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**SYMPOSIUM:** **Coming Home: Accommodating the Special Needs of Military Veterans to the Criminal Justice System**

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**BIO:**

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**LEXISNEXIS SUMMARY:**

... Focusing on non-violent offenses and relying on a treatment rather than punishment model, early reports suggest the efforts are working to address the profound stress many veterans have experienced and the difficult adjustment to civilian life they face when returning home. ... Introduction By 2014, three years after the projected pull out date for American forces in Iraq, some 1.5 million members of the United States armed forces will have served in or around theaters of active combat. ... Established within existing court systems from Anchorage to Buffalo, veterans courts have no particular shape, but some definable trends are emerging: they are typically patterned after the treatment-intensive, peer-intervention oriented protocols that have proven effective in drug and mental health courts; they intervene early in the criminal justice process dealing largely with non-violent, principally misdemeanor offenses; and, although no widespread statistical analysis has been done, veterans courts report lower than normal recidivism rates. ... An important if not essential part of the process is that the same judge who approves the treatment plan and any related plea agreement maintains supervision over the process from beginning (participation approval) to end (successful completion of the treatment program and compliance with all plea agreement conditions). ... Beginning in the 110th Congress, Senators John Kerry (D-Mass.) and Lisa Murkowski (R-Alaska) introduced S. 3379, the Services Education & Rehabilitation for Veterans Act (SERV), which is designed to create funding for the study and support of veterans treatment courts through the Office of National Drug Control Policy (ONDCP) and the National Drug Court Institute (NDCI). ... The veterans concept adds an importantly tailored element: that those who have a shared experience, other veterans, offer the most easily accepted and effective "tough love" support. ... Conclusion Whether as separate divisions or adjunct to existing drug treatment or mental health courts, the creation and use of veterans courts is becoming a fixture of many state criminal justice systems and offer hope of easing the transition of returning veterans into civil society.

**HIGHLIGHT:** Large numbers of Iraq and Afghanistan war veterans are returning home with serious mental and emotional problems. In response to their impact on the criminal justice system, several jurisdictions have established

veterans courts. Patterned after the early intervention and intensive supervision protocols of drug courts, these courts are designed to address the particular needs of these veterans. Focusing on non-violent offenses and relying on a treatment rather than punishment model, early reports suggest the efforts are working to address the profound stress many veterans have experienced and the difficult adjustment to civilian life they face when returning home.

**TEXT:**

**[\*563]**

I. Introduction

By 2014, three years after the projected pull out date for American forces in Iraq, some 1.5 million members of the United States armed forces will have served in or around theaters of active combat. <sup>n1</sup> More will continue to serve in Afghanistan, some on their third or fourth deployment. As many as one in five of these returning veterans, an estimated 300,000 men and women, <sup>n2</sup> will have suffered Traumatic Brain Injury (TBI), exhibit symptoms of experienced Post Traumatic Stress Disorder (PTSD), <sup>n3</sup> or suffer from severe depression, alcohol or drug abuse. <sup>n4</sup>

**[\*564]**

The very nature of their service will make them more susceptible to a range of anti-social behavior, which will strain the resources of even the most caring government or private agencies. Far from being immune to this impact, the criminal justice system has felt <sup>n5</sup> and will continue to feel the effect of these numbers. <sup>n6</sup> This article will examine the emerging trend, largely at the state court level, spinning out of or even part of existing drug treatment courts, to create special systems to deal with the particular problems of returning veterans.

Established within existing court systems from Anchorage to Buffalo, veterans courts have no particular shape, but some definable trends are emerging: they are typically patterned after the treatment-intensive, peer-intervention oriented protocols that have proven effective in drug and mental health courts; they intervene early in the criminal justice process dealing largely with non-violent, principally misdemeanor offenses; and, although no widespread statistical analysis has been done, veterans courts report lower than normal recidivism rates. <sup>n7</sup>

**[\*565]**

II. Origins and Structure

The first known veterans court was established in Anchorage, Alaska in 2004. <sup>n8</sup> Begun by two judges, veterans themselves, observing increasing numbers of veterans appearing before them, the Anchorage Veterans Court handles largely misdemeanor cases (including those reduced from felonies) and is overseen by its own court administrator. <sup>n9</sup>

