

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
MILITARY AFFAIRS, SPACE, AND DOMESTIC SECURITY
Senator Altman, Chair
Senator Hill, Vice Chair

MEETING DATE: Thursday, December 9, 2010

TIME: 8:30 —10:30 a.m.

PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Altman, Chair; Senator Hill, Vice Chair; Senators Bennett, Bullard, Jones, Sachs, and Storms

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Introductions			
1	Overview of committee jurisdiction		Presented
2	Presentation by Rocky McPherson, Director of Military and Defense Programs, Enterprise Florida		Presented
3	Interim Project 2011-130 (Florida's Current Evacuation and Emergency Shelter Plan) Presentation		Presented
4	Interim Project 2011-131 (Veterans' Courts) Presentation		Presented

Overview of the Military Affairs, Space and Domestic Security Committee

Senator Thad Altman, Chair
Senator Tony Hill, Vice Chair
December 9, 2010

Committee Subject Areas

- Military Affairs
- Veterans Affairs
- Homeland Security
- Emergency Preparedness
- SPACE Florida

Military Affairs

The Military Affairs and Domestic Security Committee has been the committee of reference for military matters relating to certain policies within the Department of Military Affairs and the Florida National Guard. Military functions of the Guard are a matter of federal law and National Guard Bureau policy and regulations.

Issues such as educational benefits funded by state government, emergency financial relief for Guard members and their families including establishment of a direct-support organization to assist with administration of the Soldiers and Airmen Assistance Program, and the Guard's readiness to support emergency response to hurricanes are representative of the committee's oversight interests.

In addition, the committee has looked at measures that support federal military base presence in Florida including policies that support active duty military families, Base Realignment and Closure activities, and local community encroachment on military facilities that may adversely impact a base's mission.

Veterans' Affairs

The committee has been the committee of reference for veterans' issues and policy affecting the Florida Department of Veterans' Affairs. FDVA extensively assists Florida's veterans in navigating the federal veterans' bureaucracy and administers state veterans' nursing homes.

The federal Department of Veterans Affairs administers a substantial network of healthcare facilities throughout the state. This system includes everything from local primary care clinics to VA hospitals including a state of the art poly-trauma facility for severely wounded veterans of Iraq and Afghanistan.

Examples of recent policy matters referred to the committee include, POW/MIA flag issues, tax and fee exemptions for disabled veterans, veterans' business issues, distribution of specialty license plate sales proceeds in support of the state's veterans' nursing homes, and establishment

of a direct-support organization to assist in obtaining grant and charitable donation funding for the nursing homes.

Current issues include veterans' suicide prevention and an Interim Project report regarding establishment of veterans' courts.

Homeland Security

The federal government funds virtually all anti-terrorism activities in Florida through a series of annual grants. Domestic security activities in Florida are coordinated through an advisory council as established in Chapter 943, F.S., and known as the Domestic Security Oversight Council.

The council includes cabinet level and agency director level officials and is chaired by the Executive Director of the Department of Law Enforcement with the Director of the Division of Emergency Management as vice-chair.

The Military Affairs, Space and Domestic Security Committee provide oversight of an annual process that develops a prioritized list of domestic security projects and activities and approves the nominated list for inclusion in the annual appropriations bill. The Division of Emergency Management acts as the administering agent for federal funds that pass through to the various approved projects and activities.

An important and recurring component of the committee's oversight responsibilities concerns seaport security. Florida's efforts to establish control and security at its 14 public deepwater seaports (12 of which are currently considered commercially active) pre-dates the events of September 11, 2001. Section 311.12, F.S., established a seaport security framework and support programs in order to remove the drug trade from the ports.

After 9/11, the programs were adapted to meet the additional needs of a series of federal initiatives designed to combat terrorism. The Governor's Office of Drug Control and the Department of Law Enforcement are the principal entities engaged in administering s. 311.12.

Current issues in this area include: the costs to affected seaports associated with security measures required under s. 311.12, the adequacy of federal programs administered by the Coast Guard to provide for a post 9/11 seaport security framework, and the costs to seaport workers and tenant business entities for administering access control systems at each of the seaports under the jurisdiction of s. 311.12.

Emergency Management

The committee provides oversight of the Division of Emergency management and all aspects of emergency preparedness, response, recovery, and mitigation. Recent activities included participation in the required Sunset Review of the Division and the response activities associated with the Deepwater Horizon oil spill.

Committee staff has traditionally participated with the Intergovernmental Relations Team at the State Emergency Operations Center (SEOC) in providing direct liaison for members of the

Legislature with the SEOC during emergencies. The Florida Legislature now has a work station on the main floor of the SEOC in order to conduct such activities.

Current issues include the continuing recovery activities associated with the Deepwater Horizon event and an Interim Project report regarding the state's current evacuation and emergency shelter strategies.

Space Florida

The committee has been given first committee of reference responsibilities for policy that affects Florida's aerospace industry and Space Florida.

Space Florida is a corporation created in s. 331.302, F.S., to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs.

Space Florida is currently involved in several initiatives to further promote Florida's ability to launch vehicles into space as well as innovative technology development such as Avera Motors' program to develop an extremely fuel efficient vehicle engine.

Of greatest concern at this time is the potential loss of 7,000 direct space industry jobs and potentially 25,000 indirect jobs due to the completion of the Space Shuttle program and the termination of the follow-on Constellation program at the Kennedy Space Center. The loss of these jobs if not replaced with suitable substitutes will have significant adverse economic impact on Florida's Space Coast Region.

Entity Oversight

Florida Department of Law Enforcement (as it relates to Homeland Security)
The State Division of Emergency Management
Department of Military Affairs
Department of Veteran Affairs
Space Florida

NOTE:

Although they are not under our committee's jurisdiction, there are agencies we interface with related to Homeland Security issues:

- Office of Motor Carrier Compliance (DOT)
- Fish and Wildlife Conservation Commission (FWC)
- Department of Agriculture & Consumer Services
- Department of Health, and
- Department of Environmental Protection

Areas of Florida Statutes where the Committee has Oversight

Military Affairs, Chapter 250 (Florida Statutes)
Emergency Management, Chapter 252 (Florida Statutes)
Veterans' Affairs: Chapter 292, Chapter 295 and Chapter 296 (Florida Statutes)
Domestic Security, Chapter 311 and Chapter 943 (Florida Statutes)
SPACE Florida, Chapter 331 (Florida Statutes)

First reference bills which died in the House

<u>Bill Number</u>	<u>Sponsor</u>	<u>Summary</u>
1328	Storms	Urged Congress to amend federal law to eliminate the offset for Dependency and Indemnity Compensation imposed on benefits received by military widows and widowers through the Survivor Benefit Plan administered by the Department of Defense
1404	Committee	Directed the FDVA in partnership with the Statewide Office for Suicide Prevention and the DCFS, to seek federal funding for a grants program that addresses veterans' outreach and suicide prevention



Florida Defense Alliance

Florida Military and Defense Update

Senate Committee on
Military Affairs, Space, and Domestic
Security

Col. Rocky McPherson, USMC (Ret.)

December 9, 2010



Florida Military and Defense Industry

- Florida is home to 20 major military installations and three Unified Combatant Command Headquarters.
- Defense-related spending is responsible for \$60 B, or 7.5% of Florida's gross state product.
- Defense-related jobs - 732,000.
- All Florida counties have some reliance on defense-related spending with 61 counties exceeding \$3 M annually in direct spending.
- In FY -2005, defense-related spending accounted for \$1 B in state and local tax revenue.
- This information is being updated now and will be available by January 2011.

Homeland Security and Defense

- Florida ranked 5th in the nation in receipt of DoD Prime Contract awards, with more than \$ 10.3 B in 2005.
- There are over 85,300 active DoD military and civilian personnel in Florida.
- BRAC 2005 resulted in a net growth of over 4,000 military personnel.
- There are 50,000+ Reserve and National Guard personnel in Florida.
- Florida's aerospace industry employs over 28,000 Floridians.
- DoD funding accounts for 60% of all federal Research and Development obligations in Florida.
- This information is being updated now and will be available by January 2011.

