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Serving Those Who Served Meeting Veterans' Unmet Legal Needs

**By Will A. Gunn, Stephen T. Redmon,
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Each year, around 60 percent of high school graduates go on to college and university—some version of higher education. Of the remaining 40 percent or so, some undergo vocational training; others immediately enter the workforce. A few join the less than one percent of Americans who voluntarily serve in our Nation's armed forces. . . . [A]fter basic training and arrival at their first units[,] they quickly become valued and trusted members of high-performing teams. . . . With strong leadership, they perform the complex, the difficult, and the dangerous missions, as they are doing today in Afghanistan and as they have done throughout our Nation's history. . . . But . . . [v]eterans suffer disproportionately from depression, substance abuse, and they are well up there in joblessness as well—factors which contribute to homelessness . . . and, sometimes, to suicide[.] This is not about them; this is about us.

—Eric K. Shinseki
Secretary of Veterans Affairs
2012 National Coalition

for Homeless Veterans (NCHV) Annual Conference, May 30, 2012

The United States has a long history of military conflict and the challenges associated with properly honoring and assisting with the transition of veterans from military service to civilian life. Demonstrating the proper treatment and appreciation of veterans to ensure their smooth transition from military service is primarily the responsibility of the Department of Veterans Affairs (VA), but many government and private organizations play a role in caring for veterans and their families.

Challenges of Today's Veterans

The military operations in Afghanistan and Iraq since 9/11 have had a negative impact on our service members and their families. During Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), and Operation New Dawn (OND, the period of U.S. operations in Iraq from September 1, 2010, to December 15, 2011), approximately 2.6 million U.S. military members have been deployed to the war zones. More than 900,000 have had multiple deployments. *INST. OF MED., TREATMENT FOR POSTTRAUMATIC STRESS DISORDER IN MILITARY AND VETERAN POPULATIONS: INITIAL ASSESSMENT 17 (2012).*

Since 9/11, of the roughly 900,000 OIF/OEF veterans treated at VA hospitals and clinics, 31.8 percent have been treated for post-traumatic stress disorder (PTSD). *EPIDEMIOLOGY PROGRAM, DEP'T OF VETERANS AFFAIRS, ANALYSIS OF VA HEALTH CARE UTILIZATION AMONG OPERATION ENDURING FREEDOM (OEF), OPERATION IRAQI FREEDOM (OIF), AND OPERATION NEW DAWN (OND) VETERANS 10 (2013), available at www.publichealth.va.gov/docs/epidemiology/healthcare-utilization-report-fy2013-qtr1.pdf.* Studies of veterans have found a significant association between PTSD and arrest and incarceration. For example, one study found that 45.7 percent of Vietnam veterans who had current PTSD had been arrested or jailed more than once in their lives, compared with 11.6 percent of the veterans who did not have PTSD. *RICHARD A. KULKA ET AL., TRAUMA AND THE VIETNAM WAR GENERATION: REPORT OF FINDINGS FROM THE NATIONAL VIETNAM VETERANS READJUSTMENT STUDY (1990).*

Experts have estimated that about 14 percent of the adult homeless population

has served in the U.S. military. The *2013 Annual Homeless Assessment Report*, prepared by the Department of Housing and Urban Development, estimated there were 57,849 homeless veterans on a single night in January 2013 in the United States. *Available at www.onecpd.info/resources/documents/AHAR-2013-Part1.pdf.* This figure represents a 24 percent decline since 2009, but much work remains to be done. In setting the ambitious goal of ending veterans' homelessness by 2015, VA Secretary Erik K. Shinseki stated, "No one who has served this nation as a veteran should ever be living on the street." Address at the VA National Summit Ending Homelessness among Veterans (Nov. 3, 2009).

Veterans' Need for Legal Services

Many homeless veterans and those at risk of becoming homeless face legal challenges that have contributed to or caused their situations. In 1994, the VA launched Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups). Project CHALENG serves to raise awareness of homeless veterans' needs and to help communities plan to meet those needs. Central to the CHALENG process is an annual survey completed by VA staff, community providers, and homeless veterans themselves. Respondents are asked to identify, among other things, what they consider to be the most significant unmet needs for homeless veterans in their area. Legal services feature prominently in respondents' assessment of homeless veterans' unmet needs.

In the most recent CHALENG report, three of the 10 top-ranked unmet needs concerned legal services. Specifically, legal assistance for eviction/foreclosure prevention, child support issues, and outstanding warrants/fines are homeless veterans' third, sixth, and tenth highest-ranked unmet needs. CHALENG, *THE EIGHTEENTH ANNUAL PROGRESS REPORT ON PUBLIC LAW 105-114: SERVICES FOR HOMELESS VETERANS ASSESSMENT AND COORDINATION 12 (2011), available at www.va.gov/HOMELESS/docs/chaleng/2011_CHALENG_Report_FINAL.pdf.*



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Homeless or formerly homeless veterans rank these legal needs as less likely to be met than their needs for permanent, transitional, or emergency housing. Other common legal needs of veterans involve accessing public benefits, guardianship, clearing up bad credit, family law matters (including child support, child custody, and divorce), and expungement of criminal records.

