

ASSEMBLY SELECT COMMITTEE ON VETERANS' AFFAIRS

Richard E. Floyd, Chairman

HEARING ON INCARCERATED VETERANS DECEMBER 1, 1983



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HEARING ON INCARCERATED VETERANS

State Capitol, Sacramento, California
December 1, 1983

CHAIRMAN FLOYD: Welcome to a meeting of the Assembly Select Committee on Veterans' Affairs. It's a little unusual this morning, because this is one of the committees that usually has a higher attendance factor than most of them. It might have something to do with the issue or something, I don't know.

The issue of incarcerated veterans and veterans in the Criminal Justice System is one which has gained increasing public attention in recent years.

It is one of the most -- You recognize I'm reading this damned statement.

(Laughter)

Anyway, in the last couple of years I've made several visits to several of our prison facilities to meet with incarcerated veterans. Many of their concerns are the same as anyone who has wound up in the "joint." But a lot of characteristics of incarcerated veterans are not common to the rest of the population. The veterans in the prison population, for instance, basically have a higher rehabilitative potential than rest of the prison population. And basically the people that we find who are veterans in that situation are large numbers of first time offenders as opposed to repeat offenders.

Today we're going to be hearing from witnesses representing most of the aspects of the veterans' experience with the Criminal Justice System. We have a defense attorney, a judge, an in-prison counselor, a jail counselor, and those who do post-release services. We also will be exploring the phenomenon of Post-Traumatic Stress as it relates to the involvement of Vietnam vets with the Criminal Justice System.

Those of us in public office may come away from this hearing a bit frustrated. It's certainly not simple to attempt administratively or legislatively to modify the criminal justice or correctional systems to accommodate these issues. And it's certainly not a politically popular situation to be involved in an area like this. But at least we hope that we can get more of an understanding of what the problems are. Like I say, it's pretty obvious that within the Criminal Justice System and the attention we get in this room, that legislators in particular are really anxious to jump into situations --

Welcome, Mr. Hannigan. Mr. Hannigan is the senior member on this committee.

If we were having a hearing about extending sentences; if we were having a hearing about creating new crimes -- new ways to throw people in prison, you'd have a whole lot of legislators up here wanting to prove that they're really dedicated to law and order, and locking people away, and establishing a Devil's Island type thing, and everything else. But not when it comes down to dealing with a situation once it's there, whether it's the building of prisons, the overcrowding of prisons; or dealing with

the persons who are incarcerated, recognizing that regardless of where they are they're still citizens of this state -- and particularly when we're dealing with veterans. No matter where the man is or the woman is, they're still a veteran and there are still certain things that we try to look at. If we were dealing the other way, on how to throw people in and lock them up longer, more and longer punishments and tougher treatment and all that, you'll find a whole lot of our colleagues are very much interested. But when it comes down to dealing with the situation once it's there, you're going to find that the attention wanes.

So, with that, we're going to start off this morning with a gentleman testifying who probably has a better grasp on individual veterans in the system and their problems and all, and I'd like to call for Mr. Bruce Pentland. Bruce is the Coordinator for the Veterans in Prison Program out of the VA Medical Center in Los Angeles. Thank you Bruce.

UNIDENTIFIED: (Inaudible)

CHAIRMAN FLOYD: Oh, yes, well this works a little differently than most of the meetings you and I have participated in. Just make yourself comfortable. Give us a statement. Tell us your concerns. Whether you want to read it or just swing from the hip, anyway you want to go, Bruce.

MR. BRUCE PENTLAND: Okay, fine. I've been asked to read a brief introductory (inaudible) couple of minutes of pages (inaudible).

CHAIRMAN FLOYD: Yes, you're going to have to speak right into that thing. First we've got to find one that's turned on.

UNIDENTIFIED: I thought you tested those, Buzz.

(SILENCE)

CHAIRMAN FLOYD: This only happens in my hearings.

What's this Joint Fairs Committee Hearing? How come I wasn't notified? I'm on the Joint Fairs Committee.

(SILENCE)

UNIDENTIFIED: (Inaudible)

That's funny. With the other sergeants every mike works. There's something wrong here. Send Pam back. She knows how to make the mikes work.

MR. PENTLAND: Okay. Mr. Chairman and members of the committee, the problem of incarcerated veterans is a timely subject and one that has been discussed and debated on a variety of levels. For the most part, it is a problem whose scope has been drastically overstated, perhaps for good reason, but still drastically overstated. The reality of this problem statistically is much less dramatic, but in human terms it is still a serious problem.

Veterans incarcerated within the State of California -- and I'm talking about felony convictions only, within the Department of Corrections -- comprise about 27% of all inmates in this state. That's veterans of all eras. This really amounts to about 9,800, a little over 9,800 individuals in this state. Of this 27% population, a little over 6,200 are Vietnam era veterans, or about 17% of the total prison population. And about 2,500 are Vietnam veterans themselves, or about 7% of the total state population.

We can reclaim many of these men and women. Currently about four out of ten of the Vietnam era veterans are experiencing incarceration for the first time in their lives. For people of this age group -- we're talking about an average age of about 32 -- this is extremely atypical. If we don't make some attempt at some behavior modification, many of these individuals will be lost into the career criminal category.

Veterans seem to make better prisoners than their non-veteran counterparts because of their experience in living within hierarchical situations within the service; the mass living experience; and the fact that they average about two years older than the non-veteran population. They have a little more maturity.

However, most veterans in prison are not career criminals. And this is even true for the pre-Vietnam era veterans. Most veterans, especially within the Vietnam and Vietnam era populations fall into the punishment or revenge modes of behavior, with really the largest groups coming in with what I term the "outlaw" mode of behavior. They are people who are not "dyed in the wool" criminals, but really see no stake at all in society; see nothing that society is ever going to do for them; and feel no interest in then contributing to anything society has.

The later types of behavior, especially the outlaw type of individual, really offers a strong chance at a good opportunity for behavior modification, but only if such attempts are offered. Not all, or perhaps even a majority of veterans in prison, can or even want to change their living situations; however, there are the exceptional few who can be prevented from

entering on to the recidivism treadmill. This can be accomplished by offering timely intervention. Timely meaning being there where and when the veteran is ready for such intervention; and offering the intervention that can be accepted by the veteran.

Doing behavior modification within prisons differs greatly from doing such behavior modification on the street. And I realize the subject of this hearing is incarcerated veterans and I will not go into the behavior or the treatment aspects. Suffice it to say there are very specific treatment aspects that do work with incarcerated veterans.

I think the poignant factor is that I don't -- I personally do not believe that we can afford to ignore these exceptions. And if only for economic reasons. If ten veterans per year were prevented from going back into a prison situation, this alone would be a saving of \$200,000 just to the Department of Corrections for housing. This does not even include the savings in human terms, both for turning the veteran into a productive citizen and the cost to the victims. The savings to the court system or the police system are not counted in this.

The issue, really, that this committee will be confronted with today, I feel, is not should such intervention be offered. I quite strongly feel it should be, both for economic and for human reasons. The issue is not can such intervention be offered. I think the experience of my program, the Veterans in Prison Program, over the past six years verifies that, yes, such intervention can be offered at extremely little cost. The real

issue is, how do we offer such programs, and do we even want to offer them to the veterans in prison.

You have, I think, my rather lengthy presentation up there, which I'm going to try and paraphrase as best I can at this point. Let me specify one thing before I get into my official presentation. I am not a spokesperson for the Veterans' Administration. God knows the VA does not want me as their official spokesperson. I appear here as a private citizen who happens to be employed by the VA and works with incarcerated veterans.

The program I work is called the Veterans in Prison Program, which is functioning out of the Brentwood Veterans' Administration Medical Center in Los Angeles. This is a pilot outreach program within Social Work Service, as a part of the Vietnam Veterans Liaison Unit; and is an attempt to provide resources and to meet the needs of incarcerated veterans of all eras.

Currently, my program provides services to incarcerated veterans at: Tehachapi Correctional Institution -- both on the medium and minimum sides; California Institution for Men at Chino -- on the main yard; California Institution for Men East; California Institution for Women; Terminal Island Federal Correctional Institution; California Rehabilitation Center -- where I began the program and have turned it over to other service providers; California Mens Colony in San Luis Obispo -- on both the East and West sides. Again, where I established the program and found service providers to meet the needs of the program.

I have programs within the Los Angeles County Jail System: Wayside Honor Rancho -- maximum, medium and minimum sides; Central Jail -- diversionary program, where we actively get people out of jail into treatment programs in lieu of incarceration; and, Sybil Brand Institution for Women.

The VIP program provides services also to Los Angeles County Mental Health Programs at Warm Springs and Acton Rehabilitation Centers.

I've submitted a copy of a couple of articles that I have written in the past years concerning the functioning in more detail of what the VIP Program does; how we do it, why we do it, where we're going, etc.

Briefly, the program is organized around the concepts of self-help and reality therapy. The foundation of the program is that "there's a reason that you are in jail, but there is no excuse." The point that really needs to be made here is that this program is not meant to condone, nor do we in any way condone criminal or antisocial behavior.

About 80% of the men and women that I see -- that's about 400 people per month -- are of the Vietnam era, or are Vietnam veterans. We don't accept Vietnam as a reason, per se, for becoming involved in antisocial behaviors. What we do accept is that it might, and probably does, have something to do with their current situations. Something to do with it. We accept that in some cases, not all, this period in the veteran's life left a very strong negative residual. We accept that if this negative residual is not dealt with, the veteran will never truly

be able to enter the "main stream" of our society. We accept that in order to provide viable services, one must at least take the interest to provide them to the veteran where ever he or she is. To wait until the veteran is out of prison before extending such services basically means you're missing about 90% of the people.

The services offered through the program -- through the Veterans in Prison, or VIP Program -- are individual therapy concerning their present situations, family therapy, group therapy, employment, help with VA benefits, discharge upgrading, employment, referrals to veterans' service organizations, and basic personal attention.

Obviously, because of the numbers of individuals that I must be responsive to, time at each institution is brief. But even with such marginal contacts, positive results can be achieved with reference to dealing with life styles and attitudes. Many times, the simple fact that one demonstrates their care, and that they care enough to come out to the prison to see the inmate, provides a foundation upon which at least some dialogue concerning change within the individual inmate's life can begin.

Then let me throw in here that I'm not saying that social work, and by no means social work intervention behavior modifications, is the great silver bullet; that magic answer. I think that in some cases we can intervene. Maybe in a small number; and I think we have to be -- I think that goes with the territory. I think in the past much too much has been stated and

expected of social work behavior modification type programs. I think there's a margin for success. I don't think it's as great as a lot of people have believed.

As I mentioned, no excuse for incarceration is accepted. It's just as misleading to hold that no residuals of Vietnam, or the service person's past experience, affects the veteran/inmate's life today as it is to hold that all current problems can be blamed on, for example, Vietnam, or any one thing within a person's life.

There will be a book -- and I did receive confirmation of this before coming up here -- which will be published early next year, through the American Psychological Association. One of the chapters in that book will deal with treatment modalities concerning incarcerated veterans. However, again, I recognize the concern here is not so much with treatment but with the view of the overall situation.

My basic concern, by bringing all this up, is to really point out that the VIP Program is really in the business of exceptions. Again, not all incarcerated veterans are even interested in changing their life. The VIP Program is not set up to show the veteran how wrong he has been. We really don't do value judgment, per se. What we do is deal with reality: You do the crime, you're going to do the time. The world is not necessarily a fair or just place; but this inequity must be dealt with. By everybody. We are actively looking for the exceptions to the general rule of prison life. We are looking and seeking out the veterans who desire such changes in their lives. We are looking

for these exceptions, just as you individuals are looking for the exceptional legislator, the exceptional student, etc. If one really doesn't look for them, they're going to go unnoticed. When you dig these people out, when you discover them, you need to nourish their growth; you need to provide some supportive atmosphere.

Prisons are not real good places for providing a change of attitude. The peer values that are in existence in prisons don't really support an individual that says, "Maybe I haven't done as well as I could, and I really would like not to come back here. And I really would like to consider doing a change." That is a difficult attitude for a man or a woman to adopt while in prison. They're not going to get a whole lot of support from the rest of the people on those cell blocks.

Prison counseling differs greatly from doing "street" counseling. And again, I'm sensitive to the time, so I point out that we do have some very specific answers. Or maybe not answers; we have some specific approaches to deal with this area. One must recognize, however, that you're dealing with a prison atmosphere, and you must recognize the limitations that it places both on the counselor and the inmate. To go into a prison situation with the attitude that all prison staff is bad, or that all the inmates are simply poor misunderstood individuals, really leads to dysfunctional products. The stress of the VIP Program is on individual responsibilities in all areas of the veterans' life, and no excuse for violating this concept is ever really accepted or condoned. We'll discuss it, but we won't condone it.

Currently the Veterans in Prison Program has a very loose link with the Department of Corrections. It's basically on a de facto basis. After the initial organization of this program at several correctional institutions, requests were received from other Department of Corrections facilities to begin programs in their specific areas. In most cases I was able to meet these needs.

However, because of problems of logistics, in some programs I was unable to meet those requests; however, was lucky enough to find in several prisons community based organizations to do the outreach. Programs like the Disabled American Veterans in the Los Angeles area, and the California State Department of Corrections, have been extremely helpful in trying to meet the needs of the veterans in prison population. Also several of the Vet Center programs -- the Operation Outreach, through the Veterans' Administration, especially in the San Francisco area -- have been extremely sensitive and responsive to the needs of the incarcerated veteran population; really, in spite of some very strong inducements not to become involved in that area.

I'm currently a part of the reentry programs at some of the CDC facilities I work at. At other facilities I'm a part of the Group Coordinator's office, where I run the self-help groups. Whenever possible, I do try and get staff, preferably Vietnam vets. And perhaps surprisingly, perhaps not, there's an awful lot of Vietnam staff, correctional officers, within the Department of Corrections.

I've met with CDC officials, again, with the help and through the help of the State Department of Veterans' Affairs here in Sacramento, concerning providing Agent Orange testing and aid to incarcerated Vietnam vets; and found a most receptive audience. We've also arranged hospital release programs with several of the prisons that I work with, where we can get a veteran out of the prison, to a VA facility for maybe a day, for an evaluation, for an assessment. Again, through the Department of Corrections, I found a great deal of support for these types of programs when viably and properly administered.

What I'd like to do at this point is go into some general characteristics of the incarcerated veteran population within this state. Just a very quick rundown. Most of the data that I'm going to give you comes from a national study done by the Federal Bureau of Prisons. They use the base year of 1979 for the study. The study is as recent as we have; it was published last year. I'm going to combine with this study some data that I received from the California State Department of Corrections. They also use the year of 1979 in their data collection. The difference between the two studies is almost minimal, with the exception that California has a greater percentage of incarcerated veterans than on the national average. That really isn't surprising, because California is, if not the most populous, at least one of the most populous veteran states in the nation. So we would not be unlikely to have a little higher percentage within our facilities. And I'll try to do this as quickly as possible.

*Currently there are about 36,500 convicted felons within the Department of Corrections system. This is up from 21,000 in 1978.

*Of this population, 27% are incarcerated for non-assaultive type crimes.

*In California, about 27% of this population are veterans of all eras.

*About 17% of the felon population are Vietnam era veterans.

*About 7% are Vietnam veterans, per se.

*Veterans generally are convicted of more violent crimes than are their non-veteran peers.