Once arraigned, a defendant facing charges amenable to veterans court processing may be referred there, whether in pretrial detention or out of custody, subject to conditions of release. Hearings are heard on alternate Tuesdays. Either on motion of the defendant or the prosecution, application may then be made for a determination of eligibility and participation in veterans court. A judge then sets conditions of bail or pretrial release for an approved defendant and refers the individual to a Veterans Service Representative (VSR). The VSR, also a veteran, works with the defendant and counsel to develop a treatment plan. The treatment plan may include referral to treatment centers for alcohol or drug dependence or to mental health counseling. Following court approval of the treatment plan, defense counsel and prosecution negotiate a plea agreement. The agreement, which may provide for eventual reduction, consolidation, or dismissal of pending charges, incorporates and typically requires compliance with the approved treatment plan. <sup>n10</sup>

At this point, the defendant must formally opt in or opt out of veterans court participation. Those who opt out are then referred to the district court for normal criminal court handling. The veterans' court judge then makes treatment plan compliance, and observance of the plea agreement, conditions of bail pending sentencing.

An important if not essential part of the process is that the same judge who approves the treatment plan and any related plea agreement maintains supervision over the process from beginning (participation approval) to end (successful completion of the treatment program and compliance with all plea agreement conditions). Equally important is that the VSR be a veteran and thus have a shared experience with the defendant. Some veterans courts restrict participation to military veterans who have served in or near areas of active combat. Most allow any veteran of military service to participate. <sup>n11</sup>

Regular court appearances by the defendant, typically with an audience of fellow participants, may produce adjustments in the treatment program or [\*566] modification of bail conditions. Coaching or encouragement is a regular part of these proceedings. While unsuccessful completion of treatment or failure to comply with bail conditions typically results in a sentence to the defendant's uncompleted term, successful completion results in a "graduation" ceremony and dismissal of charges. <sup>n12</sup>

One of the best known veterans courts was established four years after the Anchorage program by Judge Robert Russell of the Buffalo, New York City Court. <sup>n13</sup> Working closely with the local Veterans Administration (VA) hospital, Judge Russell established a procedure for handling misdemeanor cases involving military veterans coming before him. This court has neither a formal structure nor separate funding and the local District Attorney controls which cases are referred there. Like Anchorage, intervention is intensive: participating vets meet regularly with mentors-typically veterans themselves-and Judge Russell closely monitors individual progress.

In the eighteen months the Buffalo project has been in operation, approximately 130 veterans have participated, fourteen of whom have "graduated" (completed program requirements)-none of whom have become repeat offenders. Criminal charges involving two other vets have been referred into the traditional criminal justice system. <sup>n14</sup>

Following the lead of Anchorage and Buffalo, a number of other jurisdictions have established some aspect of their court system to deal with the particular needs of returning military veterans. Tulsa, Oklahoma, limits veterans court jurisdiction to non-violent offenses. <sup>n15</sup> Orange County, California, has experienced similar results in its program which was established in late 2008. <sup>n16</sup>

The legislatures of at least three other states, Connecticut, Illinois, and Nevada, have considered statutory provisions for the creation of veterans courts. The Nevada proposal (Assembly Bill No. 187), passed by both houses of the [\*567] Nevada Legislature and signed into law by the Governor, <sup>n17</sup> is modeled after a similar measure dealing with the treatment of offenders with mental illness. Applying to both current and former members of the armed forces, the Nevada courts are now required to ask defendants in criminal proceedings about their military status and authorizes its courts of general criminal jurisdiction (district courts) to establish programs for the treatment of present or former members of the military. <sup>n18</sup> Not eligible for inclusion are crimes of violence, those where probation is otherwise prohibited or where the defendant was previously convicted of a violent crime.

