

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON VETERANS

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October 28, 2016  
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HELD AT: Council Chambers - City Hall

B E F O R E: Eric A. Ulrich  
Chairperson

COUNCIL MEMBERS:

Fernando Cabrera  
Alan N. Maisel  
Paul A. Vallone  
Andy L. King  
Joseph C. Borelli

## A P P E A R A N C E S (CONTINUED)

Todd Haskins  
NYC Veterans Advisory Board

Rob Cuthbert  
Urban Justice Center Veterans Advocacy Project

Jeremy Butler  
IAVA

Kristen Rouse  
NYC Veterans Alliance

Joseph Graham  
Vietnam Veterans of America Chapter 126

Christopher Goldsmith  
High Ground Veterans Advocacy

John Rowan  
Vietnam Veterans of America

Adam Hudson  
NYC Veterans Alliance



1  
2 CHAIRPERSON ULRICH: Thank you, and good  
3 afternoon everyone. I am Council Member Eric Ulrich,  
4 Chairman of the City Council Veterans Committee.  
5 Tens of thousands of the men and women who served our  
6 great country return home from their deployment  
7 bearing the invisible wounds of war. Unfortunately,  
8 many of these service members have also returned with  
9 the less than honorable discharge that often serves  
10 as a bar to accessing many of the programs and  
11 benefits that can provide them with the help they  
12 need readjusting and transitioning back into civilian  
13 live. This includes critical mental health care  
14 services. In many cases these discharges were issued  
15 despite a clear medical history of PTSD that can be  
16 linked the behavior causing the "less than honorable"  
17 characterization. The Veterans Legal Services Clinic  
18 at Yale Law School estimates that 80,000 Vietnam  
19 veterans developed PTSD during the conflict and  
20 subsequently received a less than honorable  
21 discharge. The number of Iraq and Afghanistan  
22 veterans that have developed PTSD and traumatic brain  
23 injuries cannot access these benefits due to their  
24 discharge as well, and that number is likely very  
25 high. The Fairness for Veterans Act is a bipartisan

1  
2 piece of legislation supported by a number of leading  
3 veteran's organizations, and it is an important step  
4 in ensuring that these veterans can get the benefits  
5 and care that they have earned and deserved. The  
6 legislation would require discharge review boards to  
7 review medical evidence either by the VA or a  
8 civilian health care provider with a rebuttable  
9 presumption in favor of the service member that PTSD  
10 or TBI materially contributed to the circumstances  
11 resulting in the discharge of a lesser  
12 characterization. This is a common sense step that  
13 will result in giving more veterans the care and  
14 treatment that they need, and I'd also like to thank  
15 the prime sponsor of the bill, Council Member King  
16 from the Bronx, for sponsoring this important  
17 resolution. He's actually on his way. Before I  
18 begin I would like to acknowledge the other members  
19 of the committee who are here. We're hereby joined  
20 by Council Member Cabrera, also from the Bronx. We  
21 are waiting for Vallone, Borelli and Maisel, and I'd  
22 also like to thank the Veterans Committee staff, Eric  
23 Bernstein [sp?], Committee Counsel, Michael Kirtz  
24 [sp?], our Policy Analyst, James Saboodi [sp?] and  
25 John Russell from the Finance Staff, and in lieu of

1  
2 Council Member King not being here, we'll call up the  
3 first panel. Let's begin first with Kristen Rouse,  
4 representing the New York City Veterans Alliance,  
5 Todd Haskins, representing the New York City Veterans  
6 Advisory Board, the Chair of the Board is here as  
7 well to testify, Jeremy Butler from IAVA, Iraq and  
8 Afghanistan Veterans of America, and Robert Cuthbert,  
9 Urban Justice Center. And also, Joe Bello, too. We  
10 can-- Joe Bello, the Secretary of the VAB. If it's  
11 alright, we'll start with the VAB, and we'll work our  
12 way down. Is that okay? Normally, I do ladies  
13 first, but I don't know if you have to get back to  
14 work, Todd, I know that Friday's a busy day.

15 TODD HASKINS: Here we go. Plenty of  
16 time. Thank you very much, Chairman Ulrich, Council  
17 Member Cabrera, and obviously other committee members  
18 on their way, distinguished guests. My name's Todd  
19 Haskins, I speak on behalf of the Veterans Advisory  
20 Board as its Chairman. As you know, the Advisory  
21 Board consists of 11 members who are appointed by the  
22 Mayor and the Speaker of the City Council. Its  
23 mission is to advise the Commissioner on all matters  
24 pertaining veterans in New York City and then report  
25 annually both directly to both the Mayor and the

1 Speaker. I come to you obviously today to talk about  
2 Council Resolution 1196 urging Congress to pass and  
3 the President to sign into law HR 4683, the Fairness  
4 for Veterans Act. As stated in our annual report to  
5 the Mayor and the Speaker, our recommendation to New  
6 York City is to establish the most comprehensive and  
7 effective local veteran policies in the nation,  
8 simply put. We believe fundamentally that veterans  
9 make great citizens and attracting them to New York  
10 City will improve the lives of all New Yorkers. It's  
11 with this belief in mind that we have recommended  
12 that veteran policies and programs be prioritized and  
13 aligned with supporting veterans' continued service  
14 as citizens after they leave the service. Veterans  
15 are truly our country's leading renewable resource. I  
16 can think of no other legislation that is more  
17 aligned with this framework. According to the  
18 Defense Manpower Data Set, more than 615,000 Army,  
19 Navy, Airforce, and Marine veterans transitioned with  
20 "less than honorable" discharges from 1990 to 2015.  
21 It's been estimated that 125,000 post 9/11 veterans  
22 are denied access to VA healthcare including mental  
23 health in particular due to the nature of these  
24 discharges. Separation is often determined, as many  
25

1 of you know, by a service member's Commanding Officer  
2 who's rarely qualified to assess ones' mental health  
3 and those decisions determine the services for which  
4 the individual qualifies as a veteran. Service  
5 members with well-documented medical histories have  
6 been improperly discharged with personality disorders  
7 rather than receiving a medical discharge or being  
8 retained and treated, and receiving treatment and  
9 rehabilitated. The Fairness for Veterans Act which  
10 is supported by the majority of veteran organizations  
11 will revise the current discharge policies to require  
12 the review of medical evidence for a service member  
13 who's discharged and has experienced PTSD or TBI as a  
14 result of a deployment, and whose application for  
15 relief from the terms of their military discharge  
16 include PTSD, TBI related to combat or military  
17 sexual trauma. The act also requires a review board,  
18 as you noted, to evaluate each case with a  
19 presumption in favor of the veteran in the case where  
20 those are all present or any of those are present.  
21 These changes will restore the benefits and would  
22 allow deserving veteran in need to seek treatment,  
23 which would support their ability to continue to  
24 serve as citizens. We must ensure that our nation's  
25



1 most vulnerable receive care, treatment and benefits  
2 that they both earned and deserved. The Fairness for  
3 Veterans Act ensures that combat veterans whose  
4 conditions should have been considered prior to their  
5 discharge receive due consideration in their post  
6 discharge appeals. As you noted, this is a common  
7 sense piece of legislation. The board would like in  
8 particular to thank our Queens member, the National  
9 VVA [sic] President John Rowan for pressing this  
10 issue, and we look forward to seeing this resolution  
11 pass the City Council and ultimately get signed into  
12 law.  
13

14 CHAIRPERSON ULRICH: Thank you, Mr.  
15 Chairman. We'll hear from the next speaker and then  
16 we'll have questions by Council Member Cabrera,  
17 myself or any of my colleague that show up. So, feel  
18 free to move the mic over.

19 ROB CUTHBERT: Chairman Ulrich,  
20 Councilman Cabrera, my name is Rob Cuthbert, and I'm  
21 the pro-bono coordinator at the Urban Justice  
22 Center's Veteran Advocacy Project where I manage the  
23 Discharge Upgrade Clinic. I'm also a United States  
24 Army Veteran of Afghanistan and Iraq. It is a  
25 privilege to address you today and I thank you for

1 convening this hearing. Passage of this Resolution  
2 would be an exemplary act of national leadership, and  
3 we ask the Council to voice its unanimous support of  
4 the Fairness for Veterans Act with haste. As you  
5 pointed out, Chairman Ulrich, this is a common sense  
6 step, but it's one that's 36 years in the making.  
7 Veterans with "less than fully honorable" discharges  
8 are our nation's most vulnerable veterans. They are  
9 thanked by the public, but shunned by employers,  
10 stripped of their GI Bill and barred from VA  
11 hospitals. Veterans with "less than fully honorable"  
12 discharges carry a risk of suicide that is nearly  
13 three times that of the service member population as  
14 a whole, often injured by combat-related trauma,  
15 sexual assault or rape. Many veterans "less than  
16 fully honorable" discharges suffer from Post-  
17 Traumatic Stress Disorder, PTSD, Traumatic Brain  
18 Injury, TBI, and then return home without the  
19 resources to heal their wounds. Moreover, a "less  
20 than fully honorable" discharge also known as "bad  
21 paper" is a life sentence. Without a discharge  
22 upgrade from the Department of Defense or Department  
23 of Homeland Security Board of Review, veterans carry  
24 it to their graves. Our Discharge Upgrade Clinic is  
25

1  
2 one of the largest pro-bono discharge upgrade  
3 programs for veterans with "less than fully  
4 honorable" discharges in the United States and the  
5 only clinic in New York City. I recruit, train and  
6 mentor attorneys who in our clinic assist veterans  
7 with applications to the Boards of Review which might  
8 include in-person hearings before the boards in the  
9 Washington, D.C. metropolitan area, and there are  
10 very few organizations in the United States that have  
11 the knowledge, expertise, resources and commitment to  
12 competently complete a discharge upgrade application.  
13 Veterans incur no cost for our services which often  
14 include extensive investigation, arranging the expert  
15 evaluation and testimony, a forensic psychiatrist or  
16 psychologist and physical travel to the boards.  
17 However, there is such an immense need for detailed  
18 expert and thorough discharge upgrade work that we  
19 still have hundreds of veterans on our wait list for  
20 our services, most of them from New York City, and  
21 nowhere in our area in which to refer them.  
22 Nationally, this is the first public hearing on the  
23 Fairness for Veterans Act, and we are very proud that  
24 it is occurring here in New York City. Nationwide,  
25 let it be the first of many. Equity and due process

1  
2 for the hundreds of thousands of veterans with "less  
3 than fully honorable" discharges is nothing less than  
4 a nascent civil right issue. To begin, I want the  
5 Council to know three things about the discharge  
6 upgrade process with an intent to inform later  
7 discussion. There are six different types of  
8 discharges and anything less than fully honorable  
9 leads to a loss of benefits. The VA does not issue  
10 discharges and it doesn't grant upgrades. That's the  
11 Department of Defense and the Department of Homeland  
12 Security. Discharge upgrade are difficult with  
13 resource intensive and time consuming, but not  
14 impossible. Discharge upgrades change and save  
15 lives. Although most people make the mistake of  
16 referring to all "less than fully honorable"  
17 discharges as "dishonorable," dishonorable discharges  
18 are extremely rare. It is the rough equivalent of a  
19 felony conviction. For context, from Fiscal Year  
20 2000 to Fiscal Year 2013, the Department of Defense  
21 discharged 2.6 million people, and less than one  
22 percent received dishonorable discharges.  
23 Unfortunately, people use the term "dishonorable."  
24 What they mean is a veteran with a less than fully  
25 honorable discharge, including veterans who are

1 discharged administratively. The term "dishonorable"  
2 should only be used when actually discussing a  
3 dishonorable discharge that was given as a result of  
4 a general court martial. Most discharges, as you  
5 pointed out, Chairman Ulrich, are given  
6 administratively, without a court martial. Less than  
7 fully honorable administrative discharges are one,  
8 highly discretionary; two, sometimes arbitrary and  
9 capricious; and three, almost always given for  
10 misdemeanor level misconduct or less, behavior that  
11 probably wouldn't get you kicked out of CUNY. One-  
12 time drug use, minor acts of military misconduct, a  
13 military diagnosis, a personality disorder,  
14 adjustment disorder, and before the repeal "Don't Ask  
15 Don't Tell," being gay, these are some of the reasons  
16 that a veteran could receive a less than fully  
17 honorable discharge. For example, a General under  
18 honorable conditions discharge sounds innocuous, but  
19 it strips a veteran of their GI Bill, which in New  
20 York City could allow them to graduate from Pace or  
21 St. Johns tuition debt free and would have provided  
22 them with 136,896 dollars in housing benefits over 36  
23 months. Even worse, an other than honorable  
24 discharge leads to the loss of a GI Bill and VA  
25

1 health benefits. I mentioned that between 2000 and  
2 2013 there were approximately 2.6 million discharges,  
3 approximately 294,000 of them, 11 percent, were  
4 administratively discharged as-- administratively  
5 characterized as less than fully honorable. In three  
6 years, that number has risen to 13 percent. Over a  
7 decade and a half, more than one in ten of our  
8 youngest veterans have joined the ranks of the more  
9 than 560,000 Vietnam veterans with less than fully  
10 honorable discharges, and the hundreds of thousands  
11 of veterans from other service areas. You have a one  
12 in 10 chance in 2016 of receiving a less than fully  
13 honorable discharge. After 15 years of war, PTSD and  
14 TBI are the catalyst for many administrative  
15 discharges, yet, in-service rehabilitative efforts  
16 lag and thousands of administrative discharges  
17 persist. Post service discharge upgrades become one  
18 of the only potential sources for relief for wounded  
19 veterans. So few veterans advocates work on  
20 discharge upgrade that often discussions like this,  
21 testimony like this inappropriately become  
22 conversations about the VA. The only relief the VA  
23 can give a veteran with a less than fully honorable  
24 discharge is a waiver into the healthcare and benefit  
25