Florida Defense Alliance (FDA)

- By Florida Statute - Hosted within Enterprise Florida, Inc.
- Able to support the new Florida Council on Military Bases and Mission Support.
- Mission: To ensure that Florida, its resident military bases and missions, and its host military communities are in competitive positions within the US Military structure.
 - Base Commanders
 - Local Partners
 - FI State Agencies
 - FI Senate and House of Representatives
 - FI Congressional Delegation
 - Governor's Office

Florida Council on Military Bases and Mission Support

- 2009 Florida legislature passed SB 2322/HB1721 creating this new Florida Council.
- Designed to enhance Florida support to the existing military structure and prepare for future BRAC events.
- Membership included nine Council Members
 - Governor – 3; Senate – 3; House – 3.
 - OTTED to provide administrative support.
 - Four sets of tasks in legislation.
 - Council has met 3 times.
 - Tom Neubauer, President, Bay County Defense Alliance, is the new Council Chairman as of October 2010.

New FDA Initiatives for 2011

- Update Florida Statute 288.980 – Defense Grants program law.
- Initiate Real Estate disclosure requirements near military installations.

Governor's Military Leaders Forum (MLF) and Base Commander' Meetings

- Concept initiated by Governor Jeb Bush in 1999.
- Governor Crist's first MLF held on August 21, 2007.
- Principals included the Governor and the senior Military officer from each military service in Florida.
- Appropriate agency heads attend to report on/field issues.
- Additional MLFs were conducted on April 9, 2008, December 1, 2009.
- EFI and Space Florida leaders have attended all.
- OTTED continues to conduct Military Base Commanders meetings approximately twice annually.
- **New administration should reinvigorate Base Commander meetings directly with the Governor.**

Encroachment near Florida military facilities and family support

- Developers and land owners throughout Florida value land near military bases.
- Restrictions to development concern both noise issues and crash zones off ends of runways.
- FL House completed an Interim Study of 'Encroachment and the Military in Florida in 2008.
- Present or foreseeable encroachment issues exist at thirteen Florida military installations.
- FDA initiative - HB 7129, passed in 2010, included additive protection against military base encroachment in Florida.
- FDA initiative - HB 7129 also provided for two military family improvements – homestead exemptions, and spouse professional licensing.

Defense Grants

- FY 09-10 appropriations of \$1.35 M include:
 - OTTED awarded \$1.3 M DRGs and DIGs on September 14, 2009.
 - Nine DRG awards totaled \$850,000.
 - Three DIG awards totaled \$500,000.
- The defense programs have seen a significant decline in their funding for the past three years, but that was reversed in 2010 to 5.85 M.

Program	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11
DIG	\$3.0M	\$1.5 M	\$1.5 M	\$500,000	\$3 M/ \$5 M
DRG	\$1.0M	\$1.0 M	\$750,000	\$850,000	\$ 850,000

***Florida should maintain the 2010 Defense Grant funding levels.**

2008 UWF Haas Center Update Project and New Defense Industry Study Initiative

- UWF Haas Center last updated the 'Florida Defense Industry Economic Impact Analysis' in January 2008, based upon 2005 data.
- An update of the 2008 Haas Study has been funded by OTTED, is underway, and will be completed by January 2011.
- Requirement exists for a follow-on project to define the commercial defense and Space industries' supply chains in Florida.
- UWF Haas Center assisted with Scope of Work development.
- **Recommend funding of Supply Chain Analysis this year.**

BRAC 2005 implementation, funding, and growth management/changes.

- BRAC 2005 implementation continues at NAS Jacksonville and Eglin AFB.
- P-3 to P-8 transition and relocation ongoing at NAS Jacksonville
- Army 7th Special Forces cantonment construction moving forward at Eglin AFB.
- AF F-35 training program partially approved and facilities construction commenced at Eglin AFB.
- F-35 will be constrained to 59 aircraft at Eglin AFB.
- Tri-County Joint Land Use Study completed 10/2009.
- Tyndall AFB to receive an operational squadron of 21 additional F-22s.

Department of Defense Force Restructuring

- SecDef systems procurement/budget reduction recommendations may be altered by Congress as interest recently heightened. (Joint Forces Command closure issue)
- DOD and all military services continue facing severe budget constraints.
- Growth and 'Resetting' the Army and Marine Corps will cost billions.
- Florida impacted by many DOD recommendations (F-22, C-27J, F-35, AF Tanker, Mayport ship basing, Space Coast issues).
- Expect internal Military Services reorganizations.
- 2010 SecDef tasking of military services to review 'base closing' options reopens future military service structure concerns.
- Presidential budget for 2011 will contain recommended changes; foreshadowing will continue to occur prior to release in Feb. 2011.

New Air Force Tanker Update

- DoD awarded contract for the new AF tanker aircraft to Northrup-Grumman and European partners (EADS).
- Boeing protested award. GAO investigation upheld the Boeing protest.
- Issue really is jobs... for the NW (Seattle) or SE (Alabama and Florida).
- New RFP received two responses from Boeing and EADS.
- Current RFP responses being evaluated.
- **AF expected to announce winner in early 2011. (Note – Just changed from expected announcement in Dec 2010.)**
- DoD against any ‘buy both’ proposed solution.

Naval Station Mayport nuclear port capability and Nuclear Aircraft Carrier Homeporting

- Navy draft Environmental Impact Study (EIS) on future ship basing at NS Mayport released 3/28/08.
- Navy EIS Record of Decision (ROD) selects Mayport as second East Coast nuclear carrier port.
- Senators Nelson, LeMieux and Congressman Crenshaw continue strong support.
- SecDef, SecNav and CNO on record continuing support the strategic need for fleet dispersal.
- Partial funding received for construction and dredging in DON 2009 budget (\$100 M).
- DoD Quadrennial Defense Review (QDR) supports basing of a nuclear carrier at NS Mayport.
- Virginia opposition in Congress remains solid; behind scenes budget maneuvering continues.
- Complicated by recent DoD announcement of pending closure of Joint Forces Command in Norfolk.

Navy Bugg Springs initiative 2010/11

- US Navy strongly desires to acquire Bugg Springs (near Leesburg) and surrounding land as an acoustical testing facility.
- Federal funding tentatively being sought in 2015.
- Possible state interim solution could assist in holding until federal funds are available.
- Lake County submitted for a Defense Infrastructure Grant (DIG) to obtain development rights to the land for an interim period, but was not selected for a grant.
- **A directed expenditure for an interim solution would be appreciated by the Navy.**
- **Senator Altman scheduled to visit the site in December.**

Nature Conservancy statewide services to support Military Bases and Environmental protection

- EFI learned The Nature Conservancy (TNC) services which assisted the creation of the NW Florida Greenway were done under subcontract from a Defense Reinvestment Grant (DRG).
- Statewide services of this nature would assist other bases with similar encroachment and conservation initiatives.
- OTTED/EFI awarded a one year consulting contract to TNC for such statewide services for ten major bases in March 08.
- TNC is undertook identification of critical areas of encroachment and conservation concerns at these facilities.
- TNC report 'Ecological Assessment of Potential Conservation Opportunities for Military Base Buffering in Florida' delivered to the bases evaluated.
- Other TNC cooperative efforts through Florida Forever for bases will continue dependent upon available funding.
- **FDA supports continued funding of 'Florida Forever' program.**

NW Florida Airspace and Gulf Range utilization

- The Gulf of Mexico is utilized by the AF and Navy extensively for air, surface and sub-surface training and development activities.
- The F-35 – Americas newest fighter - will conduct US and International Training at Eglin AFB.
- F-35 will be slightly louder than current F15 or F18.
- Noise profiles created community issues.
- The new large commercial airport at Panama City will complicate airspace usage issues.
- Airspace management in this area is a major concern of AF, Navy, FAA, and civilian users.
- A Gulf Regional Airspace Strategic Initiative (GRASI) evaluation and planning project is AF funded and underway.
- FDA is represented on the GRASI Executive Steering Committee.
- **GRASI effort reaching culmination in 2011 with new SE US airspace management options for Air Force /Navy consideration.**

UCF Modeling and Simulation Complex Security and Partnership III building funding.

