



CITY BAR JUSTICE CENTER

REPORT

Veterans Assistance Project

Supporting our Troops through the Law

2013

City Bar Justice Center
42 W. 44th St.
New York, NY 10036

Executive Director

Lynn Kelly
212.382.6678
lkelly@nycbar.org

Managing Attorney

Alice Morey
212.382.6682
amorey@nycbar.org

Director of Communications

Eric Friedman
212.382.6754
efriedman@nycbar.org

Director of Pro Bono Initiatives

Carol Bockner
212.382.4714
cbockner@nycbar.org

Contact

Staff Attorney Veterans Assistance Project

Caitlin Kilroy
212.382.6622
ckilroy@nycbar.org

Who We Are

The City Bar Justice Center is the direct service 501(c)(3) affiliate of the New York City Bar Association, one of the largest and most influential bar associations in the country. The City Bar Justice Center uses staff and pro bono attorneys to assist over 20,000 clients each year and operates the largest free general civil legal hotline in New York City. The Justice Center's close relationship with the private bar, and long experience responding to emerging legal needs, gives it a unique ability to leverage civil legal services. It is estimated that for every \$1 spent, the Justice Center is able to deliver \$9 in free civil legal services.

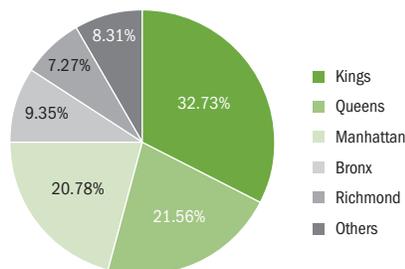
The Growing Need for Veterans' Legal Assistance

Although there are a number of organizations advocating for veterans' rights in the U.S., there are not nearly enough legal services to assist the growing number of veterans with legal needs. According to the most recent data from the U.S. Department of Veterans Affairs, over 820,000 claims are in process nationwide. The New York Regional Office takes an average of approximately 640 days, or almost two years, to make a decision on an initial application for benefits, and the average time before a decision is reached on an appeal is 1,500 days, or over four years. At the New York Regional Office, over 12,000 veterans are waiting for decisions on their claims.

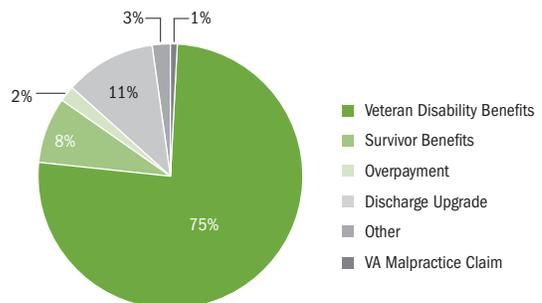
Responding to the Challenge

Convinced that having skilled legal counsel greatly improves veterans' chances of receiving the benefits they deserve, the City Bar Justice Center launched the Veterans Assistance Project in October of 2007. With the guidance of Justice Center staff, volunteer lawyers help veterans file claims and appeals with the U.S. Department of Veterans Affairs. The Project currently leverages the resources of more than 430 trained pro bono attorneys from over 70 law firms and corporations, enabling the Project to assist over 600 veterans and provide advice, information, or referral to many more veterans. Significant results of the Project's efforts include veterans receiving monthly awards of more than \$3,000, having over \$60,000 in overpayment debt waived, and receiving checks for over \$180,000 in retroactive benefits. To date, the Project has leveraged over \$2 million dollars in free legal services.