1 system, and that's an important topic for another  
2 hearing. However, it's the Department of Defense and  
3 the Department of Homeland Security that are  
4 responsible for issuing discharges to its service  
5 members and granting them upgrades. To put it  
6 another way, in sum, the DOD and DHS, they issue a  
7 sentence of life without benefits-- life without  
8 benefits. And the VA and other agencies, they're the  
9 executioners. Discharge upgrade are possible, but  
10 very difficult. Not only are the rates of post-9/11  
11 veterans with less than fully honorable discharge is  
12 very high. The numbers of discharge upgrade granted  
13 by the DOD for veterans of all service areas are very  
14 low. According to a study we conducted last year, in  
15 2013, none of the DOD Discharge Review Boards  
16 exceeded an upgrade rate of approximately 10.4  
17 percent. Almost 90 percent of all discharge upgrade  
18 applications failed. Before the highly discretionary  
19 Boards of Review, the burden of proof is placed  
20 entirely on the veteran. There are no automatic  
21 upgrades, and each veteran must apply to the Boards  
22 of Review individually, and after their  
23 administrative remedies have been exhausted, they  
24 have the right to petition in federal court.  
25

1  
2 Currently, to mitigate PTSD or TBI- related  
3 misconduct, a veteran would have to prove to a  
4 majority of Board Members that PTSD contributed to  
5 the behavior that caused the discharge, including  
6 proof that the veteran was suffering from PTSD at the  
7 time of the misconduct, which might be a 1970.  
8 Additionally, before some of the boards, if an  
9 applicant was deployed to war and claims that they  
10 suffered from PTSD or TBI as a result of that  
11 deployment, there's going to be a voting member of  
12 the Board that's a psychiatrist, a psychologist or  
13 physician with some sort of mental health training.  
14 Without assistance, you tell me, how does a homeless  
15 disabled veteran with post-traumatic stress or TBI  
16 prepare a persuasive application to a Board of  
17 Review? The Boards of Review are understaffed and  
18 underfunded, but their job is complicated by the  
19 uniformed and unsupported applications they receive  
20 from thousands of veterans who are told by  
21 authorities including VA staff members to just fill  
22 out a two-page form for an upgrade and sent it to the  
23 Boards of Review supported neither by evidence nor  
24 legal argument. A successful discharge upgrade  
25 application with exhibits looks like this. And I



1 know Chris Goldsmith of DVA has also brought an  
2 application here as well. Successful or  
3 unsuccessful, it requires 100 to 150 hours' worth of  
4 work, if not more, and in this case the testimony of  
5 a forensic psychologist and sometimes a hearing in  
6 DC. So to reiterate, there's six different types of  
7 discharges. Anything less than honorable leads to a  
8 loss of benefits. The VA doesn't do upgrades.  
9 That's Department of Defense, Department of Homeland  
10 Security, and discharge upgrades, they're difficult,  
11 but they're not impossible. And that brings us to  
12 the Fairness for Veterans Act. Even with competent  
13 counsel and robust applications, applications often  
14 fail, and specifically over the years, many of the  
15 PTSD-related discharge upgrade applications of  
16 Vietnam veterans are being denied because of lack of  
17 medical evidence. And so, concurrent with a class  
18 action lawsuit filed against the DOD Secretary of  
19 Defense Chuck Hagel issued guidance to some of the  
20 boards regarding veterans who are suffering from  
21 post-traumatic stress disorder. Hagel's guidance  
22 stated in sum: service medical records of Vietnam  
23 veterans don't have evidence of PTSD, and that's  
24 because PTSD didn't exist as a diagnosis until 1980,  
25

1 which many people in this room already know. So  
2 liberal or special consideration per Hagel should be  
3 given to medical evidence of PTSD when the boards are  
4 mitigating minor acts of misconduct. For some  
5 veterans, Hagel's guidance was an improvement.  
6 According to a study commissioned by Vietnam Veterans  
7 of America and the National Veterans Council for  
8 Legal Redress, in 2013 one board, the Army Board for  
9 Correction of Military Records, only approved 3.7  
10 percent, 3.7 percent of PTSD-related discharge  
11 upgrade applications, but in 2014/2015 after Hagel's  
12 guidance, the number of PTSD-related discharge  
13 upgrades before the same Army Board jumped to 45  
14 percent of all applicants. Okay, that's progress,  
15 but I'm going to add this, only 164 people applied.  
16 Only 164 veterans applied. Right now, it is unclear  
17 whether the improvement of Hagel's guidance with the  
18 expander of sustain [sic], that's why we're sitting  
19 in this room. Across all DOD boards in the first  
20 quarter and the second quarter of 2016, only 693  
21 veterans have applied, and only 22.5 percent have  
22 received corrections, one in four-- less than one in  
23 four. Even with improved upgrade rates, the current  
24 number of applications under Hagel is anemic. Hagel  
25

1  
2 might have improved those odds to one in four, but it  
3 did not improve the outreach to thousands of eligible  
4 veterans, including the veterans in the City, and  
5 more importantly, it is not codified in law. The  
6 Fairness for Veterans Act actually changes the law.  
7 It amends Title 10 in the United States Code to go  
8 beyond liberal consideration of Hagel and to create,  
9 as you stated at the beginning of this hearing, the  
10 outset of this hearing, Chairman Ulrich, rebuttable  
11 presumption in favor of the veteran that PTSD or TBI  
12 materially contributed to the circumstances of the  
13 discharge. The Fairness for Veterans Act is a  
14 profound, significant and potentially enduring reform  
15 to the discharge upgrade process. However, it only  
16 applies to one type of board, the Discharge Review  
17 Board that with a 15-year statute of limitations only  
18 serves post 9/11 veterans. So without new  
19 consideration before the Discharge Review Boards,  
20 veterans from other eras might not benefit from the  
21 Fairness for Veterans Act, because they can't apply  
22 to that-- because they can't apply to that type of  
23 Review Board. I'm wrapping it up, Chairman Ulrich.  
24 Therefore, without a doubt, the Fairness for Veterans  
25 Act should be expanded to all Boards of Review, and

1  
2 furthermore, any chance of expansion of the Act would  
3 be increased by the support of this Council.

4 Although this bipartisan bill passed unanimously in  
5 the Senate, the White House has not publicly  
6 supported its passage or any improvements that can  
7 lead to-- that could benefit the veterans of all eras  
8 rather than just veterans from the post 9/11 era  
9 before the Boards of Review. However, with the  
10 passage of this law, someone will have to locate the  
11 eligible veterans, encourage them to apply, collect  
12 relevant evidence, including evidence of PTSD and  
13 then complete competent, well-argued applications in  
14 a manner that preserves potential arguments for  
15 federal court. But to date, we have not seen  
16 effective outreach for the similarly targeted groups  
17 of veterans with less than fully honorable  
18 discharges. One, the 100,000 LGBTQI veterans  
19 discharged pre-repeal of "Don't Ask, Don't Tell," and  
20 two, the approximately 31,000 veterans since 9/11 who  
21 were discharged on the basis of personality disorder,  
22 many of whom were discharged illegally with a  
23 diagnosis, many of whom were misdiagnosed with  
24 personality disorder after combat or sexual assault-  
25 induced PTSD or TBI. Ineffective applications hurt

1 veterans and it is unclear who will be able to  
2 competently assist veterans who will benefit from the  
3 Fairness for Veterans Act. I will say that well-  
4 trained and well-resourced New York attorneys,  
5 especially the most well-resourced attorneys within  
6 the pro-bono bar as well positioned to assist.  
7 Again, passage of this resolution would be an  
8 exemplary act of national leadership and the Veteran  
9 Advocacy Project asks the Council to voice its  
10 unanimous support of the Fairness for Veterans Act  
11 with haste. Thank you for the opportunity to speak  
12 today. I apologize if my remarks ran a little long,  
13 but we wanted to seize the opportunity to educate the  
14 City of New York and the Council on some of the finer  
15 points of this legislation.

17 CHAIRPERSON ULRICH: Well, thank you for  
18 your testimony, and it has been entered in full onto  
19 the record. I know the prime sponsor of the bill,  
20 Council Member King, is here, and I'm sure that he  
21 has some remarks or comments to add before we go onto  
22 the next speaker. So, will you indulge my colleague  
23 and put the testimony on hold for now?

24 COUNCIL MEMBER KING: Thank you, Mr.  
25 Chair, and I appreciate the Committee for hearing

1  
2 today's conversation with all of you who are sitting  
3 here today. I did have some written down remarks, but  
4 you know, in essence of time, and you know, I'm sorry  
5 for my tardiness doing three things at one time, I'm  
6 going to just forgo some of these things that I've  
7 written down, and I just keep it real. As a son of a  
8 veteran who served in Korea as a 19-year-old,  
9 fighting at night on his post trying to figure out  
10 whether a bomb was going to come through as he walked  
11 up and down in the night from 12 to 5:00 a.m., it was  
12 a traumatic experience for him at 19. If you just  
13 imagine the things that we go through as older adults  
14 that are traumatic for us. So, I just think this Act  
15 for our veterans it just makes sense that we do  
16 right. We've asked men and women to protect, to  
17 serve this country every day for us to freely walk  
18 around the United States of America, and without  
19 thinking that there is any issue when there are  
20 issues all across this world. So it only makes sense  
21 that if someone gets injured in combat or just in the  
22 hands of being part of the military, that we take  
23 care of them. Whatever ranking or whatever discharge  
24 label you want to place them, they still first had a  
25 commitment to this country to serve this country, so

1  
2 it's only fair. It's only smart, and anybody in  
3 Washington who thinks that this resolution shouldn't  
4 be passed and that the bills that have been submitted  
5 before our Congress and the Senate shouldn't be  
6 passed, they should be out of a job. I don't see  
7 them sending their sons and daughters to war, but we  
8 each and every day send our children out there to  
9 protect this great country called America. So, I  
10 think when someone comes home whether they endured  
11 some type of injury or just the experience of being  
12 in the field or anything that could have happened  
13 from there, we have a responsibility when they come  
14 back to assimilate them into the system. We don't  
15 even ask people who have challenges here at home, we  
16 don't kick them out of the system of Medicaid when  
17 they need to get services. So how can we do that to  
18 our men and women who sacrifice the most, you know,  
19 when they go out without never knowing whether or not  
20 they'll come back to see their loved ones. It's just  
21 ridiculous in my mind to think that we would even--  
22 not even entertain the fact that we need to prepare  
23 and take care of them when they return home. So, Mr.  
24 Chair, I thank you again. I'm looking forward to  
25 more conversations. I heard your passionate remarks,

1  
2 and I thank you for that, and that's the passion we  
3 need to continue to make our country. If we're going  
4 to say we're a great country, then we need to take  
5 all-- take care of all Americans to and afro [sic].  
6 So, thank you again, Mr. Chair, and I appreciate your  
7 time. Thank you.

8 CHAIRPERSON ULRICH: Thank you, Council  
9 Member King for introducing this important piece of  
10 legislation, and although we don't have jurisdiction  
11 over federal bills, I think it's' important that the  
12 Council does take public positions on resolutions and  
13 acts that are in Congress so that we can send the  
14 message to the veterans that live in New York City  
15 and to our congressional delegation that this is a  
16 priority and that we want to see it passed. And so  
17 on a regular basis you'll see that we have hearings  
18 that are technically regarding matters that are  
19 either in Albany or in Washington, but I want to  
20 thank you for your testimony, for your remarks on the  
21 testimony. You know, before we move on to the next  
22 speaker, your comments are very interesting, because  
23 we fought very hard as a Council, as elected  
24 officials, to get the Veterans Treatment Courts in  
25 all five boroughs, and that was a great challenge,



1 and we're very thankful and happy that that is now  
2 the case, that we do have a VTC in each borough that  
3 does provide a second chance or an opportunity for a  
4 veteran who gets involved in the criminal justice  
5 system, but one of the things that we found out, of  
6 course, in our research and our deliberations is that  
7 if you have an other than honorable discharge, a lot  
8 of times you are not eligible to be in the Veterans  
9 Treatment Court. And some of the veterans who get  
10 arrested for drunk driving or other felony, non-  
11 violent felony crimes who might benefit from  
12 participating in the VTC are not eligible because  
13 they don't have access to VA benefits, and if the VTC  
14 cannot coordinate their VA benefits along with the  
15 mentor program that is critical to the success of the  
16 program, they are not eligible to participate in the  
17 VTC. So we are actually excluding thousands of  
18 veterans previously because it depended on where they  
19 lived or where they were arrested and whether or not  
20 there actually was a VTC in that county. That is no  
21 longer the case, but now if you're a veteran and  
22 you're arrested in the five boroughs, anywhere in the  
23 five boroughs, you still may not be eligible for that  
24 second chance because you might have an other than  
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1  
2 honorable discharge from 30 years ago, 10 years ago,  
3 and maybe the service connected disability or the  
4 PTSD contributed in some way to that type of behavior  
5 that led to your arrest, and those are the people  
6 that we should be trying to help. So, it's a  
7 fascinating topic, and it's very important. We've  
8 been joined by Council Member Maisel of Brooklyn, and  
9 we'll hear the other two folks that are here to  
10 testify, and then I'm going to turn it over to my  
11 colleagues for questions. So, I know IAVA is here as  
12 well. Thank you.

