A MENTOR IN COMBAT VETERANS COURT: OBSERVATIONS AND CHALLENGES

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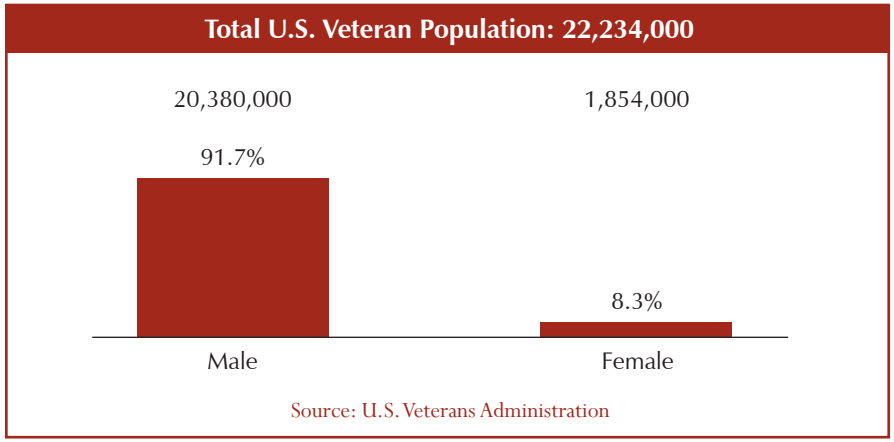
Mentoring is nothing new, but mentoring in a combat veterans court by fellow combat veterans is new. This article comments on the role mentors play in a veterans court, mentor training, and the need for the development of mentor training specific to women.

Orange County, California's Combat Veterans Court, now in its third year, is presided over by superior court judge Wendy Lindley in a defunct department store. A sign in the hallway has Mickey Mouse saluting the American flag, reminding all that Disneyland is only a few miles away. Unlike any other veterans' court in the country, and the nine other veterans courts thus far in California, this veterans' court accepts only combat veterans, a concept put into effect due to the wording of a prior California law. All veterans are eligible in other collaborative courts, such as drug court, homeless court, and mental health court. Combat veterans court survives despite the fact the law no longer limits veterans courts to combat veterans, quite simply because it works.



My involvement is peripheral. I sit on the California Court of Appeal and have absolutely nothing to do with the operation of veterans court. Because I served as a combat nurse in Vietnam and am a member of a chapter of Vietnam Veterans of America, Judge Lindley asked me if I could round up some Vietnam vets to serve as mentors in her court. While doing that, I volunteered myself should the court ever have any women defendants. It was not long before there were women vets and I became their mentor. When they have court appearances, I run over to veterans court for an hour or two about once a month. It provides me with a unique opportunity to view how justice is dispensed as a member of the public.

How Combat Veterans Court Works

California Penal Code section 1170.9 permits courts to specially handle any veteran who was a member of the military forces and suffers from post-traumatic stress disorder, traumatic brain injury, substance abuse, military sexual trauma, or psychological problems as a result of that service. Previously, the statute required combat service, but as of January 1, 2011, it no longer does.

Judge Lindley's program centers on the specialized needs of combat veterans. Their families observe that each time they return from a deployment, their problems are worse. They demonstrate more and more hopelessness and disillusionment. The judge accepts those who had no problems during school and no contacts with the criminal justice system before joining the military.

A collaborative team decides which veterans will be admitted to veterans court. One does not see a typical array of career criminals in combat veterans court as the team selects those who demonstrate a commitment to reform themselves as soon as possible. Three simple rules must be followed. The veterans must be honest, show up, and try hard. It is a four-phase, highly structured program lasting a minimum of 18 months. While the veteran must plead guilty to the charges at the outset, upon successful completion, many walk away without a criminal record.