Illinois, following on the experience of veterans courts in its Cook and Madison counties, has enacted legislation <sup>n19</sup> creating a Military and Veterans Court Task Force to study the existing programs and make recommendations concerning the creation of a statewide system of veterans courts. The task force report is due November 1, 2009, and the target date for establishment of the court is June 1, 2010. <sup>n20</sup>

### III. Congressional Proposal

Congress is alert to the growing veterans court movement. Beginning in the 110th Congress, Senators John Kerry (D-Mass.)<sup>n21</sup> and Lisa Murkowski (R-Alaska) introduced S. 3379, the Services Education & Rehabilitation for Veterans Act (SERV), which is designed to create funding for the study and support of veterans treatment courts through the Office of National Drug Control Policy (ONDCP) and the National Drug Court Institute (NDCI).<sup>n22</sup> The proposal has been re-introduced in the current Congress in the form of S. 902, co-sponsored by Senators Kerry, Inouye (D-Hawaii),<sup>n23</sup> and Reed (D-Rhode Island).<sup>n24</sup> A companion measure (H.R. 2138) has been introduced in the House of Representatives with thirty-two co-sponsors.<sup>n25</sup>

**[\*568]**

### IV. The Case for Specialization

The establishment of veterans courts follows the path of prior specialty courts, most particularly drug courts. Specialty courts for drug offenders originated in America's urban centers and paralleled the dramatic increase in incarceration rates in the 1980s and 1990s.<sup>n26</sup> By the end of that period, drug convictions were the single largest factor in the trebling of the nation's prison population.<sup>n27</sup> Drug courts sprang from a recognition that traditional arrest-convict-incarcerate approaches to drug enforcement were doing nothing to attack the root cause of drug abuse.<sup>n28</sup> The traditional approach offered relative speed and some certainty, but little or no treatment of the underlying addiction.<sup>n29</sup>

For judges, drug courts represent a rather dramatic departure from the traditional adversarial model. No longer the referee of a battle between the denier of dependence and the forces of conviction-incarceration, drug court judges find themselves as overseers of treatment programs, with the intended end result of rehabilitation rather than punishment.<sup>n30</sup> Acting more like a probation officer than a jurist, drug court judges establish a one-on-one relationship with the offender with the fear of reversion to traditional punishment as a motivator.<sup>n31</sup>

Drug court protocol also alters the traditional role of defense counsel and prosecutor. No longer adversaries pulling in the opposite direction, counsel become part of the treatment team, working with the judge to develop, monitor, and ensure compliance with a tailored treatment plan for the offender.<sup>n32</sup>

Focusing on treatment and altering the traditional roles of counsel and the court, veterans courts emulate the drug court pattern. Court and counsel work to develop a program addressed to the particular needs of the offender. Once established, compliance with specific program goals becomes a condition of a plea agreement which may lead to reduction or even dismissal of pending charges. **[\*569]** Critical to success is the active involvement of a military veteran mentor and regular meetings with the same assigned judge.

#### A. The Case for Specialization

There is widespread public acceptance of the notion that military veterans should be treated differently in many respects from their civilian counterparts. As a consequence, veterans receive medical care, educational support, and employment preferences not available to their civilian counterparts. This acceptance may be attributable to a general respect for the sacrifice of members of an all-volunteer force and the knowledge that today's veteran may have been subjected, even repeatedly subjected, to life-threatening events the general public may never know. The Supreme Court recently noted the nation's "long tradition of according leniency to veterans in recognition of their service, especially for

those who fought on the front lines." <sup>n33</sup> Granting habeas corpus relief to a Korean war veteran convicted of a double murder and sentenced to death, the Supreme Court found the defendant's extensive combat experience particularly relevant "not only that he served honorably under extreme hardship and gruesome conditions, but also that the jury might find mitigating the intense stress and mental and emotional toll that combat took on Porter." <sup>n34</sup> A prosecutor with recent military experience put it this way: "You are unleashing certain things in a human being we don't allow in civic society, and getting it all back in the box can be difficult for some people." <sup>n35</sup>

It is an appreciation of this rather unique experience that seems to drive the movement supporting the creation of veterans courts. In today's setting, that includes the "uncertainty of deployment, repeated and extended tours of duty, and the constant peril" involved in conducting anti-insurgent warfare in strange and distant lands. <sup>n36</sup>

