

War Heroes Gone Bad Divided by Courts Favoring Prison or Healing

By Elliot Blair Smith - Nov 1, 2012 9:01 PM PT

<http://www.bloomberg.com/news/2012-11-02/war-heroes-gone-bad-divided-by-courts-favoring-prison-or-healing.html>

Heroes when they came home in 2009, [Mike Jones](#) and James Sosh dealt with difficult returns to civilian life through bleak hazes of drugs and alcohol.

Both were diagnosed with post-traumatic stress disorder after fighting in Afghanistan and Iraq. Within a year of hanging up their uniforms, each faced felony charges, Jones accused of threatening to kill a friend, Sosh of selling prescription painkillers to feed his pill habit. Jones went into therapy and is engaged to be married. Sosh is in prison, getting divorced.

Sosh pleaded guilty to selling \$600 of oxycodone to an undercover detective and was sentenced to 20 years, 10 suspended.

Matt Stiner, director of Justice for Vets, explains the foundation of U.S. treatment courts that handle some crimes committed by military veterans. After more than a decade of war in two theaters, 120 veterans courts now operate in 35 states with 100 more in the planning stages, according to Justice for Vets. (Source: Bloomberg)

Mike Jones, 30, who'd been an Army Ranger, had the fortune to be arrested in Orange County, California, which has a treatment court for veterans that sentences them to counseling rather than cells. Source: Orange County Sheriff's Department

Jones, 30, who'd been an Army Ranger, had the fortune to be arrested in Orange County, [California](#), which has a treatment court for veterans that sentences them to counseling rather than cells. Sosh, 26, a former [Indiana](#) National Guardsman, was prosecuted in state superior court.

Their diverging fates show how some states' justice systems struggle to accommodate damaged troops. After more than a decade of war in two theaters, 120 veterans courts operate in 35 states, with 100 in the planning stages, according to the nonprofit [Justice for Vets](#) in Alexandria, Virginia. The first was established in Buffalo, New York, in 2008.

“Veterans who have served their country and are not career criminals deserve a therapeutic approach,” said [Vance Peterson](#), a district judge with a veterans docket in Spokane County, [Washington](#), and a former Green Beret who returned in September from a year as an adviser to Afghan police. “I’m beginning to wonder if all of our courts shouldn’t be therapeutic.”

When troubled soldiers are discharged, they become civilian society’s burden. About 1.2 million veterans are arrested every year, the Justice Department estimates. Many wrestle with substance abuse and mental illness, conditions associated with [elevated risks](#) of arrest. Some leave the service addicted; drug and alcohol use in the military is so excessive a Pentagon- commissioned [report](#) deemed it a “public health crisis.

Still, it’s not universally accepted that veterans deserve preferential care, with critics citing the “Equal Justice Under Law” principle engraved on the U.S. Supreme Court building.

“Courts have to be open to everyone and provide equal opportunity, equal access,” said retired [Connecticut](#) Supreme Court Justice Barry Schaller. Rehabilitating ex-soldiers “is not the courts’ primary responsibility,” he said. “It’s the responsibility of political leaders and the military to keep this from spilling over to civilian society.”

Schaller supported expanding pre-trial diversionary programs in Connecticut that allow defendants to be referred to treatment. “The courts can provide special opportunities for veterans without jeopardizing the justice mandate,” he said.

Many so-called problem-solving courts require the accused to plead guilty as a condition of getting help, which the National Association of Criminal Defense Lawyers denounced in a 2009 report as forcing a waiver of rights.

“The defense bar is hemmed in by the myriad ethical problems of this,” said [New York](#) attorney Marvin Schechter, who co-chaired the committee that wrote the report.

Treatment courts are popular anyway. The justice system supports about 4,000 tribunals for drug users, drunk drivers, gamblers, homeless, mentally ill and veterans, according to the National Association of [Drug Court](#) Professionals. All are modeled after the first drug court in Miami in 1989.

For a veteran to be eligible, the judge, prosecutor and defense counsel must agree the offense was motivated by substance abuse or mental illness rather than criminal intent. The rehabilitation programs are usually paid for by the U.S. Department of [Veterans Affairs](#), taking advantage of federal rather than local funds. Once treatment is complete, the violation is usually erased from a vet's record.

Some courts accept only misdemeanor cases, while others handle felonies. "We don't take rape, murder or child molesters. Short of that, we'll look at most cases," said Orange County Superior Court Judge Wendy Lindley, who runs the Orange County [Combat Veterans Court](#) in [Santa Ana](#), California.

"We are looking for people who are profoundly changed as a result of their combat experience," Lindley said. "I feel that we, as a society, have an obligation to restore them to the person they were before they went."

The judge offers an additional motivation: She said her veterans court spared taxpayers 2,584 jail and prison bed days last year at a savings of \$317,605. Only one of the vets she sentenced to therapy has been rearrested, she said.

