

LANCE KENNEDY LAW

The Service Member's and Veteran's Guide

Texas criminal charges when you wear, or wore, the uniform

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Read This First

If you are reading this book, one of two things has probably happened. Either you, or someone you love, wears or has worn the uniform and is now facing a Texas criminal charge, or you can see one coming. Take a breath. An arrest is not a conviction, a charge is not a discharge, and thousands of service members and veterans have walked through exactly this and come out the other side with their careers, their benefits, and their records intact. Not all of them. But far more than the fear in your chest is telling you right now.

Here is the single most important idea in this book, and it is worth reading twice: **a civilian criminal charge against a service member is never just one case.** The night of the arrest, several separate tracks started moving at once. The criminal case in a Texas courtroom is only the most visible one. Your command has a track. Your security clearance has a track. Federal firearms law has a track. Your VA benefits, present or future, have a track. Each one has its own rules, its own decision-makers, and its own clock, and a decision made carelessly on one track can quietly wreck another. A plea that looks harmless to a civilian defense lawyer can end a career, revoke a clearance, or take a rifle out of your hands permanently.

This book maps all of those tracks in plain English. It is written for active-duty service members, reservists, National Guard members, military retirees, veterans, and the clearance-holding civilians and contractors who live under many of the same rules. It is built around Texas law because Texas is where we practice and because Texas, home to Fort Hood, Fort Bliss, Joint Base San Antonio, and dozens of other installations, sees more military criminal cases than almost any state in the country.

Three ground rules before you start:

- **Deadlines do not wait for you to finish reading.** If your charge is DWI, you may have only 15 days from the notice of suspension to request the administrative hearing that protects your driver's license. Other charges carry their own early clocks. If a deadline may be running, call a lawyer today and read this book tonight.
- **Do not make statements about the facts to anyone.** Not to your chain of command, not to your first sergeant, not to the arresting officer, not on the phone from the jail, not in a text to your battle buddy. You can acknowledge that an arrest happened without narrating what happened. The chapters ahead explain how to handle required reporting without talking your way into a second problem.
- **Military policy varies by command.** Throughout this book, statements about what a command will do, must do, or usually does are general descriptions of the landscape. Every service, every installation, and every commander runs things a little differently, and policies

change. Confirm the specifics of your situation with counsel before relying on any general statement here.

This book is general information, not legal advice, and reading it does not make you our client. It will make you a far better-informed one, wherever you hire.

Chapter 1. Why a Civilian Charge Is a Military Problem: The Parallel Tracks

Civilians facing a Texas criminal charge have one fight. You have several, and they do not talk to each other unless someone makes them.

The five tracks

Track	Who decides	What is at stake	Speed
The criminal case	A Texas court, a Texas prosecutor, sometimes a jury	Jail or prison, fines, probation, a permanent record	Months to years
The command track	Your commander, under service regulations	Reprimands, flags, duty restrictions, administrative separation, career progression	Can move within days of the command learning
The clearance track	Your security office and federal adjudicators	Eligibility for classified access, and often the job itself	Reporting duty is immediate; adjudication is slow
The federal firearms track	Federal statute, applied automatically	The legal right to possess a firearm or ammunition, personal or issued	Instant upon a qualifying conviction, and sometimes upon a protective order
The benefits track	The Department of Veterans Affairs	Disability compensation, pension, the GI Bill, health care, and for some outcomes the underlying eligibility itself	Triggered mostly by incarceration or by the character of your discharge

Notice what the table implies. Winning the criminal case does not automatically win the others. An acquittal helps enormously on every track, but a command can still act on the underlying conduct, a clearance adjudicator still weighs the incident, and a security questionnaire will still ask about the arrest years from now. The reverse is also true and more dangerous: a conviction, or even the wrong kind of plea bargain, can detonate consequences on tracks nobody in the courtroom was thinking about.

Where the tracks collide

The collisions are where careers are lost, so here are the classic ones up front. A quick guilty plea to get a misdemeanor over with can create the conviction that triggers separation processing. A plea to an assault charge with a family violence finding can end a military career through federal firearms law, as Chapter 5 explains, no matter how small the fine was. A statement you write for your commander can be subpoenaed into the criminal case. A story you tell the criminal court that conflicts with what you told your security officer becomes a candor problem worse than the original charge. And a discharge characterization you did not fight, because you were focused on staying out of jail, can follow you to the VA for the rest of your life.

None of this means the situation is hopeless. It means the situation is *coordinated*, and your defense has to be coordinated too. The civilian criminal case is usually the engine: what happens there drives what the command, the adjudicators, and the VA see. Defend it with the military file open on the table, and many of the downstream consequences may never arrive.

Who this applies to

Active-duty members carry every track at once. Reservists and National Guard members carry most of them: a civilian charge can affect drilling status, retention, clearance, and mobilization, and Guard members answer to both state and federal military authority depending on their status. Veterans are off the command track but squarely on the benefits and firearms tracks, and a veteran's record follows them into federal employment and clearance renewals. Military retirees keep exposure that surprises people, including recall jurisdiction in rare cases and the clearance and benefits tracks in full. If any of those descriptions is you, this book was written for you.

