

# Veterans in the Justice System: Treatment of Violent Offenders

By Amy Fairweather, Guy Gambill and Glenna Tinney

The National Association of Drug Court Professionals notes that there are currently a total of 39 operational veterans treatment courts in the United States. This movement reflects one cross-section of social response to the problem of veterans in justice; others include the passage of sentencing mitigation legislation in several states, including California, Minnesota, Texas, and Illinois. Another set of responses continues to develop under the tutelage of the Substance Abuse and Mental Health Services Administration (SAMHSA) and the National GAINS Center within the 13 federally funded state jail diversion pilots.

In 2009, two national teleconferences brought together a total of 49 organizations, advocates, and justice professionals to discuss the admission of violent offenders to the emerging veterans treatment courts. Participants included representatives from Vietnam Veterans of America, Iraq-Afghanistan Veterans of America, Veterans of Modern Warfare, National GAINS Center, SAMHSA, Department of Justice, Witness Justice, and others. At issue was whether prohibition of admission for those in the following categories would exclude the bulk of current conflict offenders: domestic violence cases, illegal possession of firearms, aggravated drug and alcohol-related offenses, and what might be deemed cases of "simple assault" (bar fights). The notion of a "diversion" for first-time misdemeanants who present with psychological trauma borne of a combat deployment often coupled with co-morbidity for traumatic brain injury, substance abuse, or other disorders seemed utterly preposterous, if treatment was the goal, rather than incarceration. The teleconferences generated efforts towards lifting blanket prohibitions for the admission of what the Uniform Crime Report defines as "violent offenders" to veteran treatment courts.

The problem of intimate partner violence, or domestic violence, is one that many and diverse national advocates and justice professionals feel is important with respect to the problem of veterans in justice. Only a few courts have addressed this issue head on, including Orange County Superior Court Judge Wendy Lindley and Santa Clara County Superior Court Judge Stephen Manley, who have begun to admit offenders of intimate partner violence on a case-by-case basis. Those admitted must demonstrate a clear relationship between combat deployment and the perpetration of intimate partner violence.

What is the magnitude of intimate partner violence within the totality of the problem of veterans in justice? There is a decided lack of hard data. The last Department of Justice-Bureau of Justice Statistics "Veterans in Jail and Prison" report was released in 2007, and only included data up to 2004. Thus, data on the bulk of the current conflict veterans is missing, and the next national survey from the Department of Justice is not due until 2013. However, local snapshots of what is transpiring nationally does help. Amongst such is the Travis County, Texas (Austin) "Veterans in Jail Report," which corroborates the observation of many that intimate partner violence and related offenses may constitute up to one quarter of all veteran offenders entering the justice system.

The decision to admit intimate partner violence offenders into veterans treatment courts requires serious consideration given that these offenses involve a victim who often continues to have contact with the offender and is at risk for further harm. Most drug

courts and mental health courts include offenses with no victim. Inclusion of intimate partner violence into a veterans treatment court brings many factors into play that must be considered. Victim advocates must do ongoing risk/danger assessment and safety planning with these victims. It would be irresponsible and dangerous for the court to interact only with the offender and not provide a mechanism for obtaining victim input and conducting ongoing safety planning. As evidenced in the national dialogue about intimate partner violence and justice-involved veterans, there seems to be a prevailing belief that Iraq and Afghanistan veterans are committing intimate partner violence offenses because of psychological trauma from combat exposure. This assumption may or may not be true. There are veterans who have a history of intimate partner violence prior to their combat experience who continue to be violent when they return, and there are veterans who have no history of intimate partner violence prior to their combat experience but are violent when they return. A challenging question is how can the court determine a clear relationship between combat deployment and the perpetration of intimate partner violence? There is no easy 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 and a pattern of coercive control in intimate relationships that existed prior to deployment to a combat zone and whether or not a veteran with an abusive history is appropriate for inclusion in a veterans treatment court. For the most part, such screening and assessment and intervention with intimate partner violence offenders who are veterans cannot be obtained from Department of Veterans Affairs (VA) facilities. These services will most often have to be obtained from community-based programs. However, most community-based programs are not familiar with the unique issues faced by veterans. Community-based providers need training on the impact of combat exposure and how it relates to intimate partner violence. There must be separate assessments for intimate partner violence and co-occurring conditions such as post-traumatic stress disorder (PTSD), traumatic brain injury, and substance abuse conducted by subject matter experts in each area. One provider does not generally have expertise in all of these areas. In addition, intervention for intimate partner violence must be done separately. Completing treatment for co-occurring conditions will be inadequate.

In addition, before deciding to include intimate partner violence offenses, 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 relapses. Re-offense in intimate partner violence cases should not be expected or tolerated and cannot be treated the same as a relapse in substance abuse cases. When there is a re-offense in these cases, there is a victim who has sustained further harm. The court also has to consider how firearms will be addressed in intimate partner violence cases and be aware of the multiple civil court actions that may be occurring concurrently in these cases, such as protection order, divorce, custody, and support actions and how these impact the veteran, the victim, and the family.

Few providers, researchers, lawyers and judges have an understanding of the issues related to combat trauma and intimate partner violence, much less



cultural obstacles to care and reporting within the military and veteran culture. However, the VA has a history of delivering a medical model of care that extends only to the veteran, and not to family members. This is changing at the community and government levels. Blue Shield of California has embarked on a funding effort supporting nine grants, which focus on intimate partner violence in the military and veteran context.

Examples of new initiatives include the Northern California Institute for Research and Education, The Veterans Health Research Institute two-year study, "Intimate Partner Violence in Iraq and Afghanistan Veterans: Assessing Prevalence and Interventions for Early Identification and Enhancement of Treatment." Key objectives 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 Issues Survey 3.0." This 2010 survey will examine key stressors 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 marriages, relationships, and families. Swords to Plowshares' "Veteran Family Violence: Increasing Awareness and 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 competence and resources.

The VA too is rolling out programs that address both families and justice-involved veterans; these programs are not exclusively directed to intimate partner violence but improve community-based partnerships. In the coming months, the VA homeless programs will for the first time fund community-based programs to support low-income veterans and their families.

Additionally, the VA has developed the "Veteran Justice Outreach Initiative," which aims to avoid the criminalization of mental illness and to ensure access to mental health and substance abuse treatment. VA Medical Center Veteran Justice Outreach personnel are also charged with engaging the local police and courts in this effort.

How to handle justice-involved veterans is a complex issue with many facets. The considerations around veterans who have perpetrated violence, including intimate partner violence, and how those cases should be handled in the criminal justice system add to this complexity. The response must protect public safety while considering what is best for the veteran and his or her family. As such, research and program evaluation data are needed to inform ongoing policy and program development at the federal, state, and local levels.

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**Glenna Tinney** is a retired Navy Captain social worker who has extensive experience working with military families and managing military domestic violence and sexual assault programs. She is currently the Military Advocacy Program Coordinator for the Battered Women's Justice Project.

## Letter to the Editor

### Concerns Over Diversity in Mediation Offers Novel Solution

Jeff Kichaven's article, "Diversity in Mediation: Here's How" (August 13), in addition to being exceptionally well-written, raises a specific problem (lack of diversity in mediators) 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 all the meetings and with all the committees and task forces on diversity on which I have served over the past 20 years, I have never heard this issue raised or addressed. Kichaven's insights and clear analysis are refreshing in that he offers a single concrete action attorneys can take to effectively address a long-standing

challenge.

Could Kichaven's concept be taken one step further? Could law firms, and the companies they represent, agree in general to the pledge? Could certain groups ask them to?

Nancy L. Vanderlip  
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