Robert Russell, a municipal judge in Buffalo, is credited with creating the first civilian [veterans docket](#). Russell said he got the idea after seeing how well a Vietnam veteran charged with a petty crime responded to a court employee and a visiting county official who'd also served in the military.

The defendant, suffering from mental illness, had barely acknowledged him, Russell said. After the three vets went out for a walk, the man came back and addressed him like a soldier.

"His head was upraised. He stood erect. And he said that he was going to try, and try harder," the [judge](#) said. "That totally amazed me, how he responded to them in a way that tapped into part of his military culture."

Mike Jones, decorated with a Purple Heart and a Bronze Star for Valor, was medically discharged in October 2009 after his right leg was amputated above the knee following a combat injury in [Afghanistan](#). Ten months later, police arrested him at his home in [Costa](#)

[Mesa](#), California. Drunk, he'd sent a text message to a high school friend threatening to kill him, and the friend called police. Jones said he spent days in jail.

"I wanted to stay out of that place," he said, explaining his decision to plead guilty and enter the Combat Veterans Court program. He said his lawyer told him, "Dude, this is way better than anything else I can get you."

For James Sosh, who couldn't find a job after his discharge in May 2009, veterans court wasn't an option; there isn't one in Huntington County, Indiana, where he was arrested in March 2010. He pleaded guilty to selling \$600 of oxycodone to an undercover detective, and was sentenced to 20 years, 10 suspended.

Prosecuting Attorney Amy Richison said the punishment was appropriate because police officers deemed Sosh a dealer, not an addict. Sosh's lawyer, Ryan Painter, said the outcome, and the evaluation of the former soldier, might have been different if the county had a problem-solving court.

That's the contention of treatment court advocates -- that men who saw combat can't always be fairly assessed in the conventional justice system. A onetime soldier is different from other civilians, said Hector Matascastillo, a former Army noncommissioned officer who is a Minnesota Department of Human Services social worker treating the mentally ill.

"You've lost your mission, you've lost your sense of purpose," he said. "We're being asked to reintegrate into civilian life. But the truth is, we gave that up."

Matascastillo, 39, was arrested on a domestic assault charge during a January 2004 flashback that had him mistaking falling snow for desert sand and a suburban cop for an armed enemy. He said court-ordered therapy helped him recover, and he completed an [Iraq](#) tour before retiring.

Jones, a self-described C student, went "jumping around from pizza job to pizza job" after graduating from high school in June 2000. He joined the Army in August 2001 and went to Afghanistan in 2002 for the first of nine deployments to that country and Iraq.

“I still miss the action, the adrenaline rush of firing out of helicopters and knocking down doors,” he said. The flip side was “my friends kept getting shot.”

Between deployments, Jones said he drank to shake off PTSD, which the National Institute of Mental Health describes as an anxiety disorder frequently stemming from exposure to danger that produces a “fight-or-flight” response.

Sosh, who grew up in Marion, Indiana, in the shadow of shuttered automobile factories, joined the Indiana Army National Guard in April 2006 after his last job prospect crumbled. He was so down on his luck he was living in his truck in a park.

Sent to Iraq in 2008, Sosh was stationed at Balad, called “Mortaritaville” because “we got mortared day and night.” A hunter since boyhood, he manned a .50 caliber machine gun on convoy security in the 293rd Infantry’s First Battalion.

“I loved my job but I hated it, too, because you’re the deciding factor whether someone lives or dies,” he said in a telephone interview from the Miami Correctional Facility in South Bunker Hill, Indiana. “It doesn’t matter if it’s a man, a woman or a child. You feel like you’re losing your humanity, and you kind of have to, to do your job.”

Between missions, he said, he smoked hashish. That and alcohol “helped wonderfully for those few hours that you could just relax and hold onto a little bit of sanity,” he said.

Jones said he relied on booze. His addiction to painkillers came after he was shot during a raid in Helmand Province where his crew engaged enemy fighters in a cornfield. “It was a wall of lead,” he said. Machine gunfire tore into his leg.

After the amputation, Jones said, he was compensated with a \$100,000 Army disability payment. That, plus a \$30,000 re-enlistment bonus he’d banked the day before he was shot, swelled his savings to \$150,000. He said he spent it on partying, painkillers and Jack Daniels.

“When I came home I had one leg and a big drug problem,” he said. “I got a taste for drugs from the minute I got hurt.”

Sosh's return to Indiana was celebrated by a sheriff's escort into town, and crowds cheering as his National Guard unit passed the American Legion and Veterans of Foreign War. Local unemployment peaked at 14.9 percent the next month.

"When we first got back, I felt this sense of honor," he said. "But then everybody wants me to be the same person, and I can't. And I have to go out and find a job, and there are no jobs. You begin to feel like a failure."

After his PTSD diagnosis, he said, he started taking downers to calm anxiety attacks. Then he turned to painkillers as an escape. He refused to enroll in a six-month substance-abuse treatment program at a VA clinic, because he didn't want to be away from his wife and kids for that long again. Still, he said, "I'd set aside money for my drugs before I'd set aside money for my bills or anything else."