The one-sentence summary of this entire book: tell your lawyer you are military on the first phone call, and make sure every decision in the criminal case is made with the other four tracks in view. Most of the disasters in this area of law were avoidable, and almost all of them started with somebody treating the criminal case as the only case.

Chapter 2. Command Notification: What Triggers It, Who Reports, When

The first question every service member asks after an off-post arrest is some version of: will my command find out? The honest answer is that you should assume yes, and plan for how, not whether.

How commands learn

Commands learn about civilian arrests through more channels than most people expect:

- **Law enforcement reporting.** Civilian agencies in military towns routinely share arrest information with installation law enforcement, and installations check local blotters. Counties around major posts have been doing this for decades. How fast and how formal this is varies by installation and by agency, but near a large post, the safest assumption is that the report beats you back to work.
- **Your own reporting obligations.** Many commands and services require members to report an arrest or criminal charge to the chain of command, sometimes within a set number of days. The exact rule varies by service, by command policy, and sometimes by unit. Officers and senior noncommissioned officers often face stricter expectations. Do not guess about your obligation; find out what your command's written policy actually says, with help from counsel if the answer matters.
- **The clearance loop.** If you hold a security clearance, you have a separate, independent duty to report an arrest to your security officer, covered in Chapter 3. Security offices and commands talk to each other.
- **The ordinary world.** Arrests are public records in Texas. Jail rosters are online. Coworkers see things, spouses talk, and small military communities are small. Secrets in this situation have a short shelf life.

The self-report decision

Because concealment usually fails and always reads badly, the real question is rarely whether the command learns. It is whether the command learns from you, promptly and professionally, or from a blotter report, late and ugly. As a general matter, a voluntary, timely disclosure reads far better than a discovered one, both to a commander deciding how to respond and to a clearance adjudicator years later. Commanders remember who came to them straight.

But there is a right way to do it, and it is not a confession. You can report the fact of an arrest, the charge, the county, and your court dates without making any statement about the underlying facts. That distinction matters enormously, because anything you say or write about what happened can end up in the criminal case. A sworn statement to your commander, a counseling form you initial, a text to your squad leader explaining yourself: all of it is potentially evidence.

The report is a form, not a story. Before you notify anyone, talk to a lawyer about the timing and the wording. The goal is a report that satisfies your obligation completely and narrates nothing: what you were charged with, where, and when, plus a statement that the matter is being handled by counsel. If anyone in the chain presses for details, the answer is respectful and identical every time: on the advice of my attorney, I cannot discuss the facts while the case is pending. No commander worth serving under is offended by that sentence.

What happens after the command knows

What follows notification varies widely by service and command, but the common vocabulary looks like this. Expect some form of administrative flag or hold that pauses favorable actions such as promotions, awards, and reenlistment while the case is open. Expect the possibility of a written reprimand; in the Army, for example, a General Officer Memorandum of Reprimand is a common response to serious civilian arrests, and whether it is filed locally or permanently is often the biggest career variable in the whole episode. Expect a referral for evaluation if alcohol or drugs were involved, since service substance-abuse policies generally require one after an alcohol-related incident. Expect possible duty changes: suspension from a weapons-carrying position, from flight status, from recruiting, from anything sensitive. And understand that administrative separation processing, covered in Chapter 4, can begin before the criminal case is anywhere near finished.

None of these steps is a criminal punishment, and none of them means your career is over. They are the system bracing itself while the facts develop. Your job, with counsel, is to make sure the facts that develop are accurate, complete, and framed by your record rather than by a police report.

Guard and Reserve members

If you are a traditional Guardsman or reservist, the notification picture has extra wrinkles. Your civilian arrest may need to be reported to your unit even though you drill two days a month, and consequences can reach your retention, your clearance, and your civilian technician or Active Guard Reserve employment if you have it. Guard members should also know that Texas maintains

its own military justice code for certain state-status matters. The safe course is the same: find out what your unit's reporting rule is, follow it precisely, and say nothing about the facts.

Chapter 3. Security Clearance Exposure: Reporting, the Forms, and the Adjudication

For clearance holders, the criminal case is often not the biggest threat in the room. The clearance is the job, and the clearance system runs on two things the criminal system does not: mandatory self-reporting and lifetime memory.

SEAD-3: the duty to report now

Security Executive Agent Directive 3 requires clearance holders to self-report certain events to their security office, and an arrest is on the list. The reporting standard is as soon as possible, and the duty applies regardless of how the case eventually ends. A charge that is later reduced, dismissed, or even expunged was still reportable the week it happened. Waiting to see how the case turns out is not a strategy; it is a second security concern called failure to report, and adjudicators treat reporting failures harshly precisely because the system depends on candor.

The same discipline from Chapter 2 applies here. Report the event, the charge, and the status. Do not write a narrative of the incident for your security officer without legal advice, because security files are discoverable in more ways than people assume. Report facts of record, not versions of events.

The forms: "have you ever been charged"

The second exposure arrives later, every time you complete or update a background investigation questionnaire. The SF-86, the long-standing clearance form, asks in its police-record section not only about recent arrests but whether you have *ever* been charged with a felony, or with any offense involving alcohol or drugs. Read that word again: charged. Not convicted. A dismissed case must be disclosed. And the form's own instructions close the trap most people fall into: information must be reported even if the record was later sealed, expunged, or otherwise stricken from the court record, or the charge was dismissed. A narrow exception exists for certain federal drug convictions expunged under federal law, and it will not apply to your Texas case.

