Veterans in the Justice System: Treatment of Violent Offenders

By Amy Fairweather, Guy Garmill and Gennie Tinney

The National Association of Drug Court Professionals report that veterans are disproportionately represented among inmates in the United States. Studies have consistently found that veterans make up a disproportionately high percentage of criminal offenders despite making up only 5% of the population. In 2009, two national teleconferences brought to light a total of 30 organizations, advocates, and justice professionals to discuss the admission of violent offenders to the emerging veterans treatment courts. Participants included representatives from Veterans America of America, Iraq and Afghanistan Veterans of America, Veterans of Foreign Wars, National Gins Center, SAMHSA, Department of Justice, Veteran Justice and others. It was agreed that prohibition of admission for those in the following categories would exclude the bulk of current violent offenders: domestic violence cases; domestic violence cases involving the use of lethal weapons; and what might be deemed cases of “simple assault” due to physical fights. The notion of a “default” to indefinite incarceration without consideration of psychological harm or considerations of family dynamics and the perpetuation of intimate partner violence prior to their combat experience who continue to be at risk for intimate partner violence is not a viable answer to this question.

The court must have access to appropriate intimate partner violence screening and assessment to identify whether or not a veteran has a history of violence or a pattern of control/condition in intimate relationships that existed prior to deployment to a combat zone and whether or not a veteran has an abusive history appropriate for inclusion in a veterans treatment court. For the most part, such screening and assessment and intervention on behalf of intimate partner violence offenders who are veterans cannot be obtained from the Department of Veterans Affairs (VA). These services primarily focus on veterans who have a history of intimate partner violence and nonviolent offenses with many that intimate partner violence and justice-involved veterans, there seems to be a pattern of coercive control in intimate relationships and what might be deemed cases of “simple assault” due to physical fights. The notion of a “default” to indefinite incarceration without consideration of psychological harm or considerations of family dynamics and the perpetuation of intimate partner violence prior to their combat experience who continue to be at risk for intimate partner violence is not a viable answer to this question.

In addition, before deciding to include intimate partner violence offenders, veterans treatment courts should also consider the importance of judicial monitoring and the sanctions that will be imposed if there is a re-offense. In drug courts, there is often an expectation that there will be relief. Re-offense in intimate partner violence cases should not be expected if investigators can provide substance abuse in subsistence abuse cases. When there is a new victim, however, there is a sense that the perpetrator’s harm has sustained further harm. The court also has to consider the ways in which the perpetrator has mastered violence and how male partner violence cases and be aware of the significant social and economic consequences in these cases, such as protection order violations and victimization. To effectively address how these impact the veteran, the victim, and the community, they should be taken into account. Few providers, researchers, lawyers and judges have an understanding of the issues related to intimate partner violence. The VA has a history of delivering a medical model of care that focuses only on the veteran, and not on family members. This is changing at the community and governmental levels. Blue Shield of California has embarked on a funding effort supporting new grants, which focus on intimate partner violence in the military and veteran context. Examples of new initiatives include the National Institute for Research and Evaluation. The Veterans Health Research Institute in its study, “Intimate Partner Violence in Iraq and Afghanistan Veterans: Assessing Prevention and Interventions for Early Identification and Enhancement of Treatment.”

Key objectives of the intervention are to determine the prevalence and correlates of aggression and impulsivity and intimate partner conflict and violence, and to measure the efficacy of motivational interviewing to engage perpetrators and victims of intimate partner violence in mental health treatment. Blue Star Families is conducting its “Military Life Survey” (MLS). This 2010 survey will examine key behaviors that may lead to partner violence, PTSD, traumatic brain injury, and/or mental health and psychological factors, which will assist in its organizational objectives to strengthen military management, relationships, and families. Swords to Plowshares’ “Veterans in Ancestry” project provides Access to Service” project will connect and inform intimate partner violence advocates and military veteran service providers in the San Francisco area regarding military cultural competencies and resources.

The VA is also rolling out programs that address both families and veterans, and has a history of being underfunded. These programs are not exclusively directed to intimate partner violence but improve community-based partnerships. In the coming months, the VA home programs will roll out for the first time funded community-based programs to support low-income families and veterans. Additionally, the VA has developed the Veteran Justice Outreach Initiative, which aims to address the normalization of mental illness and to ensure access to mental health and substance abuse treatment. VA Medical Center Veterans Justice Outreach personnel are also engaged with the local police and courts in this effort.

How to handle justice-involved veterans is a complex issue with many facets. The conversations around veterans who have perpetrated violence, including intimate partner violence, and those that have been the victims of intimate partner violence are complex and require a multi-disciplinary approach. The response must protect public safety while considering what is best for the veteran and his or her family. For such research and program evaluation data are needed to inform policy and program development at the federal, state, and local levels.

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Letter to the Editor

Concerns Over Diversity in Mediation Offers Novel Solution

Jeffer Kitchin’s article, “Diversity in Mediation: Myths and Facts” (August 13), in addition to being exceptionally well written, presents a very specific problem (lack of diversity in mediation) and offers a novel solution. He proposes that lawyers take this pledge: “In any case where I am being compensated at market rates for my services, I will compensate the mediator at market rates as well.”

In the mediation, the mediator and all of the participants and task forces must be aware of this new role played in the mediation process. While this is the case, they cannot be in the process of deciding whether or not the mediator will sign the pledge. The process focuses on how the mediator and each of the participants will work together. Such a solution can help to address the problem of diversity in mediation. For example, the mediator can take this pledge: “In any case where I am being compensated at market rates for my services, I will compensate the mediator at market rates as well.”

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