13 JEREMY BUTLER: Thank you, sir. Chairman  
14 Ulrich and distinguished members of the Committee, on  
15 behalf of Iraq and Afghanistan Veterans of America  
16 and our 450,000 members, I thank you for the  
17 opportunity to testify today in favor of Resolution  
18 1196-2016 which calls for a congressional passage of  
19 the Fairness for Veterans Act. I'm the Senior  
20 Military Fellow at IAVA, a 16-year veteran who served  
21 in Operation Iraqi Freedom and for about one year  
22 now, I'm a proud New Yorker. I'm going to make a  
23 brief bit of remarks here. I'll probably repeat some  
24 of the points that my colleagues made, not just  
25 because they're written on the paper here, but I

1 think because they're important points, but I will be  
2 brief. After a dozen years, IAVA has become the  
3 preferred empowerment organization for post 9/11  
4 veterans. While our members are spread throughout  
5 the nation, we are proud that our national  
6 headquarters is located here in the great City of New  
7 York. Since its beginning, IAVA has fought for and  
8 been successful in advocating for policies that meet  
9 the needs of today's veterans, and the Fairness for  
10 Veterans Act absolutely meets this criteria. This  
11 Act would require that the DOD and VA address the  
12 most vulnerable among our service members and  
13 veterans. These are the veterans that received an  
14 other than honorable or bad paper discharge, in some  
15 cases because of an undiagnosed or untreated  
16 psychological injury. The Fairness for Veterans Act  
17 would ensure Discharge Review Boards give liberal  
18 consideration to petitions for changes to an other  
19 than honorable discharge status if the service member  
20 has PTSD, TBI or related conditions in connection  
21 with their military service. It also extends the  
22 policy to military sexual trauma. Swords to  
23 Plowshares recently estimated that there are over  
24 125,000 post 9/11 veterans who have received an other  
25

1 than honorable discharge. This population often is  
2 left without access to VA benefits. The process by  
3 which they apply for review by the VA to determine  
4 their eligibility for services is lengthy, sometimes  
5 years, and the responsibility is on the veteran to  
6 initiate. Only 10 percent of those who have tried  
7 have received an eligibility review. These veterans  
8 are at higher risk for suicide and homelessness and  
9 often community programs that serve veterans hold the  
10 same eligibility criteria as the VA, so they don't  
11 qualify for those programs either. These veterans  
12 need our help. In 2014, IAVA launched the campaign  
13 to combat suicide, focusing on the need to provide  
14 high-quality, timely mental healthcare to veterans.  
15 The campaign was in response to the data at the time  
16 that 22 veterans a day died by suicide. Current data  
17 suggests that this number is now 20. Our own findings  
18 from IAVA seventh annual member survey that 40  
19 percent of respondents had considered suicide since  
20 joining the military and nearly half knew at least  
21 one post 9/11 veteran that had died by suicide. This  
22 is a challenging issue to address, but we know that  
23 identifying high risk populations such as those with  
24 other than honorable discharges and helping them  
25

1 connect to services can have a large impact. As a  
2 veteran I know that often the success of subordinates  
3 rests upon strong leadership. I've heard from IAVA  
4 members who have struggled through the issue of bad  
5 paper and it makes me question how this happened.  
6 Where was the leadership when this person was in  
7 uniform? The substantive answer to that question  
8 will have to wait for another time, but I present the  
9 question here to make a point that the possibility  
10 exists that many of these veterans may have simply  
11 gotten a raw deal. IAVA is here today to support a  
12 solution to that problem. These veterans reserve the  
13 right to appeal their bad paper discharges to a  
14 Discharge Review Board in a way that ensures their  
15 injuries are considered. They deserve the care and  
16 benefits promised for their service. Passing the  
17 Fairness for Veterans Act is a solid first step in  
18 righting this wrong. Given the challenges of  
19 legislating in an election year, Congress must stay  
20 focused on continuing on caring for our veterans.  
21 The lives of our military members and veterans do not  
22 grind to a halt as November approaches, and neither  
23 should Congress when it comes to fulfilling  
24 commitment to those that have served. Members of the  
25

1  
2 Committee, thank you again for the opportunity to  
3 share IAVA's priorities with you here today, and I  
4 look forward to answering any questions you may have.

5 CHAIRPERSON ULRICH: Thank you. Kristen  
6 Rouse from New York City Veterans Alliance.

7 KRISTEN ROUSE: Good afternoon. My name  
8 is Kristen Rouse. I am a veteran of the United  
9 States Army. I served three tours of duty in  
10 Afghanistan, and I live in Brooklyn. I am testifying  
11 on behalf of the more than 200 dues-paying members of  
12 the NYC Veterans Alliance, several of whom were  
13 discharged from the military under less-than-  
14 honorable conditions, also known as "bad paper"  
15 discharges. In May of this year, the New York City  
16 Veterans Alliance presented Councilman Ulrich with a  
17 draft of a proposed resolution in support of Fairness  
18 for Veterans legislation, and we again urged you to  
19 push this forward in September when it came up again  
20 in Washington. We are pleased to see that this  
21 committee has at last taken up support of this  
22 important bill, and I thank Councilman King for  
23 introducing it, because it proposes critical help for  
24 veterans currently excluded from VA services and who  
25 are most at risk for homelessness, substance abuse,

1  
2 incarceration, and suicide. We strongly support this  
3 resolution, and encourage all members of our  
4 community to voice their support both locally and  
5 nationally. During my more than 22 combined years of  
6 service in the Army Reserve, Army National Guard, and  
7 Regular Army, I saw firsthand how any given unit or  
8 commander may subjectively choose to treat the  
9 behavior of a soldier deemed a "problem," even with  
10 the best of intentions. Commanders may be men and  
11 women of impeccable integrity, but most are simply  
12 not versed in the causes and treatment of mental  
13 health conditions, especially those related to  
14 traumatic stress, sexual assault, or other  
15 circumstances that may affect troops during their  
16 military service. The result is that service members  
17 are too often discharged unfairly under a less than  
18 honorable status that negatively impacts them for the  
19 rest of their lives. Simply put, honorable service  
20 does not always result in an honorable discharge. Our  
21 veterans, at a minimum, deserve proper review of  
22 their discharge circumstances and access to the help  
23 they need to continue on in their lives. My  
24 remaining official testimony highlights many of the  
25 data points that have been made here already and that

1  
2 you made in your opening statement and that are  
3 already known. Those are all very important to make,  
4 but I also want to point out the distinction that,  
5 you know, we're talking about 13 percent of post 9/11  
6 veterans who've been discharged on bad paper, 13  
7 percent. By comparison, the approximate percentage  
8 of women veterans' post 9/11 has been 15 percent, and  
9 that's a population that we talk often about in terms  
10 of, you know, making sure that they're recognized,  
11 making sure that their needs are taken care of. This  
12 is about the same size population as bad discharge  
13 veterans post 9/11, and this is a population that is  
14 robbed so importantly and eloquently highlighted that  
15 we need to talk about, and I thank this committee and  
16 Councilman King for adding his voice to this very  
17 important issue and for New York City leading the way  
18 in holding a hearing on this very important bill. We  
19 encourage this committee and the City Council more  
20 broadly to pass this resolution without delay, to  
21 press our New York City congressional delegation to  
22 take action in Congress, to urge congress and the  
23 president to pass this bill. Thank you very much.

24 CHAIRPERSON ULRICH: Okay, thank you for  
25 your testimony. I know that there are several other



1  
2 hearings going on right now that some of my  
3 colleagues may have to pop in and out of, so I'm  
4 going to afford them the opportunity to ask questions  
5 first, and the first set of questions is coming from  
6 my good friend and colleague Council Member Cabrera  
7 who is a mental health expert, actually, by trade.  
8 He's not just a politician. He's also a mental  
9 health counselor, which is probably why you're so  
10 valuable in the City Council. So, it's a place where  
11 we need more.

12 COUNCIL MEMBER CABRERA: And it makes me  
13 wonder why I'm doing this kind of work--

14 CHAIRPERSON ULRICH: [interposing] That's  
15 right. That's right.

16 COUNCIL MEMBER CABRERA: Thank you, Mr.  
17 Chairman, for the opportunity for this Reso to come  
18 through this committee, and Council Member King. And  
19 I want to thank you all for serving. I'm also a son  
20 and a grandson of a veteran. My grandfather fought  
21 in World War II. It's one of the 350 Dominicans who  
22 fought in World War II. I have a few questions here  
23 if you could help me out. I'm very interested in  
24 this spike of 13 percent previous-- prior to 9/11.  
25 What was the percentage?

1  
2           ROB CUTHBERT: So, there's a bit of a gap  
3 in data when it comes to the overall numbers for  
4 veterans less than fully honorable discharge. Sorry  
5 to jump in. For Vietnam veterans I think ballpark is  
6 6.7 percent of all Vietnam veterans. That's a number  
7 I've seen published. I can't speak to its voracity,  
8 but that's a number that I've used as a rule of  
9 thumb. In terms of the Cold War, World War II, Korea,  
10 Gulf War One, up into what some people call Gulf War  
11 Two, which is the beginning of the 9/11 period, I'm  
12 not sure. But overall, we're talking-- if we just  
13 put together the 300,000 or ish [sic] post 9/11  
14 veterans plus the Vietnam veterans which is 560,000,  
15 right? We're almost to a million. And then if you  
16 just, you know, if you just say okay, well, maybe  
17 there's a couple hundred thousand more from other  
18 eras, we're over a million Americans, American  
19 veterans with less than fully honorable discharges.

20           COUNCIL MEMBER CABRERA: You know, I could  
21 see one or two percent going up and down, but this is  
22 you're talking about doubling. What in the world is  
23 going on that we're finding ourselves with such a  
24 spike? I mean, this is-- what's the agenda behind  
25 all this? Is it the government don't want to provide

1  
2 services, and is this coming from the top that they  
3 don't want to provide services, therefore we save  
4 some funding in the Department of Defense? I mean,  
5 what's the motive behind it?

6           TODD HASKINS: I'll venture a guess. I  
7 doubt any of us know very well. I can say that I  
8 don't know for certain, but having been a Company  
9 Commander and understanding how things have evolved,  
10 I think as, you know, as the US military and frankly  
11 business, the United States, etcetera is all the  
12 administrative and legal burdens just kept gripping  
13 every institution, including the military. This was  
14 a really easy solution. It's a very easy solution.  
15 So you've got a Lance Corporal who's, you know, a  
16 little troublesome. You can either go through the  
17 trouble of waiting for him to do-- him or her to do  
18 something particularly bad such that he or she has  
19 to, you know, actually have due process and those  
20 sorts of things, or if they make minor infractions  
21 and have personality disorders and other things which  
22 has been noted highly subjective, it's a very easy  
23 and simple solution administratively to just remove  
24 the problem from the perspective of the commanders in  
25 the field, and I suspect that's how things evolved.

1  
2 COUNCIL MEMBER CABRERA: And within the  
3 military is there such a thing as obtaining legal  
4 representation? Is there like military lawyers that  
5 you could-- does every single one soldier have access  
6 to legal representation when it comes to less than  
7 honorable discharge?

8 KRISTEN ROUSE: So this conversation in  
9 some way parallels the conversation that's been  
10 happening about ending sexual assault within the  
11 ranks. There's a system that's set up. There's  
12 legal representation. There's a way the system is  
13 supposed to work, but you have an overall fighting  
14 force that has been very strained since 9/11,  
15 particularly the surge years, you know, 2004/2005  
16 through, you know, the surge in Afghanistan, which  
17 was like, you know, 2010/2011 through 2012 where you  
18 have, you know, there were-- remember the stop loss,  
19 you know, where troops were extended well beyond  
20 their contract because they were still needed for  
21 repeated deployments. You know, I mean, those of us  
22 who have been serving can tell you, just we could  
23 tell you hours' worth of stories about how strained  
24 our military has been, how many people where extended  
25 beyond their legal contract with the military, how

1 many people were, you know, were sort of shoved  
2 through different processes. You have an overtaxed,  
3 you know, an overtaxed military that has more of  
4 these squishy complicated issues that nobody has time  
5 for because we're trying to deploy and fight wars and  
6 train and get ready. And so the system hasn't worked  
7 as well as it should. I mean, it's like systems for  
8 underserved populations that don't have the same  
9 access to legal representation as those who are  
10 already prepared and educated with their rights.  
11 Troops are told, oh, well, it'll be-- you can fix  
12 that discharge when you get out. I saw that happen  
13 to some of my colleagues who thought okay, this is an  
14 easy way out. It's like taking a plea bargain, and  
15 you think that you'll fix it later when, as Rob  
16 highlighted, that doesn't happen. And so this has  
17 been an overtaxed system that just hasn't been  
18 allowed to work in the way that it's supposed to, and  
19 so, you know, the end result is these staggering  
20 numbers of, you know, as Rob said, a life sentence to  
21 no services.

23 COUNCIL MEMBER CABRERA: But on those  
24 basis you can appeal, and the fact that there was--  
25 let's say I was a soldier and I didn't get

1  
2 legislation representation because, you know, you  
3 have a system that is overtaxed. So, on that basis,  
4 is there a process to appeal that and say I didn't  
5 get representation, legal representation.

6 KRISTEN ROUSE: But it's in there.

7 COUNCIL MEMBER CABRERA: That's-- so, you  
8 have-- wow, that's bigger. Let me tell you  
9 something. That's bigger than the average doctoral  
10 dissertation.

11 ROB CUTHBERT: It's large.

12 COUNCIL MEMBER CABRERA: That's huge.

13 ROB CUTHBERT: That's with exhibits. But  
14 what I was going to say, Councilman Cabrera, is--  
15 first thing, I'm a little apprehensive about  
16 answering your question because there needs to be a  
17 major Department of Defense or government  
18 accountability office study of what happened between  
19 September 11, 2001 to date. There needs to be an  
20 after-action review about the personnel policies that  
21 have led to one in 10 service members receiving a  
22 less than fully honorable discharge. But let's put  
23 ourselves in the shoes of a junior enlisted member  
24 who's being potentially separated from service.  
25 They've committed an offense. Let's say they came up

1  
2 positive for some sort of illegal drug, right? At  
3 that point, to Kristen's point, there is a vice on  
4 them. the vice is they can either go to court  
5 martial, right, which they risk a punitive discharge,  
6 which is a bad conduct discharge or a dishonorable  
7 discharge, which I need the manual for court martial.  
8 I'd have to look up the actual offense that would get  
9 you to eligible for a DD with that kind of  
10 misconduct, right? Or you can take an administrative  
11 discharge, which is a general or an other than  
12 honorable discharge, right? On top of that, yes, at  
13 that point maybe you have the right to  
14 administrative-- well, I would say, apart from that  
15 on the administrative side there's also rights to an  
16 administrative separation board. The point I'm  
17 trying to make without taking us deep into the weeds  
18 is that these rights are often waived away by the  
19 service member--

20 COUNCIL MEMBER CABRERA: [interposing]  
21 Gotcha [sic].

22 ROB CUTHBERT: in the throes of what's  
23 seen as worse punishment or even more pejorative  
24 discharge status, even though anything less than  
25 honorable is going to strip them of benefits. So,

1  
2 and that member in that moment is so isolated, so  
3 without counsel, right? They may have effective  
4 counsel. I haven't seen many people walk through our  
5 doors who speak of a really, really full throated  
6 good faith effort to keep the-- continue to keep them  
7 in the service. It may be out there, and I won't  
8 malign the judge advocate generals of the world,  
9 okay, but it is a very, very difficult and isolating  
10 circumstance, and often the service member themselves  
11 takes some sort of deal in lieu of a punishment that  
12 could be potentially worse.