Now he's in a prison wing for recovering addicts, playing cards and chess and working out six times a week. He said he takes every class available, including one on being a better parent to the two daughters he hasn't seen since he was locked up. He wants to ensure he has "tools for when I get out, because that temptation is always going to be there," he said. He's eligible for release in September 2014.

"I got out of the combat zone, I got out of Iraq, wanting to take it easy," he said. "And then through my own actions, I throw myself into a whole different kind of war, in prison."

Jones, who faced a three-year sentence if convicted in regular court, relapsed four times during the 18-month veterans treatment program, and spent a night in jail each time.

If he doesn't mess up again, he'll be done by Thanksgiving, with no criminal record. He said he's sober and stable.

"This isn't how I planned it," he said. "But I can't imagine my life being any different. I'm happy today."

To contact the reporter on this story: Elliot Blair Smith in Washington at esmith29@bloomberg.net

To contact the editor responsible for this story: Gary Putka at gputka@bloomberg.net

ALTERNATIVES

COMBAT VETERANS COURT

A court in California helps vets deal with reoccurring mental health and addiction issues.

The young man standing in front of the judge in the Orange County courtroom in California has entered a guilty plea to a serious DUI offense. However, instead of requiring the man to pay a fine or sentencing him to jail time, the judge places him on formal probation with a suspended sentence. The judge also refers him to a program that includes treatment for his alcoholism, social services, and closely supervised probation. The young man is a combat veteran, and the court is the Orange County Combat Veterans Court.

The Combat Veterans Court was started in November 2008 as a joint venture between the Superior Court of Orange County and the U.S. Department of Veterans Affairs' Long Beach Healthcare System. The goal of the court is to provide an alternative to the criminal justice system for veterans whose first offense—misdemeanor or felony—stems from disorders arising from their combat experience. These include brain injury, post-traumatic stress disorder, sexual trauma, substance abuse, and other psychological disorders. The court seeks to give veterans a chance to get their lives back on track by

addressing the problems underlying their criminal behavior.

Therapeutic/Social Services Combo

The 18-month program offered by the Combat Veterans Court is a combination of therapeutic treatment, social services, and judicial oversight.

The participants engage in treatment for their substance abuse and mental health problems. Their medical and dental needs are taken care of, and they are helped to find suitable housing. In

addition, each participant is assigned a mentor who is also a veteran. This mentor acts as a coach, role model, and advocate, guiding the veteran through the entire program and lending support when needed.

Participants must meet regularly with their parole officers and attend court hearings to review their progress. For those who are moving forward, the atmosphere at these hearings is one of friendly encouragement.

However, the judge issues stern warnings to those who are not fulfilling the requirements of the program; these participants are reminded that they may be dropped from the program and could go to prison.

During the first few months, the goals for a participant are simply to maintain sobriety and mental stabil-



"I know that I have been given a second chance to rebuild, and even improve, my life for the long term and I completely intend to take advantage of this opportunity. Your honor, I would like to thank you for this opportunity and thank the court staff for all their help and encouragement."

— PARTICIPANT IN THE COMBAT VETERANS COURT

ALTERNATIVES

ity and to show up at all necessary meetings. He or she is required to attend individual therapy sessions, group counseling, and self-help meetings, as well as to submit to random drug or alcohol testing. Later in the program, the emphasis shifts to reintegrating the veteran into society. This may involve assistance in finding employment and a suitable living situation, and in reunifying with family.

The local Veterans Affairs office provides many of the counseling resources for the veterans in the



program. It also coordinates services from various government agencies and nonprofits. These may include employment training and placement from the state Employment Development Department, educational counseling from a local college, and help with legal matters from Legal Aid.

The first "class" of five veterans graduated in October 2010, and the program currently has 50 participants. These participants have incurred no new law violations—a record that demonstrates that the goal of rehabilitating the veterans is

being realized.

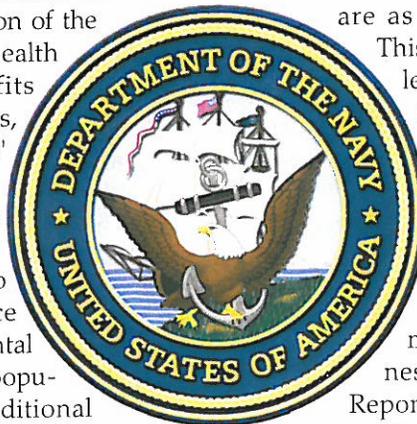
Although the Orange County Combat Veterans Court was one of the pioneers, veterans courts are now being started across the country. To replicate this program, the court suggests first contacting the local Veterans Affairs office to discuss a partnership. It is also important to contact the agencies that will provide the services to the veterans. Because veterans courts depend on a number of partnering agencies, startup and sustaining costs are low, but good coordination is important.

Source: Superior Court of California, County of Orange, 2010–2011 Recipient of the Ralph N. Kleps Award for Improvement in the Administration of the Courts.