Veterans Served By County



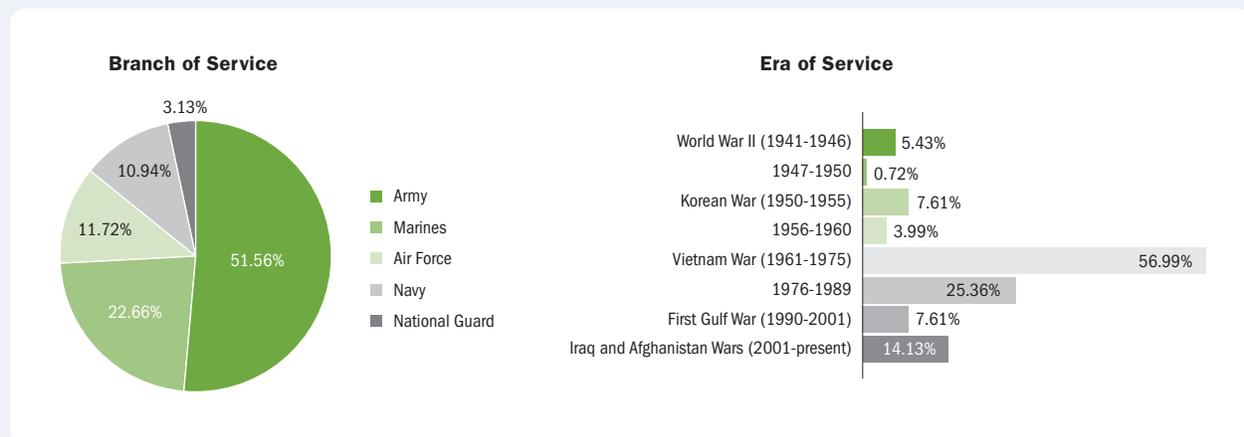
Legal Issues Faced



The Nuts and Bolts

The Veterans Assistance Project connects veterans with volunteer attorneys whom the Justice Center has recruited and trained to handle veterans' benefit cases. To participate, veterans contact the Project by phone or email, and a brief intake interview is performed. The veteran is then given an appointment for the next legal clinic, which is hosted approximately once a month at the New York City Bar Association. At these legal clinics, a trained volunteer attorney interviews the veteran in more detail. The Project's volunteer attorneys then work with the individual to help him or her apply for benefits for the first time, increase a disability rating, or appeal the denial of a claim. Other issues handled have included cases of overpayment, survivors' benefits, and terminated or reduced benefits.

The Project's staff attorney and a retired Veterans Affairs employee are available to guide the Project's pro bono attorneys at every clinic and to provide ongoing mentoring throughout the representation.



Emerging Issues

Military Sexual Trauma – Some veterans experience unwanted sexual harassment and sexual assault while in the military. These incidents may have lasting effects on these veterans and many suffer from PTSD, depression, and other mental and physical disabilities resulting from sexual trauma.

Racial Harassment – Some of our clients report racial harassment by fellow servicemembers. Occasionally, this harassment escalates to the point of physical assault and may lead to compensable injuries.

Discharge Upgrades – We encounter some disabled veterans who are not eligible for VA benefits because they have a less than honorable discharge. Often, an underlying mental disability may be responsible for the discharge status. We may be able to assist veterans in applying for a discharge upgrade.

PTSD/TBI – Many veterans who serve in combat return home and experience issues with memory, cognition, and concentration and suffer from irritability and sleep problems. Post traumatic stress and traumatic brain injuries are common causes of such difficulties. These conditions can be difficult to distinguish from one another and accurately diagnose. Our Project assists veterans in applying for benefits for these conditions.

Suicide – The rates of suicide for service members is high. The number of active duty personnel that have committed suicide in recent years is higher than the number of those that have died in combat. In our Project, we see many veterans who have attempted suicide and suffer from debilitating mental illnesses.