I will be specific when I talk about different eras.

When I say veterans, I refer to veterans of all eras, the combined category

*At the time of the offense, about 27% of these incarcerated veterans were under the influence of drugs.

*About 50% were under the influence of alcohol at the time of their offense.

*On the average, veterans are less likely to go to prison than are their non-veteran peers.

*Once inside prison, veterans tend to make better prisoners, simply because of their experience, perhaps; living in mass living situations; dealing with orders; and again, their maturity factor.

Concerning eras of service:

Pre Vietnam veterans:

*Their average is 45 years.

*They're less likely to have graduated from high school than other veterans -- other incarcerated veterans.

*They're more likely to have been incarcerated prior to their current sentence.

*They're more likely to be serving a longer sentence than other veterans.

*They're more likely to be separated or divorced than are veterans from other eras.

Vietnam era veterans:

*As of this year, their average in prison is about 32 years of age.

*They show a very close similarity to non-veterans in terms of age, crime, and marital status, etc.

*They're more likely to use drugs than veterans of other eras.

The point here is that veterans of the Vietnam era, in other words, children of the '60's, whether they're veterans or not, are more likely to use drugs than are their peers from other eras.

*They're more likely to have never married than veterans in prison from other eras.

One of the indices of Post-Traumatic Stress, and we're talking about in this category Vietnam era veterans which includes Vietnam veterans, is the difficulty with relationships; the difficulty in reaching out and building solid relationships. This certainly supports that indices of Post-Traumatic Stress. It does not indicate Post-Traumatic Stress; but it certainly supports that concept.

*As of 1983, these veterans have been out of the service for an average of 12 years.

*Nationally, the Vietnam era veteran comprises about 15% of your state felon population.

*In California, it's about 7%.

*Nationally, Vietnam eras comprise about 5% of the prison population.

*Blacks and whites are about equally likely to have served in Vietnam.

*About 30% of the Vietnam veterans have a less-than-honorable discharge.

Minority statistics:

*Non-veteran minorities are highly over represented in our CDC facilities -- California State Department of Correction facilities.

*However, minority veterans show a much smaller incarceration figure. For example:

- 50% of the non-veteran population are Black.
- 33% of the veteran population are Black.

- 10% of the non-veteran population are Hispanic.

- 7% of the veteran population are Hispanic.

Drug and alcohol use:

*Veterans are less likely than non-veterans to have been under the influence of drugs at the time of their offenses.

*About 50% of the veterans and non-veterans -- 48% versus 56% -- used drugs regularly. And by that, I mean at least once a week.

*20% of the veterans and non-veterans used heroin.

*75% of the veterans and 80% of the non-veterans have used drugs at least once in their life.

*Vietnam era and post-Vietnam era veterans:

- A large majority of these men have used marijuana regularly.

Again, this is not surprising. For children of the '60's and '70's, marijuana is a very common drug for veterans and non-veterans.

*25% of Vietnam era and 10% of post-Vietnam era veterans have used heroin, at least at some point in their life.

*Vietnam veterans were only slightly more likely to use heroin than were Vietnam era veterans.

*25% of all incarcerated veterans have an alcohol problem.

*33% of the Vietnam era veterans have an alcohol problem.

*Alcohol is by far the strongest problem for post-Vietnam veterans. That's 40% of the post-Vietnam veterans.

*Vietnam veterans are no more likely to be alcoholic than are Vietnam era veterans.

Employment:

*The majority of incarcerated veterans were, at the time of the offense, unemployed.

*14% of the incarcerated veteran population had no income for the year prior to their arrest.

*Of those who did, their average earned salaries -- while higher than the non-veteran population -- was still below the national average.

Education:

*Veterans in prison are as well educated as their veteran peers within society. However, they are much more likely to have a less-than-honorable discharge than are the non-incarcerated veterans.

*Veterans in prison are much better educated than are their non-veteran counterparts.

-60% of veterans in prison have a high school diploma, at least.

-Only 40% of non veterans have a high school diploma.

-Post Vietnam veterans have a percentage of 55% average for a high school degree at least.

-Median education of incarcerated veterans is 12.3 years.

-Median education of veterans not in prison is 12.6 years.

Criminal careers:

*There are really no major differences between the eras of veterans, when talking about criminal careers.

-25% of all veterans committed their crime while in the service.

-25% of each era of veterans service had done time prior to going into the service.

-33% of all veterans in prison had been on probation before the age of 20.

*Incarceration:

-50% of post-Vietnam era veterans had been incarcerated at least once prior to the 1979 base year.

-60% of Vietnam era veterans had been incarcerated prior to '79.

-75% of the pre-Vietnam era veterans had experienced a previous incarceration.

Crimes:

*Most veterans commit crimes of violence.

And this is on the average. Which is similar to non-veterans in the respect that about 60% of each groups, veterans versus non-veterans, are incarcerated for violent acts.

*About 33% of the veterans do property crime; about 33% of the non-veterans do property crime.

*About 5% of veterans do drug or public disorder crimes; about 5% of non-veterans do drug and disorder crimes.

*Veterans are more likely to be sentenced for:

- murder
- rape
- armed assaults

than are non-veterans. They are least likely to be sentenced for:

- robbery
- burglary

*White veterans are more likely to commit violent acts than are the Black veteran population: 57% versus 49% respectively.

*For Blacks, veteran status made little difference with respect to violent actions. About 66% of each group was sentenced for such violence.

*White veterans were less likely than white non-veterans to have done a drug related crime. Among the Black population, again, veteran status made little difference in this consideration.

*Black and white veterans were incarcerated in equal proportions for public disorder crimes.

*The era of service made little difference in the type of crime the veterans were convicted of. Conviction for violent crime was similar for each group.

*Post-Vietnam veterans were:

- more likely to commit property crimes than the other eras of veterans.

- less likely to have committed a drug offense -- again compared with veterans of other eras.

Sentence:

*As a group, veterans, on an average, tend to do longer sentences than their non-veteran counterparts.

- 12% of the Vietnam era veterans are doing life sentences.

- 17% of pre-Vietnam veterans are doing life sentences.

- 2% of post-Vietnam era veterans are doing life.

Type of discharge from service:

*More than 90% of all service persons receive an honorable discharge.

*Only about 50% of the incarcerated veteran population on a whole has an honorable discharge.

Branch of Service:

*Most of your incarcerated veterans came from the U.S. Army.

- 59% served in the Army.
- 18% in the Marines.
- 14% in the Navy.
- 9% in the Air Force.

Interestingly enough, the majority of Vietnam era veterans served in the Marine Corps; and of the Vietnam veterans, those that actually saw service in Vietnam, the majority also served in the Marine Corp.

Service connected disabilities:

*10% of the incarcerated veteran population have some type of service connected disability.

*Vietnam veterans serving time were more likely than veterans of other eras to have such service connected disabilities.

Because these veterans have been convicted of crimes against their fellow man does not mean that they are totally devoid of human worth, nor does it mean that they are totally unreclaimable. In a very small proportion of the cases that I see, the individual is simply not interested in changing his or her life pattern. In the majority of cases, the individual really is open to some type of change if it is presented within a context he or she can accept.

The VIP program recognizes that not all of the incarcerated veteran population will respond to attempts at behavior modification. It recognizes that in some cases the individuals are a direct and serious threat to society and need to be locked up. This is a reality of life. As Richard Pryor says, "Thank God for prisons!" There are people that will never function within our society. We do not ignore that. I recognize that.

However, this program is, again, dedicated to the exceptions to the rule. It is set to encourage the cultivation of positive values and attitudes. It is set to encourage and direct this change by concentration on the positive attributes that the veteran retains, and to deal with the negative factors that have led to the incarceration.

Some of the things that can be considered in order to meet the needs of this population are:

1. It would be extremely helpful if the Department of Corrections could screen out all veterans at the Reception Centers -- which they have the capacity to do -- and consider, if the person is a Vietnam veteran, making participation within a "rap" or therapy group mandatory for them. The performance within this program could be monitored, let's say, by the counselor who's going to do the program, and by CDC staff.

However my experience in the last six years leads me to strongly believe that if the program is only going to be run and monitored by staff, it's not going to have the reception from the inmates that it will if CDC acknowledges outside help. And again, I stress that the reception that I have received from the Department of Corrections has been excellent. And not to blow my own horn, so to speak, but I think it's been excellent because I can offer and have been very sensitive to their specific needs for custody and to really set up a viable responsive program that can communicate with the staff and not ignore them.

2. One point that would be extremely helpful is, on the CS rating, Item Number 6, given at the Reception Centers -- there's a question that concerns the type of discharge one receives from the service. And this point, in effect, punishes people with less-than-honorable discharges.

Now the fact is that all of our data comes from the Reception Center questionnaires. I think that we are perhaps in some respect missing some data, because if I know that if I answer that I have a less-than-honorable discharge and I am going into a prison situation and I know that those two things are going to make my life harder, I probably will not respond that I have a less-than-honorable discharge. I may just slide over that question altogether; or say, no I'm not a veteran.

The problem is many Vietnam and Vietnam era veterans received less-than-honorable discharges. We know that is a fact of life. To punish these people for having that discharge -- when in fact, they may not have deserved the discharge; when in fact, we can work on getting those discharges upgraded, if we only know who those people are -- is really dual punishment. And if that one provision were removed, I think it would be a great help.

3. CDC could, perhaps, consider creating central facilities, much like the tone of Penal Code 1170.8, to house Vietnam veterans who are cited or who have evidence of Post-Traumatic Stress or substance abuse that was cited and a relevant factor during their trials.
4. It would be extremely helpful to have the CDC medical and counseling staff receive a briefing on Post-Traumatic Stress and Agent Orange.

To this light, I understand that there is a briefing scheduled with the Department of Corrections for their chief medical officers on Agent Orange at some point in the future.

5. These counselors and medical staff also should be made aware of -- and strongly made aware of -- the veterans' programs that are operating within their facilities and of the veterans' programs that are

within the community that could offer help to the staff at the prisons.

6. It would be extremely helpful to encourage the California Institution for Women to consider their veteran population.

Again, I'm very sensitive to the time requirements of the committee, and I know there are other people to follow. I have a statement from a female Vietnam veteran, who has just been released from prison, that I've been working with for two years. She would very much like to have this statement -- I would like to read it in; but again, recognizing the time constraints ...

CHAIRMAN FLOYD: Read it in.

MR. PENTLAND: Okay, as soon as I get through with this paragraph, you've got it. Thank you.

The Department of Corrections can activate self-help groups at the female prisons.

This statement is made by a young lady, a female Vietnam veteran who has just gotten out of prison. Interestingly enough, this lady, she was out of prison on November the 7th. This is now November 30th. On November 28th, she was hired by the Veterans' Administration in Los Angeles, within General Counsel's office as a legal secretary. This woman, prior to going in the service, led a rather chaotic life. She's one of the people I'm talking about that if support, aid, etc., was not offered to her while she was incarcerated, we would have -- and it is not impossible that she's going to go back in prison. God knows, I have no promises. I've been wrong before; I'm going to be wrong many more times in my life. However, I feel extremely confident; I feel very positive about this. This is her statement:

"The need for veterans' representation inside the women's prison at Frontera, California, is extremely important and vital.

"I was the in-prison veteran representative at California Institution for Women for one and one-half years. I tried to start a veterans' self-help group for months, to no avail. The objective of the self-help group was to inspire veterans, dependents of veterans, and other interested inmates in the areas of self-motivation, self-esteem, pride, dignity, and self-rehabilitation.

"A secondary objective was to provide in-prison counseling on an individual and group basis which would induce positive mental growth and development.

"This proposal was presented to the prison administration and denied. The reason for the denial was based on the implementation of a CDC pre-release program, which was to primarily include the same objectives as those proposed by the self-help veterans' group.

"I took the liberty of sitting in on a pre-release program. It is a good program and does provide positive information for personal development; but it is not directed towards the deep, emotional problems which individuals are subjected to, which are perpetuated by incarceration. Without assistance, the emotional aspect of the individual growth and development of the person is not of any substance in the overall growth process.

"The program does not direct any specific daily presentation towards the incarcerated veterans; particularly Vietnam era veterans. Mr. Bruce Pentland, Veterans' representative for the Veterans In Prison, comes to the institution once a month and incorporates specific veteran information to the inmates attending the pre-release program. Mr. Pentland's presentation is positive, informative ..." etc., etc.

"Time allowed, only once a month, anywhere from 30 minutes to an hour, is not enough. This amount of time merely allows for the representative to squeeze in information about benefits ..." etc.

"The assistance available through the Veterans' Administration is extensive and should be thoroughly explained and fully exercised by the female veterans. When a veteran representative has to squeeze in information about benefits and assistance available and provided by the VA for the incarcerated veteran, that veteran population gets only a portion of what is available and it is cheated out of the beneficial

knowledge and guidance.

"It also eliminates the opportunity for the Veterans' Administration to fully display their abilities as an organization. In order to provide adequate information, guidance and counseling of any substance to veterans and dependents of veterans, a self-help group directed primarily at the needs of this group is necessary. Females, like males who are veterans, need strong and consistent guidance, particularly those in prison. The Veterans' Administration employs men and women specifically trained in areas of counseling and therapy.

"The prison environment causes similar emotional trauma, such as that suffered by Vietnam veterans. The same type of therapy should be available to incarcerated female veterans, for prison is in reality a war zone. Incarcerated female veterans have needs; and these needs, many of them, can be met by the Veterans' Administration. The Veterans' Administration should be allowed to enter into the prisons, specifically CIW, often to offer help to the female veteran.

"The implementation of a veterans' self-help group at the California Institution for Women would bring positive results for veterans and non-veterans alike. The need for sincere, strong support for female veterans who are incarcerated is as serious as that for the incarcerated male veteran. There is an emotional need, not only an outer developmental need, that must be treated.

"As a Vietnam era veteran and a recently released prisoner from the California Institution for Women, I believe that I can confidently provide sound evaluation of the needs of the female veterans there. I pursued assistance from the Veterans' Administration while incarcerated, and upon release; and they assisted me with counseling, employment leads, and workshops; aided me in the readjustment period; and are still providing this service.

"This is an extremely vital period in the ex-felon's life, particularly if they do not want to immediately, or ever, return to prison. The strangers that I meet who are employed by the VA have treated me as a friend and are extremely understanding.

"A self-help organization for the females would be convenient and would provide a constant and consistent help organization. The pre-release programs end upon release from prison. The Veterans' Administration continues help for as long as you ask.

"The Veterans' Administration is an organization that should get involved with the veterans in prison and stay involved. Veterans in prison need a reentry facility which provides continued housing and positive guidance. Continuous assistance is a sound foundation for positive readjustment to society. A veteran reentry facility would enhance positive growth, especially because the Vet Center employees are very positive people. They tend to be more supportive and sincere about helping than are their peers, especially within the VA.

"In the near future, I plan to work within the Veterans' Administration, within the prisons. I care, and I know what kind of help is needed within this system. And the state is not adequately providing that type of help."

As I say, she is now employed within General Counsel's office within the Los Angeles office for the Veterans' Administration.

Some other things that the CDC could do would be to, perhaps:

7. Formally recognize and encourage the foundation of the Veterans In Prison self-help programs within their facilities.
8. Perhaps one thing this committee could do would be to encourage the VA and other service providers to get involved with the incarcerated veteran population.
9. Perhaps this committee could encourage CDC to give preference points to veterans -- especially those veterans convicted of non-assaultive type crimes -- towards early releases or work release type programs.