What are Veterans' Courts?

Veterans' courts are hybrid drug and mental health courts that use the drug court model to serve veterans struggling with addiction, serious mental illness and/or co-occurring disorders. They promote sobriety, recovery and stability through a coordinated response that involves cooperation and collaboration with the traditional partners found in drug and mental health courts in addition of the U.S. Department of Veterans Affairs health care networks, the Veterans' Benefits Administration, and, in some programs, volunteer veteran mentors and veterans' family support organizations.

Veterans' Treatment Courts are responses to the growing trend of veterans appearing before the courts to face charges stemming from substance abuse or mental illness. Drug and mental health courts frequently serve veteran populations. Research has shown that traditional services do not always adequately meet the needs of veterans. Many veterans are entitled to treatment through the Veterans' Administration and veterans treatment courts help connect them with these benefits.



According to government reports, there are 23.4 million veterans in the United States and approximately 1.7 million veterans of Iraq and Afghanistan. The U.S. Department of Veterans Affairs estimates that as many as one third of the adult homeless population has served in the military and that at any given time there are as many as 130,000 homeless veterans.

This population mirrors the general homeless population in that 45% suffer mental illness and 75% suffer from substance abuse problems.

Veterans are not more likely to be arrested than the general population. But there are significant numbers of veterans involved with the criminal justice system, many of whom struggle with mental health and/or substance abuse illnesses. A 2000 Bureau of Justice Statistics Report found that 81% of all justice involved veterans had a substance abuse problem prior to incarceration, 35% were identified as suffering from alcohol dependency, 23% were homeless at some point in the prior year, and 25% were identified as mentally ill.

PERSPECTIVE • Aug. 17, 2010

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.

Amy Fairweather is Director of Policy at Swords to Plowshares, a non-profit veterans' rights organization providing counseling, legal, employment and supportive housing services. She directs Swords' Iraq Veteran Project, which advocates on behalf of veterans from Operation Iraqi Freedom/Operation Enduring Freedom (Afghanistan). She received her law degree in 1999 from the Hastings College of the Law.

Guy Gambill is currently a Soros-OSI Senior Justice Fellow. He is an honorably discharged veteran of the U.S. Army who has advocated for criminal justice reform, for the homeless and health care reform and for veterans. He is currently working on the emergent veterans court model and veterans in justice systems.

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.

© 2010 Daily Journal Corporation. All rights reserved.

Los Angeles Times

O.C.'s Combat Veterans Court helps ex-warriors fix their lives

Some military veterans have collided with the criminal justice system. There are now more than 90 courts across the U.S. tailored to veterans who are willing to work to get back on track.

By Nicole Santa Cruz, Los Angeles Times

March 26, 2012

It took three arrests and the threat of prison to get Shaughn Whittington to Orange County's Combat Veterans Court.

He slumped in a black suit, blue shirt and black tie, bracing for a claustrophobic courtroom, a stern judge.

No need. Here, defendants are called participants. People applaud. Judge Wendy Lindley hands out gift cards.

"It looks more like a support group instead of a courtroom," said Whittington, 27, who was arrested twice on drug charges and once on suspicion of assault. "It's that Marine Corps mentality. You look at it like it's a joke."

Not anymore.

Whittington is among a growing number of military veterans who as warriors survived the battlefield but as civilians collided with the criminal justice system. There are now more than 90 courts across the U.S., including nine in California, tailored to veterans willing to work to repair their lives.

Buffalo, N.Y.'s was the first, launched in January 2008 and modeled on the traditional drug court; Orange County's and Santa Clara County's weren't far behind. Although the process is neither easy nor quick — it takes some veterans years to complete Lindley's program — the three courts have become models of success.

Yet Lindley's stands apart nationally. It is designed exclusively for combat veterans. As a longtime Superior Court judge, she has seen what the residue of combat stress can do.

"We are dealing with people whose mental and physical health is very compromised," she said. "We owe them, each one of them, the highest level of care."

She designed her court to be especially sensitive to war's psychic wounds, which are difficult to understand, let alone heal. Participation is voluntary; only murder cases are ineligible.

Capped at 50 to ensure individualized treatment, what began with five participants is now fully booked. From 2010 to 2011, the number of people referred to the program jumped 41%. As with

other veterans courts, if a judge's criteria — including steady employment, staying clean and sober — are met, charges can be dropped or reduced.

Those in Lindley's program share more than battlefield experience. All had been diagnosed with post-traumatic stress disorder, often with additional war-related complications such as traumatic brain injury. And she hadn't even been looking for these conditions as a requirement.

Nor did she come by this accidentally. Her epiphany came in drug court, when a veteran on her docket died of an overdose. He had been diagnosed with PTSD, which can be marked by such signs as depression, memory loss and substance abuse.

"He was young and I just felt he needed a much higher level of competent services," Lindley said. "On my watch, I didn't want to have any more deaths."