- UCF hosts the military services Modeling and Simulation (M&S) development and acquisition agencies in Orlando. This is an over \$5 B industry.
- Some of them are housed in state funded buildings...Partnership I and II.
- New DoD security guidelines require upgraded anti-terrorism security capabilities.
- In 2008, Florida appropriated \$9.1 M for this security upgrade. Sponsor was Speaker Dean Cannon.
- Proposed Partnership III building to allow expansion of military M&S capabilities was funded for \$20M.
- The M&S security project contract was awarded to Orange County Research and Development Authority on November 20, 2008 by EFI.
- Project 95% + complete as of September 2010.

Southern Command Headquarters state land and building construction program

- US Southern Command requested and received state lands for construction of a new Command Headquarters in Doral.
- This issue was pending for several years awaiting federal military construction funding.
- FY07 DoD budget contained \$287M for this project.
- State land issues were approved by Governor and Cabinet in March 08.
- An additional 15 acres was added per personal request of SouthCom Commander to Governor Crist in August 07 at first Military Leaders Forum (MLF).
- New SouthCom HQ is nearing completion in Doral, FL. Final cost was \$402M for full Headquarters campus.
- US SouthCom slated to move into their new Headquarters during December 2010.

Africa Command Headquarters location possibilities

- President Bush authorized US Africa Command creation in October 07.
- Current location is Stuttgart, Germany.
- First Commander is an Army General, Deputy Commander is a DOS Ambassador.
- DoD explored the possibility of an African continent headquarters, but this continues to remain unlikely.
- A Unified Command Headquarters in US is a possibility.
- Atlanta, Charleston, Jacksonville , and Miami have floated themselves as potential Unified Command HQ sites.
- DOD has not opened this topic for public discussion; Miami is very interested and active.

LambdaRail projects in Pensacola and Okaloosa County, and Bay County

- LambdaRail is essentially a high speed, high capacity internet capability primarily used for university or defense research programs.
- Existence of this capability draws other economic development projects needing such a capacity for rapid high volume information movement.
- Defense grant initiatives will expand LambdaRail capability in Pensacola, and Okaloosa and Bay Counties.
- These projects combined approach \$1.4 M from past defense grant funds.
- UF received a DoD \$30M earmarked appropriation for engineering projects associated with Eglin AFB.

Recommended 2010 Legislative Initiatives for Military and Defense in Florida.

- Resource the Florida Council on Military Bases and Mission Support with funding and staff.
- Initiate a ‘Supply Chain Analysis of Defense and Space Industries’ this year.
- Support the Navy retention of Bugg Springs Acoustical Testing facility in Leesburg.
- Update Florida Statute 288.980
- Establish Real Estate disclosure requirements for sales impacted by military installations and civilian airports.
- Evaluate Florida’s standing toward accomplishing each of the DOD top ten family initiatives.
- Fund Florida Forever projects supporting military installations.
- Ensure legislative staff participation in FDA semi-annual meetings.

Questions?

- Did we miss any major issues of concern to you?
- Edits, comments, and advice are welcome!



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The Florida Senate

Interim Report 2011-130

October 2010

Committee on Military Affairs and Domestic Security

FLORIDA'S CURRENT EVACUATION AND EMERGENCY SHELTER PLANS

Issue Description

Florida is similar to many other coastal states in the U.S. in its susceptibility to a variety of hazards. These include wild fires, floods, and storm events. Hurricanes often receive the majority of attention paid to hazards because their season is long, and they can affect large geographic areas with one event. However, all hazards share the potential for evacuation and need for emergency public shelter.

The problems associated with attempting to evacuate Florida's major population centers were classically illustrated by Hurricane Floyd in 1999. Hurricane Floyd created transportation grid-lock from Florida to South Carolina as the unpredictable storm traveled along the eastern U.S. coast. In the aftermath of Floyd, studies looked at the problems and attempted to determine better methods for evacuations. Floyd illustrated that, due to Florida's peninsular geography and limited evacuation transportation road networks, evacuating major population centers for distances out-of-county would result in lengthy evacuation clearance times.¹ For example, evacuating metropolitan Southeast Florida to as far away as the Orlando area was estimated at 66 hours under optimal conditions using normal traffic flow patterns.²

Current technologies generally afford decision-makers the opportunity to track and provide sufficient warning in order to call for timely evacuations of threatened areas, but this is not always true. For example, Hurricane Opal in 1995 rapidly strengthened to a Category 4 storm overnight before striking the Florida Panhandle. Many who awoke the next morning found themselves in grid-lock and caught out in the storm as they attempted to evacuate inland.

The 2004 and 2005 hurricane seasons further pointed out deficiencies in Florida's emergency response capabilities relating to evacuation and emergency public shelters. In an effort to address these issues, the 2006 Legislature passed HB 7121, which provided for a number of improvements in Florida's emergency response strategy.

The purpose of this Interim Project Report is to review the efforts completed since the passage of HB 7121 and evaluate the strategies that are now implemented in Florida for evacuation and emergency public sheltering.

Background

Chapter 252, Florida Statutes (F.S.), confers certain emergency powers upon the Governor, the Division of Emergency Management, and the governing bodies of each political subdivision of the state.³ Included in these powers is a requirement to establish a comprehensive emergency management plan that has an emergency evacuation component and an emergency shelter component.⁴

¹ An evacuation clearance time is defined as the time required from the point an evacuation order is given until the last evacuee can either leave the evacuation zone or arrive at a safe shelter within the county. This does not include those evacuees leaving the county on their own before the order to evacuate is given.

² Analysis of Florida's One-Way Operations for Hurricane Evacuation-Florida Turnpike from SR70 to Milepost 253 North of Osceola Parkway, prepared for the Florida Department of Transportation by PBS&J, February 2001, p. 7.

³ Section 252.32 (1)(b), F.S.

⁴ Section 252.35 (2), F.S.

The Governor is granted the power to, “Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if she or he deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery.”⁵ The Governor is further authorized in statute to delegate emergency responsibilities.⁶

Executive Order 80-29,⁷ as supported by Attorney General Advisory Opinion 95-24,⁸ authorizes a board of county commissioners acting through the duly appointed director of its emergency management agency to lawfully order the evacuation of persons from areas of the county threatened by an imminent natural or manmade disaster.

Florida’s Comprehensive Emergency Management Plan

Florida’s Comprehensive Emergency Management Plan (CEMP) makes certain assumptions regarding evacuations including:

- Local governments will initiate actions to save lives and protect property;
- Evacuation and sheltering may require regional coordination;
- Disability civil rights laws require physical accessibility of shelter facilities, effective communication using multiple methods, full access to emergency services, and modification of programs where needed. In accordance with Title II of the Americans with Disabilities Act, evacuation shelters will offer individuals with disabilities the same benefits provided to those without disabilities. These benefits include safety, comfort, food, medical care, and the support of family and care-givers;
- Planning at the county and state levels will be based on pre-identification of populations and determination of resource shortfalls and contingencies. The counties will identify resources for persons with special needs.⁹ The counties will use local registries for persons with special needs to identify needs and plan appropriately; and
- Florida’s population resides in diverse communities across coastal, urban, and rural areas. With the exception of Orlando, most of the state’s population is located near the coast. There are other communities that are not fully urbanized but are emerging as centers of growth, such as Polk County and the cities of Ocala and Tallahassee. Rural Florida consists largely of cattle ranches, farms, pine forests, fishing villages and small towns. Therefore, response recovery and mitigation activities must be tailored to the type of community impacted by disasters.¹⁰

The CEMP states that:

- The Division of Emergency Management has the responsibility for maintaining a program to reduce the deficit of evacuation shelter spaces and for increasing the number of special-needs evacuation shelter spaces. Shelter spaces are required to comply with standards as set forth in American Red Cross ARC 4496, which establishes minimum shelter structural criteria.¹¹
- A local state of emergency (as opposed to a statewide or regional state of emergency) must be declared by a mayor, city manager, or board of county commissioners. Pursuant to section 252.38, F.S., if an emergency is declared by the Governor, each political subdivision shall have the power and authority to perform certain activities such as appropriating and expending funds and entering into contracts related to the emergency. Local governments are authorized to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community.¹²

⁵ Section 252.36 (5)(e), F.S.

