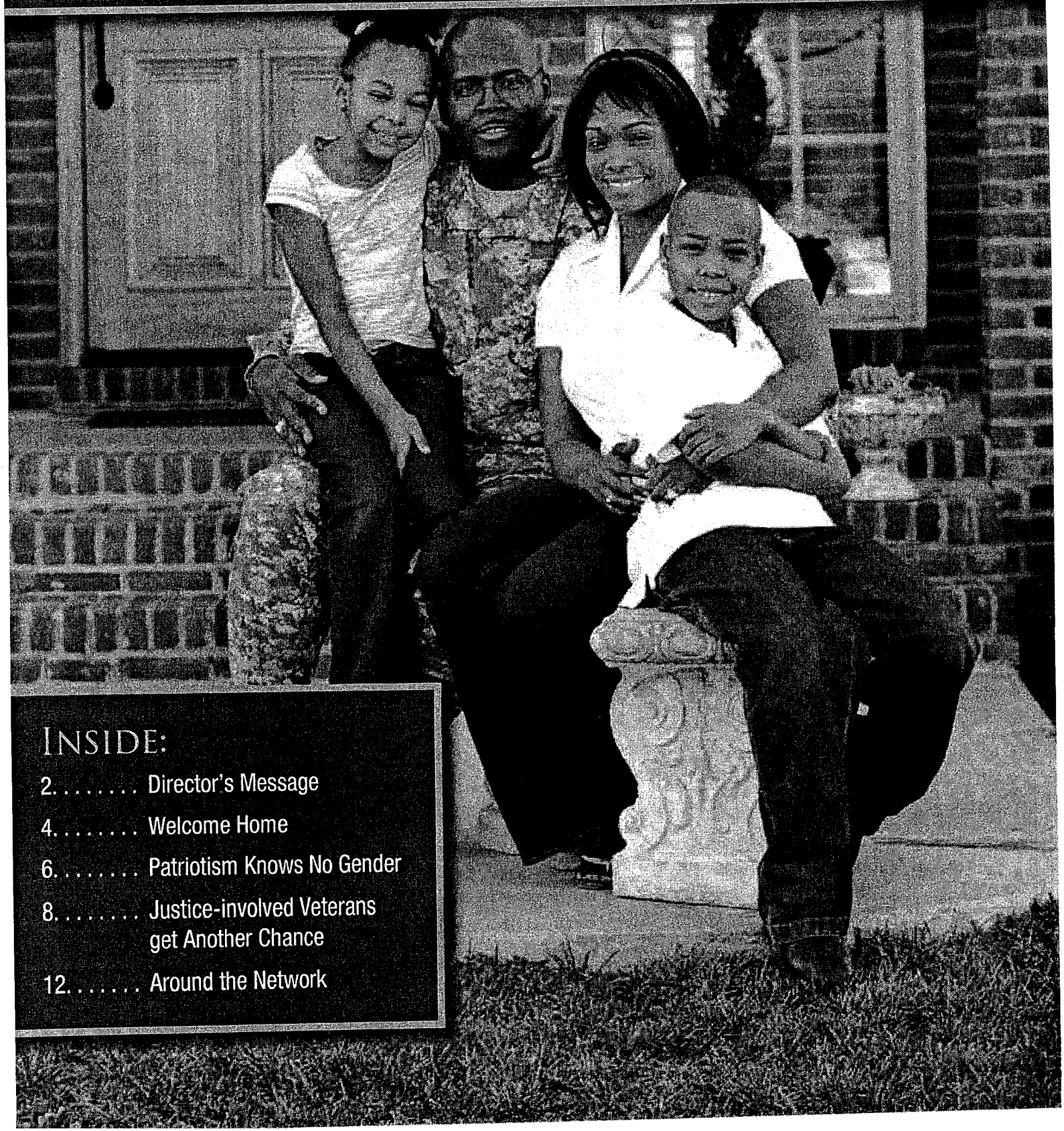
SPRING 2010

HEALTHIER LIVING

FOR TEXAS VETERANS



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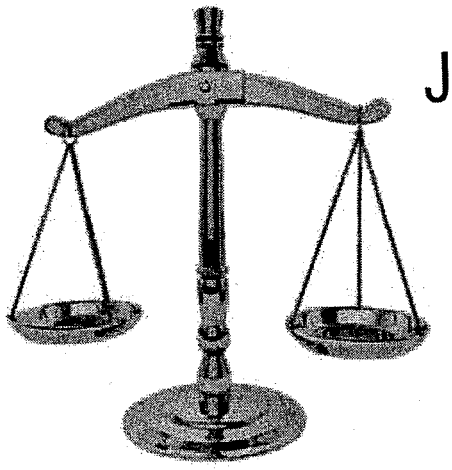