Operationally and in terms of their theoretical underpinnings, veterans' courts are much like drug courts. Professor Eric Miller summarized the drug court concept this way:

The drug court's central goal is to provide a safety valve for the cycle of incarceration-release-recidivism . . . . Their central methodology is to replace the parole officer with the judge as primary supervisor of each [\*570] defendant's treatment program, so that the court takes responsibility for the "supervised referral of identified defendants into treatment." <sup>n37</sup>

The focus is on treatment, not punishment, and on getting at the root cause of anti-social behavior. For veterans, it is the cycle of their experience from civilian life, to the regimentation of military life with all its attendant support, to the intensity of life in a combat zone, then to what may be a rather swift and unsupported return to civilian life.

Similarly, the veterans court concept begins with an understanding that routine criminal punishment will not address the participant's underlying problem and that early intervention and intensive supervision is essential to long-term success. The veterans concept adds an importantly tailored element: that those who have a shared experience, other veterans, offer the most easily accepted and effective "tough love" support. <sup>n38</sup>

Then there is the very serious cost of doing nothing. Suicide rates among returning veterans are alarmingly high and increasing every year. <sup>n39</sup> A returning veteran's deployment experience can cause domestic difficulty to spiral into violence <sup>n40</sup> and minor brushes with law enforcement into deadly clashes.

## V. Criticisms

The idea of establishing veterans courts structures is not without critics. Advocates for victims of domestic abuse in Nevada for example, while supporting the concept in general, have questioned the inclusion of domestic violence offenses within the purview of veterans' courts, noting the escalating nature of those offenses. <sup>n41</sup> Civil liberties groups, while supporting the drug and mental health court concept, have opposed the creation of a specialty court based on status. Of [\*571] particular concern to civil libertarians is the disparity in treatment between non-violent drug offenders who are not veterans and those who are. <sup>n42</sup> A Connecticut proposal met with opposition from that state's judges on the basis that a proposed legislative directive to establish such a specialty court would take away limited resources available to handle other cases, and because judges already have the ability to take service connected disabilities like PTSD into consideration in all aspects of the criminal justice system, including sentencing. <sup>n43</sup>

These criticisms have had an impact on the shape and coverage of veterans courts. Prosecutors, careful guardians of their authority and discretion, have contributed to this shaping. Consequently, the diversion of criminal charges away from traditional processing and into the treatment mode has largely been limited to non-violent offenses. Veterans accused of violent offenses, absent prosecutorial downsizing agreement, are very likely to be processed in the traditional way, with consideration of their military experience reserved for sentencing.<sup>n44</sup>

Hopefully, the focus on non-violent offenses will translate into early intervention in the behavior patterns of troubled returning veterans, before more serious damage is done to themselves and others. Drug court professionals recognize that the earlier intervention occurs in the dependency cycle, the greater the chance of success. There is every reason to believe the same would be true of veterans courts.

## VI. Conclusion

Whether as separate divisions or adjunct to existing drug treatment or mental health courts, the creation and use of veterans courts is becoming a fixture of many state criminal justice systems and offer hope of easing the transition of returning veterans into civil society. Increased recognition by the Departments of Defense and Veterans Affairs of their physical and psychological needs,<sup>n45</sup> combined with the efforts of veterans courts, may produce a considerably brighter future for our returning veterans. Sensitivity to concerns about status-based exclusivity, [\*572] combined with the recognized need for early intervention, have focused these courts on non-violent, largely misdemeanor offenses. Constant supervision and support, particularly from veteran peers, offer encouraging signs that the particularized needs of returning military veterans will be met with an understanding heart, a firm hand, and a watchful eye.

[\*573] [SEE FLOW CHART IN ORIGINAL]

\* Flowchart provided by the author.