Her weekly sessions provide a one-stop service, bringing together representatives from the district attorney's office and the U.S. Department of Veterans Affairs' Justice Outreach program, along with probation officers and volunteer mentors. Each veteran is carefully evaluated by a team, including Lindley, before being accepted into the program.

There recently has been a sharp spike in California combat veterans enrolled in healthcare services — which include counseling — through the VA. The number jumped to 47,819 last year from 3,609 in 2003, when the Iraq war began. There are waiting lists.

Lindley's mantra is simple: no alcohol, no drugs, no bad friends.

"It's all a big plan for them to be exposed to the possibility of change," she said. "It's brainwashing in a way. In brainwashing that, there is hope for a better future."

The results so far are striking: 21 graduates, none of whom have had any new convictions or arrests.

Broken into four phases, her program is no cakewalk. To advance, participants must pass drug tests, attend counseling, show up regularly in court and write personal essays. Some drop out, unable to stick with it.

"Sometimes I have to remind them," said Andrea Serafin, Justice Outreach coordinator for Lindley's court. "Remember when you begged and pleaded to do this?"

Eileen Moore, a former Vietnam War combat nurse, is one of the mentors. An associate justice with the California Court of Appeal, she said the camaraderie in the program is "palpable."

"During the first phase you can see these — they're mostly young men — you can see them with their head hung and they are filled with shame," Moore said. Then in the fourth phase, "they look proud and they look hopeful. That's not something we see with your run-of-the mill criminal. These young men are different."

Paul Freese, vice president of the Public Counsel Law Center, calls Lindley's court the "gold standard."

"This is by far the model we want people to emulate," he said. "Individuals don't have to go from place to place to place to get the services that they need."

Chris Deutsch, director of communications with Justice for Vets, a veterans court advocacy and training group, said that Lindley's program is unique but that in many of the courts, "the outcomes are astonishing."

There are similar rates of success in Buffalo and San Jose, where veterans are routed as part of sentencing. In San Jose, there have been 72 graduates and only six new convictions, and in Buffalo, there have been 71 graduates — none of whom have since been in trouble with the law.

"I think now there is a concerted effort to look at what ways to engage veterans, to reduce the presence of veterans in the criminal justice system," said Judge Robert Russell, the man behind Buffalo's program. "This war was a different war."

Los Angeles County launched a veterans court in 2010 and accepts only veterans facing felony charges, not misdemeanors. It expects its first graduates Tuesday.

"If these guys don't get help, I think they're going to deteriorate," said Superior Court Judge Michael Tynan, who oversees about 75 veterans in the L.A. County program.

Santa Clara County Superior Court Judge Stephen Manley, though, is worried.

"I think the numbers are going to be far larger than we are ready for and what the Veterans Administration has planned for," said Manley, who recently expanded his San Jose program to twice a week. "We are seeing more crimes that are more serious. We are seeing violence."

Manley's program, which typically lasts 15 to 18 months and has about 150 enrolled, includes counseling and job-training.

As for Whittington's case, the story is familiar. Deployed as a mortar man in the Iraq invasion, he returned to civilian life in 2005. The transition was fitful at best. He was diagnosed with PTSD and, later, traumatic brain injury.

There are scraps of war memories, like bullets whistling past him, inches away from his head. There was a recurring nightmare from the battlefield. He was angry, depressed. Fearing he might hurt his then-wife, he started sleeping in a different bed. Vices took hold. He started popping narcotic pain relievers and smoking meth.

Then he found himself in Lindley's court.

"You start coming out of a coma, pretty much," said Whittington, who checked into an in-patient treatment center during Phase 1. "You start realizing all the damage you did to the people around you."

In Phase 2, Whittington moved into his own apartment. He said the program helped him manage new responsibilities such as paying rent. He attends Golden West College in Huntington Beach, where he is studying auto mechanics and is on the honor roll.

Phase 3 focused on "stabilization and mentoring." He is spending more time with his 7-year-old daughter; instead of dropping her off to stay with her mother on Sunday nights, he takes the girl to school on Monday mornings. He even gave up cigarettes.

"Once I started doing things right, I saw how much easier it made everything on myself and everyone else around me," Whittington said. He is set to begin Phase 4 on Tuesday.

With 13 months of sobriety, he isn't likely to forget how far he's come.

"Every time I walk into the courtroom," he said, "just seeing the holding cell — that in itself is a reminder."

nicole.santacruz@latimes.com



Shaughn Whittington, 27, works on a vehicle during his auto mechanics class at Golden West College in Huntington Beach. He is a participant in Orange County's Combat Veterans Court program. (Francine Orr, Los Angeles Times / February 9, 2012)

Los Angeles Times

Editorial: A system of plea bargains

The high court is right to insist that lawyers properly advise clients on plea deals.

March 24, 2012

The right to a fair trial by a jury of one's peers is one of the most sacred guarantees of the Bill of Rights, but the dirty secret is that it isn't exercised very often. More than 97% of federal convictions and 94% of state convictions result from guilty pleas. Recognizing that reality, the Supreme Court ruled 5 to 4 this week that defendants have a constitutional right to be informed by their lawyers about the possibility of a plea bargain and the implications of turning one down.