Legal Services at VA Facilities

Unlike the military services, in which active-duty military members and their dependents can receive free legal help for certain personal civil legal matters (including limited assistance for family law matters, the drafting of simple wills, and the review of leases and other contracts), the VA has no statutory authority to provide or directly pay for legal services for veterans. As a result, if veterans are to receive legal assistance in connection with VA services, these services must be provided by sources other than the VA.

In 2008, the Michael E. DeBaakey VA Medical Center in Houston, Texas, became the first VA medical facility to host an ongoing legal clinic. Recognizing the force-multiplying effect of legal services on its efforts to prevent and end veterans' homelessness, the VA now encourages staff at its medical centers, outpatient clinics, and vet centers to refer veterans with unmet legal needs to local legal service providers, and, where possible, to provide office space for legal service providers to work with veterans onsite. These space-sharing arrangements are coordinated by the VA's Veterans Justice Outreach (VJO) specialists, who work with designated attorneys in the VA's Office of the General Counsel regional offices to ensure compliance with applicable policies and procedures.

As of this writing, the VA currently provides office space to 46 legal service providers in 43 of its healthcare facilities. These providers include legal aid organizations, law school clinics, law firms, and individual local attorneys volunteering their time. There are also promising indications that veterans will soon be receiving legal assistance in more locations. For example, the law

firm DLA Piper has committed to opening veterans legal clinics through all 25 of their U.S. offices.

Medical-Legal Partnerships

In order to serve veterans at risk for homelessness more effectively and address their needs in a holistic manner, some VA medical facilities have been experimenting with "medical-legal partnerships." In a medical-legal partnership (MLP), doctors and attorneys work together to achieve better outcomes for their patients/clients. Studies conducted on MLPs show that they are very effective in addressing the legal needs of underserved populations. For example, a 2006 study of doctors at New York City's St. Luke's-Roosevelt Hospital and attorneys with the organization LegalHealth found that asthma patients who received legal interventions experienced significant improvements in the severity of their conditions, and made fewer emergency room visits than patients who did not receive legal assistance. In a 2007 study of 51 LegalHealth clients living with cancer, 83 percent of the respondents reported that legal assistance reduced stress and worry, 51 percent reported that their financial situation improved, 23 percent reported that legal assistance enabled them to maintain their treatment regimen, and 22 percent reported that it enabled them to keep their medical appointments. Randy Retkin et al., *Medical-Legal Partnerships: A Key Strategy for Mitigating the Negative Health Impacts of the Recession*, HEALTH LAW, Oct. 2009, at 29.

In recent years, the VA has established MLPs in the Miami VA Medical Center and through the West Haven, Connecticut, VA Medical Center. The Miami MLP, formed in 2011, is a partnership between the University of Miami School of Law and Miller School of Medicine and the Miami VA Healthcare System. The Miami MLP has provided representation in more than 100 cases so far, with favorable outcomes in 90 percent of the cases. The West Haven MLP has provided assistance on more than 900 legal matters since opening in 2009 as a partnership between the VA Connecticut Healthcare System's Errera Community

Care Center (a community-based psychosocial rehabilitation/recovery center) and the Connecticut Veterans Legal Center, an independent nonprofit legal services provider.

Homeless Stand Downs

“Homeless stand downs” present another opportunity to provide legal services to veterans. Stand downs are one- to three-day events providing services to homeless veterans, including food, shelter, clothing, health screenings, VA and Social Security benefits counseling, and referrals to a variety of other necessary services to address needs for health care, housing, employment, and substance use treatment. The stand downs are collaborative events, coordinated between local VA medical centers, other government agencies, and community agencies serving the homeless.

In 2012, 206 stand down events took place, serving more than 45,000 homeless veterans. About 80 percent of the stand downs provided veterans with access to legal services. The legal services activities ranged from brief onsite consultations with attorneys to large-scale integrated homeless court events at which homeless veterans’ pending legal issues are addressed in a collaborative model. The homeless court model originated in San Diego (*see infra* pp. 34–38), and its use continues to spread to other jurisdictions.

Legislation to Expand Veterans’ Access to Legal Services

As described above, the VA has no statutory authority to provide general legal services to veterans or to use its appropriations to fund legal service programs. On April 25, 2013, the chairman and the ranking member of the Senate Committee on Veterans’ Affairs, Bernie Sanders (I-Vermont) and Richard Burr (R-North Carolina), introduced S. 825, the Homeless Veterans Prevention Act of 2013. Section 8 of the bill would authorize the Secretary of Veterans Affairs to “enter into partnerships with public or private entities to fund a portion of the general legal services specified [herein] that are provided by such entities to homeless veterans and veterans at risk of homelessness.”