### Legal Topics:

For related research and practice materials, see the following legal topics:  
Criminal Law & Procedure  
Guilty Pleas  
General Overview  
Criminal Law & Procedure  
Sentencing  
Alternatives  
Substance Abuse Programs  
Military & Veterans Law  
Veterans  
General Overview

### FOOTNOTES:

n1 Veterans' Disability Benefits Comm'n, *Honoring the Call to Duty: Veterans' Disability Benefits in the 21st Century* 365 (2007), available at <http://www.vetscommission.org/pdf/FinalReport10-11-07-compressed.pdf>.

n2 U.S. Dep't of Veterans Affairs Nat'l Ctr. for PTSD, *How Common is PTSD?*, <http://www.ptsd.va.gov/public/pages/how-common-is-ptsd.asp> (last visited Apr. 7, 2010). See also RAND Corp., *Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery* xxi (Terri Tanielian & Lisa H. Jaycox eds., 2008).

n3 With origins in the Vietnam conflict and originally known as Post Traumatic Stress Syndrome, PTSD is now a recognized subcategory of anxiety disorder. The American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM III) defines PTSD "as the development of specific symptoms following a psychologically traumatic event that is beyond the range of usual human experience." Michael J. Davidson, Post-Traumatic Stress Disorder: A Controversial Defense for Veterans of a Controversial War, 29 Wm. & Mary L. Rev. 415, 421 & n.42 (1988); see also Capt. Daniel E. Speir, Application and Use of Post-Traumatic Stress Disorder as a Defense to Criminal Conduct, Army Law., June 1989, at 17; Elizabeth J. Delgado, Vietnam Stress Syndrome and the Criminal Defendant, 19 Loy. L.A. L. Rev. 473, 476-77 (1985).

n4 See James Dao, Mental Health Problems Plague Returning Veterans, N.Y. Times, July 17, 2009, at A10 (describing San Francisco Department of Veterans Affairs Medical Center study of health records of 289,328 veterans, showing 37% with mental health problems, 22% with PTSD, 17% with depression, and 7% with alcohol abuse).

n5 A 1988 study commissioned by Congress found that 30.6% of male Vietnam veterans (26.9% of female vets) have had full blown PTSD at some point in their lives. Additionally, 15.2% of male veterans (8.5% of females) still suffered from full-blown PTSD more than a decade after the end of that war. The study also found that fully half of male Vietnam veterans with active PTSD had been arrested or placed in custody more than once. Richard A. Kulka et al., Trauma and the Vietnam War Generation: Report of Findings from the National Vietnam Veterans Readjustment Study xxvi-xxix, 186-87 (1990). See also Bruce P. Dohrenwend et al., The Psychological Risks of Vietnam for U.S. Veterans: A Revisit with New Data and Methods, Sci., Aug. 18, 2006, at 979 (validating the study's conclusions and finding an even stronger dose-response relationship).

n6 See Deborah Sontag & Lizette Alvarez, Across America, Deadly Echoes of Foreign Battles, N.Y. Times, Jan. 13, 2008, at A1, A14 (documenting 121 homicides committed in the six years since the invasion of Afghanistan in 2001 in which returning Iraq and Afghanistan veterans were convicted or charged-an 89% increase from the six prior years. About one-third of the victims were spouses, girlfriends, children or other relatives. Unlike their civilian counterparts, the overwhelming majority of these homicide offenders had no criminal history.).

n7 For interviews of Henry Pirowski, the Buffalo Veterans Court Administrator, see Center for Court Innovation, Buffalo's C.O.U.R.T.S. (Court Outreach Unit: Referral and Treatment Services) P r o g r a m , <http://www.courtinnovation.org/index.cfm?fuseaction=Document.viewDocument&documentID=719&documentTopicID=31&documentTypeID=10> (last visited Apr. 8, 2010); Center for Court Innovation, Changing the Court, Mar. 15, 2007, <http://changingthecourt.blogspot.com/2007/03/snow-day.html> (last visited Apr. 8, 2010); Matthew Daneman, N.Y. Court Gives Veterans Chance to Straighten Out, USA Today, June 1, 2008, <http://www.usatoday.com/news/nation/2008-06-01-veterans-court-N.htm>; Libby Lewis, Court Aims to Help Vets with Legal Troubles, npr.org, Apr. 29, 2008, <http://www.npr.org/templates/story/story.php?storyId=90016059>.

n8 Amanda Ruggeri, New Courts Give Troubled Veterans a Second Chance, U.S. News & World Rep., Apr. 3, 2009, <http://www.usnews.com/news/national/articles/2009/04/03/new-courts-give-troubled-veterans-a-second-chance.html>.