The 6th Amendment guarantees a defendant not only a trial by jury but also "the assistance of counsel for his defense." In 1984, the court held that a defendant could challenge his conviction or sentence on the grounds that his lawyer's ineffectiveness "so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." But what if a defendant is harmed by his lawyer's malpractice at an earlier stage in the process? That was situation in the two cases decided by the court this week.

Galin E. Frye was charged by the state of Missouri with driving with a revoked license, a felony because he had several previous convictions. The district attorney offered Frye's lawyer two possible plea deals, one of which would have required him to serve only 90 days in prison. The lawyer, however, didn't inform Frye of the offers, which expired after six weeks. Ultimately Frye pleaded guilty and received a three-year sentence. In the second case, Anthony Cooper shot a woman in her buttock and thighs, causing serious injuries. Prosecutors offered Cooper's lawyers a plea deal in which he would have served a minimum sentence of 51 to 85 months. Cooper turned down the offer because his attorney inaccurately told him that he couldn't be convicted of intent to murder because his victim was shot below the waist. Cooper went to trial, was convicted and was sentenced to 185 to 360 months.

Writing for the majority in both cases, Justice Anthony M. Kennedy abandoned the abstraction that often defines Supreme Court opinions and confronted the hard fact that "criminal justice today is for the most part a system of pleas, not a system of trials." (Were it otherwise, the courts would be clogged with cases.) Given that reality, Kennedy announced two rules: First, a defense counsel must "communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." Second, if a plea bargain has been offered, "a defendant has the right to effective assistance of counsel in considering whether to accept it." If a lawyer fails in either duty, a defendant can challenge his conviction or sentence in court.

That doesn't mean that lapses by a lawyer will always result in a shorter sentence. In the case of Frye, the unlicensed driver, Kennedy said that he would still have to prove not only a reasonable probability that he would have accepted the plea offer his lawyer neglected to tell him about, but also a reasonable probability that the prosecution would have adhered to the agreement and that it would have been accepted by the trial court. In Frye's case that might be difficult because he was arrested again for driving without a license after the original plea offers expired. In the case of Cooper, who was convicted at a trial after being discouraged by his counsel from accepting a

plea bargain, Kennedy said that a convicted defendant must demonstrate to a court that there was a reasonable probability that he would have pleaded to a lesser charge if his lawyer hadn't misled him. If he successfully proved that, then a judge would use his discretion in deciding whether to order a shorter sentence.

In his dissenting opinion, Justice Antonin Scalia called such speculation "retrospective crystal-ball gazing posing as legal analysis" and accused the majority of creating "a whole new boutique of constitutional jurisprudence" that would generate endless litigation. But Kennedy suggested ways in which frivolous claims could be prevented — for example, adding a requirement that plea offers be placed in writing.

Scalia made one point that deserves further discussion: that the pervasiveness of plea bargains may actually harm the innocent. The system, he said, "presents grave risks of prosecutorial overcharging that effectively compels an innocent defendant to avoid massive risk by pleading guilty to a lesser offense." As legislators and judges work to implement this week's decision, they also should ponder ways to address Scalia's concern. But, as Scalia acknowledged, plea bargaining is not going away. As long as this is a "system of pleas, not a system of trials," lawyers must be held to a high standard.

Copyright © 2012, [Los Angeles Times](#)

Woman gets life in ill husband's death

Sandra Jessee arranged the killing to save money on his cancer treatment.

SANTA ANA A judge sentenced a woman to life in prison without the possibility of parole Friday for orchestrating the killing of her husband because she worried that his cancer was eating up their nest egg.

Jurors in December found Sandra Jessee, 61, formerly of Placentia, guilty of special-circumstances murder for financial gain and conspiracy in the Aug. 13, 1998 killing.

She smiled as she entered the courtroom of Orange County Superior Court Judge James Stotler on Friday, with several relatives of her husband of 15 years, Jack Jessee, in the gallery.

"I am the one with the smile today," said his brother David Jessee, describing Jack as a "tender guy." "He just picked the wrong woman. He was a very trusting guy," he added.

Prosecutors said Sandra had Jack, who had colon cancer, murdered so she could save money by not paying for his treatments and to profit from his insurance and 401(k) death benefits.

Jack Jessee's daughter Cheryl Deanda found the 56-year-old engineer fatally stabbed at his Placentia home. In her victim impact statement, she told Stotler of the pain, anger and despair following the killing.

Her sister, Chere Williams, asked the judge to "make her go away forever, so we wouldn't have to see her again."

This was a retrial for Sandra Jessee, after jurors deadlocked 11-1 in favor of conviction in 2009 when both Jessee and her son, Thomas Dayton Aehlert, 42, were tried.

