substance misuse problems, diverting veterans from the traditional criminal justice system and providing them with the tools they need in order to lead a productive and law-abiding lifestyle. In hopes of achieving this goal, the programme provides veterans suffering from substance abuse issues, alcoholism, mental health issues, and emotional disabilities with treatment, academic and vocational training, job skills, and placement services. The program provides further ancillary services to meet the distinctive needs of each individual participant, such as housing, transportation, medical, dental, and other supportive services. The court currently has a 0 per cent recidivism rate (Russell 2010).

The veterans courts work to address homelessness, recognising that it is a risk factor for offending behaviour, and so provide housing services to participants in the programme. In terms of preventing homelessness, the Department of Veterans Affairs recognises that imprisonment as an adult male is one of the top five predictors of homelessness, and as such, has set up an extensive Veterans Justice Outreach programme (see above).

Furthermore, mental health is a key component of the veterans treatment courts. These courts recognise that veterans have specific needs, and that rates of mental illness are particularly high among the deployed veteran population. By creating what are essentially hybrid drug and mental health courts (that also operate in accordance with restorative justice practices) specifically for veterans, this niche community can receive tailored care, in an area where traditional community services may not be adequately suited to meet their needs: "Service members and their families experience unique stressors as part of the military experience... Thus the delivery of high quality

care for psychological health, including prevention, early intervention and treatment, requires providers who are knowledgeable about and able to empathize with the military experience” (Russell 2010).

The inquiry team visited the veterans court at Buffalo and were impressed by what we saw. Veterans who have offended are referred to the court and come under the watchful eye of Judge Russell. Typically, they have committed non-violent offences and are facing up to 12 months in prison. They are given the opportunity to attend the veterans court, and if they take it, they are assigned a probation officer and, crucially, an ex-service mentor. For up to 18 months, they are required to go to court several times a month to explain how they are getting on. They are drug tested every fortnight and if they are “clean and sober” at the completion of the course and are holding down a stable job or training placement, they graduate. They are given a glowing character reference and the offence is not listed on any criminal record.

The scheme relies on having a volunteer mentor who is an ex-service person and a team of VA staff who lend support to each veteran in terms of mental health, benefits, housing, education and employment. The veterans courts are available to other courts for referral, so the system is not a twin track for veterans and civilians, but simply a different disposal for courts to use for ex-service defendants.

The inquiry is now considering whether such veterans courts could be transferred to the UK, as other specialist courts such as drug courts or community courts have. Issues to consider include whether the courts would represent ‘special’ treatment for a particular group within society, or whether a veterans court would simply prove unaffordable in the current financial climate. It may be that it is simply the principles of the veterans court, and its problem-solving nature, and adherence to concepts drawn from restorative justice, that could better inform sentencing practice in England and Wales.

# Conclusion

While veterans in both the UK and the USA have lower incarceration rates than non-veterans, veterans in both countries are more likely than other prisoners to be serving time for a violent offence. 57 per cent of veterans in US state prisons are serving time for violent or sex offences, compared to 47 per cent of non-veterans. The figures are startlingly similar in England and Wales, with almost 58 per cent of veterans in prison serving sentences for violent or sex offences, compared to 40 per cent of the civilian prison population. Veteran prisoners tend to be older as well, and serving longer sentences.

It would seem the ex-service community is faced with difficult questions as a result of the statistics. There are obvious patterns emerging on both sides of the Atlantic in terms of veterans and offending behaviour. Why are veterans over-represented among older prisoners, and does the high proportion of veterans serving sentences for violent and sex offences mean that veterans are committing more serious sexual and violent offences compared to the general population? The inquiry will seek to address these questions, and others, in its final report.

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