Observations About the Collaborative Process

Before a court session begins, numerous professionals meet in a cramped room behind the courtroom. The group includes the judge, two probation officers, a deputy district attorney, a public defender, a Veterans Administration representative,

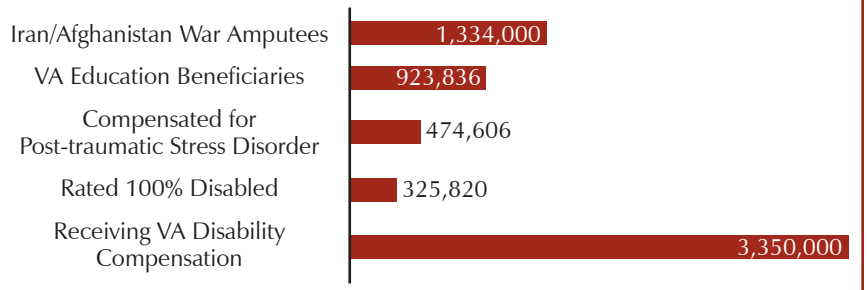
a liaison between the court and the VA, two representatives from the county mental health agency, and sometimes an army captain who works as a judge advocate, assisting veterans boggled down with noncriminal disputes. The team decides which defendants will be accepted into the program and discusses each vet scheduled to appear in veterans court that day.

What I find fascinating about the process, from the viewpoint of a judge, is the effect a collaborative court using evidence-based practices appears to have on a judge's discretion. I will discuss two of my observations.

While most defendants are veterans of Afghanistan or Iraq, my first observation involves a Vietnam vet's case. Looking scrubbed and happy, he displayed an A+ grade on his college paper. With tears in his eyes, he thanked Judge Lindley for giving him a chance. At that point, some rattling could be heard from the prisoners' cage in the courtroom holding in-custody defendants on non-veterans-court matters. Inside the holding cell was another Vietnam vet. The caged Vietnam vet looked pitiful and bedraggled, and he begged the judge to allow him into veterans court, too. As Judge Lindley talked with him, it appeared she was looking over at the collaborative team for reactions. The judge told him the team had already decided not to permit him into veterans court due to his many years of drug use and other crimes. After he begged her to change her mind, she relented and said she would give him the opportunity. I think I heard some clearing of throats from team members, and I believe I saw Judge Lindley's face redden as she overruled the team's decision.

The other incident concerned a pretty young woman vet who drove while under the influence of alcohol. An alcohol test revealed she had a low creatinine level, and she was afraid she would be sent to jail. (Some people flood their systems with water to produce an artificially negative test. The creatinine level is checked to catch cheaters.) Judge Lindley was not presiding the day the vet tried to explain to the court she routinely drinks a lot of water and that she was not trying to beat the test. Another judge, a man, presided. The young woman told the judge how concerned she is about her health and that she drinks many glasses of water each day to keep her system cleansed and was not cheating. As the judge asked her questions, it looked as if he believed her. Just as Judge Lindley did, he looked around the team

Select U.S. Veteran Statistics, 2011



Source: U.S. Veterans Administration

members. The judge lowered his head a little as if to ward off an inclination to follow his intuition and give the young woman another chance. When he raised his head, he announced the team had decided she would go to jail.

These incidents drove home the differences between the traditional courts and collaborative courts that follow evidence-based practices. The judge still has the final say, but it is the team, not just the judge, that makes almost all the decisions. A judge is concerned about letting the team down in deviating from the collaborative team's decision. It appeared it was very difficult for the second judge to go against his intuition, but he did, apparently realizing that evidence shows success if there is an immediate consequence for every deviation.

That is not to say a judge's intuition is gone forever in collaborative courts. As it turned out, Judge Lindley's was right on. The caged Vietnam vet she permitted into veterans court now shows up with a neatly trimmed beard, wearing a corduroy jacket over a turtleneck and looking much like a college professor. On that first day, I went up to the holding cell and told him there were many Vietnam vets sitting in the courtroom and we all believed he could do it. Later, when he was promoted into the fourth and final phase of the program, he told me he could not let a nurse down.

Training of Mentors

A strong sense of caring and giving exists among the mentors, all of whom are Vietnam veterans. This is not surprising, since the motto of Vietnam Veterans of America is "Never Again Will One Generation of Veterans Abandon Another."

Several professionals talked about the program and how mentors who had been in combat too would help the defendants. We were told that people with addiction issues are surrounded by both professional and peer addiction personnel, and what these vets need in a mentor is a healthy human being. Mentors should be good and optimistic people who are focused on their mentees. They told us not to act in authoritarian or judgmental ways, and that when a manipulative mentee is deceptive, the mentor should try to contain personal reactions. We are to use our experiences and be supportive.