Among dramatic moments at the trial, Aehlert, of Gold Canyon, Ariz., acknowledged he was a "mama's boy" but nonetheless testified against her, saying she had approached his former best friend, Brett Schrauben, for the hit.

The prosecutor said mother and son paid Schrauben, 39, formerly of Coto de Caza, \$50,000 to kill Jack Jessee.

A friend of Schrauben's, Thomas Joseph Garrick, 36, of Laguna Hills, who is accused of being the actual stabber, was arrested in November and is scheduled to go to trial later this year.

Aehlert pleaded guilty in October to second-degree murder and faces a sentence of 15 years to life at his sentencing in September. Schrauben in 2008 pleaded guilty to voluntary manslaughter and is scheduled to be sentenced in July.

CONTACT THE WRITER: 7 1 4-834-3773 or vjolly@ocregister.com



Sandra Jessee



Jack Jessee

Priest pleads guilty in boy's molestation

Denis Lyons, since retired, admits to four felony counts of abuse from 1992 to 1995 at Costa Mesa church.

By VIK JOLLY and LARRY WELBORN

SANTA ANA A retired priest Friday pleaded guilty to charges of molesting a 7- to 9-year-old boy at a Costa Mesa church nearly two decades ago.

Denis Lyons, 78, of Seal Beach admitted to four felony counts of lewd conduct with a child younger than 14, after reaching a plea agreement with prosecutors.

He answered, "Yes, your honor," to most of Superior Court Judge Francisco Briseno's questions. Briseno will sentence him May 25. Lyons could have been sentenced to 14 years in state prison if convicted at trial but has agreed to serve one year in county jail and five years' probation. He must also complete lifetime sex offender registration.

Deputy District Attorney Heather Brown said her office took into account the victim's wishes to resolve the case without having to go through the ordeal of a publicized trial in reaching an agreement with Lyons.

The defendant, who has been out on bail, molested the boy between January 1992 and December 1995 at St. John the Baptist Catholic School in Costa Mesa, prosecutors say. The boy was in second and third grade at the time, and the molestation occurred in the rectory and sacristy of the adjoining church, prosecutors said.

Lyons first admitted to inappropriate behavior with two adults in 1979. The diocese put Lyons in counseling, and he was removed in 2002 when assigned to St. Edward Church in Dana Point.

The Diocese of Orange has paid more than \$4 million to settle sexual abuse lawsuits involving Lyons. In February 2009, the diocese settled the most recent lawsuit against Lyons for an undisclosed amount. A former pupil at St. John the Baptist sued the diocese and accused Lyons of abusing him at the church.

CONTACT THE WRITER: 714-834-3773 or vjolly@ocregister.com



SAM GANGWER, THE ORANGE COUNTY REGISTER

Denis Lyons, a retired priest, pleaded guilty to molesting a boy from 1992 to 1995 at St. John the Baptist Catholic School in Costa Mesa.

Gang member gets life in prison in teen's killing

SANTA ANA A Santa Ana gang member was sentenced to life in prison without the possibility of parole plus 70 years to life in prison Friday for the drive-by shooting death of an innocent teenager he mistook for a rival gang member.

Guillermo Brambila, 25, was convicted by an Orange County jury in January of conspiracy, murder, attempted murder, active participation in a criminal street gang while carrying a loaded firearm in public, three counts of street terrorism plus several sentencing enhancements.

In 2007, Brambila and fellow gang members drove into a rival neighborhood looking for someone to kill in retaliation for another slaying, according to the Orange County District Attorney's Office. Brambila, the driver, spotted Eric Guerrero, 15, walking down the street; several shots were fired from the car, fatally striking Guerrero.

Brambila was arrested two days later after a car stop and a brief foot pursuit during which officers saw him toss a gun behind a hotel, according to prosecutors. Ballistics tests linked it to the shooting.

Man accused of kidnapping, threatening girlfriend

GARDEN GROVE A man has been arrested on suspicion of kidnapping and threatening to kill his girlfriend, police said.

The suspect kidnapped the victim, 24, from her home near West Street and Chapman Avenue and forced her to drive him to Santa Ana while threatening her with a knife, Garden Grove police Sgt. Rick Wagner said. Shortly after 1 a.m. Friday, she managed to exit the car while it was stopped at an intersection and ran toward an officer in a patrol car, Santa Ana police Cpl. Anthony Bertagna said.

Asa Carter of Long Beach was booked on suspicion of kidnapping, domestic assault, making a terrorist threat and brandishing a knife, Wagner said. He was being held at the Orange County Jail.

– From staff reports

Man faces charges of molesting boys

SANTA ANA An Anaheim man is accused of molesting two boys and videotaping the assaults and of having graphic amateur and commercial child pornography stored on his computer.

Oscar Manuel Vaquera, 37, pleaded not guilty Friday to charges including lewd acts on a child younger than 14 and possession and distribution of child pornography. The charges stem from an investigation that began last year when police detectives traced a download of commercial child pornography to his home. He is slated to return to court for a pre-trial hearing April 11.