Justice-involved Veterans get ANOTHER CHANCE

A slightly nervous, bearded man in a cable-knit sweater and khakis stands behind a podium in a packed meeting room. Before him, ranged around tightly packed tables, are judges and sheriffs, social workers and psychologists, lawyers and others who had come to hear his story and how it might be replicated.

It's a story of a life fraught with difficulty, challenges that at times seemed insurmountable. "Because I'm a convicted felon, nobody would rent me an apartment," says Marc Harris. Then he breaks into a grin: "So I used my VA benefits and bought a house."

The revelation brings a laugh – partly of relief; because the part of Harris' story that came before, the part before now, is anything but funny.

The Good Soldier

Before he was convicted on a felony drug charge; before the drinking, the sleepless nights and the isolation, Marc Harris was a soldier. A good soldier by all accounts, an infantryman of the 82nd Airborne Division's 3rd Battalion, 504th Parachute Infantry Regiment.

In five years, Harris fought on two continents and was awarded two Combat Infantry Badges. Already a noncommissioned officer in his early 20s, he was marked for quick advancement.

But Harris' combat deployments, to Panama and to Iraq, had hurt him in ways few could see.

"After we came back from Desert Shield/Desert Storm, the drinking resumed," he says. "Now it was progressing to rage, and I was isolating myself more and more. I could never calm down. I couldn't sleep. It came to the point I didn't want to go out anymore. I didn't want to do anything anymore."

Harris changed his MOS (military occupational specialty), thinking that if he got out of the infantry maybe it would get better. Instead, he said, it was like leaving the nest.

Sleepless nights were taking a toll, and Harris started using cocaine so he would be alert for duty. Inevitably, he got caught on a drug test. In lieu of a court martial, he accepted a general discharge under other than honorable conditions.

"Until I got to Waco, I felt like I was the worst person in the world," Harris says. Then he points to his right shoulder, and his voice grows husky: "It was the shame, and the guilt. I was an 82nd soldier! I set the standard!"

Harris' discharge was official Feb. 24, 1994. By then he had been arrested for possession and given deferred adjudication. An Air Force doctor (Harris was then still a military spouse) diagnosed him with depression. Divorce followed, and a new psychiatrist diagnosed Harris as bipolar.

Harris continued to use drugs and alcohol in an attempt to deal with his feelings. Another arrest landed him behind bars for 11 months. A Texas Department of Corrections doctor finally identified the root of Harris' problems: post-traumatic stress disorder, or PTSD.

Out of prison and back in college, where he was studying mechanical engineering, one bad (and by now isolated) episode led to Harris' third arrest. While awaiting trial, he started getting help at the Temple VA Medical Center (VAMC), and then at the Waco VAMC.

Another Chance

The prosecutor in his case was pushing for a six-year term in the state prison; Harris' court-appointed attorney went to bat for him, and by the time he stood in front of the judge, he was stunned to hear the black-robed figure greeted him with these words: "Thank you for your service."

"He told me to keep doing what I was doing, and gave me a 15-month suspended sentence and two year's probation," Harris says.

It was a turning point – not so much for Harris, who had already hit bottom and was on his way back up – but for a criminal justice system that recognized it was dealing not with a hardened criminal but a human being with underlying issues that could be addressed.

Harris has so far repaid that judge's optimism in a big way. A long-time peer counselor at the Waco VAMC, he recently applied for admission to Baylor University's social work program. His goal? To work with Veterans.

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Veterans Justice Outreach Initiative

Several wide-ranging initiatives, some originating with the VA at the national level and others that have cropped-up in local courts, are coming together in what's called the Veterans Justice Outreach initiative.

The goal is to give justice-involved Veterans the opportunity Marc Harris received through a series of fortunate accidents.