13 COUNCIL MEMBER CABRERA: Well, thank you  
14 so much. And to-- and please add me to the Reso.  
15 Thank you, Mr. Chair.

16 CHAIRPERSON ULRICH: Thank you, Doctor,  
17 Pastor and Councilman Cabrera. Thank you. He does  
18 wear many hats, but he's doing a phenomenal job.  
19 Council Member King, do you have any questions for  
20 the panel?

21 COUNCIL MEMBER KING: [off mic]

22 CHAIRPERSON ULRICH: Go ahead, please.

23 COUNCIL MEMBER KING: I'm listening to  
24 the conversation. Tom Haskins? Todd Haskins? Thank  
25 you. I find it disturbing that every November we



1  
2 come together to pay homage to all the men and women  
3 who served in the military and put them on pedestals  
4 and have parades and floats and hand out special  
5 awards, but then there's a certain sect-- population  
6 of the armed forces that get totally neglected and  
7 thrown in the trash, where the experiences were all  
8 the same. They all signed up. They all took a  
9 physical. They all put on the uniform. They all did  
10 training, and then they all went out to do some part  
11 of service for this country. I'm looking around and  
12 I'm hearing the testimony about different levels of  
13 discharge whether it's dishonorable or it's  
14 honorable, and I have to ask the question. First  
15 question is, have you noticed or is any documentation  
16 that can tell us if these-- if there's an imbalance  
17 on the discharges based on any type of prejudice or  
18 discriminatory? Whether it's because of someone's  
19 mental capacity or analyzing the capacity before they  
20 went in, because you can't tell me I'm okay when I go  
21 in, and then seven months later when I'm not doing  
22 okay, I'm not a good a person and you should just  
23 kick to me to the curb. Or is there any numbers  
24 based on ethnicity as well? Because, you know,  
25 America is America, and we can't-- we cannot forget

1  
2 what America was in the 1800's or in the 1900's, you  
3 know, and what war was like, whether it was World War  
4 I, II, III, the Red Tails [sic], you know, you name  
5 it, whatever that military force was here in America.  
6 So, would you be able to answer that first, and I'll  
7 move onto my next question.

8           ROB CUTHBERT: That's an excellent  
9 question, Councilman King. So, one is I think about  
10 that often, often. That is a study that needs to be  
11 done. Our sample, if we're talking about ethnicity,  
12 right, if we're talking about veterans of color, our  
13 sample is I would say a little skewed in New York  
14 City in that maybe veterans of color are over-  
15 represented potentially in the five boroughs versus  
16 let's say, you know, some place in the mountain west  
17 potentially, you know, of the United States. So, I  
18 think about that question often, right? What kind of  
19 study, what kind of FOIA request, Freedom of  
20 Information Act request, would it take to support a  
21 statistical survey of the ethnicities of service  
22 members who are receiving less than fully honorable  
23 discharges and in contrast to their Caucasian peers,  
24 right? I will say on top of that, though, we already  
25 know about a large group of veterans who were

1 discriminated against in a time of profound  
2 discrimination, at the 100,000 LGBTQI vets who for  
3 decades were run out of the service, right? I mean,  
4 again, a time of profound discrimination. To your  
5 point, looking even further back into the historical  
6 questions, I just recently had this conversation with  
7 someone about the-- one thing that doesn't exist  
8 necessarily in all the services is a rehabilitative  
9 ethic, meaning if you committed an offense, right, we  
10 have ways of putting you back on the right track  
11 absent kicking you out of a service, right? Okay.  
12 So maybe you go to, you know, some sort of  
13 rehabilitative unit which is not very pleasant to be  
14 in, right? They're out there, or etcetera, some sort  
15 of punishment rather than losing the chance at an  
16 honorable discharge. However, I was having a  
17 conversation with an expert down in Mississippi, and  
18 we were talking about the Korean War, post-World War  
19 II period, and about what was available to service  
20 members in terms of rehabilitative programs that  
21 could get you potentially from a dishonorable,  
22 straight up dishonorable discharge, to something  
23 honorable or in that ballpark. And the question we  
24 were talking about was, was that opportunity  
25

1  
2 available to service members of color, in particular  
3 African-American soldiers, right, during a time just  
4 coming out-- still a time of great discrimination,  
5 but a time of integration when they were trying to  
6 make strides towards a more just and equitable  
7 military. So, these studies need to be done, you  
8 know, and there are people in my field who think  
9 about this. We wring our hands about it, because if  
10 right now if there's some sort of predisposition or  
11 some sort of statistical spike towards veterans of  
12 color or some-- with some other defining  
13 characteristic, that puts them at a greater risk  
14 potentially statistically of a less than fully  
15 honorable discharge, it's a disgrace. It's a  
16 disgrace, and it needs to be stopped immediately, and  
17 we need to discuss what measures needs to be taken to  
18 make sure one, it doesn't happen again, and two, to  
19 correct-- to correct the record after the fact. So,  
20 sorry to go on a little bit, but obviously, you know,  
21 I mulled this over a little bit.

22 COUNCIL MEMBER KING: Great--

23 KRISTEN ROUSE: [interposing] And to piggy  
24 back on that Councilman, to-- thank you for  
25 mentioning LGBTQ veterans and then also women as

1  
2 potentially being over-represented in this  
3 population, because you know, rape is not a sexual  
4 act; it's a violent act used for coercion, control,  
5 to, you know, victimize these people. It's both men  
6 and women. LGBT veterans, both men and women have  
7 been victims of sexual assault as coercive  
8 behavior and then cases brought against them to  
9 unjustly push them out of the service under "Don't  
10 Ask, Don't Tell" and the prior ban on homosexual  
11 service. And so, you know, so again to Rob's earlier  
12 point about there not being an easy automatic  
13 discharge upgrade process for LGBT troops because so  
14 many cases were-- had so much wrapped around them  
15 through, you know, prolonged harassment and bad  
16 treatment that many of them received. But also, you  
17 know, again to bring up another parallel with the  
18 broader conversation on eliminating sexual assault in  
19 the military is that if, you know, I've heard from  
20 women who I've served with and who I know in the  
21 veterans community who have brought forward  
22 complaints of sexual assault and sexual harassment,  
23 but in particular sexual assault, and again, the way  
24 the system is currently set up, commanders can  
25 subjectively choose whether to believe that or not,

1  
2 or at least, you know, prior to some recent reforms,  
3 but and then to-- if the complainer becomes a  
4 problem, then to say, okay, well this is a mental  
5 problem. This is potentially a personality disorder,  
6 and to go for the administrative discharge, and often  
7 times the victim is willing to take that, that sort  
8 of plea bargain, administrative discharge to get away  
9 from a rapist, to get away from a negative situation,  
10 and again, that brands them and sentences them to, as  
11 Rob says and I think we should continue saying, a  
12 life sentence of no access to services or benefits.  
13 And so, so to bring up all of those complexities  
14 again, like, you know, as you're saying, like you  
15 know, discrimination in the military mirrors what  
16 exists in American culture, and the military is, you  
17 know-- has systemic problems, but there's also an  
18 opportunity here to get it right.

19 COUNCIL MEMBER KING: Okay.

20 KRISTEN ROUSE: And I think that any  
21 efforts that we can make, you know, through advocacy,  
22 through resolutions, whatever we can through talking  
23 about in a forum like this to end the problem, and to  
24 make our military better, stronger and more  
25 representative of our American values.

1  
2 COUNCIL MEMBER KING: Thank you. Thank  
3 you.

4 ROB CUTHBERT: I wanted to add, you know,  
5 these are question for the undersecretary personnel  
6 and readiness of the DOD and then the counterpart,  
7 their counterpart, at the Department of Homeland  
8 Security and where the Coast Guard's part of the  
9 Department of Homeland Security. But I'll say this,  
10 you know, the personnel, I think, priorities of the  
11 Department of Defense are recruitment, retention and  
12 readiness, right? Do you have enough people to fight  
13 and win the nation's wars, right? Are they ready to  
14 fight the, you know-- fight and win the nation's  
15 wars, and can you keep the right people in to fight  
16 and win the nation's wars, right? So, at what point  
17 when you're putting out one out of 10 post nine-- one  
18 out of 10 current service members, are you going to  
19 affect recruitment, right? If, for example, if there  
20 is a link between your ethnicity or some other  
21 defining characteristic and how likely it is that  
22 you're going to receive a less than fully honorable  
23 discharge, how is that going to affect whether or not  
24 somebody joins up in the first place? And then  
25 ultimately, with all volunteer force, what kind of

1  
2 affect is that going to have? One percent of the  
3 American population serves in the military as is,  
4 right? What happens when you start to erode the  
5 recruitment base because somebody knows that they  
6 have a one in 10 chance of having a lifelong sentence  
7 of no benefits, right? There's no union to stand up  
8 for you-- this isn't a union shop, right? And the  
9 second thing is, right, what if just by who you are,  
10 and this is what LGBTQI vets-- this is the bravery  
11 they showed over the decades going into the fray,  
12 going into discriminatory situation truly to serve  
13 their country is incredible, and African-American  
14 soldiers and other ethnicities also, they're-- were  
15 in similar situations, but what happens when they  
16 start to evaluate that against signing on the dotted  
17 line for a volunteer force? That's, you know, that's  
18 when in some ways a lot of this is going to come  
19 home, because we need to be-- regardless, we need to  
20 be ready and we need to correct the record. So,  
21 sorry to add that, but--

22 COUNCIL MEMBER KING: And I'll wrap up  
23 with this. I heard you talk about the system being  
24 overburdened. We have systems where we take care of  
25 the best and those who we think we can't do anything



1  
2 with we put them in another-- we don't give them the  
3 proper support or the attorneys or anything like that  
4 to help them assimilate or fight the system if they  
5 need fight because they might think they were  
6 unfairly discharged, labeled with a discharge  
7 purpose. I think it's like 15 years after being  
8 discharged you can come back and apply and ask for  
9 your category to be changed and adjusted, but if you  
10 don't know who to talk or-- this is where, you know,  
11 we in the City Council we have these conversations  
12 when we talk about resolutions. I know it's not the  
13 norm for the Administration normally to sit down and  
14 take on resolutions, but this is one of those times  
15 where we should have the Administration, because we  
16 need the Administration to, you know, take on and  
17 being the leader in how do we change and have a  
18 paradigm of how our veterans are treated. You know,  
19 some commissioners and some of the Administration  
20 should need to hear our conversation here so they can  
21 get behind it and help us support it and actually  
22 change our system here in New York. So, I don't even  
23 know if you can answer my next question, but I would  
24 like to know what is New York doing right now, or  
25 what can we do in New York to set ourselves apart and

1  
2 help kick start to make sure that our veterans here  
3 in New York City don't suffer the plight of the  
4 veterans in North Dakota? I have a young cousin who  
5 is in Georgia right now who was in the military who  
6 was on special duty, was marksman, a Grade A  
7 Marksman, and they put him on special assignment, and  
8 he got injured in the field. You know, he was a  
9 Grade A smart [sic], but he got injured, blew out his  
10 Achilles and his foot got all twisted, got blown up.  
11 They labeled him with post-trauma discharge, and then  
12 they kicked him out and they're not giving him  
13 medical benefits. So, and I'm saying, what do you  
14 tell this 22-year-old young African-American who went  
15 in the service at 18 to give his life to his country  
16 and he goes through all your tests, becomes one of  
17 your best sharp shooters, he gets injured in the  
18 field, and you cast him to the side like he was a  
19 piece of something in the field that he had to kill  
20 in the first place? What do you say that individual  
21 which you talk about? How do you-- how does that  
22 help with recruitment? But more importantly, I want  
23 to know what is New York doing to make sure that we  
24 don't fall into what the government has done that we  
25 have to ask for Fairness for Veterans Act?

1  
2                   ROB CUTHBERT: And I'm not an expert on  
3 disability claims, but we can-- I think there are  
4 other people on the panel who might be able to  
5 discuss that, but I will tell you what New York's  
6 doing. It's paying for every veteran one way or  
7 another, right? Whether or not they receive  
8 veteran's benefits, they're being picked up by our  
9 safety net, right? And that's communities across the  
10 board. That's what New York's doing in every other  
11 community where a veteran comes home with a less than  
12 fully honorable discharge. It's that we try our best  
13 through the existing programs to pick up where the VA  
14 has abandoned-- well, where the VA is barring the  
15 veteran from services, right? And that goes on down  
16 the line. So, and that's part of the answer of what  
17 New York is doing, but I mean, I want to give  
18 everybody a chance, and I could talk about some  
19 discharge upgrade stuff, but--

20                   KRISTEN ROUSE: [interposing] Something we  
21 can do is to amplify the message, because so much of  
22 that issue is awareness of this. There's not even  
23 sufficient awareness within the veterans community,  
24 and those of us who are advocates need to amplify  
25 this knowledge, this message within our community,

1  
2 and if our leadership cannot just around Veterans  
3 Day, but every month of the year as, you know, as the  
4 Veterans Committee has been doing to be talking about  
5 veterans year round, to keep amplifying the message  
6 to get out the nuance and the detail, to not just say  
7 thank you for your service, but also to say, "And I'd  
8 like to highlight this issue, you know, today or this  
9 month. I'd like to talk about these more complex  
10 nuanced issues that many veterans don't even know  
11 about." You know, the rate of 13 percent or the one  
12 in 10 or however we're measuring it, the substantive  
13 percentage of post 9/11 veterans who are being  
14 discharged on bad papers and what that means to them,  
15 and to recognize that yes, they did serve, and to  
16 amplify the public message that yes, your service  
17 does matter. Your service does matter and you are  
18 not branded. You should not suffer this stigma. I  
19 mean, like that's something that we need to amplify  
20 throughout New York City and beyond.