How Mentors Are Used

Mentors try to be in court when their mentees appear. Between court dates, each relationship just depends on the two individuals. Some communicate once a week by telephone. Others send e-mails or text messages. I occasionally meet for lunch or coffee with my mentees.

There appears to be a correlation between what happens in court with how much the mentee seems to lean on the mentor. If the judge has been very lenient, the mentee sometimes appears to "shine on" the whole proceeding, including the mentor, acting as if it is all a big waste of time. But if the judge sanctions a defendant with an overnight in jail, for example, the mentee wants to communicate more and takes the matter more seriously.

One of my mentees, who has numerous tattoos and ever-changing hair color (sometimes pink, sometimes orange), might as well have "arrest me" written across her forehead. So that is just what happened to her one Sunday morning. She told me about it when we had coffee a few days later. She swore to me she had not taken any drugs for 54 days. I believed her. When she got to court, we saw the police officer had written in the report that she was under the influence, her pulse was 125, her eyeballs were shaking, her pupils were constricted, and she kept interrupting the officer when he spoke. A drug test was performed, but the results were not back when she appeared in court. Because of the officer's report, she was put in handcuffs and told she was going to jail. I was shocked as I assumed nothing would happen until the test results were seen. When the judge left the bench, I asked the bailiff if I could approach my mentee. I told her I did not know how things would turn out, but that I believed her. I waited in the courtroom with her until they came to take her to jail. After about 20 minutes, the judge and the team returned. The judge announced they were able to locate the test results. No drugs were found in her system. As soon as she got home, my mentee wrote me, "Eileen, I just wanted to tell you, thank you for going to court with me and being there and believing in me."

Comments on the Mentoring Program and Some Suggestions on How It Might Be Improved

I see three places for possible improvement of the mentor program in combat veterans court. They all have to do with mentor training.

As background for my first suggestion, I experienced great ambivalence when I thought I smelled alcohol on a mentee. She had been arrested for driving under the influence and ordered to refrain from all alcohol and drugs. Around the same time, another mentor told me he knew his mentee, who had been ordered not to leave the county, spent a weekend in San Francisco. Both of us were in a quandary regarding how to handle the situations. As mentors, we are not supposed to act

Interaction in the Hallway

Each time I have attended combat veterans court, the mentors and mentees stand outside the courtroom in the hallway waiting for the team collaboration to conclude. Serendipitously, these times genuinely expand the esprit de corps of the mentors and mentees. Healing and soothing occurs as faces become familiar and people chat. There are smiles and "attaboys," and encouraging pats on the back. These hallway interactions seem to tap into the military sense of pride and camaraderie.

judgmental or authoritarian; yet neither of us wanted to be enablers, either. Mentoring under circumstances where court orders are involved is different from typical mentoring, and mentors need to be trained for such situations. They do not want to report the person they are supposed to be mentoring to the court. Nor do they want to feel responsible for someone driving under the influence or otherwise defying a court order.

Second, practically all the combat veterans got into trouble because of drug or alcohol abuse. But few of the mentors have had problems with drugs or alcohol. While I understand why it might be preferable for defendants to have healthy people mentoring them, I can also see some value to having a mentor who has some experience with drugs. Phase four of the combat veterans court program states as a requirement: "Become a mentor to a new Combat Veterans Court participant as approved by your treatment plan." Richard, the Vietnam vet defendant who displayed his A+ paper, graduated and headed the mentor program for a short time. Thus far, he is the only graduate who has mentored, which is not surprising because the younger ones are in school or starting careers. Mentors who are not graduates might do a better job if their training included something about drugs and alcohol.

Third, almost 200,000 female members of the military have served in Iraq and Afghanistan. Some trauma-inducing events are either unique to or more common among women. It may take years for a woman who was sexually abused in the military to reach out for assistance. Mentoring of women veterans can be very different than mentoring men. Some sort of training specifically designed toward mentoring women needs to be developed.