⁶ Sections 252.36(1) and 252.36(8), F.S.

⁷ State of Florida, Governor Executive Order 80-29, dated April 14, 1980.

⁸ Florida Attorney General Advisory Legal Opinion, AGO 95-24, dated April 3, 1995.

⁹ A person with special needs is defined in Rule 64-3.010, Florida Administrative Code, as someone, who during periods of evacuation or emergency requires sheltering assistance due to physical impairment, mental impairment, cognitive impairment, or sensory disabilities.

¹⁰ State of Florida, Comprehensive Emergency Management Plan 2010, Basic Plan pp. 13-14.

¹¹ Ibid, p.19.

¹² Ibid, pp. 24-25.

- Counties may initiate their own protective measures, such as ordering evacuations and activating public shelters, including special needs shelters and pet-friendly shelters. The State Emergency Response Team will coordinate regional evacuation in concert with local emergency management, law enforcement, sheltering organizations, public information offices, and adjacent states.¹³

The CEMP, relating to regional evacuations, goes on to state that:

- One-way evacuation operations (reverse-lane operations) will be implemented at the direction of the Governor (It should be noted that reverse-lane operations are conducted only during daylight hours and require considerable human and equipment resources to ensure safety);
- All destination counties will activate their emergency operations centers to support major evacuations when directed by the State Coordinating Officer (SCO);
- All destination counties will open and operate host shelters as directed by the SCO;
- All counties that open host shelters will be covered under the Governor's Executive Order declaring a state of emergency and will be included in all requests for federal emergency or major disaster declaration assistance; and
- The regional evacuation process will be used by state and county governments to manage and coordinate any multi-county and/or regional evacuation. This includes the implementation of state guidelines for lifting tolls on state toll facilities, locking down drawbridges, deploying and pre-deploying personnel, designating host counties for sheltering, ensuring the sufficiency of reasonably priced fuel, and addressing any emergency medical issues in accordance with the most current versions of the State of Florida Regional Evacuation Procedure.¹⁴

The State of Florida Regional Evacuation Procedure makes the following assumptions:

- The evacuation of large numbers of people from vulnerable areas will stress the limited capabilities of roadways available for this purpose, potentially requiring substantial additional time to complete an evacuation. A regional evacuation must be initiated as soon as feasible upon recognition of the threat and must continue to function efficiently until completion;
- Regional evacuations will require a substantial level of personnel and equipment for traffic control which could stress or exceed the capabilities of threatened jurisdictions;
- Coordination between state and local agencies involved in the implementation of a regional evacuation will occur through exchanges of information regarding decision-making, protective actions, and resource coordination and deployment;
- The capacity of available public evacuation shelter facilities in and adjacent to the impacted region may be limited, potentially requiring the full use of all shelters within the evacuation region;
- For certain hazards, large vulnerable populations and limited evacuation road networks may necessitate termination of regional evacuations prior to full completion and evacuees still at risk would need to be directed to refuges-of-last-resort as quickly as possible; and
- A regional evacuation will require expedited coordination of numerous jurisdictions to maintain an efficient and safe movement of evacuation traffic out of the impacted areas and to adequate shelter locations.¹⁵

Statewide Emergency Shelter Plan

The Division of Emergency Management is also responsible for preparing a Statewide Emergency Shelter Plan.¹⁶ The plan is used as a guide for local emergency planning and provides consultative assistance to school districts contemplating construction of educational facilities.¹⁷

¹³ Ibid, p. 35.

¹⁴ Id.

¹⁵ State of Florida, Regional Evacuation Procedure, located at http://webcache.googleusercontent.com/custom?q=cache:3iu-2m1XxJ0J:www.floridadisaster.org/EMIT/Accreweb/Documents/Operations/RegionalEvac/2002%2520REVAC%2520ROL_R.doc+regional+evacuation+procedure&cd=2&hl=en&ct=clnk&gl=us&safe=vss last viewed on September 8, 2010.

¹⁶ Section 252.385(2)(b), F.S.

¹⁷ State of Florida, 2010 Statewide Emergency Shelter Plan, January 31, 2010, page i.

Florida Statutes require that newly constructed educational facilities incorporate design criteria so that they may also function as public emergency shelters.¹⁸ Florida relies heavily on newly constructed educational facilities as its principal source of additional public emergency shelter space used to reduce its shelter space deficit.

In accordance with the statute, the plan must:

- Identify the general location and square footage of existing shelters by Regional Planning Council regions;
- Identify the general location and square footage of needed shelters by Regional Planning Council regions for the next five years;
- Identify the types of facilities which should be constructed to comply with the public shelter design criteria; and
- Recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within those public facilities.¹⁹

The following table illustrates the current and projected demand, current capacity, and current and projected deficit of shelter spaces for both general population and special needs persons.

General Population Shelter Demand and Capacities					Special Needs Shelter Demand and Capacities				
2010 Cat. 5 Shelter Demand, persons	2015 Cat. 5 Shelter Demand, persons	2010 Shelter Capacity, persons	2010 Shelter Surplus/ (Deficit), persons	2015 Shelter Surplus/ (Deficit), persons	2010 Cat. 5 Shelter Demand, clients	2015 Cat. 5 Shelter Demand, clients	2010 Shelter Capacity, clients	2010 Shelter Surplus/ (Deficit), clients	2015 Shelter Surplus/ (Deficit), clients
1,388,590	1,533,125	1,073,305	(315,285)	(459,820)	51,221	55,217	39,753	(11,468)	(15,464)

Source: Division of Emergency Management

There are 11 Regional Planning Council regions in Florida, only five of which currently have a surplus of general population shelter space. These five regions include West Florida/Region 1, Apalachee/Region 2, Central Florida/Region 6, Treasure Coast/Region 10, and South Florida/Region 11.²⁰

These five regions include the following counties: Bay, Brevard, Broward, Escambia, Gadsden, Gilchrist, Hardee, Hernando, Highlands, Indian River, Lake, Leon, Liberty, Madison, Manatee, Martin, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, St. Johns, St. Lucie, Santa Rosa, Seminole, Taylor, Walton, and Washington.²¹

Only two regions are deemed to have a surplus of special needs shelter spaces, Treasure Coast/Region 10 and South Florida/Region 11.²² These two regions include the following counties: Indian River, Martin, Palm Beach, St. Lucie, Broward, Miami- Dade, and Monroe.

According to the Statewide Emergency Shelter Plan, when appropriately located, designed, and constructed, the following types of facilities are normally considered suitable for use as public hurricane shelters:

- Community and civic centers, meeting halls, gymnasiums, auditoriums, cafeterias and open floor multipurpose facilities, exhibition halls, sports arenas, field houses, conference and training centers, certain classroom buildings, and other public assembly facilities.²³

Conditions which would prevent a facility from being used as a public shelter include:

¹⁸ Section 1013.372(1), F.S.

¹⁹ State of Florida, 2010 Statewide Emergency Shelter Plan, January 31, 2010, p. i.

²⁰ Id.

²¹ Ibid, page v.

²² Ibid, page ii.

²³ Ibid, page iii.