Veterans Treatment Courts

Veterans treatment courts (VTCs) represent another way that the legal community has been working to meet the needs of veterans. VTCs emphasize getting veterans needed treatment, rather than jail time, and are based on the drug courts and mental health courts begun in the 1990s. These hybrid courts, which are part of the justice system of local communities, involve interdisciplinary teams that assist the courts in handling cases of veterans involved in the criminal justice system. The first VTC was founded in 2008 in Buffalo, New York, by Judge Robert Russell. Since that time, these courts have spread rapidly such that today there are more than 200 courts that either are formally referred to as VTCs or that establish separate dockets to hear veterans’ cases. The National Association of Drug

*The more we can provide
veterans legal services,
the better they can
reintegrate and support
themselves, their families,
and our nation.*

Court Professionals hosted a Veterans Treatment Court Summit in Washington, D.C., in December 2013 to discuss establishing VTCs and best practices for them. *See Vet Court Con*, JUST. FOR VETS, www.justiceforvets.org/2013-vet-court-con (last visited Jan. 3, 2014).

Future Outlook for Veterans’ Legal Needs

As U.S. troops, including many National Guard and Reserve units, return from Afghanistan in 2013–2014 and the active military shrinks over the coming years, the ranks of our veteran population will grow significantly. This will include many who have served one or more tours in a war zone and may have the physical and psychological injuries associated with such service. The more robust the legal community’s capability to provide civil and criminal legal services for our

veterans, the better they can reintegrate and support themselves, their families, and our nation.

How to Get Involved

Opportunities to assist veterans with their legal needs vary from location to location. However, the VA's VJO specialists, assigned to each VA medical center, keep track of the veterans legal assistance activities in their respective areas. If you or your organization would like to provide legal assistance to at-risk veterans, you can do so by contacting a VJO specialist in your area. For a list of VJO specialists, see www.va.gov/homeless/vjo.asp#contacts.

In addition, many veterans seek attorneys for their disability compensation claims. Attorneys must first be accredited in order to assist veterans with such claims. In order to be accredited, attorneys must submit a VA Form 21a, be in good standing with a state bar

association, and complete three hours of qualifying continuing legal education (CLE) within 12 months of being initially accredited and at least two hours of approved CLE every two years thereafter. 38 C.F.R. § 14.629; *see also* Accreditation, U.S. DEP'T VETERANS AFF., OFF. GEN. COUNSEL, www.va.gov/ogc/accreditation.asp (last updated Oct. 11, 2013). An attorney desiring to be accredited can submit application materials to the VA Office of the General Counsel by fax at (202) 495-5457, by e-mail to ogcaccrreditation-mailbox@va.gov, or by regular mail to Department of Veterans Affairs, Office of the General Counsel (022D), 810 Vermont Ave., NW, Washington, DC 20420.

There is a great need for attorneys who are interested in serving veterans and their families. We encourage you to join the growing number of those in the legal profession who are serving veterans who have served this nation. ♦

Leading Remarks

Continued from page 5

are legal services programs at Veterans Administration facilities and more. Doing so will fulfill the promise of Model Rule 6.1 of the Model Rules of Professional Conduct on voluntary *pro bono publico* service. I earnestly ask you to read Will's article, decide this week on the manner in which you will join in this great effort on behalf of men and women who have devoted themselves to protecting us, to their eternal credit and often to their great hurt. I have already signed

up as a volunteer with the ABA Military Pro Bono Project (www.militaryprobono.org). And please write to tell me what you have chosen to do. I promise you that participating in it will not make you any money, but it will make you feel good (that's the fun part) while doing lots of good. Isn't that what pro bono is?

You Senior Lawyers Division members, most of whom we do not know or hear from, will make me and our entire leadership very happy and very proud if, six months from now, we can say that 40 percent of the entire SLD membership are participating in one of the Veterans Administration pro bono programs. Again, please volunteer this week and write me to advise that you have done so.

P.S. Though many of you already know, for the record I am a veteran, having served in the Navy for seven years, three-and-a-half on active duty as legal officer and a qualified underway officer of the deck on board the U.S.S. Intrepid, an Atlantic Fleet attack aircraft carrier that is now the Intrepid Sea, Air & Space Museum in New York Harbor. ♦

CORRECTION

In the last issue of *Experience* (Elder Law Part IV, Financial and Life Planning, Vol. 23, No. 2, 2013), in "Planning for Seniority: A Baby Boomer's Playbook," by Rosemary C. Byrne, Ms. Byrne's e-mail address was incorrectly stated. The correct address is rcb@sbscoaching.com. *Experience* regrets the error.