The underlying idea is simple: Veterans who have been charged with or convicted of (primarily) non-violent offenses may, instead of being incarcerated and treated at county or state expense, receive effective treatment – benefits they are entitled to – from the VA.

One way to do that is by creating special Veterans courts or dockets, much like the specialized mental health or drug courts already operating in many jurisdictions. The goal is treatment and rehabilitation, not punishment.

"We're making very good progress in the Texas courts in the VA Heart of Texas Health Care Network," says Steve Holliday, Ph.D., chief of mental health services for the network. "It is now state law that every district court can establish a Veterans court. We've got active groups working in Austin, San Antonio, Dallas, Fort Worth, and in Central Texas."

In addition to establishing special dockets, Holliday says, much of the work in the early stages of the initiative is simply educating law enforcement agencies and prosecutors about identifying Veterans they may encounter and how to recognize emergent mental health and substance abuse issues as well as the treatment options and other benefits available for Veterans.

Veterans Intervention Project

In Austin, VJO outreach specialists and staff from the Austin Vet Center are involved in an aggressive program spearheaded by two Travis County constables.

The Veterans Intervention Project completed a study in July 2009 that showed an average of 153 Veterans are arrested each month in Travis County, 73 percent on misdemeanor charges. Of the arrested Veterans, an estimated three-quarters were eligible for VA services, but only a little more than one-third have received any services from the VA.

"Due to physical and emotional injuries suffered while on active duty, Veterans' reintegration back into civilian life can be extremely challenging," the report concludes. "Many Veterans return home to lost jobs, terminated leases, foreclosures and severed relationships. Some turn to alcohol or drugs to ease their pain and others act out in violent ways."

A majority of arrested Veterans surveyed have not obtained VA or other services, the report says, "services that can help support reintegration, intervene in substance abuse and mental health issues, and prevent repeated arrests." Breaking the cycle of arrests – and of homelessness in which many justice-involved Veterans find themselves – is part of the VA's stated goal.

"If these programs work like we hope they will, we'll have a win-win-win situation," Holliday says. "Veterans get an opportunity to make real, positive changes in their lives; the criminal justice system is relieved of the requirement to incarcerate or treat a Veteran, both of which cost taxpayers' money; and society at large gets a contributing member back."

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Veterans' Courts

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- **Veterans Are Frequently Incarcerated.** The Bureau of Justice Statistics found in a 2000 survey—the most recent information available—that 12.5 percent of state prison inmates reported military service.[1] Similarly, 11.7 percent of county jail inmates reported military service. All told, more than 200,000 veterans are behind bars. Of veterans in state prisons, 30 percent were first-time offenders, compared to 23 percent of non-veterans. Veterans were more likely to have a history of alcohol dependence than non-veterans. Of veteran inmates, 30.6 percent reported alcohol dependence compared with 23.6 percent of non-veterans. Additionally, 70 percent of veterans in state prisons were employed prior to being arrested, compared with 54 percent of non-veterans. Veterans behind bars were more likely to be mentally ill, with 19.3 percent reporting mental illness compared with 15.8 percent of non-veterans. More than three-quarters of veterans behind bars were honorably discharged.

- **Veterans' Courts: The Latest Specialty Court.** Illinois, Nevada, and Texas are among the states that have recently enacted legislation authorizing the creation of veterans' courts. The Texas legislation enacted in 2009[2] may be particularly useful as a model for other states, because it authorizes counties to create such courts, provides guidelines that are flexible enough to allow for local innovation, and had no fiscal note. The nation's first veterans' court was founded in 2008 in Buffalo, New York and 10 communities across the nation have set up such courts. Such courts may be a temporary but needed solution as thousands of troops return from Afghanistan and Iraq.

- **What Are Veterans' Courts?** These courts are similar to drug and mental health courts. Not all veterans are, or should be, eligible and these courts don't let offenders off the hook simply because they are veterans. Rather, these courts hold them accountable through a strict schedule of court appearances and treatment appointments, and, if necessary, sanctions imposed by the judge that can include jail time. Some courts also utilize probation officers to ensure the offender is properly monitored.