- Location (facilities within Category 1, 2, or 3 hurricane evacuation zones, and possibly Category 4 and 5; facility isolation due to possible surrounding flooding; presence of certain hazardous materials; low evacuation demand, etc.);
- Size (less than 2,000 square feet of usable floor area); or
- Other characteristics (incompatibility with a facility's normal use or availability e.g. a mass care facility, long range planning considerations, etc.).²⁴

In order to eliminate the statewide deficit in public shelter spaces, the Division has implemented a multifaceted program that includes:

- Survey of existing buildings, both public and private to identify suitable shelter capacity;
- Where cost effective and practical, support mitigation and retrofitting of existing facilities;
- Construct new facilities to meet the public shelter design criteria;
- Reduce shelter demand through the use of both improved hurricane hazard models that more accurately depict threatened areas and updated behavioral studies that better predict population evacuation decisions; and
- Improve public information/education to reduce unnecessary “shadow”²⁵ evacuations.²⁶

While Florida relies on new educational facility construction to aid in meeting its public shelter deficit, there are drawbacks to the program. For example, district school boards have generally been reporting a cost premium of between three to six percent for incorporating shelter construction criteria in educational facility designs. This can be a significant additional cost to state and local agencies.²⁷

In addition, certain newly constructed educational facilities are exempted from the statutory requirement for incorporation of shelter design criteria. For example, if a county has a current and projected surplus of shelter spaces, the facility is exempt from having to incorporate the shelter criteria.

Not all new educational facility construction benefits the reduction in shelter space deficit effort. According to a report by the State Auditor General, there were 3,092 new buildings constructed between 2000 and 2009. Of these, only 669 were recognized as meeting the requirements of the law while an additional 1,125 were lawfully exempt.²⁸ The Division considers square footage as the most reliable measure of non-compliance. The combined net square footage, 20,951,764 square feet of non-compliant buildings constructed during the period amounted to a non-compliance rate of 34.11 percent.²⁹ While s.1013.372, F.S., requires shelter criteria incorporation for educational facilities, the section does not impose any sanction for non-compliance.

However, since 2000 Florida's deficit of hurricane shelter space has been reduced by 72 percent. Based on current trends, the Division estimates that 84,000 spaces will be added to the state's inventory each year.³⁰

Pursuant to its statutory obligation, the Division has identified the Public Education Construction Outlay (PECO) as the only capital outlay fund available to support new hurricane shelter construction. PECO funds are used to support site acquisition and improvements necessary to accommodate buildings, equipment, and other structures of district school boards, community colleges, and universities. The Department of Education has distributed about \$1,877,969,362 in new construction funds to district school boards since the requirement for incorporating shelter construction criteria was first introduced in 1997.³¹

²⁴ Id.

²⁵ Shadow evacuations are evacuations made by people who are not in the threat area and which are generally unnecessary. Shadow evacuees place additional strain on evacuation route capacity and possibly on available shelter capacity.

²⁶ State of Florida, 2010 Statewide Emergency Shelter Plan, January 31, 2010, page iv.

²⁷ Id.

²⁸ Ibid, page iii.

²⁹ Ibid, page iv.

³⁰ Ibid, page v.

³¹ Ibid, page iv.

Special Considerations Relating to Evacuations

There are several population groups that present unique challenges to emergency managers during evacuation operations. They include hospital and nursing home patients and transportation disadvantaged persons.

The Government Accountability Office highlighted some of these challenges in previous testimony before Congress. Hospitals and nursing homes have to make the difficult decision whether to evacuate or stay and “shelter-in-place.” Nursing homes differ from hospitals in that nursing home residents generally have been in residence for some time and may not have somewhere else to go. Hospital patients generally have a residence to which they can return if they can be safely discharged. Nursing home administrators therefore must be able to locate suitable facilities in order to evacuate residents and plan for a lengthy stay at the evacuation site. In addition, transportation, including specialized transportation capable of accommodating wheel chairs, etc., may be difficult to obtain.³²

Transportation disadvantaged populations may include the elderly, low-income individuals, persons with disabilities, and persons who by choice or circumstance do not own or have access to cars. Such populations may also include persons with limited English proficiency, homeless persons, and temporary workers. Identifying these populations in advance of an emergency can be difficult due to unknowns such as size, location, and composition. Evacuating transportation disadvantaged persons presents challenges such as obtaining transportation means, establishing pick-up points, getting information out to the public, and coordinating shelter facilities.³³

Out-of-county evacuees present an additional challenge. The percentage of evacuees who leave their own county is variable from place to place and is dependent on the availability of safe refuge locally and accessibility of out-of-town friends, relatives, and motels. In northwest Florida, it is not unusual for two-thirds of all evacuees to go to destinations outside their own counties, often out-of-state. By contrast, only one-third of the evacuees from southeast Florida left their counties in Hurricane Andrew. Evacuees from beach areas are more likely than others to go out-of-town.³⁴

Statewide Regional Evacuation Study Program

In response to the provisions of HB 7121, the Division of Emergency Management began an initiative known as the Statewide Regional Evacuation Study Program (SRESP). The program includes a series of interconnected studies conducted by each of the state’s eleven Regional Planning Councils that will ultimately result in a highly accurate tool for managing emergency evacuations. Phase I of the program included:

- A systematic enumeration and mapping of the dwelling units, population, vehicles, and socio-economic characteristics of the counties within each region as well as the population projections for the years 2006, 2010, and 2015;
- A comprehensive analysis of the potential hazards in each region including storm surge, tornadoes, flooding, hazardous sites, terrorism, nuclear facilities, and critical facilities;
- A systematic investigation of the probable tendencies of potential future evacuees based on a detailed residential survey;
- A region-wide inventory of existing public shelters and shelter capacity analysis and geo-coding of the data to create a statewide layer of shelter locations; and
- Establishment of a regional evacuation transportation network that links existing county-level evacuation routes and any additional arterials/collectors in the region.³⁵

³² Government Accountability Office, *Disaster Preparedness: Preliminary Observations on the Evacuation of Vulnerable Populations due to Hurricanes and Other Disasters*, GAO-06-790T, May 18, 2006, p 5.

³³ Ibid, p. 8.

³⁴ Earl J. Baker, *Hurricane Evacuation in the United States*, Department of Geography, Florida State University

³⁵ South Florida Regional Planning Council, Statewide Regional Evacuation Study Program, at <http://www.sfrpc.com/sresp.htm> last viewed on September 2, 2010.

Phase II of the program includes a vulnerability analysis consisting of the delineation of the storm tide limits and evacuation zones, identification of population-at-risk and evacuation populations, storm surge analysis of critical facilities, and an evacuation transportation analysis.³⁶

As part of SRESP, a mapping project covering all coastal counties statewide has been completed using a light detection and ranging system commonly called LIDAR. LIDAR is an airborne laser profiling system that produces location and elevation data to define the surface of the earth and heights of above-ground features.³⁷ This mapping project has resulted in the most accurate data available to date for use in delineating storm surge zones using the National Oceanographic and Atmospheric Administration's (NOAA) SLOSH model.

The SLOSH model, which stands for Sea, Lake, and Overland Surges from Hurricanes, is a computerized model run by NOAA's National Hurricane Center to estimate storm surge heights. The model is used to analyze at-risk-areas that will require evacuation.³⁸

Another completed component of SRESP is the regional behavioral analysis. The behavioral analyses indicate that each county or region have certain unique factors that influence individuals' decisions to evacuate. However, there are common behavioral factors indicated by the studies that generally apply to all Floridians. They include:

- Of the great majority of evacuations, fewer than 15 percent of evacuees leave on their own prior to an evacuation notice being issued by public officials;
- Actions by public officials have a great impact on evacuation rates. People are much more likely to evacuate when they believe they have been ordered to evacuate than when they believe they have received a recommendation to evacuate or have not been told at all whether they should evacuate;³⁹
- Many evacuees go farther than necessary to reach safety. Going out-of-county can increase evacuation clearance times but has occurred in the past and will in the future until officials are more successful at dissuading evacuees from doing so;
- Very few out-of-county evacuees seek refuge in public shelters. The great majority go to the homes of friends and relatives;
- Survey respondents tend to overstate their likelihood of using public shelters and understate their likelihood of going to the homes of friends and relatives;
- Not all evacuees leave at the same time. Some leave before an evacuation is ordered, some leave immediately after the order, and some wait until shortly before they expect the threatening storm to arrive;
- People prefer not to evacuate at night but will do so if necessary; and
- There is no evidence that vacationers are reluctant to evacuate when a hurricane interrupts their visit to a coastal community. Fewer than five percent will go to public shelters. Between 25 and 50 percent will seek inland hotels and motels. The remainder will return home or stay with friends and relatives in Florida. Those most likely to return home live within a one-day drive of where they vacation.⁴⁰

The Division of Emergency Management is in the process of rolling out a new transportation evacuation modeling tool for use by each of the Regional Planning Councils. The modeling tool includes features such as multiple scenarios based on severity differences, socioeconomic data, Traffic Analysis Zones,⁴¹ transportation

³⁶ Id.