This catches Texans in particular, because Texas expunction law broadly permits a person to deny an expunged arrest in most civilian settings. The federal questionnaire is the exception that matters most: federal agencies are not bound by the state statute, the form asks its own question, and a false answer on a federal form is itself a crime and a candor case. When your record is cleared, celebrate, and then keep answering the federal forms accurately. One more note for the transition years: the government has been phasing in a successor questionnaire, the Personnel

Vetting Questionnaire, alongside the legacy forms. The question wording evolves, but the principle does not. Answer the question the form actually asks, completely, with counsel's help if anything is ambiguous.

How the incident is judged

Clearance decisions are made under the national security adjudicative guidelines. A criminal charge is typically evaluated under Guideline J, criminal conduct, plus whichever guideline matches the subject matter: Guideline G for alcohol-related incidents, Guideline H for drugs, Guideline E for personal conduct, which is where candor problems live. Two features of that system should shape your thinking:

- **A conviction is not required.** Adjudicators weigh conduct, not just court outcomes. An arrest that ends in dismissal still gets evaluated, though obviously a dismissal, and the facts behind it, are powerful mitigation.
- **The whole person counts.** Adjudication is expressly a whole-person analysis. A single incident, honestly reported, promptly addressed, and out of character against a strong record, is rarely fatal by itself. Patterns, recency, and dishonesty are what revoke clearances. In practice, the cover-up genuinely is worse than the conduct: more clearances are lost to the failure to report and the shaded answer than to the underlying offense.

The candor rule. Report what the rules require, when they require it, accurately, every time, and let your lawyer fight the underlying case. The clearance system forgives incidents far more readily than it forgives deception. Exactly what you must report, to whom, and by when depends on your agency, your contract, and your clearance status, so confirm the specifics with your security officer and counsel rather than relying on any general statement, including this one.

Defending the clearance while defending the case

The two defenses interact, and sequencing matters. How the criminal case resolves, and how the resolution is worded, becomes the record the adjudicator reads. A reduction to a non-alcohol offense reads differently than a DWI conviction. A dismissal after a diversion program reads differently than a conviction with probation. Documented treatment, completed early and voluntarily, is strong mitigation under Guideline G. This is exactly the coordination Chapter 1 promised: a defense lawyer who knows an adjudicator will eventually read the file negotiates differently, and better, than one who does not.

Chapter 4. Administrative Separation and the Characterization of Discharge

Court-martial is not the way most military careers end after a civilian charge. Administrative separation is: a paperwork process, run by the command under service regulations, that can put you out of the service with a piece of paper that follows you forever. This chapter is about that piece of paper.

The framework

For enlisted members, administrative separations run under Department of Defense Instruction 1332.14 and each service's implementing regulation. Officers face a parallel process usually called elimination or officer separation, with its own rules. A civilian criminal case commonly feeds separation processing through the misconduct family of bases: commission of a serious offense, a pattern of misconduct, or conviction by civilian authorities. Note what that list means: the command does not have to wait for, or ever obtain, a conviction. The conduct itself can support processing, on evidence far short of proof beyond a reasonable doubt. Whether a given command initiates separation for a given arrest varies enormously with the offense, the member's record and rank, and command climate, and no lawyer can predict it for you. What can be said generally is that a single incident rarely compels separation, while a second alcohol-related or criminal incident within a short window usually forces the question to a decision.

The three characterizations, and what they cost

Characterization	What it is	What it generally costs
Honorable	The standard for service that met the mark	Nothing. Full benefits eligibility
General (under honorable conditions)	Satisfactory service with significant negatives	Most VA benefits survive, but education benefits under the GI Bill generally require a fully honorable discharge, so a General discharge commonly costs the GI Bill
Other Than Honorable (OTH)	The most severe administrative characterization	No automatic VA eligibility. The VA makes its own case-by-case character of service determination, covered in Chapter 6, and many OTH veterans lose some or all benefits

Two more discharges exist, bad conduct and dishonorable, but they are punitive and can only be imposed by a court-martial, never by administrative action. Chapter 7 covers that boundary.

There is also an uncharacterized entry-level separation for members very early in their service.

Your procedural rights

The process starts with written notification of the basis for separation and the least favorable characterization you face. From there, your rights depend on your situation: generally, a member facing an OTH characterization, or a member with six or more years of total service, is entitled to have the case heard by an administrative separation board, where you can appear with counsel, present evidence, call witnesses, and argue both against separation and for a better characterization. Members not entitled to a board respond in writing. The board's findings go to a separation authority who makes the final call. The details, timelines, and even the vocabulary vary by service, so treat this as the shape of the process and get the specifics from military counsel the day you are notified.

Do not waive the board casually. People sign waivers in the fog of a bad month, hoping to get it over with, and buy themselves a lifetime of consequences. A board is winnable, especially with a strong record, good mitigation, and a criminal case that is being defended rather than conceded. Even when separation itself is likely, the fight over characterization, Honorable versus General versus OTH, is often the most valuable fight left, because Chapter 6 is downstream of it.