Typically, only misdemeanants and, in some cases, non-violent felons are eligible for a veterans' court. The veterans' court in Orange County, California is limited to mentally ill offenders. In the veterans' court being created in El Paso, Texas (home to 20,000 soldiers), participants must have a service-related disability such as primary diagnosis of post-traumatic stress disorder (PTSD), traumatic brain injury, or severe depression.[3] Eligible offenses will include marijuana possession and family altercations. The El Paso court will have the authority to require participants to attend rehabilitation, educational, vocational, medical, psychiatric, or substance-abuse programs. Like drug courts, rather than issue a sentence and move to the next case, a judge holds regular hearings to monitor the offender's progress through treatment and compliance with the terms of probation. The El Paso court is actually a docket of an existing court so there is not an expense associated with creating a new court, and the county expects to save money on jail costs.

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Just as with drug and mental health courts, successful completion of the court may result in a dismissal or reduction of the charges, a feature which helps participants obtain or retain employment. A Stateline.org article notes that in the Buffalo court, where none of the 100 participants have been re-arrested, offenders must complete "rigorous and individually tailored treatment programs."[4] The Buffalo judge, Robert Russell, points out that veteran's courts are distinguished from other specialty courts in that they also include mentoring sessions with other veterans, which leverage the camaraderie that the military builds. Meetings with U.S. Department of Veterans Affairs employees may also be involved for a variety of reasons, including connecting homeless veterans with V.A. housing and transition to work programs.

- **The Role of the Victim.** It is vital that, in cases involving an individual victim, veterans' courts ensure the victim obtains justice. The Council of State Governments Justice Center has issued *A Guide to the Role of Crime Victims in Mental Health Courts* that is equally applicable to veterans' courts, explaining how such courts can effectuate the right to attend, the right to be heard, the right to be informed of proceedings, the right to reasonable protection, and the right to full and timely restitution.[5] Successful completion of a specialty court program is typically dependent on all restitution having been fully paid.

- **Why Veterans' Courts?** The rationale for veterans' courts is based on the combat-related stress, financial instability, and other difficulties adjusting to life that confront many soldiers returning home from Iraq and Afghanistan. A 2008 RAND Corporation study found that about one-fifth of all Iraq and Afghanistan veterans—or about 300,000 of the more than 1.6 million U.S. troops in the two wars—reported symptoms of PTSD or major depression.[6] While most of these veterans are law-abiding, these problems contribute to criminal behavior among a substantial number of veterans.

- **Support for Veterans' Courts.** Like drug courts, veterans' courts have won bipartisan support. Congressman Steve Buyer (R-Indiana) noted in speaking with Judge Russell at a hearing examining the success of the Buffalo court, "You win my 'wow' award."[7] In Illinois, State Rep. Michael Tryon, a Republican, was the co-sponsor of the enabling legislation and, in Nevada, Republican Governor James Gibbons signed the measure into law. Veterans' courts are also backed by Senator John Kerry (D-Massachusetts).

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[1] Christopher Mumola, "Veterans in Prison or Jail," U.S. Department of Justice Bureau of Justice Statistics (Jan. 2000) http://www.ojp.usdoj.gov/bjs/pub/pdf/vpj.pdf.

[2] Text of Senate Bill 1940, 81st Legislative Session, effective June 2009, http://www.legis.state.tx.us/tlodocs/81R/billtext/html/SB01940F.htm.

[3] Chris Roberts, "Law keeps veterans with post-traumatic stress disorder out of jail," *El Paso Times* (30 Aug. 2009) http://www.allbusiness.com/government/government-bodies-offices-regional/12793391-1.html.

[4] John Gramlich, "New Courts Tailored to War Veterans," Stateline.org (30 June 2009) http://www.statebillnews.com/?p=550.

[5] Hope Glassberg and Elizabeth Dodd, *A Guide to the Role of Crime Victims in Mental Health Courts*, Council of State Governments (2008) http://consensusproject.org/downloads/guidetocvinmhc.pdf.

[6] Terri Tanielian and Lisa H. Jaycox, "Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery," RAND Corporation (17 Apr. 2008) http://www.rand.org/pubs/monographs/MG720/.

[7] Jerry Zremski, "Buffalo's 'Veterans Court' wins praise in Congress," *The Buffalo News* (17 Sept. 2009) http://www.buffalonews.com/cityregion/story/798194.html.