³⁷ FUGRO EARTHDATA, Inc., LIDAR Mapping Fact Sheet at http://www.fugroearthdata.com/pdfs/FCT_Lidar-Educational_11-07.pdf last viewed on September 2, 2010.

³⁸ National Oceanographic and Atmospheric Administration, SLOSH Model, at http://nhc.noaa.gov/HAW2/english/surge/slosh_printer.shtml last viewed on September 2, 2010.

³⁹ Planning assumptions assume that officials issue mandatory evacuation orders for surge-related evacuation zones corresponding to threat hurricane intensities. They also assume that all mobile homes are ordered to evacuate for hurricanes of all intensities.

⁴⁰ Earl J. Baker, Hazards Management Group, Inc., Volume 2 Statewide Regional Evacuation Study Behavioral Analysis-South Florida Region.

⁴¹ A Traffic Analysis Zone (TAZ) is the basic unit of analysis in a travel demand model. A TAZ may be as small as a city block or as large as hundreds of rural acres. All trips begin and end in a TAZ.

network data, behavioral analysis data, at-risk population data, expected number of evacuation trips data, population demographic data, and number of vehicles available for evacuation. Once the number of households located in an evacuation zone is determined, the model then applies the participation rates to see how many households evacuate for that scenario. Once the number of evacuating households is known, the vehicle use rates are applied to determine how many vehicles will be on the roads as a result of the evacuation. The model analysis is used to eventually determine evacuation clearance times. Maximum clearance times ultimately determine the latest time at which an evacuation order can safely be given.⁴²

The Division has also developed an initiative known as the Florida Catastrophic Planning Initiative. This initiative is based on a well-developed scenario known as Hurricane Ono which is a fictional but plausible event. The Florida Catastrophic Planning Initiative promotes development of operational concepts, protocols, plans, and decision tools that can be used across the state to prepare for hurricane emergencies.⁴³

Findings and/or Conclusions

Senate professional staff makes the following findings:

- Florida's evacuation strategy calls for timely evacuation of areas threatened by storm surge and for those who live in structures that would be unsafe in high wind conditions (e.g. mobile homes);
- In order to avoid stranding persons, Florida's evacuation strategy calls on decision-makers to make timely decisions to order evacuations, attempt to dissuade unnecessary evacuation trips, and reduce evacuation clearance times by encouraging persons to limit their evacuation trips to safe in-county shelter;
- Florida recognizes that each emergency event is unique and that each region of the state presents unique circumstances that effect individuals' decisions to evacuate. One size does not fit all when managing evacuations across the various regions of the state;
- Florida has made significant progress in developing highly accurate means for delineating storm surge threatened areas and predicting evacuee behavioral tendencies thereby increasing the state's potential effectiveness in identifying at-risk populations and taking appropriate actions to ensure their safety during hurricane events;
- Certain regions of the state have deficiencies in both general population and special needs population public emergency shelter spaces. Construction of new educational facilities that are emergency shelter criteria compliant is Florida's principal source of facilities used to reduce the state's public emergency shelter deficit;
- Current statute requires newly constructed educational facilities to incorporate emergency shelter criteria in their building designs. However, s. 1013.372, F.S., does not include a mechanism for enforcing compliance. A significant factor in non-compliance is the additional cost premium incurred by state and local entities in order to construct such facilities to meet emergency shelter standards; and
- The Division of Emergency is in the final stage of a multi-year multi-phase program to study and develop better means for managing emergency evacuations.

Senate professional staff offers the following conclusions:

- Emergency evacuations are complex operations that require detailed prior planning including development of demographic, behavioral, transportation, socioeconomic, at-risk populations, and geographic data;
- Decisions to evacuate must be made on a timely basis;
- Population and geographic differences among the state's regions dictate differing regional evacuation strategies. For example, Panhandle coastal counties tend to evacuate out-of-county while large population centers such as southeast Florida are more in-county oriented due to the lengthy times often necessary to clear an evacuation zone; and

⁴² Wilbur Smith Associates, SRESP Transportation Evacuation Model Users Training (footnote continued on next page) at <http://flgbc.org/ppt/09-10/TS%20EM11.pdf> last viewed on September 8, 2010.

⁴³ Division of Emergency Management, Florida Catastrophic Planning Interim Contingency Guidance for Catastrophic Events, July 24, 2009, p. 2.

- Florida has made significant improvement in developing its evacuation programs and strategies since the passage of HB 7121.

Options and/or Recommendations

Senate professional staff recommends that the Legislature continue to monitor the completion and implementation of the Statewide Regional Evacuation Study Program.

In addition, the Legislature may wish to consider amending s. 1013.372, F.S., to further encourage the use of newly constructed educational facilities to reduce the state's public emergency shelter deficit.



The Florida Senate

Interim Report 2011-131

October 2010

Committee on Military Affairs and Domestic Security

VETERANS' COURTS

Issue Description

There is a growing trend among judicial jurisdictions to experiment with court dockets created specifically to address offenders who are veterans. This trend occurred because some judges nationwide began to recognize veterans appearing in their courts with similar personal problems. There seemed to be a correlation among veterans between the commission of offenses, substance abuse issues, mental health issues, and cognitive functioning problems. As a result, these judges began to suspect that returning veterans may have service connected conditions such as post traumatic stress disorder, traumatic brain injury, depression, and inadequate ability to deal with these conditions on their own, which contributed to their encounters with the legal system. The trend has resulted in both local jurisdiction initiatives and legislation at the state level to establish veterans' specialty courts.

Veterans' courts are patterned after other successful specialty courts, such as drug courts and mental health courts. They take a team approach to identifying veterans within the judicial system who may benefit from a coordinated treatment program in lieu of expensive incarceration.

Since 2008 the following states have either adopted or considered legislation authorizing the establishment of veterans' courts: California, Colorado, Texas, Nevada, Illinois, Connecticut, New Mexico, New York, Minnesota, and Oklahoma.

The purpose of this interim report is to conduct a review and analysis of veterans' courts projects and their potential applicability to Florida's courts system.

Background

A report by the Substance Abuse and Mental Health Services Administration's Center for Mental Health Services National GAINS Center determined that: "On any given day, veterans account for nine of every hundred individuals in U.S. jails and prisons.¹ Although veterans are not overrepresented in the justice system as compared to their proportion in the United States population, the unmet mental health service needs of justice-involved veterans are of growing concern as more veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) return home with combat stress exposure resulting in high rates of post traumatic stress disorder and depression."²

According to a recent study by the Rand Center for Military Health Policy Research, for military veterans, "There is consistent evidence that depression, PTSD (Post Traumatic Stress Disorder), and TBI (Traumatic Brain Injury)

¹ Prison inmates are surveyed at approximately five to six year intervals to determine certain demographic information. The last such survey was conducted by the U. S. Department of Justice Bureau of Judicial Statistics in 2004. The data referenced in this statement generally will not reflect the current generation of OIF and OEF veterans returning from Iraq and Afghanistan. However, the statement that veterans are not overrepresented in the justice system is likely accurate.

² GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 1, at www.gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf last viewed on 09/21/2010.

all increase the risk for suicide.”³ Additional studies indicate that the development of PTSD is higher among servicemembers who have served multiple combat tours, which is a hallmark of both OIF and OEF.⁴ Servicemembers are also surviving brain injuries, including both physical trauma and concussion related injuries, at much higher rates than in previous conflicts. The possibility exists that TBI may be contributing to mental health disorders among an increasing population of combat injury survivors.⁵

The Rand report defines PTSD, Major Depressive Disorder (MDD), and TBI as:

- PTSD is an anxiety disorder that occurs after a traumatic event in which there was a threat of serious injury or death, and the individual’s response involved intense fear, helplessness, or horror. Among civilians, approximately 8 percent of the population meets criteria for PTSD during their lifetime.
- MDD is a type of mood disorder that consists of several pervasive depressive symptoms that interfere with everyday life functioning. In the United States, about 16 percent of the adult population meets criteria for major depressive disorder.
- TBI is generally described as a trauma to the head that either temporarily or permanently disrupts the brain’s function. There are three types of injuries to the brain that can be caused by a blast: primary blast injuries caused by wave-induced changes in atmospheric pressure; secondary blast injuries when objects put in motion by the blast hit people; and tertiary blast injuries when individuals themselves are put in motion by the blast and then hit some object. The majority of TBI seen in the civilian population is Mild TBI, which is defined as an injury resulting in the loss of consciousness for up to 30 minutes; loss of memory of the events immediately before and after the accident for as much as 24 hours; becoming dazed, disoriented, or confused as a result of the accident; or any focal neurological deficits that may or may not be transient.⁶

From 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown number may be suffering from TBI,⁷ according to the Rand report.⁸ Rand further states that, “[t]he presence of any one of these disorders predicts a greater likelihood that an individual will experience other psychiatric diagnoses as well. An estimated 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.”⁹

Subsequent studies cited by the GAINS Center report indicated that in the U.S.:

- Approximately 18.5 percent of individuals with OEF/OIF service had a current mental health condition;
- Approximately 19.5 percent had experienced a traumatic brain injury; and
- The prevalence of PTSD was 14.0 percent.¹⁰

The GAINS Center report stated that, “Behaviors that promote survival within the combat zone may cause difficulties during the transition back to civilian life. Hyper-vigilance, aggressive driving, carrying weapons at all times, and command and control interactions, all of which may be beneficial in theater, can result in negative and potentially criminal behavior back home.” GAINS goes on to quote a training module developed by the Walter

³ Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom*, April 2008, page xxi.

⁴ *Ibid*, Rand, page 1.

⁵ See Senate Project Report 2008-145, *Florida Veterans’ Healthcare Facilities and Outreach Services*, October 2007, at http://www.flsenate.gov/data/Publications/2008/Senate/reports/interim_reports/pdf/2008-145ms.pdf, last viewed on 09/21/2010.

⁶ *Ibid*, Rand, pages 5-7.

⁷ The Congressional Research Service (CRS) cites a Department of Defense figure of 43,799 OIF and OEF patients who have been diagnosed with a TBI injury in calendar years 2003 through 2007 in CRS’ *United States Military Casualty Statistics: Operation Iraqi Freedom and Operation Enduring Freedom*, March 25, 2009. The Rand report finds fault with the quality of TBI prevalence data implying that TBI prevalence is significantly under reported.

⁸ *Ibid*, Rand, page 127.

⁹ Florida Department of Veterans’ Affairs and Florida Office of Drug Control, Green Paper, *Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida’s Action Plan*, January 2009, page 5.

¹⁰ *Ibid*, GAINS, page 5.

Reed Army Institute of Research, "In combat: Driving unpredictably, fast, using rapid lane changes and keeping other vehicles at a distance is designed to avoid improvised explosive devices. At home: Aggressive driving and straddling the middle line leads to speeding tickets, accidents, and fatalities." ¹¹ Continued combat theater behaviors in conjunction with mental health and substance abuse problems place a portion of this country's returning veterans at increased risk of entering the justice system.

In addition, out of a population of OEF/OIF veterans who screened positive for PTSD or depression, only half sought treatment in the 12 months preceding one study. Of OEF/OIF veterans who were receiving health care services from a U. S. Department of Veterans Affairs (VA) medical center only one-third of those who were referred to a VA mental health clinic actually attended an appointment. It appears that veterans coming into contact with the criminal justice system may have unmet treatment needs.¹²

In order to meet veterans' treatment needs, the GAINS Center report made the following recommendations relating to the judicial system:

- Offenders should be screened for military service and traumatic experiences. In addition to screening for mental illness and substance abuse, questions should be asked about military service and traumatic experiences;
- Law enforcement, probation and parole officers, and corrections officers should receive training on identifying signs of combat-related trauma and the role of adaptive behaviors in those involved with the justice system;
- Help connect veterans to VA health care services to which they are eligible;
- Expand community-based veteran-specific peer support services; and
- Be prepared to provide mental health, substance use, physical health, employment, and housing needs.¹³

Veterans' Courts Nationwide

Veterans' courts began to receive national recognition with the establishment of a veterans' court in Buffalo, NY. A coalition of professionals led by Judge Robert T. Russell developed Buffalo's Veterans' Court:

"Many veterans are known to have a warrior's mentality and often do not address their treatment needs for physical and psychological health care. Many are homeless, unemployed, helpless, and in despair, suffering from alcohol or drug addiction, and others from serious mental illnesses...Eligible veterans for the court are identified using evidence-based screening and assessments and are then given the option to participate in the program. They have been assessed as having a clinical diagnosis of substance dependency or abuse, a clinical diagnosis of a mental-health disease, or both. These veterans, who are also charged with committing typically nonviolent felony or misdemeanor offenses, are diverted from the traditional criminal court to the specialized veterans' treatment court. The treatment court program provides the veterans with the tools to manage their psychological, dependency, and social issues and to lead productive, law-abiding lives. The mission of veterans' treatment court is to successfully habilitate veterans."¹⁴

According to the National Association of Drug Court Professionals, there are 41 veterans' courts currently operating nationwide.¹⁵

Legislation passed by the various states which have adopted veterans' courts varies in some small ways but generally follow a similar program concept, which includes:

- Employment of the 10 key components of a drug court;¹⁶

¹¹ Id.

¹² Ibid, GAINS, page 6.

¹³ Ibid, GAINS, pages 2-4.

¹⁴ Robert T. Russell, *Veterans Treatment Courts Developing Throughout the Nation*, at <http://www.nadcp.org/sites/default/files/nadcp/Future%20Trend%20Article-Final%202009.pdf> last viewed on September 22, 2010.

¹⁵ NADCP website at <http://www.nadcp.org/learn/veterans-treatment-court-clearinghouse> last viewed on September 22, 2010.

- Successful completion of a veterans' court treatment program may result, if found in the best interest of justice, in dismissal of the criminal case;
- Participation by the veteran must be voluntary;
- The attorney representing the state must consent to the defendant's participation;
- The defendant is a veteran with a diagnosis of mental illness which may include PTSD, TBI, or depression; substance abuse; or a combination thereof;
- Program eligibility is generally limited to non-violent felony and misdemeanor offenders;
- A collaborative team concept that includes members of the judiciary, law enforcement, U. S. Department of Veterans Affairs health and mental health professionals, and case management resources;
- A mentoring component staffed by volunteer veterans who have been trained to act as mentors for program participants and help them through the treatment program; and
- Imposition of fees on offenders to assist in covering program costs.

Veterans' Court Support and Opposition

The American Bar Association's Commission on Homelessness and Poverty has offered a resolution in support of developing veterans' courts. In its accompanying report, the Commission cited the following statistics in support of their position:

- Veterans comprise 9.3 percent of all persons incarcerated;
- Of those veterans incarcerated, 70 percent are in jail for non-violent offenses; and
- Eighty-two percent of veterans in jail are eligible for services from the U. S. Department of Veterans Affairs based on the character of their discharge.¹⁷

In addition, the National District Attorneys Association has endorsed the establishment and funding of veterans' courts and programs citing an obligation to support veterans in a return to sobriety and abiding the law.¹⁸

However, Senate professional staff also found anecdotal evidence in its literature searches and interviews indicating some isolated opposition to veterans' courts. Such opposition generally believed that establishing veterans' courts would create a special class of offenders that might receive unwarranted privilege.

Florida Has Specialty Court Experience

Florida has precedence in the establishment of specialty courts used to problem solve the cases of certain types of offenders. The two principal specialty courts in Florida are drug courts and mental health courts.