During the past six years, the cooperation that I have received from the VA and the State Department of Corrections has, for the most part, been very positive and very supportive. Perhaps it has come time for the Department of Corrections within

the state to formalize this program within their institutions. I realize that the current public voice is crying for punishment in lieu of rehabilitation. I, in fact, am stressing rehabilitation, because I honestly feel that behavior modification can be effective within prisons; although, not to the degree that many people would like, or have stated that it can be done.

Concerning Penal Code 1170.8, the potential for realizing many of the goals that I've set out previously is certainly present. To my knowledge -- and I really restrict that to my specific knowledge -- the main problem so far with this particular law has been that the federal correctional system doesn't offer any treatment programs for Post-Traumatic Stress Disorders, or substance abusers. At least, programs that are substantially different from those that might be provided or available within the Department of Corrections systems.

Because the Vet Center program formally and officially cannot offer aid to the prisons in these areas of concern, incarceration facilities really find themselves in a bind. If they want to provide services to their veterans, they may not be able to obtain any supportive services from those who should be most knowledgeable. And in many cases, the service provider is unaware of the special concerns and tactics necessary in order to properly present the intervention to the incarcerated veteran.

My personal feeling is that in order for 1170.8 to become effective, the state really must make its interest known to the VA concerning the issues of incarcerated veterans. They must indicate to the VA what supportive services the state is willing

to offer; and what supportive services the state sees as available from the VA in order to accomplish this task, both from state resources, which should include community based organizations, and from other federal programs.

Basically, it has been my experience during the past six years that such services can be offered at a very minimal cost to everyone -- state and federal system alike. However, there are certain legalities, certain points that the VA must deal with in order to formally offer this aid to the prisons. Again, my personal feeling is laws should never be thought of as insurmountable barriers, or reasons why we cannot do something. After all, man writes the laws to serve him, and it's not vice versa.

The point must be emphasized here that -- and really, you know, as much as I tend to bad mouth the VA at times, they have been most supportive, as has the State of California, to my individual efforts.

What I'd really like to do is sum up here. I've rambled on long enough.

The point that we're dealing with here is that, as I've stated before, almost half of the Vietnam era veterans who are currently in jail are experiencing incarceration for the first time in their lives. At the age of 32, this is extremely unusual. We're dealing with something here which really indicates that these people are not your professional criminals. They're not people who view incarceration as just part of the price they pay for their lifestyle. They have been for, in many cases, 10-12 years, very productive members of this society. And something has gone wrong.

Now, I stress that not every vet in prison is going to respond to a counseling attempt. Not every person in society is going to respond to anything. My individual feeling is that this program is not only personally viable, it is also economically viable. My salary, I think, is more than paid for by the people that we can keep out of the system. And I mean that in just straight, direct cost. And I'm ignoring the social cost.

I think we owe it to the incarcerated veteran population to at least extend what services we can. Again, the issue is not should we extend the services? I don't see a doubt there. The issue is not can we? I think we quite cleanly and easily can extend the services. The real issue that we're dealing with here is, do we want to? Do we care enough about this population to extend services to them to try and prevent recidivism?

Thank you very much.

CHAIRMAN FLOYD: Bruce, just a couple of things.

First, I got a little bit of an advantage, I guess, because I participated in the program with you.

I appreciate the letter from the female vet and the concern there, because we've pretty much determined that the primary thrust of this committee over the next year is going to be women vets in general. It's an area which in all phases we, and everyone else, seems to have not considered.

But one of the things -- and there's no question, I've been with you in the places and I've seen the support, not only from the VA, but from the Department of Corrections. But one of the primary complaints that I receive more often than any other

complaint from the people in there is that -- though there's a violent crime rate of 60-some% -- the nonviolent convicts, they tell me that when they go in, particularly if they show a combat situation in Vietnam, regardless -- and you know one gentleman I'm referring to was a forger for God's sake -- as soon as they ask a veteran, "yes, we're Vietnam combat, yes." Then his treatment is isolation treatment. And everything else from the department is as if he had committed a rape and a murder. Is that pretty much ...? I mean, that's what I'm getting. The Department does treat the combat Vietnam vet as a violent criminal, regardless of the crime he's there for.

MR. PENTLAND: That's pretty much a true situation, in the classification, in the Reception Center processing. That's fairly standard. Let me point this out, again, in fairness to CDC. What I am finding is that once a person, you know, is set down in whatever facility they're going to go to -- and again, let me qualify this -- at least within the facilities that I am able to get to, we can pretty much start dealing with that and change some of those classifications. However, you know, the CDC functions on a point system. You know, as far as where you get minimum, medium, etc., etc.

CHAIRMAN FLOYD: Yes.

MR. PENTLAND: And that was one of the issues I was more or less alluding to in the recommendations concerning the Reception Center processing. It's fine to isolate the vet. But by putting them in isolation -- Let's not say isolation. It's fine to know who the Vietnam veterans are, but when you put them in

isolation, in a number of the cases -- God knows how many. Nobody knows. I don't know. CDC doesn't know. Etc. But in some of these cases, all you're doing is feeding the situation that got the man into trouble. You're taking him out. You're forcing him to, don't participate with your fellow man.

If we could get the CDC to, say, "All right, lets find out who these Vietnam vets are, and mandate 'rap' groups. You have to go. I don't care whether you want to go. You don't want to go. You're a prisoner in our system ..." Which is what it is. This is a prison. The person has done a crime. You know, that is a basic. What the cause of that crime is, that's what we'd like to deal with. But the fact of life is, "You're doing time now. We own you for as long as your custody permits." And if we could get CDC to say, "Look, we mandate that you go into a treatment group, a therapy group, a 'rap' group," rather than the isolation, I think we've got a much better chance to get to some of these people. I think we have an excellent chance of getting to some of them.

CHAIRMAN FLOYD: That's one of our problems. Every time we come up with a suggestion -- and I'm certain that people with the responsibility, and CDC feel the same way -- then we come up with, there's another cost. Here's another problem, and that's something we will be talking with CDC about, but ...

MR. PENTLAND: I have a solution for them.

CHAIRMAN FLOYD: ... that's the name of the game.

MR. PENTLAND: I have a very good solution for them. In essence, this program that I've been running for the six years,

has not cost CDC one dime, for their support, for anything. The program has cost the VA a salary. There are enough programs in existence, both within government -- and I mean at all levels of government -- and within the community where we do not have to reinvent the wheel to do a behavior modification program. Everything is in place. All of the mechanisms are there. All that we need is somebody to say, "Let's do it," and we can do it.

CHAIRMAN FLOYD: And I would point out, too, that particularly the wardens and staff people that I've talked to when we've been on location, without fail, all think your program is a good program and a helpful program for their situation. I think that's sort of important too.

MR. PENTLAND: Well, I think, you know, the point is, and again, I'm going back and I don't mean to repeat, but there has to be a recognition of the reality. And these are not poor, misbegotten, misunderstood individuals. In the twelve years -- in the twelve years. -- In the six years -- it seems longer! -- In the six years I've been doing this program, I can really count twelve people that I've come across that I really feel, honestly I'm convinced, are misunderstood, etc., etc. They got the shaft, okay? But the overwhelming vast majority, yes, they did a crime. And again, if there's a reason for that, or if there's something that we can help with so that they don't do the same thing again, and if we can do it cheaply, I mean ... Why not?

CHAIRMAN FLOYD: Yes. Okay, thank you.

Mr. Hannigan, nothing?

Thank you, Bruce.

MR. PENTLAND: Thank you very much.

CHAIRMAN FLOYD: The next witness is Dr. Jack Herrera, Director of Veteran Services, California Department of Veteran Affairs.

DR. JACK HERRERA: Mr. Chairman and members of the committee, I have a prepared statement, and would like to move to other comments, with permission, from time-to-time.

CHAIRMAN FLOYD: Go with it.

DR. HERRERA: On behalf of Mr. Andres Mendez, Director of the Department of Veterans Affairs, I'd like to thank you for the opportunity to testify on the issue of incarcerated veterans.

You already noted my name, and that I am Chief of the Division of Veteran Services.

The department has a long-standing concern for this group of veterans. The previous speaker gave a real comprehensive background on the problem confronting incarcerated veterans, so I'll not repeat those same areas, but rather will comment briefly on the issues we have been involved with within the department.

In your letter of November 10, 1983, you requested information on the following points:

First, a brief overview of the research, or action the department has taken to address the needs of California's incarcerated veteran population; and,

Second, the suggestions for legislative or administrative action to address the needs of incarcerated veterans and to assist in the rehabilitation of these veterans.

And departing from the text a minute, I came to the department in July of this past year. Before that, I was with the State Department of Mental Health. Before that, I spent 15 years with the federal government with the Administration on Aging; the Rehabilitation Services Administration; and with the former Developmental Disabilities Council of this state. In light of that, I simply wanted to give comment to my somewhat better understanding than normal of the issues confronting the committee today.

In '79, the department initiated an outreach program at the California Correctional Institute in Tehachapi. There we worked closely with this institution to provide counseling and direct assistance to incarcerated veterans in obtaining benefits that we normally obtain for all veterans from the Federal Veterans' Administration.

In 1980, due to the changes in the VA regulations, the department found itself in a situation which had virtually eliminated the kind of benefit to the department to continue this program for incarcerated veterans. We were no longer able to obtain those dollars, and because of that, we had to end our onsite visits; but do continue -- from a day-to-day point-of-view, and on a day-to-day basis -- to provide claims benefits representation for all veterans of all eras, as well as to their siblings, their spouses, their dependents in general.

A second major effort was initiated in 1982, when the department met several times with representatives from the Department of Corrections, and the Veterans' Administration as

well. Through these discussions, four major areas of concern were identified. And I'll point those out:

First of all, we agreed that it was important to improve the collection and analysis of data on the incarcerated veteran population.

And I personally find that this is needed in more areas than this particular concept we're talking about today. I find whenever I go looking for data information about veterans, it's literally impossible to find. It's one of the things the Department of Veterans' Affairs is very interested in working on and developing, as the next several months go by.

But we agreed, at any rate, the analysis of data was very difficult to find. And it's our understanding that the Department of Corrections does not separate periods of service on wartime experience; and that other areas of data are also lacking. This topic was discussed because specific data on the California veteran population would be definitely more helpful in order to clearly define the needs of this group, and all other problems that veterans have.

Number Two, we also identified a need to provide psychological counseling to those incarcerated veterans who suffer from Post-Traumatic Stress Syndrome, and other psychological problems. It is possible that consideration might be given to developing a pilot project that would use VA Center personnel.

Within the last five months, I've been personally speaking to the directors of the VA's in each of the regions, as well as our San Diego, our Los Angeles, and our San Francisco

offices, and I have received from them agreement, let us say, that they are very interested in proceeding with us in the department to work out whatever we can. I'm also seeking federal grants to attempt to include and increase the viability in the areas of visibility we give to this particular program, and your interest on this committee today, sir.

We also, in a third area, discussed at these meetings the feasibility of treating incarcerated veterans at VA medical centers, including Agent Orange examinations. At that time, we thought it might be feasible to transport incarcerated veterans to VA medical facilities for treatment; but because of several reasons, including security problems, we agreed this option was not, at least at this point in time, practical.

Finally, as a fourth point, we briefly discussed the possibility of instituting a program where veterans' representatives employed by the Employment Development Department could develop services for pre-release employment counseling. This is a topic, I think, that needs some considerable attention. I might underscore the word considerable.

It is our understanding also that the Department of Corrections has provided physicians with information on Agent Orange; and that the correctional institutions have established procedures for examining veterans who have concerns regarding exposure to Agent Orange.

Our department is very active in that program. And I recently was able to conclude, with the Veterans' Administration, a pilot project to do special examinations on a fee-for-service

basis, which would provide Vietnam vet doctors to take a look at the Agent Orange problem and other concerns of the Viet vets, as well as all era veterans. I think this is a big step in terms of our needs and what we're doing.

We would finally suggest -- as did the previous speaker, and through our own work in the veteran community -- that the areas most frequently identified as needs of the incarcerated veteran population are as I have discussed. And that we should improve the data collection as much as possible. We should seek other departments within the state to assist; as well as to employ psychological counseling where possible, and pre-release employment counseling, everywhere possible.

While we do not have any recommendations for specific legislation today, we want to assure you that we at the department will continue to work closely with the Department of Corrections, the VA, with community veterans groups, with your committee, and with all other veterans organizations, to continue to do what we can.

We thank you for allowing us to make this presentation on behalf of the Department of Veterans' Affairs.

And I would simply add this one point: that we are also seeking a communications network arrangement through the CVSO's in this state, which includes some 50 special officers in all the counties. We have tightened up our relationship with them. We work on a day-to-day basis. I recently appointed a full-time individual to work in the field with all the CVSO's, with all department commanders. And I believe we do have a rather close

contact with this committee from time-to-time. Hopefully more so.

Thank you. That's my report.

CHAIRMAN FLOYD: Thank you. And thank Mr. Mendez. He has been extremely helpful, since he's become director, in working with us. I don't know whether it's a happy situation for him all the time, but tell him -- you can tell him we didn't beat you up. This time you got an easy one.

DR. HERRERA: Thank you very much.

CHAIRMAN FLOYD: The Honorable Duane Martin. Martin is a judge, San Joaquin County Superior Court, who has had -- I can speak with some experience over the last couple of years -- some great interest with particular cases dealing with Vietnam vets.

JUDGE DUANE MARTIN: Mr. Chairman and members of the committee, I might say that what I'm going to state here is probably more emotional about the problem than practical.

I appreciate the opportunity to appear before you and tell you about a most unusual combat veteran of Vietnam, whom I sent to prison. I have attempted every since to get proper psychological help for him, and a more humane place of confinement. His case was the impetus for the enactment of §1170.8 of the California Penal Code.

He is Robert Tenente, who was honorably discharged from the Marine Corp, with a 30% permanent disability caused by combat wounds. Robert enlisted in the Marines from Lodi, California. At age 18 he was seriously wounded in Vietnam. The wounds were to his left hand and left leg. He was evacuated to Japan for hospitalization. After recovery, he was returned to combat.

Approximately five months later, shortly after his nineteenth birthday, while on patrol he was again wounded. These were shrapnel wounds to his face, particularly his eyes, and body. Because of the seriousness of his wounds, Robert was sent to Oak Knoll Naval Hospital in Oakland.

Robert left Oak Knoll Naval Hospital with the loss of his right eye; and with a morphine addiction. He had acquired the addiction from the liberal administration of morphine-based drugs given him to alleviate his severe pain.

After his discharge, Robert was unable to cope with the extreme problems caused by his wounds, his physical addiction, and the psychological turmoil created within him. Seven times Robert went to the VA hospital seeking help for his addiction. Unfortunately, the only programs available were of no help, as Robert's problems were not those of the typical drug addict. His addiction was much deeper, and connected to his wounds, the loss of his eye, and the whole Vietnam experience.

Because no meaningful help was available, Robert's physical addiction and emotional difficulties led him into forging prescriptions for drugs. Eventually he was sent to prison for such forgery, in 1977. After his release, Robert and another subject committed an armed robbery of a pharmacy, robbing the store of its restricted drugs and money.