The very first night I was in Vietnam, two drunken officers, stating their illicit intentions in filthy language, tried to break into the nurses' transient quarters. Thus, I am quite aware of how frightening it can be for a woman amid hundreds or thousands of battle-hardened soldiers. Young women soldiers, who are very patriotic and want to serve their country in a meaningful way, experience fear, disappointment, and sometimes fury when they are sexually attacked or harassed.

Sexual trauma is now on the list of maladies for a veteran to qualify under the California statute. Today all separating military personnel are screened for military

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sexual trauma, a term that refers not only to sexual assault but also to sexual harassment or unequal treatment of any kind based on gender. Military sexual trauma, like combat stress, can lead to PTSD, depression, and suicide.

When a woman reports an assault to military medical personnel, military police, or even a military chaplain, those persons must report the assault. The incident is filtered through several layers within the chain of command before actually reaching the commanding officer. A woman must often continue to serve with and show respect for the perpetrator. Victims may even be required to salute their rapist.

Conclusion

Veterans courts have emerged as a vital form of therapeutic and collaborative justice with proven efficacy. When focused upon the unique challenges and trauma that afflict combat veterans, and drawing upon mentors, who themselves have been in combat and understand the frame of mind and spirit resulting from putting one's life in harm's way, veterans are able to again become contributing members of society. Having risked their very all to secure our liberties, they deserve nothing less than the opportunity to heal that these courts provide with superior force and effect. As the mentoring model grows it would behoove the courts and its constituents to share notes on best practices in training and utilizing mentors.

RESOURCES

Administrative Office of the Courts (n.d.). "California Veterans Courts: The Power of Mentors." Available by e-mail from Michael Roosevelt, senior court services analyst and staff to the Veterans Court Working Group, michael.roosevelt@jud.ca.gov.

— (2010-11). "Innovation in the Courts: Orange County Combat Veterans Court." Recipient of the Ralph N. Kleps Award for Improvement in the Administration of the Courts. www.courts.ca.gov/programs-innovations.htm and www.courts.ca.gov/13955.htm

Cvetanovich, B., and L. Reynolds (2007). "Joshua Omvig Veterans Suicide Prevention Act of 2007," 45 *Harvard Journal on Legislation* 619. www.harvardjol.com/wp-content/uploads/2009/08/619-640_Cvet-Reynolds.pdf

Mullins, C. (2005). "Understanding Sexual Assault in the United States Military Culture," 7:1 *Connections* 8. http://wcsap.org/sites/www.wcsap.org/files/uploads/documents/Military2005.pdf

National Mentoring Partnership (n.d.). "How to Build a Successful Mentoring Program Using the Elements of Effective Practice." http://mentoring.org/downloads/mentoring_418.pdf

Ogden, J. (n.d.). "Tailhook '91 and the U.S. Navy." Case Studies in Ethics: Teaching Notes, Kenan Institute for Ethics, Duke University, Durham, N.C. www.duke.edu/web/kenanethics/CaseStudies/Tailhook&USNavyTN.pdf

Orange County Superior Court (n.d.). "Combat Veterans Court Mentor Guide." Available by e-mail from Kimberly Parsons, collaborative court coordinator, Kparsons@occourts.org.

— (n.d.). "Combat Veterans Court Participant's Handbook." Available by e-mail from Kimberly Parsons, collaborative court coordinator, Kparsons@occourts.org.

Russell, R. T. (2009). "Veterans Treatment Courts Developing Throughout the Nation." In C. R. Flango, A. M. McDowell, C. F. Campbell, and N. B. Kauder (eds.), *Future Trends in State Courts 2009*. Williamsburg, VA: National Center for State Courts. www.ncsc.org/veterans

Schingle, J. C. (2009). "A Disparate Impact on Female Veterans: The Unintended Consequences of Veterans Affairs Regulations Governing the Burdens of Proof for Post-Traumatic Stress Disorder due to Combat and Military Sexual Trauma," 16 *William and Mary Journal of Women and the Law* 155.

Stone, A. (2008). "Mental Toll of War Hitting Female Servicemembers," *USA Today*, January 1.

Veterans Healing Initiative (2011). "Robert T. Russell, Jr." Web page, Greenville, S.C. www.vetshealing.org/content/hon-robert-t-russell-jr