War—and Red Tape—Stories

The human stories behind these cases underscore the importance of having skilled legal counsel:

Iraq and Afghanistan:

Mr. Y was a reservist in the National Guard and reported to the World Trade Center in the immediate aftermath of 9/11. He later enlisted and served again in Iraq and Kuwait, where he performed base security at a fueling point and worked in refineries. Mr. Y now suffers from multiple chronic disabilities, including respiratory problems and stomach tumors, and has been repeatedly hospitalized since his service. The veteran believes his disabilities may have been caused by exposure to debris at the World Trade Center and by exposure to fumes at the fueling point and refineries overseas. Some of his disabilities have already been determined by the VA to be connected to service; he currently has a disability rating of 30%. However, the VA has denied other claims. Mr. Y attended a Veterans Assistance Project Clinic in March 2012 and the Project has been able to provide representation. An attorney is helping him apply for an increased disability rating for the injuries already determined to be service-connected and appeal the denial of benefits for the other injuries he sustained during his service.

Vietnam and Agent Orange:

Mr. G is a Vietnam veteran who suffers from PTSD. He came to the Veterans Assistance Project in December 2008 to explore the possibility of increasing his 50% rating. Mr. G's severe PTSD symptoms have made it difficult for him to sustain employment. His pro bono attorneys have helped him develop the record and appeal denials of his PTSD claim. In April 2010, Mr. G was diagnosed with chronic lymphocytic leukemia (CLL). His attorneys immediately filed a claim based on the diagnosis of CLL, a disease that is related to Agent Orange exposure and presumed to be service-connected for veterans who served in Vietnam. Mr. G was awarded a 100% rating for his CLL and is currently receiving a monthly award of almost \$3,000. His PTSD claim is still awaiting review and his attorneys are continuing to work with him on that claim.

Overpayment:

Mr. C is a Vietnam era veteran who attended a Veterans Assistance Project clinic after receiving notice that the VA had overpaid him and was seeking about \$13,000 in back benefits based on a change of marital status that he had not reported to the VA. Mr. C had begun suffering anxiety many years ago, which affected his ability to work and caused him to become homeless. He applied for and was awarded a VA pension, a benefit available to disabled, low income, wartime veterans. In 2008, years after receiving his pension, Mr. C married. When a veteran's

marital status changes, he must notify the VA of the marriage within one year, as the change in income may affect his benefits. Mr. C was unaware of this rule, but he thought the VA knew of his marriage because his wife regularly accompanied him to see his doctor at the VA hospital. Mr. C's attorney drafted a letter asking for waiver of the overpayment and explaining that the VA had knowledge of the marriage. The VA granted the waiver of \$13,000 in full.

Military Sexual Trauma (MST):

Ms. M reported to us that when she served in the military in the 1970s, one of her commanding officers continually harassed her and eventually raped her in his office. Later that same night, the veteran attempted suicide by jumping from a moving car onto a highway. She sustained injuries from this attempt and hospital records confirmed her admission. However, she did not report the rape for fear of retaliation and no rape kit was ever performed. When Ms. M applied for VA disability benefits for PTSD three decades later, her claim was originally denied because of a lack of corroborating evidence. Ms. M's attorney helped her to appeal and convince the hearing officer that the veteran – who had a sound record as a soldier prior to the rape – would not have attempted suicide for no reason, and that it was more likely than not that the incident happened as the veteran described and caused her PTSD. As a result, the veteran received a significant retroactive award, allowing her to pay debts that had accrued due to her medical issues and her inability to work. Ms. M is now an active advocate for other veterans, including female veterans who face sexual harassment and discrimination in the military.

Post Traumatic Stress Disorder (PTSD):

Mr. I, a Vietnam veteran, had been seeking disability benefits from the VA for over five years. He suffers from severe PTSD caused by the mortar and rocket attacks he witnessed while stationed at an Air Force base in Vietnam. Mr. I dealt with his mental health issues privately for many years, but eventually turned to the VA for help. At first the VA denied his claim because the veteran was unable to provide sufficient proof of the stressful events he endured. Mr. I had been assigned to a special operations unit in Vietnam and, consequently, his records did not indicate he had ever been stationed at that base. The veteran's attorney was able to help uncover evidence that placed the client at the base and established that attacks had occurred while the veteran was stationed there. The attorney also obtained an affidavit from a fellow serviceman substantiating that Mr. I was present at the scene of the attacks. The VA reviewed this new evidence and awarded the client a disability rating of 100%, which entitles him to a monthly check from the VA, and retroactive benefits of over \$140,000 going back to 2005, when Mr. I first submitted his claim and was incorrectly denied.