It was this robbery that brought Robert before me. He readily admitted his guilt and pleaded guilty. Since the violation was armed robbery with a prior felony, and the use of a gun, I sent him to prison. I also immediately contacted all the fed-

eral officials, from the President, senators, congressmen, to the Commandant of the Marine Corp, seeking a federal program as an alternative to Robert's state prison incarceration.

The letter I sent reads as follows:

"I am a Superior Court Judge in Stockton, California, who recently sentenced a young man to state prison for six years. You are probably wondering why I'm writing to tell you this, as there is nothing new about another man being sent to prison. But there is a very compelling reason why I'm writing.

"The young man is Corporal Robert C. Tenente, who is medically retired from the United States Marine Corp, and is medically retired because he lost an eye in combat in Vietnam.

"Prior to losing his eye, he suffered a serious leg wound. Robert received, among other citations, a Vietnam Combat Action Ribbon, the Vietnam Campaign Medal, and the Purple Heart with Gold Star.

"Robert is also a heroin and dilaudid addict. He was not one before being called to serve; and he was not one by design. He came out of the hospitalization for his wounds an addict.

"Robert was treated at least seven times in a veterans' hospital for his addiction, all to no avail. But that is the thrust of my letter.

"Why did I send Robert to prison? Robert committed the robbery of a pharmacy, using a gun. He had already served one prison sentence for forging a prescription to obtain drugs in 1977. This was after several other drug convictions. The robbery was to get restricted drugs.

"I feel that Robert never should have been placed in the position of a drug addict, forced to steal, rob and forge for his habit. He got this monkey on his back after losing his eye, and getting in return, pain, suffering and psychological problems.

"Yes, the Veterans' Administration offered Robert treatment several times. But no one got to his problem. No one fully comprehended the depths of his needs.

"I do not know what should be, or can be done for Robert. I'm not a psychiatrist or a specialist in addiction treatment. But I do know that it is a disgrace that this young man, and probably thousands like him, who was willing to give his life for his country, and did give his eye, is now wasting away in prison with all the scum of society.

"His real crime was that he could not handle the extreme problems his wounds brought him. If I were the Commandant of the Marine Corp, hell would freeze over before a young Marine like Robert, who fought willingly and bravely and made the sacrifices he did, would wallow away in prison. I would see that he got the help he needs, no matter what.

"Had he been left on the battlefield wounded, the Corp would have done all within its power to bring him to safety. Today he is in a worse condition, and no one gives a hoot for him.

"Having used a gun to get the drugs, it was mandatory that I send Robert to prison. But if there were an alternative compulsory and meaningful program enacted by Congress or Presidential Decree, I would recall him and resentence him.

"But that time to act expires in approximately 45 days. If congressional or presidential action is a real possibility, I am also willing to recall Robert, and wait for a reasonable period to resentence him to such a program. Such a program would not be just for Robert, but for all Vietnam veterans in his position, which I am afraid are many.

"I know that one can rationalize that seven times was enough chance to rehabilitate Robert. But one fact stands out. Robert was not an addict before being wounded in action. His criminality now is driven by a psychological drive for drugs that he cannot control.

"He gave his eye for his country and received an addiction in return. He cries for help. His cries for help have finally been answered by six years in prison.

"Is Robert to rot away in prison, and face a life of addiction? Any hope is up to the country he served. I hope you will do all possible to say to Robert, and those like him, 'your sacrifice is not forgotten, or in vain.'

I received an answer back from Senator Alan Cranston, which was typical of the response that I did receive. It is as follows:

"I deeply regret that it appears the VA was unable to locate an alternative treatment approach that could perhaps benefit Mr. Tenente.

"The only available option, unless California officials would be willing and able to transport Mr. Tenente to and from a VA facility and provide any necessary custodial restraint for him while he's at the VA facility, seems to be for him to participate in a state-run prison drug treatment program.

While contacting these federal officials, I was able to get California State Assemblyman Patrick Johnston to introduce and eventually get enacted §1170.8 to the California Penal Code, which so far, as to a transfer to a federal institution, has been a hope without substance, both for the Vietnam defendant and the courts.

The only program offered as a result of my writing was a six-month voluntary live-in counseling program at Palo Alto VA Hospital. Even though this was a voluntary, not a confinement situation, I brought Robert to my court from the Deuel Vocational Institution, the prison near Tracy, where he was serving his sentence, and asked him if he would stay in the voluntary program if I released him from DVI and sent him to the VA hospital.

Robert looked at me and said: "If I were you, Judge, I would not send me." When I asked him why, he said he would not stay. After recovering from my shock from hearing such candor, I asked him why he would not stay. His response, he responded that

he was not a hypocrite or a con artist, which he said were those who made up such programs. I then asked him what was his problem, and what kind of help did he need. He answered that if he knew those answers, he would not be in front of me in shackles.

To say the least, I was taken aback; since, had I made a similar offer to any other prison inmate at any prison, I would have received a quick promise of success if I would give the release. Therefore, I felt more compelled than ever to see if I could get Robert the help he needed.

First, I needed to know what help he needed, so with his cooperation, I had him examined by a court appointed psychiatrist. The psychiatrist reported that Robert was in need of intensive and extensive one-on-one psychiatric counseling. Though there was a great need for one-on-one psychiatric counseling for Robert, there were, and still are no such programs available. So I could do nothing for Robert, and he continued to waste away in DVI.

Later, he was transferred, for disciplinary reasons, to San Quentin Prison, where he now languishes. But even there his unusual qualities surfaced. I was going to recall him, reduce his sentence, and release him. And last summer I wrote to the Director of Corrections, expressing my desire to do so. This is a significant portion of the response I received from the Warden of San Quentin: He says, he, Robert, "indicated that he was not ready to return to society, and a release at this time would be a disservice to himself and the community." He indicated that, "all the programs in the world would not help anyone's drug prob-

lem. They had to do it themselves." He indicates he has resolved his drug problem, but that "his head is still not right." When told of your request, he stated his recommendation would be, "No. Possibly in another eight months."

Unfortunately, I have not been able to utilize §1170.8 in any way in Robert's behalf; nor has any other judge utilized this section for any other Vietnam veteran who has come within the Criminal Justice System, so far as I know. The reason for this failure is that, to my knowledge, there are no federal facilities or programs that a court can utilize in sentencing.

The Department of Corrections can, and I am told does, work with Vet Centers and counseling programs to provide some specialized aid to prisoners who meet the definition of §1170.8. In fact, Mike Miracle, Master of Social Work, Fresno Vets' Center, visited with Robert while he was at DVI.

If facilities and programs become available for §1170.8 prisoners at the court level, judges must be educated to their availability. This could be best done through the California Judges' Educational Research Organization, once there is such enactment.

The question has been asked by your committee, "What can the state do to help the Criminal Justice System deal with Vietnam veterans who suffer from Post-Traumatic Stress Syndrome?" or other war problems, such as Robert. Well, I have no expertise in this area, and I really don't have any pearls of wisdom in this area. But I do feel that a program is needed that is geared to the Vietnam veteran and his unique, but real, psychological problems that may involve him in the Criminal Justice System.

The government needs to establish centers where such men can be safely confined, while receiving the necessary counseling that is so desperately needed. Any program needs input from the Vet Centers, of which I'm sure you are already aware. Then \$1170.8 will be more than an empty hope.

What they do not deserve is the type of confinement Robert Tenente has and is enduring for psychological problems he sustained as a result of severe combat wounds in Vietnam. Had he and those like him still been suffering from physical wounds, the government would have provided the necessary care and treatment. Yet his and their psychological wounds are no less real, no less service-caused, and certainly no less in need of treatment.

So far, men like Robert Tenente have never really come home from Vietnam. And many are worse off than when they were there.

Thank you.

CHAIRMAN FLOYD: Thank you, your Honor.

Do you have any questions, Mr. Hannigan?

We appreciate, and we've been watching your activities on this case. I think it's really exceptional, and I just wish that your kind of activity would be included with all the fervor that goes out with the evils of the court and the soft toned judges and all this sort of thing. It's not there, but we appreciate it. And I'm certain the people in your community do, Judge.

JUDGE MARTIN: Thank you very much.

CHAIRMAN FLOYD: Thank you. Do we have a copy of the Judge's statement? Your Honor, may we have a copy of this statement?

JUDGE MARTIN: Yes.

CHAIRMAN FLOYD: Mr. Hannigan would like that.

Mr. Barry Levin. Mr. Levin's an attorney, Vietnam Veterans' Legal Defense Team in Los Angeles. It would have helped to have had more judges like His Honor, wouldn't it, Barry?

MR. BARRY LEVIN: Absolutely. But you know it's my job to see to it that no Vietnam veteran ever gets sentenced by a judge in a criminal matter.

CHAIRMAN FLOYD: We're aware of that. Or anybody else.

MR. LEVIN: Well, I've been listening really intently to Mr. Pentland and to the Judge. And I find that one of the most difficult jobs that I have as a defense attorney in dealing with Vietnam veterans is bringing to the Criminal Justice System the awareness of the problems of the Vietnam veteran; trying to get the system, the Criminal Justice System, to slow down for just a moment instead of dealing with this mass-production of human misery; to stop for a moment, reflect on the individual's problem and then try to deal with that problem so that it suits the need of the individual.

I believe I have sort of a very unique perspective on the problem of the Vietnam veteran:

When I was 18 years old, four days after graduating high school, I, like many other counterparts, enlisted in the United States Army. And even though Bruce Pentland won't admit it in public, he, like me, was a paratrooper.

We went -- we didn't go together to jump school, but after completing jump school, I was sent to Vietnam with the 1st Airborne Battalion of the 1st Cavalry Division. In a year in combat, I was wounded twice my first tour; returned to the states, where I was very happy -- figuring the only way that I was going to get hurt again would be to be run over by a truck in the street. Until 1968, about six months before my term of service expired, the Tet Offensive hit, and President Johnson immediately called for all available combat troops to go back to Vietnam. I was one of those troops.

I was promoted to a staff sergeant, which was the quid pro quo for going back to the service. I lasted 28 days, and got shot twice with a machine-gun, returned back to the States; after doing my time in the hospital, expiring a little bit over my time of service, and was released.

I found that I had tremendous problems in dealing with not only the way I felt about my Vietnam service, but with the way society perceived me. And I know you've heard it all. It's all been said, not once, but a million times. But from a personal perspective, I did have tremendous difficulty.

Fortunately for myself, I gravitated to police work. I found that the quasi-military atmosphere sort of medicated the problems that I had. I was able to carry a gun. Many Vietnam veterans were police officers; and I joined the Los Angeles Police Department, and found a lot of conventional "rap" groups going on in the police car eight hours a day.

But I went to school. And 10 years later, when I finally obtained my law degree and passed the Bar, I resigned from the police department, became a prosecutor for a very short time, and then went out to private practice to try to make as much money as I could, for the first time in my life; to find some peace and to get on with what I considered to be important; to become a capitalist in our society.

When I got out, I found out that there were some real problems. I couldn't turn my back on my brother Vietnam veterans who were out there struggling, trying to, somehow, adjust to society, only to find out that they were ending up in prison. I would end up getting calls, through a circle of friends. People knew who I was, and they would tell me about certain cases that came up.

One of those cases was an individual in Louisiana, Albert Dobbs, who was doing a state prison term, 7-1/2 years for attempted armed robbery. It was his first conviction. He served with the 101st Airborne Division; and his commanding officer was Charlie Beckwith. Albert's case was featured on television and people called me about it and asked me if there was something I could do.

I went back to Louisiana; I interviewed Albert; I got permission from the Louisiana State Court to practice before the judge in that case; and I put on a Post-Traumatic Stress Disorder hearing, calling expert witnesses from around the country. Even people from the prison actually showed up to talk about Albert's behavior while in prison as being exemplary.

The judge modified his sentence under a very -- it was an unused Louisiana law, but he applied it to the situation, and released Albert to me to take him back to Los Angeles, where he got a job and participated in the Vet Center's program.

Unfortunately, that's about the only happy ending I ever heard for a Vietnam veteran since. I get calls when it's usually too late. The Vietnam veteran has come through the Criminal Justice System; his attorney, like most attorneys who are not aware of the effect of the Vietnam war combat experience on the Vietnam veteran, never attempts to try to use it in a criminal trial. And the result is the Vietnam veteran, who's the worst person to tell his attorney of his problem, walks into court and is usually convinced, with the speed of the Criminal Justice System, to take a plea and go to state prison and do his time.

Most Vietnam veterans plead guilty without a trial. I don't know if you're aware of that. But most of them do. And most of their attorneys don't even know they're Vietnam veterans. And most of them, because they're committing violent crimes, are going to end up getting greater prison sentences than their counterparts who are not Vietnam veterans.

And a lot of times, attitude has a lot to do with it also. When they appear before the court, the manner that they dress, the manner that they talk, the manner they deal with the Probation Department, all has a factor on the ultimate sentence they receive. They get sentences, and then I get calls.

What can you do? Try to get them out. I've got a case coming up in Oakland on Monday with a Vietnam veteran who has

been sentenced. I've a very sympathetic judge; but a very weak judge. Unfortunately, they're not all like Judge Martin, who's a very strong judge; a very good man who's willing to use the power of his office to try to do some good.

I believe he's correct about 1170.8. I think it's a useless piece of legislation that does absolutely nothing but give hope to people who, basically, can seek no relief from it. The very first thing that I would recommend about 1170.8 would be, perhaps, to get the words "federal" out of it. It scares people.

State court judges have absolutely no control over what a federal institution can do. I've made numerous calls to federal institutions -- calling Terminal Island, and Leavenworth -- and asking them if there was any possibility of utilizing 1170.8. It's always the same, that they're just as crowded as the state institutions.

Well, we have state institutions now -- and Mr. Floyd, I was with you at Tehachapi several months ago -- We have institutions right now, like at CRC; programs at Tehachapi and Chino, that can deal with Vietnam veterans ...

CHAIRMAN FLOYD: I would like to point out too, Counselor, that that was -- When the bill was going, this very same problem was brought up. In fact, I had quite an argument with the author of the bill. But you have to recognize that we in the Legislature have a tendency to the lip service thing. It sounds good, looks good; we're doing our bit -- even though it was pointed out to the author of the bill, in particular, and every-

body with the bill, that it wasn't going to do a Goddamned thing. But it's the name of the game. I don't think that anybody involved with it really expected it to do anything.

Maybe they hoped that the powers that be in Washington would say, "Oh, California wants something like this, so let's provide the service for them."

I just want to go on record that some of us knew damned well that it was like many other measures enacted into law: looked good, felt good, election year; you know, there might be some damned Vietnam vets that vote, so -- Anyway ...

MR. LEVIN: Unfortunately, it caused a furor in the Criminal Justice System.

CHAIRMAN FLOYD: Yes, I know.

MR. LEVIN: And it caused a lot of people who felt that they were without hope to now find a section in the Penal Code that might give them some relief. It did more harm than it did good.

I have always felt, in trying to talk to people about 1170.8, including judges, that it was the legislative intent behind 1170.8 to provide some relief for the incarcerated Vietnam veteran who is in prison because of his Vietnam service experience. That's the intent behind it.

Then, why can't the court direct him to an institution like CRC, or to Tehachapi, where there might be an on-site program. I don't know how to deal with these things. My goals are different.

My goal was to try to convince twelve people in a jury box that the individual is not guilty by reason of insanity, pursuant to the diagnostic and statistical manual study on Post-Traumatic Stress Disorder. But you can't do that on a drunk driving case. You can't do that on an assault case. It works on murder cases sometimes, but the balancing is tremendously great. On one end he's looking at 25 to life, or possibly the death penalty; the other, if you win, he walks out of the courthouse.