The two-front rule. The civilian criminal case and the separation action feed each other. A dismissal or acquittal in the criminal case is powerful evidence at a board; a conviction hands the board its easiest path. Meanwhile, anything you say at a board is on the record and available to prosecutors. The two defenses have to be sequenced deliberately, which usually means your civilian defense lawyer and your military counsel talking to each other early and often. When we defend the civilian side of these cases, that phone call happens in the first week.

If the discharge already happened

Veterans reading this after the fact are not out of options. Each service runs a Discharge Review Board and a Board for Correction of Military Records that can upgrade characterizations, and upgrades have become more attainable in recent years where PTSD, TBI, or military sexual trauma contributed to the misconduct. It is a slow, documentation-heavy road, and no upgrade is ever guaranteed, but it exists, and a successful upgrade can reopen benefits that seemed lost for good.

Chapter 5. The Lautenberg Amendment: How a Family Violence Conviction Ends a Career

Every chapter in this book says some version of get advice before you plead. This chapter is why the rule exists, because in family violence cases the trap is federal, permanent, and almost invisible from inside a Texas courtroom.

The federal statute

Under 18 U.S.C. § 922(g)(9), the Lautenberg Amendment, a person convicted of a misdemeanor crime of domestic violence is prohibited from possessing firearms or ammunition. Read the fine print, because every clause hurts:

- **It is a lifetime ban for most convictions.** Not probation-length. Not five years. For the classic categories of victim, spouse, ex-spouse, cohabitant, co-parent, the prohibition has no end date.
- **There is no military or police exception.** Federal law exempts government and military personnel from some firearms prohibitions when acting in official capacity, but the statute expressly excludes the domestic violence misdemeanor ban from that official-use exception, and the Department of Justice has long applied it exactly that way. A soldier subject to it cannot lawfully be handed a service rifle.
- **It reaches old convictions.** The ban applies to qualifying convictions from before the law existed and from any state.
- **A misdemeanor is enough.** This is the only common federal firearms ban triggered by a misdemeanor conviction, which is exactly why it blindsides people who thought they were pleading to something small.

What counts as a misdemeanor crime of domestic violence is defined federally: an offense with the use or attempted use of physical force, or the threatened use of a deadly weapon, as an element, committed against a person in a qualifying relationship. In 2022, Congress expanded the qualifying relationships to include current and recent former dating partners. That expansion came with one narrow mercy: for a first conviction involving a dating partner only, firearm rights are restored automatically five years after the sentence ends if the person stays clean of further disqualifying offenses. That restoration does not apply to convictions involving spouses, ex-spouses, cohabitants, or co-parents. Convictions that have been properly expunged, set aside, or pardoned generally do not count, which makes the record-clearing strategy part of the defense strategy from day one.

What it does to a military career

Now connect the statute to the uniform. Department of Defense policy implements Lautenberg directly: military members and DoD civilians with a qualifying conviction are prohibited from possessing firearms and ammunition, including government-issued weapons. Members are required to disclose qualifying convictions, and commands use a standard form to screen for them. A service member who cannot touch a weapon cannot qualify on one, cannot deploy to most billets, and cannot perform the core tasks of most military occupational specialties. What follows, as a general matter, is reassignment to the narrow set of duties that require no weapons access, denial of reenlistment, or administrative separation processing. The exact response varies by service and command, but the trajectory is one-directional, and for anyone in a combat arms, law enforcement, or security career field, a qualifying conviction is functionally the end of the road.

The Texas side of the trap

In Texas the trap is set in an ordinary-looking way. An assault charge, often a Class A misdemeanor under Penal Code § 22.01, comes with a companion: if the court finds the offense involved family violence, Texas law requires an affirmative finding of family violence to be entered in the judgment. That finding is the federal trigger, and it carries brutal Texas consequences of its own. An offense with a family violence finding can never be sealed with an order of nondisclosure, and a later assault against a family member can be enhanced to a felony. Texas also imposes its own firearms prohibition after a family violence assault conviction, but only for five years after release from confinement or supervision. Do not be fooled by that number: when the Texas five years expire, the federal lifetime ban is still there. Texas law letting you possess a firearm does not repeal federal law.

And here is the sharpest edge. Family violence cases are frequently resolved with deferred adjudication, which Texas law treats as something other than a conviction for many purposes, and which sounds safe. It is not safe. A deferred adjudication for family violence still can never be sealed, still counts for enhancement, and whether a particular disposition counts as a conviction under federal firearms law is a genuinely technical question that has generated years of litigation. Separately, while a case is pending, a protective order with the right findings can itself trigger a different federal firearms prohibition for as long as the order lasts. No general book can resolve how these rules land on your facts. What a book can do is make sure you never find out by accident.

The rule that protects careers: never plead to any offense arising from a domestic incident, and never accept any protective order, without a written answer from your lawyer to one question: what does this disposition do under 18 U.S.C. § 922(g) and under DoD policy? If your lawyer cannot answer that question comfortably, you have the wrong lawyer for this case. Family violence charges are also among the most defensible charges in Texas when handled early, because they often turn on one witness, one night, and one version of events. The worst outcome is the one people choose in week one to make the case go away.