n9 Id.; see also Alaska Court System, Alaska Veterans Court (2008), available at <http://www.courts.alaska.gov/forms/pub-121.pdf>.

n10 See the attached flow chart from the Alaska Veterans Court (Mar. 2009), *infra* at 573.

n11 Section 7(1) of the proposed Services Education & Rehabilitation for Veterans (SERV) Act would fund state court operated veterans courts, permitting any veteran with a discharge other than dishonorable to participate. See *infra* text accompanying notes 17-18.

n12 See the attached flow chart from the Alaska Veterans Court (Mar. 2009).

n13 The Buffalo project has been the subject of reports by National Public Radio (NPR) and the Associated Press (AP). Judge: Keep Vets Out of Jail (NPR radio broadcast June 18, 2008), available at <http://www.npr.org/templates/story/story.php?storyId=91633166>; Carolyn Thompson, Special Court for Veterans Addresses More than Crime, *Boston Globe*, July 7, 2008, available at [http://www.boston.com/news/nation/articles/2008/07/07/special\\_court\\_for\\_veterans\\_addresses\\_more\\_than\\_crime/](http://www.boston.com/news/nation/articles/2008/07/07/special_court_for_veterans_addresses_more_than_crime/). See also Robert T. Russell, Veterans Treatment Court: A Proactive Approach, 35 *New Eng. J. on Crim. & Civ. Confinement* 357 (2009).

n14 Telephone Interview with Henry Pirowski, Capital Defense Attorney, Buffalo Veterans Court Administrator (July 7, 2009) (on file with author).

n15 Mick Hinton, Special Court Helps Veterans in Tulsa, Okla., *A.P.* Mar. 5, 2009, available at <http://www.signonsandiego.com/news/2009/mar/05/veterans-court-oklahoma-030509/>. See also Nicholas Riccardi, Where Justice Isn't Blind to the Needs of Veterans, *L.A. Times* Mar. 10, 2009, at A1.

n16 California has no particular authorizing statute for veterans courts, but does restrict special consideration of prior military service in the criminal sentencing process to combat veterans only. Cal. Penal Code § 1170.9 (2009).

n17 14 Nevada Rev. Stat. Ann. § 176.015 (2009).

n18 *Id.*

n19 House Bill 4212, after passing both houses of the Illinois Legislature, was signed into law by the Governor on July 27, 2009, and took effect immediately as Public Law No. 096-0093. H.R. 4212, 96th Gen. Assem., Reg. Sess. (Ill. 2009).



n20 Telephone Interview with Bill L. Little, Jr. (Co. USAF Ret.), Capital Defense Attorney, Maricopa County Office of the Public Defender (Aug. 13, 2009) (on file with author).

n21 Senator Kerry is a Vietnam veteran.

n22 The SERV Act would appropriate an initial \$ 25 million for support of veterans' courts. S. 3379, 110th Cong. § 11 (2008).

n23 S. 902, 111th Cong. § 11 (2009). Senator Inouye is a World War II veteran. See The Honorable Daniel K. Inouye, United States Senator, [http://inouye.senate.gov/Who is Dan/upload/Dan-Inouye-Biography.pdf](http://inouye.senate.gov/Who%20is%20Dan/upload/Dan-Inouye-Biography.pdf).

n24 Senator Reed is a Vietnam era veteran. See United States Senator Jack Reed-Rhode Island, <http://reed.senate.gov/biography/index.cfm>.

n25 Including the first seven co-sponsors: Dan Boren (D-Oklahoma), Al Green (D-Texas), Brian Higgins (D-New York), Eric Massa (D-New York) (U.S. Navy veteran), Michael Michaud (D-Maine), Janice Schakowsky (D-Illinois), and John Sullivan (R-Oklahoma). Services, Education, and Rehabilitation for Veterans Act, H.R. 2138, 111th Cong. (2009).

n26 Eric J. Miller, Drugs, Courts, and the New Penology, 20 Stan. L. & Pol'y Rev. 417, 420 (2009).