What do you do with the hundreds of Vietnam veterans that come before the Criminal Justice System because they have a drug or an alcohol problem, and they're doing life, three days at a time? They're going to county jail for a week; they're going to county jail for six months; they're coming out. They're not spending much time on the street; then they're going back in again. It's just this revolving door.

And I saw it as a police officer. I used to take Vietnam veterans and drop them off at the VA and not even take them to jail. I was, you know, terribly discriminatory. Probably, you know, not within the best traditions of the Los Angeles Police Department. But that's the way it was, because I recognized -- because I was on the street dealing with the people -- what was going to happen with them; why the Vietnam veteran was there; why he was medicating his problems.

And if there's going to be any legislation that is directed at helping Vietnam veterans -- It's good if you can help them; it's good if you can put programs in state prison. And like Bruce points out, you know, there is a captive audience. They have to be in state prison. Let's make them go to programs.

But that's surely not going to help those people who are doing less time in the county jail systems that are just going in and out and in and out. They have four and five page rap sheets. Those people need prison alternatives. They need jail alternatives.

And there's a lot of alternatives to county jail available at the present time. The problem is that the courts don't want to recognize it. I come in and, you know, almost once a week, I'm down at a court trying to get a Vietnam veteran committed to a program in the Veterans' Administration in lieu of doing time in county jail. Sometimes the judge says yes; sometimes they say no.

I've taken Vietnam veterans before a court and told the judge that they at least need me to present their case, would the county appoint me as their attorney? They've said, "No, we can't do that. We have to deal with our regular Bar Association attorneys here." And I will end up representing the individual pro bono, which left me in the position where I am now; trying to start my own foundation.

In fact, Brian Brath is present with me today. He's the President of Vietnam Veterans' Legal Defense Team, where we hope to be able to solicit public funds, target useful cases, meaningful cases, and provide some relief to Vietnam veterans. Because they're not getting it today.

CHAIRMAN FLOYD: Tough way to become a capitalist.

MR. LEVIN: It's all over. My fate is sealed.

But, you know, I might not understand exactly what the goals of this committee are. If this committee is intent on helping Vietnam veterans, I do believe that it's going to take a lot more than coming up with a piece of legislation that doesn't have any meaning in the Penal Code. The courts don't know how to deal with it. The attorneys don't know how to deal with it.

I could probably speak all around California every day, trying to explain to people what 1170.8 is. In fact, it was Judge Martin, not the defense attorney, that came up with 1170.8. In the case I'm going to in Oakland, it was the judge flipping through the Penal Code, seeing 1170.8, calling the defense attorney in and asking him, what kind of relief is there currently available to this veteran under this section. So, you know, there's a lot of that ...

CHAIRMAN FLOYD: An act of frustration from the judge, Barry. He didn't know what the hell to do. He thought that we'd come in and maybe do something.

And this is a frustrating committee, because we are strictly a state operation. Most people consider the real responsibility to be federal. We have some minor successes. It sure as hell ain't enough, and one of the purposes of the hearing is to see --

And we know that the section doesn't do it. It was not an outgrowth -- Like you say, it was the judge's reaching for something in frustration; it was not felt in this committee.

MR. LEVIN: Exactly. And you know, I look at the committee -- and I looked at your letterhead, and I saw you have ten members -- and I see two here.

I don't understand, either, what the purpose of your committee is. How is it that you want to help Vietnam veterans?

There are a lot of people out there that are willing to help. They're willing to do something about it, but we can't do it by ourselves. We cannot go out to the Criminal Justice System and be spokesmen and say, "This is what you ought to be doing."

We need help from the Legislature. We need backup. Anything on the books that's meaningful, even a resolution, that comes out and speaks of your legislative intent supporting 1170.8; so that I can go before a judge and argue that although the law might not have the effect that you want it to have, this was the purpose of the statute.

Let's create a little state 1170.8. Let me tell you that this is what the Legislature had in mind for this exact person; for the persons before you now. This is the meaning behind 1170.8; and I will develop a program to meet within the legislative intent, because that's what the courts are supposed to be doing.

CHAIRMAN FLOYD: Good. Lay that out with Michael. We'll introduce it and we'll roll it. Maybe we can make the thing go somewhere.

I agree with you: when it says "federal," boom, it ain't our game.

Go ahead.

COMMITTEE CONSULTANT MICHAEL LEAVECK: Barry, in answer to some of your questions, and I share your frustration, when 1170.8 was in bill form, AB 2989, Dick Floyd was the first person

on our committee to hear about it. It came before -- was it Ways and Means?

CHAIRMAN FLOYD: I don't know.

MR. LEAVECK: Or criminal Justice Committee? One of the two.

UNIDENTIFIED: Crim Justice.

MR. LEAVECK: Crim Justice. Dick jumped on it and said, "This is another way of just shuffling off Vietnam vets as a federal responsibility." As we know now, the judge's intention was nothing of that kind.

However, there were some dangerous aspects of AB 2989, in its form at that time. We were able to amend it to include Post-Traumatic Stress. It at first only included drug and alcohol problems. We were also able to amend in the requirement that the veteran had to agree to the transfer; and the requirement that the programs be available. We didn't want some other judges who were not as well-intentioned as Judge Martin to be able to use 1170.8, or AB 2989, as a way of just throwing Vietnam veterans onto the federal system.

I think the most important aspect of AB 2989 was the second section, which declared the Legislature's intent that there be cooperative relationships between the State Department of Corrections and community based organizations, VA Vet Centers, etc. And as a result of the inclusion of that section -- and I think Rob Boraskin from the Department of Veterans' Affairs will bear me out -- the California Department of Corrections has been a lot more receptive since the passage of AB 2989 to those cooperative arrangements.

And I think a lot was accomplished on a purely administrative basis from the existence of the bill. The section of the bill that is now 1170.8, I agree with you. I probably still get one or two calls a week on 1170.8 from defense attorneys, from judges, from veterans, from wives of veterans and families of veterans, saying, "How can I use this bill to help the Vietnam veteran?" And the answer is, unless the federal government, under that section of AB 2989, unless the federal government provides a program of one-on-one, intensive counseling and therapy, there's nothing that can be done.

MR. LEVIN: What I've seen, Michael, is basically, there are two situations dealing with the veterans' issues: One is apathy; and the other is exploitation.

I have not yet seen anything done to help Vietnam veterans. It's a popular issue. A lot of people like to hang their hats on it and say, "I'm going to help. I'm going to do something." And when it actually comes time to do something, you saw the frustration of a Superior Court Judge, for God sake, who had the power to do something and found himself powerless because he didn't have the tools available to him. And all he needed was a legislative enactment that allowed him to do something.

He had to send Tenente to state prison because of the "Use a Gun, Go to Prison" law. That's a legislative creation that sends all people, regardless of any of the available circumstances, pursuant to People v. Tanner. They're going to state prison without passing "Go." It doesn't matter what they do. If a Vietnam veteran has every equity on his side, and he picks up a

gun and commits a crime with a gun, unless he's acquitted based on insanity, he's going to state prison.

And I just feel frustrated because I, like Judge Martin, find that when I'm confronted with the real situation of really trying to help the individual Vietnam veteran who's facing incarceration, or is incarcerated, there is absolutely nothing that separates the Vietnam veteran in prison from the non-Vietnam veteran in prison.

And if the Vietnam veteran in prison is in there because it's related to his experience -- from war and from combat -- then I think this country should do something about it. The Legislature should do something about it. And perhaps it does start here. 1170.8: it's nice; it looks good on the books; but it's not doing anything.

CHAIRMAN FLOYD: Well, we're going to work with you to see what avenues we can go to do something like that. And that's why we start with a hearing like this. To my knowledge, there's never been a hearing on incarcerated veterans.

MR. LEVIN: Well, thank you very much for giving me the opportunity to testify here. I appreciate it.

CHAIRMAN FLOYD: Thank you.

Mr. Allen Perkal. Per-cal (phonetic). I always screw that up. Allen is the Team Leader of the Veterans' Administration Outreach Center in Oakland. Al. Okay, roll!

MR. ALLEN PERKAL: Okay, first of all, I'd like to thank Mike Leaveck for inviting me here today.

And I would like to say that something is being done; and I'm part of what's being done, in terms of offering services to incarcerated Vietnam veterans at Vacaville Medical Facility and San Quentin.

Mr. Chairman and members of this committee, it is part of my outreach efforts to sensitize and educate incarcerated Vietnam era veterans through the services of the Vet Centers, so that on release they might avail themselves of the Vet Centers' services.

Part of this outreach effort -- what we see inside the prisons -- is the need for readjustment counseling; the need of these Vietnam veterans to work through their war-related trauma. What we've been able to put together is rap groups in Vacaville Medical Facility. And they are working.

They're working because we were able to establish a trust with those veterans. And trust is a really important concept for Vietnam veterans. And it's taken a lot of hard work to establish that.

We've been able to have a sense of confidentiality exist within that group; whereby, whatever is discussed in that group can stay in that group so that people can be able to talk about the things that really hurt them inside.

It is successful because the group inside of Vacaville has been able to put on services for the other inmates. They had a picture-taking project, where they were able to bring in an outside photographer to do snapshots for the incarcerated veterans in the prison. Also, last Thursday, I might add, they had a

Thanksgiving Party -- dinner. And they had 140 veterans attend that.

And I might add that most likely about 130 of them were probably Vietnam era vets. That's quite a number of veterans attending; and most likely, that's just the tip of the number of Vietnam veterans that probably are in Vacaville Medical Facility.

In terms of San Quentin, it's been difficult to provide the services in San Quentin because of the nature of the institution. What we've been able to do is reach the veterans on a one-to-one basis. And in that way, we're able to help deal with their incarceration; help them work through their Vietnam-related stress. But we've been unable to put them together in a group where they can establish the camaraderie and trust and work through their problems together.

We've gotten support from the ex-Superintendent at San Quentin, Reginald Pulley. And I guess in one way he felt that by us coming in there, we might be able to reduce the stress level that exists in the prison.

I also might add that we got the support of the Vacaville Medical Facility. One concern there was the duplicity of services. And I think, after we went in there, we showed them that what we knew, in terms of readjustment counseling, could be productive in terms of helping them to deal with the population there.

I, too, agree that Vietnam veterans have a high rehabilitative potential, especially if they are allowed the opportunity to work through the Vietnam-related stress. What I have found is

that a lot of Vietnam veterans, especially inside Vacaville Medical Facility, had no difficulty with the law prior to the Vietnam experience.

What I've also found is that a lot of Vietnam veterans, in their commission of the crime, have used the same tactics that they used in Vietnam, which shows me a conditioning that hasn't been de-conditioned. And I think that's part of the problem. It's not a delayed stress syndrome; it's a delayed treatment syndrome.

One of the other things that I think that this committee should know about is that there are a lot of Vietnam veterans who, upon discharge from the service, like Barry Levin, decided that they wanted to be part of a job that would give them sort of the adrenaline pump that they had in Vietnam. And they decided to apply to be correctional officers. And I was called by an individual at San Quentin, stating that they had a problem with the correctional officers who were Vietnam veterans at San Quentin. They were having stress related disorders when it was during the rainy season. They were starting to have flashbacks. Some of them were on the gun rack shooting off birdshot. And they were having difficulties, and somehow recalling Vietnam, obviously.

What I found there also is that a lot of them are, as has been mentioned before, self-medicating themselves. Obviously, we know that San Quentin, especially, is a very stressed community. And it's difficult for these individuals to work in that type of environment. So after we discovered the nature of the problem, what we decided to do was outreach.

And we set up a Vietnam Veterans' Affairs for correctional officers at San Quentin. We came in there, provided information, talked about Agent Orange physicals; and actually stood outside the gate, about 2:00 when they were getting off duty, and became sales people. We were handing paper out and just saying, "I remember you from Vietnam." And we blew them away. They didn't know. They'd say, "How do you know I was in Vietnam?"

Well, we must have gotten about a hundred names. So obviously, the problem doesn't just exist with the veterans inside -- the incarcerated vets. The problem also exists with the correctional officers. And I think part of helping the veterans inside is helping the correctional officers, who deal with them on a daily basis, who can really be helpful. And that's been proven out at Vacaville, because a few of the veteran correctional officers have helped in some of these -- like this party we had -- offering their services.

In talking with Mike Leaveck, this 1170.8 is useless, in terms of the federal application of it. But I think it can be very helpful, in terms of the state application, throughout the Department of Corrections in this state. I know, in Northern California, you know, that we're involved in this at two institutions, and part of what we want to see is, you know, to lower the rate of recidivism. And we really encourage the veterans with that; that there is a support network; and to make themselves available to that support network; that they're not alone with this problem.

I would like to have more support in doing this work. I felt that we had to fight real hard to get in there. I think maybe it shouldn't be one group of people fighting to get into one place. It should be sort of mandated; and then it would make it easier for other agencies and community based organizations to get in.

I feel, in terms of the services we provide, the rap group seems to be the most effective modality to help deal with the problems. Contrary to belief, a lot of these individuals are able to talk about their innermost feelings. They are not ruthless human beings. There's always the question of, "Why am I here, and why are you on the outside?" There's that question of what did it take?

They're encouraged by the fact that there are people who are coming in to the prisons and providing services for them. And they'd like to see that continue. They feel that they're not forgotten now, because there are people coming in who care and have understanding of the nature of their problem.

That's sort of what I had to say. I will answer any questions that anybody has.

CHAIRMAN FLOYD: You know I've made trips with Bruce. And Michael's going to be in touch with you; I'll go in one of your programs too. There's something about -- you get a feeling that there's no more aloneness, that a man has in that situation. Thank you.

MR. PERKAL: Thank you.

CHAIRMAN FLOYD: Brian Augustine. Brian is a Counselor with the Veterans' Administration Outreach Center in Concord.

I don't know. I think we can roll through. Will you go to the next (inaudible)? Allen.

MR. PERKAL: Yes?

CHAIRMAN FLOYD: Let's put it together with Mike. Hannigan will go with us too. We'll go in there and ...

MR. PERKAL: (inaudible)

CHAIRMAN FLOYD: Yes, to Vacaville. One of your Vacaville programs.

I always volunteer for these, and a week or so before I start, I'm asking what the hell I'm doing this for again. And driving out to the place I'm kicking myself. Once I get in, then I feel there's -- I've always felt something positive with Bruce's programs. And it just so happens that people in prison, like people throughout the state, very rarely meet somebody who's, you know, a member of the Legislature. I mean, Big Damn Deal; but it's amazing. And we'd like to go with you on one of your programs -- you set it up -- both Hannigan and I.

MR. PERKAL: Yes, I think they would take well to the visit.

CHAIRMAN FLOYD: Yes, they do in the other facilities. Particularly Mr. Hannigan -- That's his district right there, so Mike will be in touch with you, Allen.

MR. BRIAN AUGUSTINE: I want to thank Mike Leaveck for inviting me today ...

CHAIRMAN FLOYD: I'm sorry, Brian.

MR. AUGUSTINE: Okay, I want to thank Mike Leaveck for inviting me today. And basically, I was asked to describe the services that we offer from our Vet Center to the incarcerated vets in Contra Costa County.