Chapter 6. What a Conviction Does to VA Benefits

Veterans often assume a criminal conviction forfeits their VA benefits automatically. The real rules are narrower, stranger, and worth knowing precisely, because the difference between a conviction and an incarceration matters enormously, and because the biggest benefits risk is often not the criminal judgment at all but the discharge that follows it.

The baseline: conviction alone usually does not cut compensation

Service-connected disability compensation is not a good-behavior benefit. A conviction, standing alone, does not reduce it. Probation does not reduce it. What reduces it is incarceration: under 38 U.S.C. § 5313, a veteran incarcerated for more than 60 days for conviction of a *felony* has compensation cut beginning on the 61st day, down to the 10 percent rate, or to half that rate if the veteran was rated 10 percent. The cut lasts until release, and the full rate can resume afterward. Two humane wrinkles soften it: the withheld amounts can be apportioned to a spouse, children, or dependent parents based on need, which many families never learn in time to use, and VA rules generally treat residence in a halfway house or participation in work release differently from incarceration. Misdemeanor jail time does not trigger the compensation reduction at all.

Pension and education work differently

Needs-based VA pension is harsher: pension stops entirely on the 61st day of incarceration following conviction of any offense, felony or misdemeanor. Education benefits take a middle path: a veteran incarcerated for a felony conviction can be paid only tuition, fees, and necessary books and supplies, and only to the extent no other government program covers them; the monthly housing allowance stops. There is also a fugitive felon rule: benefits generally cannot be paid to a veteran fleeing an outstanding felony warrant, which is one more reason unresolved out-of-county warrants need cleaning up, not ignoring.

Benefit	Conviction alone	Incarcerated over 60 days
Disability compensation	Generally unaffected	Reduced to the 10 percent rate (or half) from day 61, felony convictions only; family may claim apportionment
VA pension	Generally unaffected until incarceration	Stops at day 61, felony or misdemeanor
GI Bill and education benefits	Generally unaffected	Limited to tuition, fees, books, supplies; no housing allowance, felony convictions
VA health care	Generally unaffected	The correctional system provides care while you are inside; VA eligibility resumes on release

One practical order: tell the VA. Incarceration is supposed to be reported, the VA finds out anyway, and a veteran who keeps cashing full checks builds an overpayment debt the VA will collect from future benefits. Reporting promptly, and filing the family's apportionment claim at the same time, converts a bad situation into a managed one. After release, benefits are not restored automatically; the veteran must notify the VA with release documentation.

The bigger risk: character of discharge

For a service member whose criminal case triggers separation, the deepest benefits question is the one decided in Chapter 4: what does the discharge paper say? VA eligibility generally requires service characterized as other than dishonorable for VA purposes, and here is how the map reads. An Honorable or General discharge keeps the door open, though a General discharge typically costs GI Bill education benefits, which require fully honorable service. An OTH discharge triggers a case-by-case VA character of discharge determination under 38 C.F.R. § 3.12, in which the VA examines the service record and the circumstances and decides whether benefits are payable; some OTH veterans win these determinations and some lose them. A discharge imposed by sentence of a general court-martial is a statutory bar to benefits absent insanity findings or record correction. And the rules have recently moved in veterans' favor: a 2024 revision expanded the compelling circumstances exception, so veterans previously barred, including some with OTH discharges tied to willful and persistent misconduct, may now qualify. If you were denied years ago, the answer today might be different.

For families: if your veteran is headed to prison, three filings protect the household: report the incarceration to the VA promptly, apply for apportionment of the withheld compensation, and calendar the release date so full benefits are restored the month he or she comes home. The VA's Veterans Justice Outreach specialists, who work inside jails and courts, can help with all three, and they are free.

Chapter 7. Article 15 and Courts-Martial: The Boundary

This book is about civilian charges, but every service member facing one eventually asks about the military justice system next door: can they punish me too? Short answer: sometimes, in limited ways, under rules worth understanding. Longer answer below, along with an honest statement about what our firm does and does not handle.

The military justice ladder

Military discipline runs on a ladder of its own. At the bottom is nonjudicial punishment under Article 15 of the Uniform Code of Military Justice, called NJP, Office Hours, or Captain's Mast depending on your branch: a commander-imposed proceeding that can dock pay, reduce rank, impose extra duty and restriction, but cannot impose confinement in the way a court can and is not a federal criminal conviction. You generally have the right to refuse Article 15 punishment and demand trial by court-martial instead, a serious decision with one famous exception: members attached to or embarked on a vessel cannot refuse. Above NJP sit the courts-martial, summary, special, and general, which are real criminal trials with real convictions, and which alone can impose the punitive discharges: a bad conduct discharge, a dishonorable discharge, or dismissal for officers. No commander and no administrative process can characterize your service as bad conduct or dishonorable; only a court-martial sentence can.

Can you be tried twice for the same conduct?