Section 397.334, Florida Statutes (F.S.), authorizes the establishment of drug courts. Counties are authorized to fund treatment-based programs under which persons in the justice system assessed with a substance abuse problem may receive treatment services tailored to the individual needs of the participant in lieu of adjudication.

The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

- Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

¹⁶ These 10 key components can be found in s. 397.334, F.S., relating to the establishment of drug courts in Florida and are listed in this report's section entitled "Florida Has Specialty Court Experience."

¹⁷ ABA Commission on Homelessness and Poverty, Resolution 105A, February 10, 2010 at http://www.nadcp.org/sites/default/files/nadcp/ABA%20Policy%20on%20Veterans%20Treatment%20Courts%20Approved%20by%20the%20ABA%20House%20of%20Delegates%202-10%20_2_.pdf last viewed on September 22, 2010.

¹⁸ National District Attorney's Association Resolution 26b at http://www.nadcp.org/sites/default/files/nadcp/NDAA%20Endorsement_0.pdf last viewed on September 22, 2010.

- Eligible participants are identified early and promptly placed in the drug court program.
- Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent testing for alcohol and other drugs.
- A coordinated strategy governs drug court program responses to participants' compliance.
- Ongoing judicial interaction with each drug court program participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
- Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.¹⁹

Treatment-based drug court programs may include pretrial intervention programs, treatment-based drug court programs authorized in chapter 39, F.S., post-adjudicatory programs, and review of the status of compliance or noncompliance of sentenced offenders through a treatment-based drug court program. While enrolled in a treatment-based drug court program, the participant is subject to a coordinated strategy developed by a drug court team. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of secure detention under chapter 985, F.S., if a child or a period of incarceration within the time limits established for contempt of court if an adult. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a treatment-based drug court program.²⁰

Section 394.658, F.S., establishes the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program. This program calls for a 1-year planning grant and a 3-year implementation or expansion grant to identify and treat individuals who have mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders who are in or at risk of entering the criminal or juvenile justice systems.

The implementation or expansion grants may support programs and diversions initiatives that include but are not limited to:

- Mental health courts;
- Diversion programs;
- Alternative prosecution and sentencing programs;
- Crisis intervention teams;
- Treatment accountability services;
- Specialized training for criminal justice, juvenile justice, and treatment services professionals;
- Service delivery of collateral services such as housing, transitional housing, and supported employment; and
- Reentry services to create or expand mental health and substance abuse services and supports for affected persons.²¹

Florida's Current Initiatives Establishing Veterans' Courts and Jail Diversion Programs

Senate professional staff found evidence of emerging veterans' court or jail diversion initiatives at several locations around the state.

Okaloosa County, by informal local agreement, has begun referring veterans' cases to a court docket that has special knowledge of veterans and veterans' issues. This has been possible through the cooperation of the local State's Attorney's Office, the court, and local treatment professionals. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and, if so, what type of discharge they received.

¹⁹ Section 397.334 (4), F.S.

²⁰ Section 397.334 (5), F.S.

²¹ Section 394.658 (1)(b), F.S.

Veterans are further asked if they will sign a release in order to share information with the VA. Further screening is conducted through the Pre-Trial Services Office, and the program uses drug court case managers to monitor participants. Access to VA treatment facilities is being sought for eligible veterans in the program.

The bulk of Okaloosa County veterans' cases involve substance abuse, related domestic violence, and some theft related cases including worthless check charges that may be related to lost cognitive ability to do math. To date two individuals have successfully completed the program. Successful completion is defined as completion of a treatment program and avoiding additional legal problems.

Palm Beach County is in the process of establishing a veterans' court that is expected to be operating by December, 2010. One feature of Palm Beach County's program is the assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee will have oversight of screening and case management services for eligible veterans. Veterans who are eligible will also have access to VA programs that address homelessness and unemployment as well as mental health and substance abuse treatment. The VA appears to be supportive of this concept nationwide and also appears willing to assign staff resources to facilitate veterans' court programs.

The Department of Children and Families is administering a federal grant for the Hillsborough County Veterans Jail Diversion Trauma Recovery Project. The project's mission is to identify veterans involved in the criminal justice system who are experiencing trauma related difficulties and who can be appropriately diverted to the necessary behavioral health and other support services that will enable them to live successfully in their communities.²²

The project's community partners include:

- Northside Mental Health Center;
- James A. Haley Veteran's Medical Center;
- Hillsborough County Sheriff's Office (Jail);
- Hillsborough County Health and Social Services;
- Various local community mental health treatment providers;
- University of South Florida, Florida Mental Health Institute, Department of Mental Health Law and Policy;
- Florida Department of Children and Families;
- Homeless Coalition of Hillsborough County;
- National Alliance on Mental Illness;
- Public Defender's Office of Hillsborough County;
- 13th Judicial Circuit Court; and
- Hillsborough County Public Safety Coordinating Council.²³

Evaluating the Efficacy of Veterans' Courts

It is difficult to evaluate the efficacy of veterans' courts at this time because they have been operating for a relatively short time. However, since they have much in common with older, more established drug courts, some comparisons can likely be made.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a review of drug courts in Florida and made the following observations and findings:

- There are two principal types of drug courts for adult offenders. One type is a pre-trial diversion drug court for first time offenders. The other type is a post-adjudicatory drug court for non-violent offenders who typically have prior convictions;
- National research has shown that drug courts can reduce the future criminal activities of offenders;

²² Florida Department of Children and Families, Jail Diversion and Trauma Recovery-Priority to Veterans Grant Strategic Plan Fall 2010.

²³ Id.

- Effective drug court programs can help reduce prison admissions and state costs;
- Over a three-year follow-up period, offenders who successfully completed post-adjudicatory drug courts in Florida were 80 percent less likely to go to prison than the matched comparison group; and
- While drug court graduates have lower recidivism rates, only half of post adjudicatory drug court participants complete the program, and many non-completers are sentenced to prison.²⁴

It should be noted that one significant feature that most veterans' courts possess and drug courts lack is a trained cadre of volunteer veterans who act as mentors to veterans' courts participants. The Hillsborough County Veterans Jail Diversion Trauma Recovery Project, in addition, is seeking to develop a state-wide certification for veteran peer specialists.

Findings and/or Conclusions

Senate professional staff makes the following findings:

- Veterans are not overrepresented in the justice system;
- Veterans, particularly those returning from Operations Enduring Freedom and Iraqi Freedom, are exhibiting significant numbers of cases of post traumatic stress disorder, traumatic brain injury, depression, substance use or abuse, or co-occurrence of these conditions;
- Behaviors that were an asset in a combat theater can lead to undesirable involvement with the criminal justice system in a veteran's post-service civilian life;
- Veterans who do find themselves involved in the justice system often present mental health and substance use and abuse conditions or loss of cognitive function ability that can be treated;
- Veterans' courts are being established nationwide as a means of channeling veterans in the justice system into treatment programs in an effort to preclude further justice system involvement;
- Veterans' courts are using previously established drug and mental health courts as a model;
- Veterans' courts have an advantage over drug and mental health courts in that the majority of veterans who have committed criminal offenses are likely eligible for treatment services provided and funded by the U. S. Department of Veterans Affairs;
- Other specialty courts similar to veterans' courts such as drug courts have been successful in habilitating individuals out of the criminal justice system and reducing incarceration costs to governments; and
- Programs are beginning to emerge in Florida which is leading to the establishment of veterans' courts and jail diversion for veterans.

Options and/or Recommendations

Senate professional staff recommends that the Legislature consider providing for at least two pilot projects to evaluate the efficacy of veterans' courts. The two emerging projects in Palm Beach and Okaloosa counties would be good candidates that the Legislature could sanction and subsequently evaluate with little or no additional cost. Such evaluation may be used to determine if veterans' courts programs should be established statewide.

²⁴ OPPAGA, *State's Drug Courts Could Expand to Target Prison-Bound Adult Offenders*, Report No. 09-13, March 2009.