I don't work in the prison system. I basically work through the county system. In a sense I can concur a lot with what Mike Levin says. In the past year that I've been working in the Contra Costa County jail system, I've seen 73 Vietnam vets, and 29 others that were involved with the system awaiting trial.

Basically the services I offer are in three areas:

Pre-release counseling. In other words, hooking the veteran up with whatever benefits he can get; the Voc Rehabilitation program upon release; whatever other programs that are available for him.

Diversion is another issue that I deal with quite extensively. As I said, I saw 73 veterans. Three of those were murder cases; and another 10 were violent crimes. So the vast majority that I have seen have been primarily substance abuse.

Although many of the ones that I saw that were involved in violent crimes were also involved in substance abuse.

CHAIRMAN FLOYD: Yes.

MR. AUGUSTINE: One of the things that I have found is that many time the substance abuse takes the form of trying to mask other psychological problems. They're self-medicating. And having worked 10 years in a drug program for veterans, of which 90% were Vietnam era veterans, I found the same to be true on that level.

Unless you address the issue of Vietnam itself, and what that experience has done to an individual, you're not going to relieve the need that person feels to self-medicate.

CHAIRMAN FLOYD: Let me interrupt just a minute, Brian. In Contra Costa County the jail system is run by the sheriff

MR. AUGUSTINE: Correct.

CHAIRMAN FLOYD: What's your relationship with that sheriff? Is he ...

MR. AUGUSTINE: He has been very helpful.

CHAIRMAN FLOYD: I found that. I carried a measure when all the drunk driving crap was flying through, on a work release thing. There's some way we can sit down with the sheriff over there. He and I have a good relationship; and there's some way we can proceed to help with that program; move it out and make it more ...

MR. AUGUSTINE: In a sense ...

CHAIRMAN FLOYD: ... a more whole program.

MR. AUGUSTINE: In a sense I feel that the system that they have set up and the relationship that we have developed between the Vet Center and the Contra Costa County Jail is ideal. It could be improved, but it also could serve as a model for other counties ...

CHAIRMAN FLOYD: I found that. I think we have an enlightened sheriff over there. In fact, I think I wish to hell the damn sheriff in L.A. were half as interested in people as that sheriff. And I'm glad to hear that, because everything I've seen with this sheriff is quite different than most sheriffs in the State of California. You're fortunate there.

MR. AUGUSTINE: Yes, I believe we are.

CHAIRMAN FLOYD: And when we get a Vet Center in Sacramento, I think Robbie Waters will be cut from the same cloth.

Go ahead. I just had an interest there.

MR. AUGUSTINE: But anyway, I do find that I do have problems. And most of those problems aren't within the jail. I've worked closely with the mental health staff there; and where they weren't before, now they're identifying Vietnam veterans that come through their facility.

The problems I'm having are on the level of attorneys and judges and the naivete they have about the subject of Post-Traumatic Stress. And I really feel that is an issue that might help facilitate implementation of any legislation that is passed. And in that sense, I can concur with Mr. Levin.

I really don't have too much more to say other than that.

CHAIRMAN FLOYD: If we move, and take the opportunity we have, and take advantage of Judge Martin's real interest, and bring about -- You know, the judges have a continuing education; they have a regular situation. Could we put together a program from people throughout Vet Centers in California? We could, say, put together a 2-hour seminar. I'm quite certain, you know, there are some very interested judges around.

And education of the judges -- judges, like all of us, need an education on what they're dealing with. And they roll through large numbers. But do you suppose, somehow or other, if

we put together an informal ad hoc group, use Barry's expertise, the judge's sincere interest, and Bruce's, and other people from, probably, Vet Centers -- I seem to feel that Vet Centers and community based organizations have a lot more going for them than any of the line bureaucrats in any governmental thing around here -- do you suppose that maybe we could put together something that would be a program that we could then present to the California Judges' Association? That we could go in and do a "No Bullshit" 2-hour thing, and "This is what you're up against, guys; and, this is where we are; and, this is who you can call." Just like we go with a vet. You know, we go in the joint and the big thing we're telling people is, "Jesus Christ, the minute you get out, you know, kiss the wife, the girl friend, have a drink or whatever, and then get to your Vet Center; because that's where the action is. That's where your help really is."

MR. AUGUSTINE: I feel that would be helpful, but that would only answer one aspect of the problem I posed. The other aspect is the attorneys. I don't feel the program that we have with Contra Costa County Jail would be as effective if it weren't for the active intervention of their mental health staff in identifying the veterans. Therefore, they're identified to me; I can go in and see them; I can find out who their attorney is; I can contact their attorney; and therefore, we can develop cases.

CHAIRMAN FLOYD: Well, if we take the judges -- and we can start there. The most important person in an attorney's life is not his damn client. It's the judge.

MR. AUGUSTINE: True.

CHAIRMAN FLOYD: And particularly the muni court judges on arraignments, as well as the superior court judges in pretrial situations. I think that we're sure as hell not going to go out and educate attorneys, but if we have a judge that looks at the attorney and says, "Have you ..." -- And then maybe we can tie that in with a piece of legislation. The judge looks at the attorney, whoever he is, and says, "Have you availed yourself, are you aware, of what you've got here?" And then groups like Barry's group will help them.

There's no way we're going to educate an attorney. Hell, I live with one, and no way to educate anybody. But when the judge suggests to the attorney that in the interest of representing his client, there's something there. So I think that --

You know, one of the damndest things about this committee is -- you, all of you, have been to I don't know how many hearings we've had -- is that it's damned frustrating because we know what we want to do; we know how we want to do it; but we're dealing with people who are unable to do it or don't have the tools to do it.

And I think that, particularly over the last six or seven months, particularly since more young men are dying, all of a sudden that vet, and particularly that Vietnam vet, is somebody that is starting to be recognized in all areas.

Every one of these hearings we have, I wind up with about six months work for Leaveck; but I'm going to put him together with you, and all those of you who are interested. And I would suggest that what we'll do is we'll have a series of

meetings, if you will -- one in the Central Valley, one in the Bay Area, one in Los Angeles for the Southern California area -- and by pulling in all of our thoughts and resources and experiences, maybe we can do something that will be responsive. Like Bruce says, hell, we're not going to get to everybody. If we get to 1%, man, we're doing a hell of a job.

MR. AUGUSTINE: But if you can identify them and the authorities are educated on what the problems are, I believe you could reach a lot more.

CHAIRMAN FLOYD: Just like Hannigan wanted a copy of the Judge's statement to mail to every judge in his area. We're going to mail it to every damned judge in the state. And we're going to elicit some response from judges. And, you know, it's been my experience that once you get the guy out of the robe, like the Judge said here, there are a lot of very human people. We also have vets who are 'Nam era. And I happen to have a good friend who's a World War II combat vet, by the name of Harry Shaffer, and he's just retired. And I think we're going to probably put his civic activities to work. Here's a superior court judge retired that's got a better relationship with most judges than you or I will have. So we start pulling some of these things together.

And I think we've got to get innovative. We can't do a damned thing with this Legislature. As the gentleman pointed out, I've got ten members on the committee. Sometimes we do a lot better. Usually we don't. I find the flag wavers on my committee are the bastards that will never attend.

They don't want to deal with this; they want to get out there and point out how they served in the National Guard and how they're all for more and better wars, and the honor and privilege of dying and getting busted up. But I can't deal with the bastards because, you know, I mean, they're elected -- fool the people enough.

And I have the same feeling that Barry has about them. Hell, they put on their campaign literature they're a member of this committee; therefore, every veteran or every family ought to think, "Gee, this guy's really interested." The guy's a bastard and that's all I can do with him.

I've got one in particular that waves a flag, sat down at the head table at the Vietnam Veterans' Honor Leadership Dinner in Los Angeles, with Westmorland and Veysey and Bob Hope, and the bastard hid out in the National Guard and U.S.C. during the war. But there he was at the head table. You know, in a tuxedo, and trying to represent the people who bled.

I get frustrated too. But we can deal. We can work. And we'll use this letterhead and the power of this committee and the Legislature and all, and maybe accomplish something for the 1%. That's about the best we can get.

Go ahead. I didn't mean to blow your testimony.

MR. AUGUSTINE: No, that's about really all I had to say. After listening to the previous testimony, I believe in a lot of what most everyone said here. And as I said, I feel the most constructive thing I could do was to come up here and describe my experience in the past year with Contra Costa, and

how that evolved, and what I feel the needs are still. And, as I say, the identified needs that I see in Contra Costa are not with the jail system but with the Judiciary and the Bar Association.

CHAIRMAN FLOYD: We'll try and cover them both.

You had something?

MR. LEAVECK: I'll go home and complain about (inaudible)

CHAIRMAN FLOYD: Okay.

MR. LEAVECK: Darrel Camp's not going to be here; but Jim Hayes is here. He's had some experience testifying on behalf of the Vietnam vet (inaudible)

CHAIRMAN FLOYD: So we want to call Dr. Jim Hayes then is what you're saying.

Thank you very much. We're going to be getting together.

Dr. Jim Hayes is the Director of Rehabilitation Services, Purple Heart Rehabilitation Services, Inc. A man with some expertise in the area in which we are discussing. Welcome, Doctor.

DR. JIM HAYES: Thank you. Welcome, or hello; something like that.

I hope I have some expertise. Unfortunately, I didn't have time to prepare a statement for you; but I would like to make some comments.

I'm with an organization, the Purple Heart Veterans Rehabilitation Services. That would suggest by its name that it has a great concern about veterans; but I'm not sure, to be hon-

est, whether my boss is really that concerned about serving anybody who's a veteran.

CHAIRMAN FLOYD: May I interrupt just a second. I don't run a very organized hearing, I guess.

Bruce, what time are you going out?

MR. PENTLAND: 4:45.

CHAIRMAN FLOYD: Oh, good.

MR. PENTLAND: The afternoon flight.

MR. LEAVECK: They're going to have lunch with us.

CHAIRMAN FLOYD: Okay, good.

MR. LEAVECK: He and Barry.

CHAIRMAN FLOYD: Just wanted to make sure you didn't get away.

I'm sorry, Doctor.

DR. HAYES: No problem.

As I said, I'm not sure at times what the concern of my organization is for veterans, but there are in the organization several of us who are deeply concerned about veterans.

We are deeply concerned about what's going on with veterans, particularly right now in the area of legal problems.

We've got deep concerns about what the Vietnam veteran centers are doing; or what the Veterans' Administration Centers are doing may be a better way of saying it. We're not sure that they're any better or any worse than anybody else, but I would certainly hope that at some point through this process we can make sure that the veterans that we're talking about are getting the individualized, comprehensive, critical services they deserve.

As part of that whole feeling, I'd like to just talk for a moment about a court hearing that I've just participated in concerning a Marine Corp individual -- about 12 months service in Vietnam; a combat veteran -- charged with aggravated assault with attempt to rape; aggravated assault with attempt to murder; aggravated assault with attempt to do everything you can think of.

We were called into the case because the Orange County Court had no idea what the problem with this man was, and called us for a diagnosis. Their Psych and Social Services called us for a diagnosis without even seeing the man.

We received not less than four calls from court approved psychiatrists who wanted to know what this person should be diagnosed as; who wanted information on PTSD; who wanted to know whether symptoms that they seemed to come up with fit the criteria of PTSD.

We became heavily involved because of the services being received by this individual at the VA Vet Center, where -- I hesitate to use the word -- where they were "stabilizing" the gentleman. Instead they were destroying the gentleman, to the point that I had to answer the question on the stand of: "The Viet Vet Center supposedly was providing services to this man for a year and a half. How come he committed this crime? And I had to answer that question.

CHAIRMAN FLOYD: How did you answer that, Doctor?

DR. HAYES: Basically, by saying that the program, as I perceived it, and the people I knew who were running those par-

ticular Vet Centers just had no idea what they were doing with this man.

Their process was one of having a man walk through the front door and saying, "Were you in Vietnam, yes/no? If you were in Vietnam, here are the symptoms. Which ones do you have? Since you have symptoms, participate in our group. As part of the group, share these feelings, but don't expect us to help you deal with those feelings. Don't expect us to give you the guidance and the help to deal with these problems. Let us raise the frustration levels in you; put you back into the experiences that could very potentially cause you problems; but don't expect us to help you with them."

Frankly, I hold that particular Vet Center partially responsible for the problem this gentleman had. And I'm not saying the Vet Center only does this, okay? They're a good organization; but there are weak links in every organization sometimes.

CHAIRMAN FLOYD: Do they have the facilities or the capabilities to do the help?

DR. HAYES: Does who have it?

CHAIRMAN FLOYD: That Vet Center.

DR. HAYES: With proper staff, yes, sir.

CHAIRMAN FLOYD: And you don't feel that the staff is qualified, is that it?

DR. HAYES: In this particular Center, definitely not, sir. And that's from dealing with that particular Vet Center for three and a half years; the personnel in that Center for three and a half years.

At the same time, a related case that will be coming to trial, in Orange County again, is on a veteran, who is presently in Long Beach VA Hospital, to which we are being called to provide counseling for them because the medical doctor involved feels that the Psych and Soc people in the hospital are totally incompetent to deal with this man.

What the hell are we doing to these veterans when we're doing that to them, frankly.

Let me go on to just a couple of more statements on this trial: I go into a trial in which a Public Defender had put together a defense about 18 months ago concerning Post-Traumatic Stress, and, "Oh, here's a veteran. Let's put him into this particular defense and let's use this defense." To the extent that when I get on the stand, I have to say, "Listen, Judge; listen jury: it's very possible that this man has some related experiences from Vietnam that are causing him problems; but the real problem is a predisposed condition that perhaps was aggravated by PTSD; but is definitely not the total cause of his problem."

Are we treating this veteran any better by not honestly diagnosing him and helping him? Or are we treating our system any better by not honestly diagnosing and treating this person than if we were going over to the other side and not doing anything with him, is another issue that comes up.

I sit on the stand and it's already with a jury that's already been set up with the fact that Vietnam era veterans are a bunch of -- you can clean up my language -- a bunch of ...

CHAIRMAN FLOYD: No, we've heard it all.

DR. HAYES: A bunch of individuals who should be locked up no matter what they've done, so let's not even worry about it; a district attorney who does the same thing; and a judge who doesn't let me say anything else different than that -- to the extent that now I've got two contempt of court things on me based on that trial. And I'd do it again: Spending what amounted to a total time of 14 hours on the stand, most of it defending the fact that Vietnam veterans are real people; are people who don't deserve special treatment. They just deserve fair treatment.

I guess one key thing I'd say is that no matter what comes out of these hearings today, I hope that we all can get a picture of the fact that we who are Vietnam veterans, which I am, those of us who felt that we had a commitment to do something for our country, whether we still feel that commitment or not, did do something. We did our part. We should not be given special treatment for that; but we should not be given less treatment because of that either. And there were a whole hell of a lot of good people who fought in Vietnam. A lot of them who were friends of mine who died because they were concerned about this country; and none of them would have expected special treatment. And we don't expect it now; but we'd sure like fair treatment.

Thank you.

CHAIRMAN FLOYD: Thank you, Doctor.

Joe Powers is Executive Director of the Flower of the Dragon, Inc. in Santa Rosa; and Mr. Robert BeeBee is the Staff Attorney.

MR. JOE POWERS: Thank you. I'd like to make a few cursory statements about what we, as a CBO, are doing with incarcerated veterans and then turn the rest of the testimony over to Mr. Beebee.