Constitutionally, yes. The state of Texas and the federal government, which includes the military, are separate sovereigns, and the Supreme Court reaffirmed in 2019 that separate sovereigns may each prosecute the same act without violating double jeopardy. So a Texas conviction or acquittal does not legally bar a court-martial. Practically, however, the services generally do not court-martial members for the same act already tried in a civilian court; service policies typically reserve that for unusual cases and require approval at a senior level. Policies differ by service and can change, so treat second prosecution as legally possible, practically uncommon, and worth asking your military counsel about specifically. What is far more common is the pattern this book keeps flagging: the civilian case runs its course, and the military response arrives administratively, through the reprimand, the flag, and the separation board, or through NJP for related conduct.

What we handle, and what we refer

Our firm defends the civilian side of a military client's case: the Texas criminal charge, the license and administrative fallout in Texas forums, and the record-clearing work afterward. Courts-

martial, Article 15 advice, and separation board representation belong to a different legal system with its own procedures, its own rules of evidence, and its own defense bar. When a case crosses that line, we refer the military-justice side to counsel who live in that system, including the free defense counsel your service provides, Trial Defense Service in the Army and equivalent offices in the other branches, and experienced civilian military-law attorneys, and then we coordinate with them so that a decision made in one forum does not quietly damage the other. That is not modesty for its own sake. You would not want a court-martial specialist trying your Texas jury trial either. You want each system handled by people who work in it daily, talking to each other.

Use your free military lawyer. Every service provides defense counsel at no cost for NJP advice, court-martial defense, and separation boards. They are independent of your command, they are privileged, and talking to them costs you nothing. The strongest defenses we see are the ones where the military defense counsel and the civilian defense lawyer compare notes in week one, agree on sequencing, and keep the client from making statements in either forum that hurt the other.

Chapter 8. Veterans Treatment Courts in Texas: How They Work, Who Gets In, What Completion Earns

Texas has built something most defendants never get: a statutory pathway that can route a criminal case into a treatment-based court designed specifically for military people, staffed with VA specialists and veteran mentors, and capable, in the right posture, of ending with a dismissal and a completely cleared record. It is not a soft option, it is not automatic, and it is not everywhere. Here is the honest map.

The statute and the eligibility gate

Veterans treatment courts are authorized by Chapter 124 of the Texas Government Code. The statewide eligibility baseline has two prongs, and both are mandatory. First, the attorney representing the State must consent. No defendant has a right to enter a veterans court; the prosecutor holds the key, which is why a well-prepared early application matters more than anything else in this chapter. Second, the court must find that you are a veteran or a current member of the United States armed forces, including the reserves, National Guard, and state guard, and that you suffer from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, or were a victim of military sexual trauma, where the condition occurred during or resulted from your military service and affected the criminal conduct at issue. Proof is flexible: service records, medical records, VA disability determinations, and testimony can all establish it. Counties then layer local rules on top: discharge-status requirements, residency rules, and offense exclusions, with sexual offenses, homicides, and the most serious violent charges commonly excluded. Note something remarkable in that statute: Texas veterans courts are open to *currently serving* members, not just veterans. An active-duty soldier from Fort Hood can be a candidate in Bell County, and Bell County's court expressly takes them.

What the program actually looks like

Expect a 12 to 24 month commitment, run in phases. Court appearances at least twice a month in most programs. Random drug and alcohol testing. Individual and group treatment, often including structured programs such as Moral Reconnection Therapy. A team behind the bench: judge, prosecutor, defense representative, coordinator, treatment providers, a VA Veterans Justice Outreach specialist, and volunteer veteran peer mentors, usually people who have carried a ruck and know exactly which excuses to reject and which struggles are real. Employment and education goals. Program fees in some counties. It is, by design, harder than ordinary probation, and it works best for people who actually engage rather than endure.

The question that decides everything: which track

Most Texas veterans courts run one of two tracks, and the difference is enormous. A **pretrial diversion track** resolves the case before any plea: complete the program and the charge is dismissed, and a dismissed case can qualify for expunction, the complete destruction of the arrest record. Texas law has a fast lane built for exactly this: on dismissal after successful completion of a veterans treatment court program, the district court may, with the State's consent, order the expunction within 30 days of dismissal, at no cost to you. A **probation track** supervises you under a plea; completing it earns real benefits, but the record trail is different and the clearing options narrow sharply. Before you sign anything, get one question answered precisely, in writing if possible: on the day I graduate, what happens to the charge and to the record? Programs answer that question differently, and the county's published language is often discretionary. Bell County, for example, states that graduates may receive favorable resolutions per the prosecution: careful words meaning completion earns consideration, not a guarantee, and nobody, including us, can promise you a dismissal.

Where the courts are

Coverage is broad but not universal, and it moves, so verify before relying. Drawn from the state's specialty-court registry and county sources current as of mid-2026: in our own practice footprint, veterans courts operate in Travis County (a felony and misdemeanor program in the 450th District Court), Williamson County, Hays County (a regional program that also serves Caldwell and Blanco Counties), Bexar County (separate misdemeanor and felony courts), Comal County, Guadalupe County, Bell County (the 478th District Court, open to active duty), Collin County (a misdemeanor court plus the North Texas Regional court serving five counties from McKinney), and Denton County. Statewide, programs also run in Dallas, Tarrant, Ellis, Smith, Harris, Fort Bend, Galveston, Brazoria, Montgomery, Liberty, McLennan, Cameron and Willacy, Hidalgo, Nueces and its regional partners, Webb, El Paso, Midland, Tom Green, and a Panhandle regional court in Amarillo, among others. Some counties, including Bastrop, have no registered program, and jurisdiction follows the case: you apply where the charge is pending, not where you live, unless a regional arrangement covers you. Every program has a coordinator who answers eligibility questions from defense lawyers every day.