“It is not often that we hear of such caring from attorneys that are willing to fight for the little guy, especially the veterans. We have an 84-year-old World War II veteran who cried at a group meeting because he was so happy that he had an attorney and a major law firm that was going to fight for him.”

— VETERANS ASSISTANCE PROJECT CLIENT

City Bar Justice Center Veterans Assistance Project Founding Firms

Cleary Gottlieb Steen & Hamilton LLP; Covington & Burling LLP; Howrey LLP; Mayer Brown LLP; McCarter & English LLP; Orrick, Herrington & Sutcliffe LLP; Paul, Weiss, Rifkind, Wharton & Garrison LLP; Reed Smith LLP; Shearman & Sterling LLP; Weil, Gotshal & Manges LLP; and Winston & Strawn LLP.

To date, other participating firms and corporate legal departments include:

Akin Gump Strauss Hauer & Feld LLP; Anderson, Kill & Olick, PC; Arnold & Porter LLP; Baker Botts; Bank of America; Barclays PLC; Blank Rome LLP; Cadwalader, Wickersham & Taft LLP; Cleary Gottlieb Steen & Hamilton LLP; Clifford Chance US LLP; Cohen, Weiss and Simon LLP; Colgate-Palmolive Company; Covington & Burling LLP; Credit Suisse Group AG; Davis Polk & Wardwell LLP; Debevoise & Plimpton LLP; Dechert LLP; Dickstein Shapiro LLP; DLA Piper US LLP; Duane Morris LLP; Fitzpatrick, Cella, Harper & Scinto; Fragomen, Del Rey, Bernsen and Loewy, LLP; Fulbright & Jaworski L.L.P.; Goldman Sachs & Co.; Greenberg Traurig, LLP; Hogan Lovells US LLP; Holland & Knight LLP; Hughes Hubbard & Reed LLP; Jackson Lewis LLP; Jefferies & Company; Jones Day; JPMorgan Chase & Co.; K&L Gates LLP; Kaye Scholer LLP; Kelley Drye & Warren LLP; Kirkland & Ellis LLP; Kramer Levin Naftalis & Frankel LLP; Latham & Watkins LLP; Linklaters, Loeb & Loeb LLP; Lowenstein Sandler LLP; Manatt, Phelps & Phillips, LLP; Martin & Chioffi LLP; Mayer Brown LLP; McCarter & English, LLP; McCormick, Paulding & Huber LLP; McDermott, Will & Emery; Milbank, Tweed, Hadley & McCloy LLP; Morgan, Lewis & Bockius LLP; Morgan Stanley; Morrison & Foerster LLP; Nixon Peabody LLP; O'Melveny & Myers LLP; Orrick, Herrington & Sutcliffe LLP; Paul Hastings LLP; Paul, Weiss, Rifkind, Wharton & Garrison LLP; Pavia & Harcourt LLP; Proskauer Rose LLP; Reed Smith LLP; Schnader Harrison Segal & Lewis LLP; Seyfarth Shaw LLP; Shearman & Sterling LLP; Sherman, Federman, Sambur & McIntyre; Sidley Austin LLP; Simpson Thacher & Bartlett LLP; Skadden, Arps, Slate, Meagher & Flom LLP; Skyline Windows LLC; Stull, Stull & Brody; Sullivan & Cromwell LLP; Sutherland Asbill & Brennan LLP; Troutman Sanders LLP; Wachtel Masyr & Missry LLP; Weil, Gotshal & Manges LLP; White & Case LLP; Wilson Elser Moskowitz Edelman & Dicker LLP; Winston & Strawn LLP.

If interested in participating in the Veterans Assistance Project, please contact Caitlin Kilroy at 212.382.6622 or ckilroy@nycbar.org