While the Dragon operates in county jails of two counties, Napa and Sonoma, we run into a variety of problems in dealing with the veterans there. Some of it varies with the cooperation of the local jail. For instance, the Sonoma County Jail has no system set up to indicate whether an individual is a veteran or a non-veteran. So a counselor that goes into the Sonoma County Jail has to go through a grapevine process to find out who are the Vietnam veterans in the jail and who are not the Vietnam veterans in the jail. And this is an issue we've been working on with the local jail commander and the county sheriff for quite some time. We've been working in the Sonoma County Jail since 1979.

What we do in the jails is we provide one-to-one counseling. One of the reasons we don't provide group counseling is we cannot get the area. Sonoma County Jail is severely overcrowded. And a lot of times our counselors have to do counseling in the hallway.

We do stress reduction; bio feedback in the county jail. And we've come up with a pretty unique system. What we do is take a Sony Walkman; put it over the guy's head; hook him up to a bio feedback machine; turn on the mood music; and go from there. In some instances we have people parading by while we're doing all this.

Napa County Jail is a little bit different. There they give us the information on who's a veteran and who is not a veteran. It's a smaller jail; it is not as severely overcrowded as the Sonoma County Jail. And we have the complete cooperation of the Napa County Jail for providing services there.

What a community based organization, or what a Vet Center, or what the VA can do, is quite a few things. And to alleviate some of the problems that got people into jail, or into the Criminal Justice System, is to start on the county level and then follow those people on up into the state level. There are enough people out there who are skilled enough in providing readjustment counseling for Vietnam veterans to alleviate some of the problems that Vietnam veterans who are involved in the Criminal Justice System are having. It can be done. We're doing it on a small scale on the local level. It can be done statewide. A lot of this involves the cooperation of the local jails and local prisons.

That is about as much as I'm going to get into on this issue; and I'd like to turn the rest of the testimony over to Mr. Beebee.

CHAIRMAN FLOYD: Thank you. Mr. Beebee.

MR. ROBERT BEEBEE: Thank you. I'm an attorney with Flower of the Dragon. I generally work in their discharge upgrade program. I've been admitted to practice for a year. This is my first year.

I've recently had occasion to represent an individual who seems to be typical of some of the people and has been in

some of the situations that have been talked about here today. Maybe recapping his story will add a little bit of perspective to a lot of what you've probably already heard.

About in August I was asked to assist a veteran in a probation revocation hearing. He was charged with violating probation in two counties. It's a little bit complicated. He was convicted of a theft offense about a year before and wound up, through some unfortunate circumstances, of serving probation in two counties.

His requirements were rather simple; just that he report his whereabouts and that he make restitution. The problem was that he -- well, maybe I'd better approach this a little differently. Those were the requirements of probation and that was what I was asked to represent him in connection with. And being familiar with Vietnam veterans and their problems in the Criminal Justice System, my first inquiry was into his military background.

I found that he was a veteran of the Marine Corp. He had served in Vietnam in 1965 and 1966. I discovered that on his first combat mission, they went into a village; they threw grenades in all the bunkers the way they'd been taught. Then he discovered women and children climbing out of these bunkers. And for the first time realized -- nobody had told him that that's where the women and children hid. And at that point he became by and large convinced that this system, his government and so on, was the enemy; that there was a conspiracy against people like him, and so on.

When he returned from Vietnam, he returned to a life of living in the woods. He lived in the woods, according to a couple of reports, variously described as like an Indian; like a mountain man living off the land, without shelter often. And he did this for a period of about 10 years. During that time of course, he had very little contact with people and with society. And of course, he was not developing his social skills. He was able to do this because he was supported by a VA pension and Social Security pension resulting from, I believe, service connected disability that provided him about \$400 a month.

That's when he was involved in a theft offense I'm not quite sure still whether or not he was actually guilty of it or simply the victim of an improvident plea bargain. As other people have testified, Vietnam veterans simply cop a plea and don't go on to fight the thing. But anyway, one of the circumstances that led to that was when his pension was suddenly cut.

An investigation revealed that he had previously been diagnosed on three occasions. In 1975, he was diagnosed as schizophrenic, undifferentiated. In 1982, he was diagnosed as paranoid schizophrenic. And finally, in 1983, he was diagnosed at the Veterans' Administration Medical Center in Palo Alto as suffering from Post-Traumatic Stress Syndrome; and that his problems in relating to society and the system were the result of his -- what was the word they used -- his conception of "the system is the enemy." And he was capable, through treatment, of changing this attitude and understanding that the problem was himself and not society.

When I brought this information to the probation department -- well, the first thing is that I read the two probation reports that had been prepared about the year previously -- that is, in March or April of '82, and in June of '82 -- neither of which had made this kind of inquiry into his background. The probation department in one county, when they were confronted with this information, their attitude completely changed. They said, "My gosh, I never would have recommended him for probation in the first place had I had this information." And consequently, at least in that county, they were willing to go along with efforts that I had made in connection with other county agencies to place this man in a treatment program as an alternative to prison.

I suppose, and certainly it's already been stated here, I've been through the process of trying to implement 1170.8. I've contacted virtually every facility in the State of California and found basically what other people have testified to. There is no federal facility that will treat Vietnam veterans. And also, the Veterans' Administration Medical Centers do not want to service custodial facilities for correctional institutions; and so a person has to be released from a correctional institution before the medical centers will take them.

Fortunately, as I say, another county agency managed to locate a private nonprofit organization that evaluated this individual, and although they primarily deal with drug abuse and substance abuse, they stated they would work with him. And I'm still not quite sure whether that's going to deal with his underlying problem; but at least it's something other than jail.

One of the problems is that there's still a proceeding in another county that's going on right now. And I'm not sure if that county's going to be as sympathetic or sensitive to this issue as the people in the first county were. And I think it would be very helpful to have some legislation that would put a little force behind that.

As I go through 1170.8, the first section of that is very commendable in that it directs an enquiry into the background of a criminal defendant, or a criminal convict, to see whether or not Vietnam combat experience has contributed to that behavior. And as other people have pointed out, it stops there. There's no other remedy beyond that.

There are a couple of suggestions that I could make, and one of them is simply to eliminate the term "federal" from the law. And direct the courts to make enquiries and efforts to find alternative treatment facilities, whether state, federal, or private.

There are a couple of other supplemental ideas. One is that the program be a diversion instead of an alternative sentence. That is to say that the negotiations as to where to put treatment be made at the court level and not the correctional institution level, although that may be effective; I'm not familiar with how well or how not well that doesn't work. But it seems to me that there are programs dealing with drug abuse and alcohol abuse that are diversionary in nature, where a person can be relieved of a criminal conviction if he completes the program. And I think that's the least that can be done for the Vietnam

veterans whose problems result from serving their country and not from simply abusing substances per se.

The other observation is that the legislation be broadened to include misdemeanors and not simply felonies. Whether an individual is convicted on a particular occasion of a felony or a misdemeanor is often how lucky he was, prosecutorial discretion, plea bargaining, and so on. The main problem is that if a person is in the Criminal Justice System and he's a Vietnam veteran and he's there because of Post-Traumatic Stress problems, then that's a problem to be dealt with whether it's in the municipal or superior court level.

That's basically my testimony. Thank you.

CHAIRMAN FLOYD: Okay, I'm sorry. You know, I authored a couple of bills. The first one was the result of mandatory sentencing on drunk driving and all, where we made it available at the sheriff's discretion that misdemeanor sentences of seven days or less could be a work-release program: Ten hours a day work-release, or every day sentence. The next year I came back and amended that bill to provide for work-release on any misdemeanor sentence. I wonder if we couldn't make the misdemeanor sentences part of the game; that it be not only work release, but instead of the 10 hours work-release, it could be some work-release and another part of that time being a counseling session or something. I wonder if that wouldn't be helpful with misdemeanor sentences. I don't see just putting a guy on probation, understanding that this is a man that probation, as we see it -- if he doesn't have a job, if he's not doing something to occupy

his time, if he's not participating in a program or something -- that's not going to be helpful to either the veteran or to the community.

MR. BEEBEE: That was the point in this case; that probation in this case was an error. And when the man's background was brought to the attention of the probation department, they realized that and then concluded that whatever you would do, don't put the man back on probation.

CHAIRMAN FLOYD: Maybe this is one of the alternatives we look at relating to a veteran on misdemeanor sentence. Instead of the community service thing -- that if he has the ability to hold a job and such that we just, in lieu of those 10-day sentences or seven-day sentences or 30/60-day sentences -- that he subscribe to a program. I know that you and Joe can provide that in your counties pretty much

MR. POWERS: We do that to a certain extent. In fact, several of our clients are court referred. And as part of their sentence modification, they are required to participate in weekly counseling sessions. Otherwise they get their probation jerked. And that's good motivation for them to come to the counseling sessions. That is being done now to a certain extent. Probably not as fully as it should ...

CHAIRMAN FLOYD: But that puts a probation officer in there with all those things.

MR. POWERS: Right.

CHAIRMAN FLOYD: If we do that same thing, not as a probation, but in lieu -- I mean, you've got your choice, babe.

We have a program here -- and I'm aware that it can't work in every county because every county is not fortunate enough to have a Flower of the Dragon. But, you know, instead of work-release, you're not going to have to do the time if you're doing this. And instead of the 10 hours picking up trash in the park, you're going to spend two hours every other day or twice a week, in it as a sentence. So I think those are some of the things we've got to look at.

And I think that's part of this whole hearing process: What the hell can we do besides what we're doing? We know that what we're doing is not marvelous. We have some cases where we're doing something that works. But for every case that we're doing something that works we've got five thousand that we're not doing a damn thing except throwing the man in, particularly on misdemeanor sentences.

And Mr. Levin was talking about guys doing life, three days at a time; six days at a time. We know that's happening. If we can just cut it down to a 20-year sentence, three days at a time, we're ahead of the game. So we appreciate your effort. And I think this is an excellent example, because this is not an isolated case. We know there's a lot of it. This is an exaggerated case, perhaps, but we know how many guys are living in the hills; or living in the hills in the middle of an urban area. It's happening all the time. I know it's happening in my area a lot.

Mr. Gray Davis has just joined us. He's an assemblyman from Los Angeles. Have you anything on this one.

ASSEMBLYMAN GRAY DAVIS: (Inaudible)

CHAIRMAN FLOYD: Thank you.

MR. POWERS: Thank you.

CHAIRMAN FLOYD: Thank you very much.

MR. BEEBEE: Would you like a copy of (inaudible)?

CHAIRMAN FLOYD: Yes, please.

Mr. Ron Perez, Veterans' Service Counselor of the San Francisco Sheriffs' Department; another enlightened sheriffs' department. There are too damned few of them but we have some, and I think that ...

MR. RON PEREZ: Yes, that's what I'd like to talk about.

CHAIRMAN FLOYD: ... we don't pin a lot attention on the good ones.

MR. PEREZ: Thank you. I'm here representing Sheriff Michael Hennessey, who could not be here because he's currently away on vacation.

I am a Vietnam veteran and have worked in the San Francisco Sheriffs' Department for some eight and a half years. Over the course of those eight and a half years, I have specialized in incarcerated veterans, being the only Vietnam veteran on the staff of our Prisoners' Services Division.

For a good number of years I have been struggling within the department to get them to recognize the special needs of incarcerated veterans, especially Vietnam veterans. For a good number of years I was always told, "well, we feel that there's not a significant enough population of veterans within our county jails to warrant any special services. We have AA coming in; we

have this/that coming in." So for me, it's been educating my department; educating the people that I work with in the Criminal Justice System to become more sensitive and aware of the special needs, special services that are available for veterans, especially Vietnam veterans.

Our San Francisco Sheriffs' Department has a classification system that has been nationally recognized as very sophisticated; one that takes into consideration whether or not you have a vulnerable individual; whether or not you have a combative prisoner; if you have a first offender, etc., etc., so that they can be housed accordingly.

I was asked to review the process when it was first initially being put together. I recognized that there was a place for veterans to be acknowledged on this classification system. It does not have any bearing on their housing, but they can now be identified. We are currently in the process where I will be able to go to any facility, flip through the classification cards and veterans will be identified.

Our department is going to be transferring over to a computer within the next two years, which means we will be able to go over and just push the right button and out of the computer, it will tell me where every veteran is within our Criminal Justice System.

The San Francisco County jails currently house approximately 1,500 inmates. We have a sentence facility that holds up to 600 men; and a sentence women's facility that holds approximately 50 women, out in San Bruno, 25 miles away from San Francisco -- out of sight, out of mind.

We have a large facility down at the Hall of Justice. We have two floors, the 6th and 7th floors. The 6th floor is where people come into jail when they are originally first arrested. The 7th floor is when they are bound over, held for felony charges we hope -- Prisoners, not only for the San Francisco system, but also for CDC, as well as federal and any other county or other state that may have a warrant on an individual that is picked up in the San Francisco area.

Now, because of our classification system, veterans can be identified immediately at the time of arrest. At the time of arrest, there is a screening process where they're asked, "Are there any mental problems? Health problems? etc. Are you on drugs? Are you kicking? etc."

And so now, at the time of arrest, I have a much better chance of identifying the veteran; a better chance of working with that veteran prior to his going into the court system. I have an opportunity now to contact the probation officer and to come up with an alternative. If I find a veteran with an alcohol or a substance abuse problem, I can contact the vet rep at Ft. Miley, bring him into the jail, and have him do a screening right there in the jail; have him go to probation, to the public defender, etc. And then when we go to court, to the judge, offer an alternative to incarceration.

In San Francisco we're finding that the courts now are recognizing that there are services that can be provided for veterans. I am now getting calls from court; not only from the courts, but from public defenders, probation officers, as well as

community based organizations that are identifying veterans with special needs.

If the individual is unsuccessful at the time of sentencing in persuading the judge to allow him to go to a program, what we are planning on doing at the beginning of 1984, we are going to have groups held out at our San Bruno sentence facility. There will be two groups being given twice a week: One for those that are not Vietnam veterans, and there will be a special group for the Vietnam veterans.

The people that will be running these groups are staff people from the Sheriffs' Department that are sensitive to veterans' issues. We are working on getting representatives from our Jail Psych Team involved in this, as well as the Outreach Center from San Francisco -- the Waller Street Veterans' Outreach Center has committed counselors to come in to assist with these groups.

Our county parole component also contacts me whenever a veteran is identified that is eligible for county parole. They now contact me, and I get with the veteran and see what his needs are, and then see that those needs are met, so that when he goes before the county parole board he does have a significant package; one that represents that his needs or his problems are going to be dealt with, if they be alcohol or substance abuse, violence, etc.; or if it's just making sure that this person has a roof, has employment; even if it's just that he's getting social services on the outside.

The problem we do have in the jail is medical problems for veterans. There is no real mechanism, other than my getting

the veteran released to me from the jail; and then my taking him out to Ft. Miley, or a hospital, and spending the whole day with him. If he were to go with a custody person, he would have to go in shackles; if he goes with me, he goes unshackled and he goes in civilian clothes. I take people out on a regular basis; I take them to Ft. Miley to get them screened; I take them where ever they need to get screened for acceptance for a program. They go under my custody.

I'm lucky, because as I say, I work in a very sensitive sheriffs' department. I've worked hard also to educate them to the needs of veterans, but they are listening. And I think this is one of the things that needs to be brought out: 1170.8, or whatever it's called, in the Penal Code, as you say, it is nice on paper, but everybody looks at that -- "Well, what does that mean, 'by placing an individual in a federal institution'?"