Move early. Applications are screened by the prosecutor, and early applications are read before positions harden. The strongest packets arrive with the DD214, the diagnosis documented, the service-connection evidence assembled, and treatment already started. If a veterans court is a possibility in your case, it should be explored in the first month, not proposed on the eve of trial.

Chapter 9. Deployment, TDY, and PCS: Managing a Case Across a Move

Military life does not pause for a criminal case, and a criminal case does not pause for military life. Orders arrive, rotations happen, and suddenly a defendant with a setting in a Texas courtroom is supposed to be at a training rotation in California or a tour in Korea. Handled early, this is a manageable logistics problem. Handled late, it produces the single most self-inflicted disaster in this book: the missed court date.

The cardinal rule

Tell your lawyer about orders the day you learn of them. Not the week before you report. Courts and prosecutors in military counties deal with duty schedules constantly and are generally willing to work around them, but nothing about that is automatic, and none of it can happen retroactively. A continuance requested three weeks out with a copy of your orders attached is routine. An empty chair on docket morning is a warrant, a bond forfeiture, and a brand-new charge of failure to appear, and it converts a defensible case into a crisis. Orders explain an absence; they do not excuse one. Only a judge can excuse one, in advance, on request.

What the law does and does not give you

Service members often ask about the Servicemembers Civil Relief Act, which famously lets military duty pause legal proceedings. Read its boundary: the SCRA applies to civil and administrative proceedings and expressly excludes criminal proceedings. It can help with the civil side of an arrest, such as an administrative license case, but it will not stay your criminal prosecution. In the criminal case, the tools are the ordinary ones, deployed with military paperwork: motions for continuance supported by orders, resets negotiated with the prosecutor, and, for many routine settings in misdemeanor cases, appearance through counsel so you never personally travel at all. Texas practice on waiving a defendant's presence varies by court and by the seriousness of the setting; trials and pleas generally require you, announcements often do not. Some courts allow remote appearances; policies differ. Your lawyer's job is to know which settings actually need your body in the room and to schedule the case around your military calendar, and a lawyer who handles military clients does this as a matter of routine.

The three scenarios

- **TDY and training rotations.** The easiest case. Short absences are bridged with resets and appearance through counsel. The risk is silence: the setting that arrives while you are at NTC unread in a mailbox. Set up mail forwarding, give your lawyer a power of attorney contact and your unit's contact procedure, and check in before and after every rotation.
- **Deployment.** Courts generally accommodate a genuine deployment with lengthy continuances; prosecutors rarely relish explaining to a jury why they forced the issue with a deployed soldier. But the case does not evaporate, bond conditions remain in force, and some conditions physically conflict with deploying, an ignition interlock on a vehicle you are about to store for nine months, a monthly in-person check-in, a no-alcohol condition testable only stateside. Every conflicting condition must be amended by the court *before* you leave, on motion, not managed by hoping nobody notices. Get the docket posture, the bond conditions, and the communication plan settled before wheels up.
- **PCS.** The case does not move with you. A Texas charge stays in its Texas county, whether you are reassigned to Georgia or Germany, and it must be finished, not abandoned, because an open case or warrant follows you through every clearance renewal, every gate check, and every background investigation for the rest of your life. Long-distance defense is normal now: counsel appears for what can be appeared to, you travel for what genuinely requires you, and conditions like interlock or testing are transferred to providers near your new duty station with the court's approval. Coordinate the move with your lawyer the way you coordinate it with transportation: early, in writing, with dates.

Before any departure, a five-item checklist: a copy of your orders to your lawyer; a motion filed for any setting you will miss; every bond condition reviewed against the realities of where you are going, and amended if needed; a communication plan for how your lawyer reaches you, including a family member with authority to relay; and written confirmation of your next required appearance. Ten days of preparation prevents ten months of cleanup.

Chapter 10. Mitigation That Works With Military Service

Prosecutors and judges in Texas see military defendants every week, and most of them genuinely respect service. That respect is an asset, but it is not a defense, and it curdles fast when it is presented lazily. This chapter is about the difference between mitigation that moves a case and mitigation that annoys the room.