n27 Michael Tonry, Race and the War on Drugs, 1994 U. Chi. Legal F. 25, 26.

n28 Sheila M. Murphy, Drug Courts: An Effective, Efficient Weapon in the War on Drugs, Ill. B.J., Oct. 1997, at 474, 475.

n29 Id.

n30 James R. Brown, Note, Drug Diversion Courts: Are They Needed and Will They Succeed in Breaking the Cycle of Drug-Related Crime?, 23 New Eng. J. on Crim. & Civ. Confinement 63, 90-91 (1997).

n31 Peggy Fulton Hora et al., Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime in America, 74 Notre Dame L. Rev. 439, 472 (1998).

n32 Eric J. Miller, Embracing Addiction: Drug Courts and the False Promise of Judicial Interventionism, 65 Ohio St. L.J. 1479, 1491 (2004).

n33 Porter v. McCollum, 130 S. Ct. 447, 455 & n.8 (2009) (per curiam).

n34 Id. at 455.

n35 See Sontag & Alvarez, supra note 6, at A14 (quoting William C. Gentry, San Diego County Prosecutor and Iraq veteran).

n36 See Katrina J. Eagle & Steve R. Binder, Veterans Facing Criminal Charges: How A Community of Professionals Can Serve Those Who Served Our Country, Nev. Law., Nov. 2008, at 16, 16-17.

n37 Eric Miller, supra note 26, at 417 (quoting Richard C. Boldt, Rehabilitative Punishment and the Drug Treatment Court Movement, 76 Wash. U. L.Q. 1205, 1210 (1998)).

n38 " Traumatic experiences can create a prison of isolation, a sense that only someone who has been through the same events can comprehend the intensity of feeling they arouse." Erica Goode, After Combat, Victims of an Inner War, N.Y. Times, Aug. 2, 2009, at A1, A19.

n39 Although statistics for discharged veterans are difficult to come by, in 2008, there were 192 suicides among those on active duty or inactive reserve status-double the number for 2003. The year 2009 is likely to see even higher numbers: from January to mid-July 2009, 129 suicides were confirmed or suspected-more than the total number of personnel killed in action during the same period. Id.; Lizette Alvarez, Suicides of Soldiers Reach High of Nearly 3 Decades, and Army Vows to Bolster Prevention, N.Y. Times, Jan. 30, 2009, at A19.

n40 See Lizette Alvarez & Deborah Sontag, When Strains on Military Families Turn Deadly, N.Y. Times, Feb. 15, 2008, at A1 (referencing study showing 150 cases of fatal domestic violence or child abuse involving service members and returning veterans in the six years following the October 2001 invasion of Afghanistan).

n41 See, e.g., Assembly Bill 187 of 2008 for the Creation of a Statewide Program to Establish a Veterans Court Before the Assemb. Comm. on the Judiciary, 75th Sess. 20-24 (Mar. 4, 2009) (testimony of Nancy Hart, Nevada Network Against Domestic Violence).

n42 Id. at 24-28 (testimony of Lee Rowland, American Civil Liberties Union of Reno, Nevada).

n43 Hearing on Connecticut H.B. 6708, Before the Judiciary Comm., 2009 Sess. (Mar. 24, 2009) (testimony of Stephen N. Ment, Connecticut Judicial Branch).

n44 The idea that returning veterans convicted of violent offenses be accorded special treatment at sentencing on account of their military experience has met with some resistance from prosecutors, judges, and juries. See Deborah Sontag & Lizette Alvarez, *Combat Trauma Takes the Witness Stand*, N.Y. Times, Jan. 27, 2008, at A1.

n45 The U.S. Army has launched a \$ 117 million program to provide intensive training in emotional resiliency to all 1.1 million of its soldiers, according to Chief of Staff General George W. Casey, Jr. The program is designed to head off mental health problems, including PTSD, depression and suicide, now affecting one- fifth of troops returning from Iraq and Afghanistan. See Benedict Carey, *Army to Require Training Course in Mental Stress*, N.Y. Times, Aug. 18, 2009, at A1, available at <http://www.nytimes.com/2009/08/18/health/18psych.html>.