21 COUNCIL MEMBER KING: Let me--

22 CHAIRPERSON ULRICH: [interposing] Lastly,  
23 and just-- if we could wrap it up, we have another  
24 panel, so we want to get to them.

25

1  
2 JEREMY BUTLER: Absolutely. No, I would  
3 just say, I mean, certainly holding this hearing,  
4 introducing this resolution is a great start. And  
5 Chairman Ulrich, I believe you mentioned the Veteran  
6 Treatment Courts not being available to those with  
7 other than honorable discharges. I think that's one  
8 very simple and easy opportunity to improve things is  
9 to make those available to all veterans regardless of  
10 discharge status.

11 TODD HASKINS: Let me also add because I  
12 think this is the most fundamental point that's  
13 specific to New York City and local veteran policy,  
14 because I think as I'm sitting here, if I'm a Council  
15 Member and maybe not on the Veterans Committee,  
16 wondering why, this is not our problem. This is the  
17 federal government's problem. Why are we in New York  
18 City dealing with this? I think there's two critical  
19 points. First is all those comments that have just  
20 been highlighted which is in cases where it is those  
21 who are having the most trouble, the City is paying  
22 for it one way or another, citizens, crime, some sort  
23 of support services, etcetera. So, that's one. The  
24 second one, the facts are and we focus all of our  
25 policy initiative or most of our policy initiatives

1  
2 on the veterans that need the most help, which is  
3 that's where the support should go, but the facts are  
4 veterans in the hole, in the aggregate and on average  
5 make excellent citizens, and everything that we can  
6 do in New York to help continue-- help veterans  
7 continue their service as citizens will continue to  
8 make the City foster, do well, etcetera, and so  
9 that's why this matters to the local government.  
10 That's why this matters to New York City. I  
11 appreciate the question. That's a great question.

12           ROB CUTHBERT: so, if we're just talking  
13 like wish list for discharge upgrade resources, I  
14 mean, one, we just need more resources, but apart  
15 from that let's talk about what you can do maybe in  
16 your district. By law, one of the reasons-- by  
17 regulation, one of the things the boards can look at  
18 when considering a discharge upgrade application is  
19 outstanding post-service conduct, right? Which if  
20 you're homeless and, you know, you're suffering from  
21 mental illness, you might not have the opportunity or  
22 the capability at that moment to accrue a record that  
23 a board might find compelling as reason in and of  
24 itself on a basis of equity or injustice to upgrade a  
25 discharge. I'm getting a little bit into the weeds

1 here, but what if there was some sort of-- and I  
2 believe there was some sort of similar efforts in the  
3 post-Vietnam era, to certify someone a veteran  
4 service. If they were able, if we-- if there were  
5 some way of keeping tabs on the community service  
6 they have done, putting them in positions, to your  
7 point, positions of leadership of citizenship, right,  
8 and then having somebody vouch for them in front of  
9 the boards, right? If I'm writing one of these, and  
10 I work on these all day, alright, that to me is a  
11 very compelling piece of evidence. This is for the  
12 most high-functioning veterans with less than fully  
13 honorable discharges. I know that we have many  
14 veterans who are injured visibly, invisibly, you  
15 know, and situations similar to your family member on  
16 top of it. So, Council Member King, but that for me,  
17 if there was some sort of municipal way of having  
18 documentation which spoke to service members conduct  
19 in citizenship after the fact, that in and of itself  
20 is evidence for potential relief before these boards.  
21 So if you ask me what could New York City do, it's  
22 vouch for its veterans, encourage them, help their  
23 applications, right, and then if there's oral  
24 testimony, speak up for your constituents. Put your  
25

1 voice on the speakerphone in front of the Boards of  
2 Review in Washington, D.C. and talk about these  
3 veterans in front of the Board. Persuade them to  
4 vote yes on an upgrade, and persuade them to change a  
5 narrative reason for discharge, which is something we  
6 didn't even talk about here today.

8 COUNCIL MEMBER KING: Well, I want to  
9 say, Mr. Chair, I thank you all my veterans. I have  
10 to go next [off mic] I salute you--

11 ROB CUTHBERT: [interposing] Thank you.

12 COUNCIL MEMBER KING: for all you've done  
13 for this country. Thank you very much.

14 CHAIRPERSON ULRICH: And thank you,  
15 Council Member King. Again, just one last question,  
16 very simple answer.

17 ROB CUTHBERT: Okay.

18 CHAIRPERSON ULRICH: How many discharges,  
19 discharge upgrade applications on average do you  
20 process a year, and how successful are you by  
21 percentage?

22 ROB CUTHBERT: Right. So we're on track  
23 to file 20 this year, about that.

24 CHAIRPERSON ULRICH: Alright, so is that  
25 a typical year?



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ROB CUTHBERT: About that.

CHAIRPERSON ULRICH: About 20?

ROB CUTHBERT: I mean, for-- you're looking at our staff.

CHAIRPERSON ULRICH: Okay.

ROB CUTHBERT: So, we have volunteer attorneys, but on top of that in terms of our upgrades, we're batting over 50 percent.

CHAIRPERSON ULRICH: So about half, that's actually very good.

ROB CUTHBERT: Over 50 percent, but I, without the numbers in front of me right now, I just-- I don't want to--

CHAIRPERSON ULRICH: [interposing] No, that's fine.

ROB CUTHBERT: I don't want to misspeak under oath.

CHAIRPERSON ULRICH: We're not going to hold you to it. I'm just curious as to why.

ROB CUTHBERT: Yeah, yeah.

CHAIRPERSON ULRICH: And why is-- and why are you staff of one?

ROB CUTHBERT: Because I run a pro-bono clinic, right? So, imagine I have-- I recruit

1  
2 attorneys. I train them to do something nobody's  
3 done since the late 70's and the early 80's in  
4 general in large numbers, right? I teach them about  
5 the boards, and then when they're putting together  
6 one of these-- this is an actual application-- you  
7 know, I help them through that process.

8 CHAIRPERSON ULRICH: And do any of the  
9 District Attorney's Offices or the Administration  
10 Judges from any of the five counties or surrounding  
11 countries where Veterans Treatment Courts exists  
12 refer people to you--

13 ROB CUTHBERT: [interposing] No. [sic].

14 CHAIRPERSON ULRICH: and say, "Hey, this  
15 guy was arrested for smoking pot and driving drunk,  
16 but he's not eligible because has no VA benefits  
17 because he has an other than honorable discharge,  
18 maybe you can help him?" Do they refer them to you--

19 ROB CUTHBERT: [interposing] So-- sorry,  
20 Council Member Ulrich.

21 CHAIRPERSON ULRICH: [interposing] Koko's  
22 [sic] saying yes.

23 ROB CUTHBERT: Yeah, our--

24 CHAIRPERSON ULRICH: [interposing] Okay.  
25

1  
2                   ROB CUTHBERT: Our wait list is massive.  
3 I don't-- I am not aware of referrals from the  
4 Veteran Treatment Courts. We would take them, but  
5 I'm not sure I know where to put them.

6                   CHAIRPERSON ULRICH: Okay, no, I  
7 understand.

8                   ROB CUTHBERT: You know?

9                   CHAIRPERSON ULRICH: no, I understand. I'm  
10 just curious about the coordination of services and  
11 benefits and, you know, the referrals--

12                   ROB CUTHBERT: [interposing] I will say,  
13 some of the largest law firms in New York City have  
14 stepped up to the plate. They fund these  
15 applications at no cost to the veteran including  
16 forensic, evaluations by forensic psychologists and  
17 psychiatrists and travel to the boards. So, the New  
18 York legal community is mobilized on this.

19                   CHAIRPERSON ULRICH: Maybe perhaps-- and  
20 then we're going to move on to the next panel. The  
21 unified court system in New York under Judge Lippman  
22 recently announced several years ago that attorneys  
23 or aspiring attorneys would be able to take the Bar  
24 early if they committed I think it was six months of  
25 pro-bono legal counseling, six or eight months. I

1 don't remember. You'll have to Google the press  
2 release, but they came up with a new program where  
3 they want to get more legal services and legal  
4 counseling for low-income New Yorkers in various  
5 capacities, Housing Court and a bunch of other, you  
6 know, mainly civil and minor criminal offense. Maybe  
7 getting the veterans discharge upgrade issue on their  
8 radar might not be such a bad idea, for you to  
9 recruit more attorneys, but that's just my advice.

11           ROB CUTHBERT: I'm happy-- I'm happy to  
12 have a conversation. We have attorneys knocking down  
13 our door to do this work and also to receive the  
14 training that we give them. I mean, our big thing is  
15 the two-page application which burns administrative  
16 eligibility and hurts a veteran, because these things  
17 eventually go to federal court versus this. This is  
18 what we want our attorneys to do in our program. So,  
19 we're not-- it's not about serving as many veterans  
20 as possible as effectively serving as many veterans  
21 as possible and putting them in a position if  
22 necessary to go down the street and take this in  
23 front of a federal judge. It's where-- because  
24 that's ultimately where these things wind up, and  
25 they haven't in large numbers since the late 70's and

1  
2 early 80's. We should have another hearing-- I  
3 apologize-- about this, but this is a big enough  
4 issue. We can talk about in-depth, or I'm happy to  
5 come to any member of the Council's office and just  
6 talk to you and your staff, you know, about the issue  
7 at large. I apologize to my fellow--

8 CHAIRPERSON ULRICH: [interposing] No,  
9 you're--

10 ROB CUTHBERT: [interposing] to people  
11 giving testimony today.

12 CHAIRPERSON ULRICH: You did a great job,  
13 and we didn't put the clock on today, so you're  
14 lucky.

15 ROB CUTHBERT: Alright, thanks.

16 CHAIRPERSON ULRICH: Normally I'm very  
17 strict with these things. It's the--

18 ROB CUTHBERT: [interposing] Thank you for  
19 having me here.

20 CHAIRPERSON ULRICH: German in me.  
21 Anyway, okay. So, let's move on to the next panel if  
22 we can, and that will consist of Christopher  
23 Goldsmith representing High Ground Veterans Advocacy,  
24 Joseph Graham representing VVA Chapter 126 in Masbeth  
25 [sic], and I'm just curious doe John Rowan want to

1  
2 testify today? John-- yeah, oaky. Why don't you  
3 come up and take a seat at the dais and we could have  
4 you fill out a slip. I saw you were late to class  
5 today, but we're going to get you a late pass and let  
6 you join us anyway.

7 JOHN ROWAN: I kind of got everybody--

8 CHAIRPERSON ULRICH: I understand that.

9 JOHN ROWAN: Chris works for me. He's my  
10 local guy.

11 CHAIRPERSON ULRICH: There you go.

12 JOHN ROWAN: But I'm the City Council rep  
13 on the Veterans Advisory Board to the City of New  
14 York. And I'm sorry I'm dressed down, but I had a VA  
15 appointment.

16 CHAIRPERSON ULRICH: No worries. We'll  
17 just have you fill one of these out so we could-- we  
18 got to enter it on the record. And it's your show,  
19 John. You tell me who you want to speak first.

20 JOHN ROWAN: Why don't I just kind of say  
21 a couple things and then I'll get Chris and Joseph  
22 [off mic]. I'm also bringing a little institutional  
23 memory here. I served on the Board of Directors and  
24 was the Chair for a while of a program called the  
25 Veterans Upgrade Center that operated in downtown

1  
2 Brooklyn, actually in the old Red Cross building in  
3 Cadman Plaza, and that was a funded, federally  
4 funded, program to do discharge upgrading in which we  
5 did that for a number of years.