What actually moves prosecutors and judges

- **The record, documented, not described.** "He served in Afghanistan" is a sentence. An evaluations packet, awards with citations, a deployment history, and a letter from a leader who supervised you is a file. Prosecutors extend consideration to files, not sentences. Build the packet the way you would build a promotion board file: complete, organized, verifiable. Whether current leadership can or should write letters varies by command and by the posture of any military action, so coordinate that question through counsel rather than putting your chain in an awkward spot.
- **A real diagnosis, causally connected.** PTSD, traumatic brain injury, military sexual trauma, and substance-use disorders that trace to service are taken seriously in Texas courtrooms, and they are the statutory backbone of veterans court eligibility. But the connection has to be documented and honest: a diagnosis from the VA or a qualified clinician, records connecting the condition to service, and a straight-line explanation of how it bears on the conduct charged. A vague invocation of PTSD with no records behind it reads as an excuse and can do more harm than silence.
- **Treatment started early, voluntarily, and finished.** Nothing in this chapter moves a prosecutor like a defendant who was in counseling or substance-abuse treatment within weeks of the arrest, before anyone ordered it, with attendance records to prove it. Early treatment simultaneously serves the criminal case, the clearance mitigation under the adjudicative guidelines, the separation board, and, most importantly, the actual underlying problem. It is the single highest-yield step available to most defendants, and it costs initiative rather than money: the VA, Vet Centers, and Military OneSource all offer no-cost or low-cost pathways.
- **The VA's own infrastructure.** Veterans Justice Outreach specialists work inside Texas jails and courts to identify justice-involved veterans, connect them to treatment, and confirm service-connection evidence. Getting a VJO specialist engaged early strengthens a veterans court application and every other form of mitigation, free.

- **Restitution and repair.** Where there is a complainant, damage, or loss, addressing it early, on advice of counsel and through proper channels, changes the emotional temperature of a case in ways no brief can.

What does not work

Three moves reliably backfire. Entitlement, the argument that service should erase the charge, insults the many veterans who serve on juries and sit on benches, and prosecutors hear it weekly. Costume, leaning on the uniform while showing no engagement with the underlying conduct, reads as manipulation. And exaggeration, inflating a record or a diagnosis, is fatal, because prosecutors can check and defense credibility is the currency every negotiation runs on. The posture that works is the one the military taught you: own the situation, bring documentation, do the work, and let the record speak.

The honest double edge

Be clear-eyed about one more thing: military status raises expectations as well as sympathy. Some prosecutors and judges hold service members to a higher standard, and a defendant with security responsibilities, rank, or a leadership position may find the bench less forgiving, not more. Mitigation is not a coupon. It is a body of evidence that, presented well, shapes discretion in your favor. Presented well is the operative phrase, and it is your lawyer's job. Nothing in this chapter guarantees any outcome in any case; what it guarantees is that the discretionary decisions in your case will be made by people who actually know who you are.

Chapter 11. Choosing Counsel Who Understands the Uniform

Most criminal defense lawyers in Texas are competent to defend a criminal charge. A much smaller number can defend a criminal charge *and* see the other four tracks from Chapter 1 well enough to keep a client's career, clearance, and benefits intact while doing it. This final chapter is about how to tell the difference, whoever you ultimately hire.

Questions to ask any lawyer you interview

- **"How will this resolution read to my command and to a clearance adjudicator?"** The right lawyer answers in specifics: characterization risk, reporting obligations, how the plea wording will look in a file five years from now. The wrong lawyer says that is a military issue and changes the subject.
- **"What does this plea do under the Lautenberg Amendment?"** If a domestic incident is anywhere in your case, this is the disqualifying question. A lawyer who cannot explain the federal firearms consequences of a family violence finding, in plain English, without looking it up, should not be negotiating your plea.
- **"Will you coordinate with my military defense counsel?"** The answer should be an unhesitating yes, with a description of how: early contact, agreed sequencing between the criminal case and any board or NJP, and a shared rule about statements. A lawyer who sees military counsel as a rival rather than a teammate will cost you.
- **"Do you know the veterans court in this county?"** Not whether one exists. Who runs it, which track it operates, what the prosecutor's screening looks like, and what graduation actually earns. Chapter 8 gave you enough to grade the answer.
- **"Who handles the administrative side?"** In a DWI, the license case and its 15-day clock. In a family violence case, the protective order. In every case, the record-clearing endgame. The criminal charge always travels with companions, and someone must own each of them.
- **"What will this cost, and what does that include?"** Clear fee agreements, in writing, with scope defined. Surprises in billing predict surprises elsewhere.

Red flags, in any office

Walk away from guarantees. No honest lawyer promises a dismissal, an acquittal, a program admission, or a saved career, because no honest lawyer controls prosecutors, judges,

commanders, or adjudicators. Walk away from anyone whose plan for the command is simply hide it, offered before analyzing your actual reporting obligations; that advice can convert a survivable incident into a candor case. Walk away from the one-size plea mill, where every case resolves the same way by the second setting. And be cautious with any lawyer who has never asked what you do in the service, because the answer changes the entire strategy.

What we do

Lance Kennedy Law defends Texas criminal cases for service members, veterans, and their families, with the military file open on the table from the first phone call: the parallel tracks tracked, the deadlines calendared, the veterans court option evaluated early, military defense counsel looped in where the case crosses into their system, and the record-clearing endgame planned from the beginning rather than discovered at the end. Consultations are free, and the earlier in the case they happen, the more options exist to protect. If this book reached you in the first days after an arrest, you are early, which means you are lucky, even if it does not feel that way tonight. Make the calls this week: a lawyer for the case, your no-cost military defense counsel if you are still serving, and, if the charge is DWI, the administrative hearing request before the 15 days run.

You took an oath to defend something bigger than yourself, and you kept it. This fight, for your record, your career, and your future, deserves the same seriousness. Bring the discipline the service taught you, bring people who know the terrain, and see it through, all the way to the cleared record where these stories, handled right, can end.

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