As I say, in San Francisco, we try to shortstop as quickly as possible. If we can do it right after the time of arrest and come up with an alternative prior to them going all the way to the state or federal level, I think we save the community and the veteran a great deal.

What is needed is that the courts and probation, etc., be educated that Vietnam veterans are a significant population; that it should become automatic, if somebody comes into probation or is going through the public defenders' system, that that question be asked. I have made sure that within the Sheriffs' Department in our Division of Prisoners' Services that every orientation form, every intake form, there is a section for

veterans and for veterans' services. And that is what's needed in all of the jails.

I can't do all of the services myself; so naturally, I look to the Vet Centers; I look to Ft. Miley, etc.; I look down to Menlo Park and Swords to Plowshares; so I get the community involved. We do networking with our veterans. When a veteran is identified, everything is covered at the time of release. At least he has that opportunity for an alternative to his lifestyle. He has that resource that has been brought to his attention. And if he wishes to follow through, he can follow through and that support system will be there for him.

The biggest problem with our county jails is, yes, it is a revolving door; because if the individual gets out of the jails -- In San Francisco, if you are released from San Francisco County Jail, you are given 50¢ -- no 60¢ now, because of the bus fare increase -- and if you have not had a counselor to develop any type of reentry services for you, then it is just out to the streets.

I've been also assisting the shelter people that handle all of the shelters in San Francisco for the homeless. I just talked with them yesterday, and I had talked also with their survey of putting in their questionnaire, "Are you a veteran?" Several weeks ago they got back to me. Out of an approximate 600 that were interviewed, of the homeless in San Francisco, 175 were veterans; a good portion of those Vietnam era and Vietnam veterans.

I talked with them again yesterday. They did a real quick survey at a few of the houses just this past weekend over the Thanksgiving Holiday. In a couple of the shelters, they were 50% veterans. They had not gotten it broken down into whether or not they were Vietnam, etc.; but we have a significant population of veterans that are homeless and in many cases, they come into our jail systems.

Especially in San Francisco, in most cases, I am seeing a great many people being sentenced -- rather than to state institutions, because we know the state prisons are greatly overcrowded -- they are being sentenced to county jail terms. And in many cases, because they are aware of the services provided by the San Francisco Sheriffs' Department, they hope that we will possibly come up with an alternative for them. We expect -- well, we are experiencing the verges of overcrowdedness within our jail systems. And we do know that over this winter that our jails are going to get extremely fuller.

We do have a work-furlough program and we do have the work-release program, that you talked about that you were so good in getting signed. We call it SWAP in San Francisco: Work Alternative. And if we find an individual that is qualified -- One of the unique things with the San Francisco Sheriff is, even if we have somebody that just needs therapeutic services, that he meets all the other criteria and he may not have a job but he may have some kind of counseling that he can attend, the Sheriff will allow the person onto our work-release program. And some kind of arrangements will be made for his sliding scale of his rental fee.

The same thing with veterans. We've had veterans that have been arrested for drunk driving, and one of the requirements is that they do participate in some kind of an alcohol treatment program while they are on our work-furlough.

I could go on and on and on about our programs in the San Francisco County Jail. I would like to extend an invitation to you to come to see our programs.

CHAIRMAN FLOYD: I was just asking; I just made a note that we are going to go.

MR. PEREZ: Great.

CHAIRMAN FLOYD: That sometime we can go, and I don't know if it helps that Mike Hennessey's a Vietnam vet, but it certainly doesn't hurt. And, you know, we do have some very enlightened sheriffs and ...

MR. PEREZ: Yes, we do. And I think for county jails, what is really needed is that county jails cannot lock out the community. The county jails have to start opening up their doors and bringing the community programs into the jails. There are a good number of community programs that want to come in and can provide services. And this should be something that should be stressed more.

Because the more activity going -- We have found the more activity going on in the jails, the more time that the individual utilizes in the jail, the less tension there is, the less assaults there are, the less attempts of escapes; that if you give the individual something to do, at least if he's going to have to do the time, utilize his time. And then give him an alternative for when that gate opens.

Thank you.

CHAIRMAN FLOYD: Ron, my thoughts going through, and we keep coming back to the thing that we need to sensitize the judges in this state. And I suggested maybe we get together and form something that we can go with. Would you participate with us?

MR. PEREZ: I would like to, yes, very much.

CHAIRMAN FLOYD: Thank you, and ...

MR. PEREZ: And thank you. I am not real disappointed in the show -- well, I guess I am in terms of those that showed here; but I think that should not take away from the fact that this hearing is still going on. I would hope that this information is shared with all of the rest of the members. And I hope that these type of hearings continue, because maybe one day we will come in here and they all will be sitting down listening.

CHAIRMAN FLOYD: It will be. And this is -- you know, these hearings, every since I've had this committee, have -- We've never had a lightweight hearing in this committee. I mean, you know, we're dealing with a very heavy subject, no matter what base we go to.

And, like I say, we're a select committee developing issues. We don't hear bills. If we come up with a bill, we go into Governmental Organization with the bill. But our hearings, more often than not, result in some fair legislation; and some action that we've gotten from departments because of something that comes out in the hearing.

We've had some good responses from several of the agencies. Our Department of Veterans' Affairs, more often than not,

is responsive. Because they know if they're not, we're going to beat them up a little bit. And, you know, they'd rather work with us. Leaveck's a tough guy.

And it's the kind of thing that I would like -- it's never going to happen, but one day I would like to go through some of these subjects with 120 legislators sitting there and listening and paying some attention. We'd get some response. It's never going to happen, but what the hell, we can dream, can't we?

MR. PEREZ: We can't stop trying.

CHAIRMAN FLOYD: That's right. Thank you.

Oh, I'm sorry. Mr. Davis has a question, Ron.

ASSEMBLYMAN GRAY DAVIS: You've been with the sheriff's office for seven or eight years now?

MR. PEREZ: Eight and a half years.

ASSEMBLYMAN DAVIS: And when -- how recently did this classification program begin for Vietnam, or for Vietnam veterans?

MR. PEREZ: Well, it's not primarily Vietnam veterans. It's to identify all veterans and then as they go through our system, then we break it down further. But we have instituted this program, it's been in use in our jails for approximately a year and a half now. And as I said, within the next year, we will be transferring into a computer so that we can track all of the prisoners throughout the jail; and as I say, I'll be able to just push the right button and it will tell me where every veteran is within our Criminal Justice System.

ASSEMBLYMAN DAVIS: I think that's an excellent idea. And it may be too early to ask this question, but do you have any -- have you been able to observe any difference in the behavior of veterans since this program was instituted, either during their term of incarceration or ...

MR. PEREZ: I can't really say in terms of behavior of the veterans, but I can say in terms of the behavior of the overall population; because, essentially, this classification system was just to target out those that would be considered vulnerable; those that were violent; those that were criminally sophisticated; as well as the socioeconomic background on it. And I looked at it and immediately recognized that if I could also get veterans incorporated into this I could get a whole wealth of knowledge just by the push of a button.

ASSEMBLYMAN DAVIS: Do you think it has improved the general behavior or climate of the prison ...

MR. PEREZ: Oh, yes, it has been getting national recognition. And as I said earlier, the Los Angeles Sheriffs' Department has recently adopted it and will begin utilizing it in their facilities. And their facility, from my understanding, is approximately three to five times larger than the size of ours.

ASSEMBLYMAN DAVIS: Is it possible to track inmates after they leave the ...

MR. PEREZ: That's one of the problems with the Criminal Justice System and with our division. We're just -- the sheriffs' departments are traditionally just considered holding facilities, so it's not really a responsibility for us to, you

know, see where they go. But if the individual is placed on our county parole program, then yes, there is a follow-up. And the follow-up can go anywhere from three months to as long as a year.

ASSEMBLYMAN DAVIS: I think it's a good program. I appreciate your being here to talk about it.

MR. PEREZ: Thank you.

CHAIRMAN FLOYD: Good Sheriff; good Deputy.

MR. PEREZ: Oh, no, I'm not a deputy.

CHAIRMAN FLOYD: You're not a deputy?

(Laughter)

UNIDENTIFIED: (Inaudible)

CHAIRMAN FLOYD: Our last speaker this morning, or testifier this morning, is Mr. Hal Goldman, who is the State Commander of the American Legion in the Department of California. It is significant that he's the last witness because he represents an organization, which of the traditional organizations in our view -- and I've been around veterans' organizations for years and years and years -- is the first traditional organization that has really jumped into representing and participating in programs particularly advantageous and designed to program with Vietnam vets. And, you know, some years ago I never thought I'd see the day when I would salute the American Legion as anything but those guys that I see going to conventions and glorifying the situation; but I don't know how often we can say it, but this American Legion, in California at least, is one hell of an organization. And all you 'Nam vets ought to take cognizance of it throughout the state.

Did I say that right, Hal?

MR. HAL GOLDMAN: Just like I wrote it.

CHAIRMAN FLOYD: Right.

MR. GOLDMAN: I appreciate your comments. When I sought the commandership of the American Legion in the State of California, it was some 20-odd years after -- being a Korean veteran -- my activity and role within the veterans' organization began, both on a local state and the national level.

One of the things that we offered this year was, "Educate, Innovate and Motivate." The other part that I've been trying to do this year and working diligently at, and I hope we meet with some degree of success by the end of my year, is the fact that we have to communicate with all our fellow veterans; other organizations, and the individual as well.

I must admit that this program that we are initiating this year in the State of California is not unique to the American Legion, and we are not the first to launch it. We are approximately going to be the third department, third state that will initiate this program. It is presently in operation in the State of Arizona, and is presently in operation in the State of Colorado. They have met with some degree of success. Some of the things that they have run across have been unique and educational, to say the least.

Let me give you first the positive role that we hope to be able to lend to the veteran:

It is my opinion that whenever a veteran served and where he served and how he served, as long as he did it honor-

ably, that's all we ask of any veteran. If they have a problem, we presently provide the services of upgrading discharges.

On the other hand, we also provide services to the family, education for the young, and welfare for those who are in need of it, as well as medical care.

It's our concern that we do care about our fellow veteran. If he, because of a moment of desperation, tripped and fell out of society, for what ever reason -- be it a substance problem or physical problem or an economic problem -- we want to extend to him open arms and say, "we care;" and we're going to try and help him out in some way.

We are unique in the fact that we offer some 700 local community posts within the entire State of California, from the Mexican border to the Oregon border. We can and will work with the authorities in the matter of following them up after they get out.

But let me address the fact that there are those who are presently in minimum security institutions for just a moment. We're asking for the ability and the capacity to establish American Legion posts inside these facilities; to go in and train, inform and educate the veteran as to what the American Legion really is all about; how it can provide a service to him and his family, or her and her family; the victims and their family. We can do this in many ways.

They have established projects within the facilities in Arizona and Colorado where they have built parks and they have done some construction work with the training that has come forth

from the veteran community, seeking to train these men while they are incarcerated, to hold out the hope and good fortune of future employment when they are released. And to assist them in that transitional period. And letting them know that we -- who have been able, by God's good fortune, not to have fallen astray of the law -- do care, and are willing to give them the helping hand after they've fallen down, as you would a child, or anybody else that has fallen down.

With the facility of the American Legion, and we are hoping that more and more of our states within our national organization are going to be incorporating this program, that we in turn will be able, not only to follow it up on a local level, but on a national scale. The American Legion, I think, has reached the point of maturity where they are opening up their eyes, and some of the old dogmas that have restricted our openness and have led to that reputation which you inferred was prevalent at the beginning of this meeting, we're hoping to change all that.

Right now, our Law and Order Committee -- on which there are no less than eight retired law officers who are most supportive of this program. I originally thought we would have some reticence on their part -- has informed us that at one time, many years ago, there was such a post in San Quentin. And it did reach a certain degree of success; and through the change of administration, was discouraged to the point where it was finally eliminated. We're looking to reinstitute that post, and in some of the other areas in California.

We are willing to work with any and all individuals, be they Legionnaires or not, as long as they are concerned with the lot of the veteran, and how we can improve that lot; make them a member of society; eliminate their problem on behalf of the state where it becomes an encumbrance on the state or the society; and make these people, who are more than willing to jump in and -- The lessons that we've learned are these people are so damned grateful that they bend over backwards and give you back three-fold whatever they get, once you have gotten them on their road.

And this, in essence, is the program that we have in the American Legion, without belaboring it and a lot of rhetoric; because I know you've heard a lot of testimony this morning and I don't want to go into areas that you've probably had. I apologize for being late; but I just got in to Sacramento, specifically for this purpose.

I wanted you to know the American Legion is stepping out full bore, wholeheartedly, and making a total commitment to establishing at least two of these posts prior to May 31, 1984. The restrictions that we run across and the problems that we have, you will be made well aware of; so that you can facilitate the establishment of these posts within these institutions.

CHAIRMAN FLOYD: Great. We want to help. This may be more helpful than even you see on the surface. We were discussing earlier the sensitivity of judges and knowing what they're dealing with, particularly with vets, and particularly with 'Nam vets. And I see a great importance, because I am aware of how many judges belong to the American Legion.

So like I said earlier, the American Legion, as I've found in the last -- well, more so since you've become Commander, Hal -- but in the last few years is not what we all saw the American Legion as being; not a place for guys to get together and wave the flag and tell war stories, but an organization that helps vets. And we want to be of whatever help we can.

And I know we've been seeing a lot of you; you're going to be seeing a lot more of us. And we certainly thank you for your ...

MR. GOLDMAN: Let me point out that one of the groups that you mentioned, and one of the groups of people that are already involved with the Los Angeles Sheriffs -- We have a post within the Los Angeles Sheriffs that is supportive of this; within the Los Angeles Police Department; the San Francisco Police Department. With our connections to that side, they have become totally committed to trying to work with this. And that is a bit of irony right there.

CHAIRMAN FLOYD: Yes, it is. And of course it's advantageous to the cops.

MR. GOLDMAN: Okay, but we're taking out the generalities and we're now working in a one-on-one type of situation. And I think that's the advantage that we have over many of these other groups, people, individuals who are concerned; because we're coming to them as brother-to-brother from both sides. And having first met a person one-on-one, you can deal with the situation, I think, a lot more amicably ...

CHAIRMAN FLOYD: That's true.

MR. GOLDMAN: ... than you can with a control-type situation.

CHAIRMAN FLOYD: Very good. Thank you again.

MR. GOLDMAN: Thank you.

CHAIRMAN FLOYD: I would like to thank Assemblyman Davis, and Assemblyman Hannigan who was here earlier and had to leave for another function, and most importantly, those of you who are in the audience.

And it's always interesting that when we deal with hearings relating to any of these subjects, some of you we see at every function and every hearing, which indicates, to us anyway, an organization being represented that has an interest in every facet of the veterans' problems and programs throughout the state. I thank you.

And like we always say on these things, we don't hold a hearing just to hold a hearing. We hold a hearing to come up with something that we can do that's positive and that we can demonstrate, not only to our colleagues, but to the people that somebody is here; somebody has an interest. And -- These are very heavy hearings. They always get a little heavier than we anticipate when we walk in.

We hope that you will hear from us and we hope that we will hear from you, and we can come up with maybe some ideas, some program, some help for that vet out there who, the day he got his separation papers, has looked at it as all being over -- with so many dead, and he can't expect anything. We'd like to see that veterans do expect something, whether they're in or out.