6 CHAIRPERSON ULRICH: When did they start  
7 that?

8 JOHN ROWAN: About '77, '78. I'm trying  
9 to remember. It's a long time ago. And they-- we  
10 had a great program. We had two Vietnam vets  
11 straight out of law school, one from Brooklyn Law and  
12 one from Michigan Law. We had one of my guys, the  
13 Vietnam vet out of I think it was Queens College who  
14 had an MSW. Oh, no, a Master's in Psych., excuse me,  
15 and we had a couple other people on staff. We had a  
16 lot of veterans on staff, all Vietnam veterans, and  
17 we did a lot of programs. And to answer the  
18 Councilman's question who had to leave, very clearly  
19 race played a lot of part in this stuff. That's very  
20 clear, at least in our period, and I got a feeling  
21 it's hanging on since now. And we know that Nader  
22 [sic] did a study-- and I'm trying to remember, I  
23 think it was in the late 80's, early 80's, I can't  
24 remember, I'd have to dig it up-- on the issue of bad  
25 paper discharges amongst Vietnam veterans. In that

1  
2 time it identified over 500,000 veterans who fell  
3 into that category. Most of them, the administrative  
4 discharges that I think was mentioned earlier which  
5 is the difference between a court martial and sign  
6 her and get out of town. You know, you're a 20-year-  
7 old kid who's been in combat for a year, you come  
8 home and-- especially in those days you had a  
9 difference between the draftees and the regular Army  
10 folks. The draftees had two years by the time they  
11 got finished training if they were lucky enough to  
12 get through the year in Vietnam, they didn't have a  
13 heck of a lot of time left, and most of the time the  
14 military was happy to get rid of them. So they did.  
15 They said go home. The regular Army folks had three,  
16 at least a three-year enlistment, and so they came  
17 back to the states, and so they-- back to the  
18 stateside Army or Marines or whoever, and where they  
19 offered and back to spit and polish and all the rest  
20 of that stuff which was mostly, you know, just  
21 continuing training, and that led to all kinds of  
22 problems, particularly in the later years when many  
23 of them are coming back from Vietnam with heroin  
24 addiction and drug use and all kind of other things.  
25 Plus, a lot of people-- a lot of people self-



1 medicated their PTSD with drugs because nobody knew  
2 anything about it. Nobody even recognized it. They  
3 had all these old names, "shell-shock" and all the  
4 rest of it, and even the VA tended to treat people  
5 mostly with drugs, and that was really a terrible way  
6 of doing it. It took years later when we developed  
7 RAP [sic] groups and other kinds of things that--  
8 things got better, but not a hell of a lot. As we can  
9 see today, here we are basically finding ourselves in  
10 the same situation, you know, 40 years later  
11 basically, 45 years later. The grandchildren of the  
12 Vietnam veterans are now going off to war often  
13 because their grandparents served in the military and  
14 they wanted to follow suit, and you know, post 9/11  
15 everybody wanted to fight. It was like post December  
16 7<sup>th</sup>. And so, the problem we have, of course, is that  
17 today's military still doesn't give the proper  
18 acknowledgment of PTSD and other issues, and they  
19 have a-- you know, particularly with the drug use  
20 issue, I think that we see a lot of people bounced  
21 out for minor drug use, which is really ridiculous.  
22 Yeah. So, going-- so when we were working in  
23 Brooklyn we used to get a lot of discharges upgraded.  
24 We had a slightly different system to work with with

1 the different military Boards of Reviews, and you  
2 didn't want to even get to the last thing which is  
3 Correction of Military Records. Hopefully, you'd get  
4 it through the different military units and get it  
5 done at that time. Now, I think that things have  
6 changed significantly in how the whole business is  
7 processed. But-- and we've won most of our cases  
8 quite frankly on the fact of lack of due process,  
9 which was mentioned earlier. The Councilman asked,  
10 "What about lawyers?" There were no lawyers for most  
11 of the cases. Only if you really were taken to a  
12 court martial did you get the opportunity for a legal  
13 defense. Even that it wasn't the best because the  
14 Army was giving you, you know, the guy who prosecuted  
15 somebody yesterday and today he's your defense pros--  
16 service. So that always didn't work too much unless  
17 you were lucky enough to get outside counsel, you  
18 know, which often didn't happen. So, we were able to  
19 win a significant number of cases. I forget what the  
20 numbers were, but it was in the 70 to 80 percent  
21 range for most of them, but again, most of that was  
22 due process issue. I also found it interesting to  
23 listen to the gentleman talk about having the ability  
24 to do better in your life and show a shining record  
25

1 to the military of what happened after you got out.  
2 It's a little hard to do when you've been basically  
3 given a life sentence, which makes it difficult to  
4 get a job, difficult to deal with your PTSD,  
5 difficult to overcome other issues you may have  
6 because of your PTSD or because you were, you know,  
7 sexual trauma issues or all kinds of other things  
8 which, you know, didn't even get discussed in my day  
9 quite honestly. So, and the other question was what  
10 can we do, what can the City do? Well, in those days  
11 we had this program which was not a city program. It  
12 was a private operation, but funded through a  
13 different program because it was a White House  
14 Veterans Federal Coordinating Committee functioning  
15 at the time. We later turned it to SETA [sic] money  
16 which is long gone. But interestingly enough, there  
17 may be some other possibilities which the Attorney  
18 General might find interesting to talk about. In  
19 Illinois, the state of Illinois, years ago had formed  
20 the Veterans Service Program where they were  
21 providing legal services for veterans dealing with  
22 issues like this and other issues, and there may be  
23 some eligibility issues there. Certainly, the  
24 Department of Veteran Services now might want to talk  
25

1 about doing some funding for private organizations.  
2 I know that's one of the things looking for funding.  
3 Certainly, I'm sure that the Veterans Advocacy  
4 Program and others would look-- would be happy to go  
5 out and be able to hire a couple more attorneys and  
6 staff and whatever to help them. Writing those  
7 briefs, by the way, did get very interesting. It  
8 wasn't always legal, like I said. The one guy who  
9 did a lot of the writing was a guy who had done his--  
10 done a Master's in Psych was able to help to talk  
11 about PTSD and get into that part of the briefs that  
12 they would present on behalf of the veterans. As far  
13 as VVA National is concerned, we certainly support  
14 the Fairness for Veterans Act. We had a public  
15 hearing, a public press conference not too long ago  
16 where we brought a lot members in congress from both  
17 sides of House and Senate referencing both  
18 Republicans and Democrats, the war veterans basically  
19 in the Congress who were very supportive of this  
20 issue. We're also looking at taking a different  
21 tactic. We're looking at the possibility of asking  
22 the President to pardon everybody. This would be a  
23 little complicated, and we've been trying to dig up  
24 some of the old stuff that went on back in the Carter  
25

1 Administration. Carter came out and pardoned all the  
2 draft dodgers which was easy to do, they were felons.  
3 So they just-- he just wiped out all their felony  
4 convictions and said if you want to, you can come. If  
5 you want to apply for it, you can come home. At the  
6 time, a lot of us in the veteran's community,  
7 especially those working in the veterans upgrade  
8 centers were sent to the White House. That's all  
9 nice and good and fine. Get ready to deal with them  
10 if you want. How about all the veterans who came  
11 home and have been dealt with this bad paper issue?  
12 There was a program which apparently wasn't very  
13 successful because it did not reach the many people.  
14 It was very confusing, and it mostly focused on  
15 people coming out with drug issues, which were not  
16 the only issues. and so we're trying to dig up the  
17 old legal, you know, background on that, how the  
18 President did that, what did he base it on, what  
19 Presidential powers did he use. And certainly we're  
20 looking and talking to some of our colleagues in Yale  
21 University's Law students have a veterans program  
22 that we've been working with on lots of different  
23 issues. the personality disorder discharges, we sued  
24 the federal-- we sued all branches in the military,  
25

1  
2 the entire Department of Defense to provide us with  
3 information on that, on how many they've given out,  
4 what was the basis for it, etcetera, and asking him  
5 to overturn it, which Hagel, when he was Secretary of  
6 Defense, started to make a move on that issue.  
7 Certainly we're in favor of the Fairness for Veterans  
8 Act, and like I said, we're trying to look at a  
9 possible different tack, one that may be quicker and  
10 easier if the President by fiat [sic] as Commander in  
11 Chief, just wipe it all out. This would be strictly  
12 for the less-- for those that were not court  
13 martialed. I mean, the odds are today if you were  
14 court martialed, it was probably for a serious  
15 offense. You would-- you did something really that  
16 would end up in private-- in the civilian world would  
17 end up in jail. But even that is an interesting  
18 issue given the fact that we have vet courts to take  
19 into consideration military service and the civilian  
20 world. So, that's where we're at. That's how we  
21 view the issue. It's really another frankly  
22 disservice to, again, all of these veterans who  
23 volunteered. I think one of the things that people  
24 need to understand is that number of combat veterans,  
25 people that actually served in the combat area in

1  
2 these more recent wars in post 9/11 are getting very  
3 close to the same number of people who served in  
4 combat in Vietnam. We know there was a lot of people  
5 in the military during the Vietnam era because of the  
6 draft and Korea and Germany and all the rest of these  
7 places that we probably had about nine million people  
8 under arms, nine million mostly men under arms in  
9 that period of time, of which about three to three  
10 and a half million may have ended up in the war zone.  
11 It's very-- the numbers are not very clear. I've  
12 understood-- I understand that we're now getting  
13 close to two and three quarter million people who  
14 actually served in Iraq or Afghanistan or both. And  
15 so the numbers, well the numbers of veterans are  
16 coming down. The number of veterans that are going  
17 to need service are probably going to be as high, if  
18 not higher because of the multiple tours and all the  
19 rest of it. So, that's where we're at. Maybe Chris  
20 and then Joe can dive in. Chris has got personal  
21 experience. Joe, you want to chime in?

22 JOSEPH GRAHAM: Yep. Thank you. My name  
23 is Joseph Graham. I'm President of Vietnam Veterans  
24 Manhattan Chapter 126. I wish to thank the New York  
25 City Council Veterans Committee for allowing me to

1  
2 speak before you today regarding my support and the  
3 support of Manhattan VVA Chapter 126 for Resolution  
4 1196 calling for US Congress to pass and President  
5 Obama to sign into the law the Fairness for Veterans  
6 Act of 2016. As President of VVA 126, over the past  
7 15 years I have met fellow veterans who have been  
8 deprived of their earned benefits because of having  
9 been given a less than honorable discharge. In many  
10 instances, these bad paper discharges are due to  
11 minor infractions committed by the veteran such as  
12 being AWOL or late for formation or caught smoking a  
13 joint, as John pointed out. A majority of these less  
14 than honorable discharges come at the end of their  
15 enlistments and can be tracked back to combat-related  
16 deployments, PTSD and traumatic brain injuries. A  
17 less than honorable discharge will deprive a veteran  
18 of the much needed mental healthcare that they are  
19 entitled to as well as access to the VA healthcare  
20 system. At this time, I would like to thank-- take  
21 the opportunity to thank and acknowledge the City  
22 Council Veterans Committee for your support of the  
23 veteran's court system. The establishing of Veteran  
24 Treatment Courts in Brooklyn and Manhattan under the  
25 New York State United Court System is due in so small



1  
2 part to the City Council's support. Many of the  
3 issues that Veterans Courts deal with are linked to  
4 the same issues that the Fairness for Veterans Act  
5 will address. I wish also-- I also wish to thank  
6 City Council for supporting veterans housing and  
7 homeless programs, as well as veterans vendors in New  
8 York City vending rules program. Further, I request  
9 that City Council to continue and increase your  
10 support for the New York City Junior ROTC programs in  
11 our public high schools.

12 CHRISTOPHER GOLDSMITH: Councilman  
13 Ulrich, I want to thank you for holding this hearing  
14 today, and I'd also like to thank the entire  
15 committee for their dedication to veterans. My name  
16 is Christopher Goldsmith, and I'm the Assistant  
17 Director for Policy and Government Affairs at Vietnam  
18 Veterans America. I'm also the founder and Chair of  
19 High Ground Veterans Advocacy, which is a small  
20 organization that trains veterans to become  
21 advocates. I fell into becoming an advocate, most  
22 like I think many veterans here who have spoken out  
23 today fell into the world of advocacy because they  
24 saw a certain wrong that they felt they had a duty to  
25 solve. The issue of less than honorable discharge is

1  
2 personal to me, because I am one of the affected  
3 veterans. I was a New Yorker. I am a New Yorker,  
4 born and raised. I grew up in Long Island, and like  
5 everyone else in this room I can remember precisely  
6 the moment where I was on the attacks September 11<sup>th</sup>.  
7 I was still in high school, and I had lived my entire  
8 life, my entire childhood with the dream of serving  
9 in uniform. It's the only thing I ever wanted to do,  
10 and once those towers fell, I felt a responsibility  
11 to live my childhood dream. I did, and at 18 I  
12 enlisted in the United States Army as a Forward  
13 Observer. A year later after first getting to basic  
14 training, I was deployed. I was in Iraq crossing the  
15 border from Kuwait up to Baghdad. The first time  
16 that I had a close call with an IED was in the very  
17 first days of time in country. I hadn't even yet made  
18 it to Baghdad when I was in a convoy when an IED went  
19 off above my armored vehicle. Now, thankfully I was  
20 not injured in this attack, but I can tell you that  
21 at 18 years old when a bomb goes off right over your  
22 head, armor or not, your Superman complex melts  
23 away. I remember the screaming of my comrades who  
24 weren't injured, but their driver was. Their allied  
25 civilian driver was injured as their vehicle sped

1 away, 80,000 pounds of it rocking and rolling at 80  
2 miles an hour down the road. I remember swiveling my  
3 turret looking for someone to shoot back at and  
4 seeing an Abraham's tank, the premier armored  
5 weaponry that we've got, it's the most powerful  
6 armored vehicle on the planet, seeing it smoldering  
7 on the side of the road and burnt out. So my first  
8 days in Iraq, that's what I experienced. I spent the  
9 rest of my teenage years photographing dead bodies.  
10 That was my job in Iraq. After I returned home from  
11 overseas, I returned to New York. My first night in  
12 New York was New Year's Eve coming into the year of  
13 2006. I was outside in a mortar of firework mortared,  
14 went off, and I remember hearing it, seeing it, and  
15 knowing and thinking I'm in the United States, I'm  
16 fine. I'm home. It's just a firework. I remember  
17 consciously thinking I'm fine, but I couldn't stop my  
18 body from reacting, and I ran across the road like a  
19 scared deer and hid in some bushes. The friends that  
20 I had grown up with who were all enjoying their  
21 college lives were home. They saw this and they were  
22 terrified. Now at that point, PTSD was a little more  
23 than an acronym to me. I didn't understand what it  
24 was. I honestly didn't know what PTSD stood for. It  
25

1  
2 became obvious to everyone around me that I needed  
3 help, but while I was in uniform it was like a  
4 shield. I could put on my tough face. I went to work.  
5 I was promoted ahead of my peers. In just over two  
6 years of service I made the rank of Sergeant. I was  
7 in charge of millions of dollars' worth of equipment.  
8 I was charged with the lives and wellbeing's of half  
9 a dozen junior soldiers, and I was good at my job. I  
10 was great at my job, but when I went home from work  
11 every day and I took off the uniform, I was a  
12 different person. I would drown my memories in  
13 alcohol. It was the only way I could get to sleep.  
14 It's the only way that I could sleep through my  
15 nightmares. I was collecting the Army Times which was  
16 at then one of the only things that was printing the  
17 faces of every combat casualty, and I was using the  
18 Army Times to keep track of which friends were alive  
19 and dead, because I didn't know and never knew. Week  
20 by week I waited for the newspaper to get there so I  
21 could see which one of my friends might have died.  
22 By the time that I asked for help, it felt like it  
23 was too late. The Army's psychiatrists and  
24 psychologists were severely understaffed. The demand  
25 was too high, and by the time that I had a panic

1  
2 attack that landed me in the emergency room at Fort  
3 Stewart, the hospital on Fort Stewart Georgia, there  
4 was no time for me to get care. I was diagnosed  
5 instead of with PTSD, with pre-existing conditions,  
6 personality disorder and adjustment disorder. They  
7 completely ignored my combat history. They completely  
8 ignored that I spent the end of my teenage years  
9 while my friends were at college having fun  
10 photographing dead kids on the side of the road, and  
11 they said, "You came into the Army with this  
12 problem." Memorial Day weekend of 2007 when I was  
13 faced with the second deployment which was going to  
14 occur after my Active Duty contract was supposed to  
15 have expired, I was involuntarily extended into what  
16 would become a 16-month deployment. I decided that I  
17 was going to take my own life, and rather than force  
18 my mother to hold a closed casket wake and put a gun  
19 in my mouth, I decided that I'd be a little kinder to  
20 my mother if I simply just took pills and drank  
21 alcohol. So at least she could see me one last time.  
22 I thankfully failed in that suicide attempt, but from  
23 the moment that I woke up I was treated like a  
24 criminal by the Army. My honorable service, my time  
25 in combat, my time spent overseas, the fact that I

1  
2 had an extremely stellar career and never once in  
3 uniform gotten in trouble, that all went out the  
4 window, and just weeks later I found myself instead  
5 of Sergeant Goldsmith, I was Mr. Goldsmith. I had  
6 received a general discharge. I was made ineligible  
7 for the post 9/11 GI Bill. I ended up in my  
8 childhood bedroom back here in New York living in my  
9 parents' house. The only job that I could hold was  
10 working for my little sister as a pizza delivery boy  
11 once a week. I spent every dime that I had saved  
12 from my yearlong deployment to Iraq on alcohol in  
13 just a course of months. I saw no reason to live as  
14 if tomorrow would exist, because I didn't know if at  
15 any moment I'd just decide to take my own life. Now,  
16 I am thankful to my mother for welcoming me back  
17 home, but New York State didn't make me eligible for  
18 unemployment benefits, and that's something that I  
19 hope this council will consider as an issue that  
20 perhaps you consider another resolution on. When I  
21 came home, there was no support system other than my  
22 friends and family, and my friends and family not  
23 having a recent veteran anywhere, you know, to  
24 compare to didn't know how to help me. I was  
25 abandoned by the military. I was shamed by the

1  
2 military. I had been discharged after surviving a  
3 suicide attempt for misconduct. My discharge  
4 paperwork said "misconduct, serious offense." So, if  
5 I wanted to get a new job, I had to, you know, for  
6 anything that I was qualified for which would be say  
7 security, because I was a combat soldier-- anyone  
8 who's familiar with military paperwork wanted to see  
9 that DD214, my discharge paperwork, and right at the  
10 bottom in full bold and capitalized letters it says  
11 "misconduct; serious offense." So, if I were to use  
12 my military history to try and attain employment, I  
13 would be forced into a conversation about a suicide  
14 attempt and Post-Traumatic Stress Disorder right out  
15 of the gate. Now, luckily, and I didn't know this at  
16 first, I was eligible for VA healthcare. The  
17 Northport VA healthcare in Long Island has been  
18 spectacular as has my care here in Manhattan VA  
19 Hospital, and over the course of a few years, thanks  
20 to a dedicated team of doctors, nurses and social  
21 workers, they pulled me out of that dark hole. I met  
22 the Urban Justice Center's Veterans Advocacy Project  
23 back in 2008, and they connected me with a lawyer  
24 from Orrick, Herrington and Sutcliffe here in  
25 Manhattan, and since 2008 this firm has spent tens of

1 thousands of dollars and thousands of man hours on my  
2 case alone. We have appealed my discharge three  
3 times. Every time it has been rejected. The most  
4 recent time, Orrick, Herrington and Sutcliffe, and my  
5 attorney Stephen Lessard, who's a 22-year Navy  
6 veteran who is, you know-- he's not new to this type  
7 of issue-- they flew witnesses, battle buddies that I  
8 had served with overseas, fellow Sergeants including  
9 an Army Captain that I served under to DC for my  
10 discharge hearing. Now, Ballsy [sic] if you would do  
11 me a favor, there's a black bag next to you. Can you  
12 carry that up here, please? At the last hearing, I  
13 presented diagnoses of PTSD along with over a half of  
14 decade of care, and similar to what Rob showed  
15 before, that right there is just witness statements,  
16 awards and things that I received overseas. This  
17 right here was my medical history as of the time,  
18 just focusing on PTSD, and this by law, they could  
19 throw out. There was a doctor who was sitting on the  
20 panel who had no experience in mental health at all,  
21 nothing whatsoever, and that doctor completely  
22 disregarded every page of this document, and said,  
23 "Well, you can't prove that you got PTSD from your  
24 time in the Army. You might have gotten it from a  
25



1  
2 hypothetical car accident after you got out." I've  
3 had all the resources in the world afforded to me in  
4 terms of friends and family, and the veteran's  
5 network has been absolutely fantastic. I have many of  
6 my mentors here in the room including Kristen Rouse,  
7 Chuck Patolo [sp?], from Nassau Community College,  
8 and Rob Cuthbert who's been guiding me for years now  
9 on how to do advocacy on this issue. But my  
10 discharge is still pending, my discharge upgrade, my  
11 discharge appeal is still pending. And today I was  
12 reminded that a year ago I saw the suicide note of a  
13 friend of mine from the same unit who was discharged  
14 with an other than honorable discharge who was denied  
15 healthcare at the VA. His name is Brett Yarbrough.  
16 He's attempted suicide multiple times. He's been in  
17 jail multiple times because he had an other than  
18 honorable discharge. Where I was able to get VA  
19 healthcare, he was barred from it. While I have been  
20 able to recover thanks to VA access, he has not. I  
21 have gone from an alcoholic recluse living in his  
22 childhood bedroom to an Ivy League educated student  
23 who is now working at one of the greatest Veteran  
24 service organizations in the country on federal  
25 legislation, and my friend Brett, even a year after

1  
2 handing the Secretary of Veterans Affairs his suicide  
3 note, and thankfully Brett survived, Brett still is  
4 having getting trouble getting care from the VA  
5 because of his discharge status. Now, VVA has  
6 submitted for record several reports by Yale Veterans  
7 Legal Services Clinic, by Swords to Plowshares and  
8 Human Rights Watch, and I would encourage the Council  
9 to review these reports and explore different options  
10 with your local VSO representatives for ways that the  
11 City may address some of these veteran's needs where  
12 the federal government continues to fail. Again, I  
13 want to focus on the fact that because I was  
14 discharged due to misconduct, my act of misconduct  
15 being surviving a suicide attempt, I did not qualify  
16 for state unemployment benefits. That is  
17 unconscionable to me to think that I had spent my  
18 teenage years in combat, and then for surviving a  
19 suicide attempt, the state didn't consider me a  
20 veteran worthy of unemployment benefits. It also,  
21 even today, doesn't think I'm worthy of the Veterans  
22 Scholarship Program that the state offers to other  
23 veterans. Our state needs to do a lot more. Our City  
24 need to do a lot more to support these veterans.  
25 When I started attending Columbia University, not

1  
2 being eligible for the post 9/11 GI Bill, I had to  
3 take out some really, really burdensome loans just to  
4 live here in Manhattan because of my discharge  
5 status, and the city and state didn't have anything  
6 to offer me, and that's simply because this is an  
7 issue that no one before today has really paid close  
8 attention to. So, Chairman Ulrich, I thank you from  
9 the bottom of my heart for holding this hearing today  
10 and for giving these experts the opportunity to speak  
11 to get on record for the first open hearing of the  
12 Fairness for Veterans Act in our country. Councilman  
13 Ulrich, thank you so much.

14 CHAIRPERSON ULRICH: Okay, thank you for  
15 your testimony and for your service to our country,  
16 and I don't want to say best of luck, but I think  
17 that certainly there are a lot of people rooting for  
18 you and in your corner that your discharge status can  
19 be upgraded. When is your next hearing?

20 CHRISTOPHER GOLDSMITH: I don't know. I-  
21 - Stephen Lessard of Orrick, Herrington and Sutcliffe  
22 right here in Midtown submitted my latest appeal this  
23 August, and I'm still yet to hear anything back from  
24 DOD as to whether or not they'll even grant me  
25 another hearing.

1  
2 CHAIRPERSON ULRICH: And your attorney is  
3 Mr. Cuthbert, you said?

4 CHRISTOPHER GOLDSMITH: No, Mr. Cuthbert  
5 is an advisor and a mentor of mine.

6 CHAIRPERSON ULRICH: Okay. Well, I'll be  
7 happy to write a letter for you on my letterhead. I  
8 don't know if that'll help or hurt. I guess I depends  
9 on who wins the election, I don't know, but I'm not  
10 particularly helpful either way.

11 CHRISTOPHER GOLDSMITH: Thank you, sir.

12 CHAIRPERSON ULRICH: But that's just my  
13 opinion. But I'm willing as always to help any  
14 veteran that's trying to better themselves and get  
15 access to the services and programs that are  
16 available to veterans. My brother is a Marine  
17 currently serving in Camp Pendleton. He is going to  
18 Kuwait next month, and you know, as you know, Kuwait  
19 is very close to Iraq, and I imagine that he might  
20 actually be going to Iraq, which is sort of  
21 interesting how that-- how the Department of Defense  
22 is sending lots of Marines to Kuwait so that the  
23 media doesn't say they're sending them to Iraq, but  
24 they're in Kuwait for six months and then they just  
25 cross the border and go to Iraq anyway. So, it is

1  
2 what it is. But we're very concerned about the level  
3 of care that we're providing for our veterans and the  
4 people that would benefit the most I think from the  
5 healthcare services at the VA and all the other  
6 states and local services that are provided or  
7 afforded to veterans require that they have an  
8 honorable discharge, and this is very, very important  
9 work that is being done with very little money, and  
10 some instances on a volunteer basis, and is only  
11 available to very few people. And so hopefully, the  
12 purpose of today's hearing was to raise some public  
13 awareness about this, but then to use this as a  
14 catalyst for getting more traction in Washington and  
15 at the federal level. So hopefully this hearing  
16 accomplished that, and we're looking forward to  
17 trying to get this on the agenda for a vote. So, we  
18 do have one other speaker, so I'll invite that person  
19 up to testify today to be fair, and I that is I think  
20 it's Adam Hudson from New York City Veterans  
21 Alliance. Adam, okay?

22 JOHN ROWAN: Mr. Chairman, if I could--

23 CHAIRPERSON ULRICH: [interposing] Yeah,  
24 please.

25

1  
2 JOHN ROWAN: interject? One of the  
3 things that's come up is the issue of the law  
4 schools. We've had a number of different law  
5 schools. I know Hofstra has a Veterans Legal Services  
6 program that they've looked at. We've been, as I  
7 say, I've been working for years with Yale. Several  
8 of the other law schools we've been talking to,  
9 Georgetown in D.C. and several others have taken--  
10 sparked some interest in this, and it has some real--  
11 I think that has some possibilities that the Council  
12 might want to talk to some of the law schools in New  
13 York City. We certainly have some of the best with  
14 NYU, Brooklyn Law, New York Law, some of the others  
15 that are here, that this might be a way to get more  
16 people stimulated to looking at these issues.  
17 Military laws are funny. Military law is very  
18 bizarre law to deal with.

19 CHAIRPERSON ULRICH: Byzantine in some  
20 ways.

21 JOHN ROWAN: That's an understatement,  
22 and the VA law is kind of interesting, too. It gets  
23 a little weird, but we have seen some interest in  
24 that regard. One of the other things that just came  
25 to my attention and working with frankly my staff, my

1  
2 own staff. I have several lawyers that work for me in  
3 D.C. who help with the Board of Veterans appeals  
4 cases which is a different situation than what we're  
5 talking about here today. We haven't been able to  
6 get into the discharge upgrade issue, which is really  
7 hard to do. I know for years, the only people out  
8 there that were doing it at all was the state had  
9 the-- the State Department of Veteran Service Affairs  
10 had little-- some staff attached, and I believe Red  
11 Cross used to do some work in this area as well. So,  
12 the law schools are very interesting. But apparently  
13 one of the things we're looking at is getting-- and  
14 we're having some fun discussing this with the  
15 Department of Education. There are ways to write--  
16 people can write off their student loans by coming to  
17 work for not-for-profits that do certain kinds of  
18 work.

19 CHAIRPERSON ULRICH: I think it's five or  
20 10 years.

21 JOHN ROWAN: And this is certainly an  
22 area that we're looking at doing.

23 CHAIRPERSON ULRICH: Ten years.

24 JOHN ROWAN: Yeah, I mean, it can be a  
25 significant way. I mean, quite honestly I don't have

1  
2 the wherewithal to pay a lot of lawyers a lot of  
3 money as compared to even to the federal government.  
4 I keep training people and then losing them to the  
5 feds or to somebody else, but if I could offer them  
6 to write off their significant student loans, that  
7 could be a way of keeping them around for a little  
8 while, and that might be a way of working with some  
9 of these law students is they get out coming to work  
10 for somebody else. And I'm sure it'd be-- I'm sure  
11 as I said earlier, I'm sure that the Veterans  
12 Advocacy Project would certainly love to see the City  
13 provide--

14 CHAIRPERSON ULRICH: [interposing] Yeah, I  
15 think the Urban Justice Center--

16 JOHN ROWAN: them with some more cash.

17 CHAIRPERSON ULRICH: as well as VVA [sic]  
18 might benefit from providing some sort of internship  
19 program for the law schools so that maybe they earn  
20 credits, but at the same time they work very closely  
21 with you on these particular types of cases and  
22 provide a service for the veterans community that is  
23 really--

24 JOHN ROWAN: [interposing] It particularly  
25 helps if they have a-- if they have pro-bono



1 attorneys who are willing to work with you form the  
2 legal aspect of it, the law students can do a lot of  
3 the grunt work. There's a lot of grunt work involved  
4 pulling that kind of stuff together.

5  
6 CHAIRPERSON ULRICH: Producing,  
7 obviously, the documentation to present the case  
8 before the Board--

9 JOHN ROWAN: [interposing] Yep.

10 CHAIRPERSON ULRICH: is a lot-- is very  
11 labor int-- even just making copies and binding it  
12 and putting it together in a professional way takes  
13 several hours at the very least. So, having people  
14 who are able-bodied and interested, too, not just  
15 people who are there for the sake of being there, but  
16 people who really care about this issue I think is  
17 very, very important, and look, I hope that we get to  
18 a day when this is no longer an issue, but I don't  
19 see that happening anytime soon. In the meantime,  
20 we're just sort of applying the Band-Aid approach.  
21 The military also like to retire people early for  
22 different reasons and save money in the long run, and  
23 that's like-- the gorilla in the room I think is  
24 that, you know, by not giving people honorable  
25 discharges, is the government saving money, and I

1  
2 think money has a lot to do with a lot of the  
3 problems that we discuss. I'm not saying that's the  
4 only motivation or that is the central cause of this,  
5 but I think that the government realizes how much  
6 money they can save if they get rid of the bad apples  
7 or the people that they think going to cost them a  
8 lot of money in the long run.

9           JOHN ROWAN: No, they've been downsizing  
10 the military over the last several years since the  
11 war is kind of winding down a bit, and they're not as  
12 crazy to get them into the service as we've seen with  
13 this whole thing going on in California with the  
14 National Guard units out there. And this whole issue  
15 of personality disorder was-- see if they could--  
16 they're violating all kinds of things when they're  
17 looking at. Number one is if-- with regards to the  
18 VA issues, there's an old-- you know, I think the  
19 Colin Powell thing, if you bought it, you own it; if  
20 you do something with it, you own it. Well, if you  
21 bring somebody into the military and you make them  
22 worse, even if they had a pre-existing condition, you  
23 own them.

24           CHAIRPERSON ULRICH: Yep.  
25

1  
2 JOHN ROWAN: And they don't like to deal  
3 with that, but that's-- and I ran into that and often  
4 a lot of times when people should have been retired  
5 on a medical retirement and not discharged, and  
6 that's why we sued the DOD about that, and we've been  
7 collecting data and the court's been beating them up  
8 and forcing them to give us information.

9 CHAIRPERSON ULRICH: I'd love to see any  
10 research if you have any-- not today, obviously, but  
11 maybe you can mail it or email to us-- if there were  
12 any studies conducted following Vietnam to look at  
13 controlled group versus a population of people who  
14 were drafted as opposed to people who were enlisted  
15 and what the percent of other than honorable  
16 discharges were. There's probably administrative  
17 data available, omitting names and other information,  
18 but we could probably find out for certain sample  
19 population of the Vietnam veterans, was there a  
20 higher percentage--

21 JOHN ROWAN: [interposing] As they say, a  
22 lot of--

23 CHAIRPERSON ULRICH: of people that were--  
24 that received an other than honorable discharge who  
25

1  
2 happened to be drafted into the service as opposed to  
3 people who are enlisted?

4 JOHN ROWAN: No, I think most of them  
5 were people who enlisted because the draftees, as  
6 they say, they got rid of them.

7 CHAIRPERSON ULRICH: In two years.

8 JOHN ROWAN: They got them and they sent  
9 them home. If you managed to get through unscathed  
10 you had two months left. They weren't sending you  
11 back to the base in the states. They'd just say go  
12 home, early out, whatever. Go away. The one--  
13 there's an interesting book out recently called  
14 *McNamara's Folly* which is about the 100, the so-  
15 called McNamara 100,000 where they lowered the IQ  
16 level down to the point of zero practically and put  
17 people in the military who should have never been in  
18 the military. Many of them got bounced out for all  
19 kinds of reasons--

20 CHAIRPERSON ULRICH: [interposing] Sure.

21 JOHN ROWAN: which were terrible. And  
22 what the most disturbing fact that came out of this  
23 author--

24 CHAIRPERSON ULRICH: [interposing] Some of  
25 them are in the City Council now, coincidentally.

1  
2 JOHN ROWAN: Yeah. Well, the most  
3 disturbing thing that came out was that he, this  
4 fellow, this author estimated that over 5,000 of the  
5 KIA's in Vietnam were people in this category, which  
6 is way above their percentage--

7 CHAIRPERSON ULRICH: [interposing] That's  
8 terrible. People killed for no reason.

9 JOHN ROWAN: Yeah, because they couldn't  
10 function.

11 CHAIRPERSON ULRICH: They couldn't  
12 function or follow orders or just be--

13 JOHN ROWAN: [interposing] Yep.

14 CHAIRPERSON ULRICH: productive.

15 CHRISTOPHER GOLDSMITH: I--

16 CHAIRPERSON ULRICH: Lastly, and then we  
17 have to hear from our last speaker, yeah.

18 CHRISTOPHER GOLDSMITH: Oh, I'm sorry.

19 CHAIRPERSON ULRICH: No, no, that's  
20 alright. Go ahead.

21 CHRISTOPHER GOLDSMITH: I do want to  
22 touch on the issue of saving money for DOD by  
23 discharging troops this way. That is definitely part  
24 of it. Now--

1  
2 CHAIRPERSON ULRICH: [interposing] I just  
3 don't know how you prove it. I'm just hypothesizing.

4 CHRISTOPHER GOLDSMITH: Having gone  
5 through what I went through, I used to harbor a lot  
6 of anger at the commanders who did this to me, and to  
7 be totally honest, I still do. However, now that I'm  
8 a decade, about a decade separated from this, I can  
9 imagine what it must be like to be a 24-year-old  
10 Captain in charge of 130 troops when you are overseas  
11 and you find out that one of your soldiers has  
12 attempted suicide, when your soldiers are in direct  
13 combat with the enemy right now, and you have a  
14 soldier whose a problem-- become a problem soldier  
15 back in the states, and wanting to expedite their  
16 discharge. Because I was in a situation where I was  
17 in an infantry unit, but I was a Forward Observer.  
18 So, I had a specialized MOS. What I did was I  
19 basically made things blow up by getting on the  
20 radio. I was an essential MOS, and I was  
21 irreplaceable as long as I remained on the billet.  
22 From the moment of my discharge, my commander could  
23 request from big Army for a new me, a new Forward  
24 Observer. So there are-- it's not just a financial  
25 pressure, it's a pressure for the safety of their

1 current troops who are deployable who are in combat.

2 So there are a lot of pressures on a Commander to

3 short-change their own troops for the good of the

4 rest of their men and for the good of the mission.

5 And thank you for giving me the extra two minutes.

6 CHAIRPERSON ULRICH: [off mic] man.

7 Lastly, you get the last word. Please introduce

8 yourself for the record, and pull the mic closer to

9 you if you can. Just pull-- I'm sorry. Just pull

10 the microphone so we can hear you clearly.

11 ADAM HUDSON: My name is Adam Hudson. I'm

12 a member of the New York City Veterans Alliance and a

13 former intern for IAVA, as well.

14 CHAIRPERSON ULRICH: Thank you for being

15 here.

16 ADAM HUDSON: Thank you. And I'm

17 actually an employee of the USO, and I just got back

18 from Kuwait about this time last Friday, actually.

19 And I want to-- just a reminder to yourself and your

20 colleagues on the council, it's still real. I don't

21 know if you know, I'm sure you do--

22 CHAIRPERSON ULRICH: [interposing] You bet

23 it is.

1  
2 ADAM HUDSON: a New York National Guard  
3 just arrived in Kuwait just a few days ago.

4 CHAIRPERSON ULRICH: Yep.

5 ADAM HUDSON: So it's still happening,  
6 and just from my time in Kuwait--

7 CHAIRPERSON ULRICH: [interposing] Still a  
8 war going on.

9 ADAM HUDSON: Still a war, and I  
10 appreciate what you said how the news kind of covers  
11 up. They're still going to Iraq, and there's going  
12 to be some--

13 CHAIRPERSON ULRICH: [interposing] They  
14 just go through Kuwait, but the news says they're  
15 going to Kuwait, and then people forget about it, and  
16 then six months later they're sent to Iraq, but  
17 that's--

18 ADAM HUDSON: [interposing] Exactly. And  
19 I just- just a reminder to yourself and--

20 CHAIRPERSON ULRICH: semantics.

21 ADAM HUDSON: the Council Members, these  
22 are you constituents that are going to be going to  
23 Iraq, and they're going to be back in nine months or  
24 12 months. Just keep them in mind as you get this in  
25 front of the Council. Chris inspired me to speak



1 about just some of the things that we go through.  
2 I'm an Army vet myself. Unfortunately-- well, I  
3 won't say unfortunate. Fortunately, I never faced  
4 combat. I wasn't in Iraq or Afghanistan. I was at  
5 the DMZ in Korea. I worked on missile sites in the  
6 Emirates and Qatar and Bahrain and Germany and  
7 Poland, and just this past year in Kuwait. So, I  
8 can't speak of what it was like to be 18 to 25 years  
9 old and face combat, but I have many, many, many  
10 friends that have, and over the years doing this  
11 advocacy I've met many guys who have had these  
12 problems, and it just-- it pains me to know what I  
13 went through not facing combat, and I can't relate to  
14 that. When I left the Army I went back to Alabama,  
15 and I almost drank myself to death also, and if it  
16 wasn't for just some great people that I knew here  
17 that convinced me to come to New York City and use my  
18 GI Bill, I probably would've been dead by suicide by  
19 alcohol on the streets of Birmingham. So, just  
20 having an honorable discharge means so much to me  
21 personally, because I have friends that don't. And  
22 you've heard a lot of numbers today from Vietnam to  
23 the Cold War to the First Cold War through today, but  
24 I think it's prudent that you hear some personal  
25

1 experiences. A great friend of mind, Cody Johnson,  
2 from Dallas, Texas, he-- one incident, toxic  
3 leadership. I'm sure you've heard this term before,  
4 toxic leadership. Chris just mentioned it. One  
5 slip-up. A 24-year-old Captain takes it out on a  
6 19/20-year-old kid who drank too much, kicks him out,  
7 sends him back to Dallas, and he doesn't even  
8 consider himself a veteran even though we did three  
9 years together. He was in Korea at the DMZ. He  
10 worked his tail off. He goes back to Dallas, no  
11 benefits, and he's struggling to get by to this day.  
12 Another great friend of mine from Alabama, he was a  
13 Gold Gloves boxing champion. Gets in one fight, they  
14 kick him out. He goes home. He's homeless in  
15 Columbus, Georgia right now. I'm lucky I got out and  
16 made it to New York and I'm speaking at City Hall to  
17 you today. You've heard a lot of numbers, I just  
18 want you to remember these people. An uncle, my  
19 Uncle Terry, a number of years in Navy, he was just  
20 about to get out. I believe he got an honorable  
21 discharge, but if he would have gotten out a week  
22 before he did, he wouldn't have been diagnosed with  
23 multiple sclerosis by the DA, and he would have took  
24 care of it all by himself. He decided to re-enlist.  
25

1  
2 A week later, the VA catches the MS, and he's been  
3 taken care of, but I think about him when I hear  
4 these testimonies. Who knows what would have  
5 happened if he would have got out the week before he  
6 would have been diagnosed. My Uncle Ray, who I'm  
7 going to get to you guys, who was a Vietnam veteran,  
8 he spent-- the way he tells me this story, he spent  
9 five days less than the minimum in Vietnam that he  
10 would have had to to get benefits, and he goes home  
11 with a general discharge, and even though he was a  
12 Marine-- once a Marine, always a Marine-- I've never  
13 once seen him wear Marine t-shirts or Marine hat or  
14 these type of hats because back in I guess 1972 or  
15 whenever it was they told him that he wasn't in  
16 Vietnam long enough to be considered a Vietnam  
17 Veteran, and he's never-- he never talked to me about  
18 it until just about three weeks ago. So, just  
19 remember these people. You've heard a lot of  
20 numbers. Remember these specific stories as you get  
21 this in front of the Council, and I want to extend my  
22 appreciation for your continued support of the  
23 veteran community here in New York. Thank you.

24 CHAIRPERSON ULRICH: I'm always  
25 dumbfounded that the veterans come here and thank me

1  
2 when I should be thanking you. You're the ones that  
3 have served our country. You're the reason why we  
4 have a Veterans Committee and why we're here. So,  
5 not that I take offense to it, but I always feel kind  
6 of funny. I say why are they always thanking me? I  
7 should be thanking them for their service to our  
8 country and that you still continue to serve, that  
9 you could be doing other things and you're here on a  
10 Friday afternoon because you care about your fellow  
11 comrades who perhaps didn't have the same outcome  
12 that you had, or the best desirable outcomes. So, I  
13 want to thank you and thank everybody that came to  
14 today's hearing. This is an important first step,  
15 and we're going to be pushing the leadership here at  
16 the Council to try to pass this resolution in or  
17 around Veteran's Day, although I'm not sure that's  
18 going to happen for the next two Stated's [sic], but  
19 we're going to push to have this voted on by the  
20 Committee and hopefully the rest of the Council so  
21 that we can send it and share it with New York's  
22 congressional delegation, they understand how  
23 important this bill is. We will also, obviously send  
24 it to the Executive Branch, and the advocates can  
25 take this and run with it and push this issue. This

1  
2 is a very, very important issue that has a  
3 multiplying effect in so many other areas, and I want  
4 to thank you all for your service, but also for  
5 having the courage to be here and share your stories  
6 with us so that we can try to do something about it.  
7 And that concludes today's hearing. Thank you.

8 [gavel]

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COMMITTEE ON VETERANS

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 17, 2016