Vaquera lived in a house that he shared with other people not related to him when the boys were molested, prosecutors said. He is accused of drilling a hole from his closet into a bathroom and surreptitiously photographing and videotaping young boys as they used the restroom and showered.



Vaquera

Driver hits patrol car, injures officer

A 19-year-old Santa Ana man was arrested on suspicion of driving under the influence and hit and run after his vehicle hit a patrol car in Brea, police said.

A Mitsubishi driven by Cristian Anguiano struck the right side of the patrol car, sending it into a power pole late Friday on Imperial Highway. Anguiano was captured by officers after he tried to flee, police said. The officer in the squad car was treated for minor injuries.

Man accused of assaulting officer

HUNTINGTON BEACH A man suspected of assaulting a police officer at a hotel has pleaded not guilty to aggravated assault against a peace officer and resisting arrest, according to the Orange County District Attorney's Office.

Nam Viet Hong Vo, 25, above, was arraigned last week after his arrest March 17 at Hotel Huntington Beach on Center Drive.

Officers responded to a call regarding a fight at about 1 a.m., according to police, and the first officer to arrive became the victim of the attack. The officer was trying to help the victim of the fight when he was assaulted by an unknown number of suspects.

Four detained in burglary at dispensary

By DENISSE SALAZAR

SANTA ANA Police arrested a man and three teenage boys this week on suspicion of trying to break into a medical-marijuana dispensary, police said.

Officers about 2:15 a.m. Wednesday responded to reports of a burglary in progress at Patients Healing Group at 705 W. 17th St., near Flower Street, Santa Ana police Cpl. Anthony Bertagna said. The owner, who spotted the burglars on a live video security feed, said he saw the suspects breaking into the building, Bertagna said.

An Orange County Sheriff's helicopter was nearby and spotted a suspect running from the building, Bertagna said. The helicopter spotted three other suspects on the roof of the building.

"The officers, with the assistance of helicopter, surrounded the building and ordered the suspects off the roof," Bertagna said, adding that they complied with the officers' commands and were taken into custody without incident.

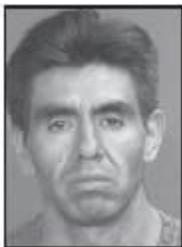
One man, Gustavo Alexander Penalosa, 18, of Anaheim, was booked at the Santa Ana City Jail on suspicion of burglary. Two boys, both 17, were taken to Juvenile Hall. Another boy, also 17, was released to his parents, Bertagna said.

Man charged with sexually abusing boy, 8

SANTA ANA A man has been accused of pulling down the pants of an 8-year-old boy sitting in his car, and then committing a sex act in front of the child, authorities said.

Pedro Castillo-Sanchez, 34, faces one felony count of lewd acts on a child under 14 with a sentencing enhancement allegation of substantial sexual conduct with a child, according to a news release from the Orange County District Attorney's Office. His arraignment this week was continued to April 13. If convicted, Castillo-Sanchez faces a maximum sentence of eight years in state prison and mandatory lifetime registration as a sex offender.

Castillo-Sanchez knew the boy and his mother, according to prosecutors. The incident occurred about 8 p.m. Monday in a Jack in the Box parking lot in the 1300 block of West McFadden Avenue, they said, and the boy told his mother about the assault when he got home.



Castillo-Sanchez

Capo Unified board ignores D.A. advice on transparency

School district cites privacy in labor laws in deciding not to record closed-door meetings.

SAN JUAN CAPISTRANO The Capistrano Unified School District has been accused of violating the state's open-meeting laws four times over the past six years, but it won't be heeding a recommendation from the Orange County district attorney about improving transparency.

The school board this month decided not to resume tape-recording its closed-door meetings, despite a report from the District Attorney's Office in September that concluded the practice should never have been curtailed. Capistrano audiotaped its closed-session board meetings for about a year beginning in 2007 to settle a lawsuit alleging a Brown Act violation.

"There is no Brown Act violation pending to my knowledge, and for it to be implied that we have an issue there, I find rather an aspersion on the functions of the board, which I've not found to be anything but correct," trustee Anna Bryson said during the March 12 vote. "We discuss employee records, which are forbidden by labor law to be discussed in public."

The District Attorney's Office said it was troubled by Capistrano's latest move, noting that during investigators' most recent inquiry last year into possible Brown Act violations, trustees agreed that tape-recording was a good idea.

"The cleanest record is to record, and that's what they all agreed with," said Assistant District Attorney Michael Lubinski. Should the district be accused of another closed-door Brown Act violation, "we will have potentially seven different versions of what they said as opposed to one recollection."

The 52,000-student district – Orange County's second-largest – also never took the office's advice to hire a full-time, in-house attorney to help avoid run-ins with the Brown Act, citing financial and practical considerations.

PAY RESTORATIONS PROMPTED PROBE

The district attorney's most recent investigation into Brown Act compliance was prompted by complaints from two trustees, Ellen Addonizio and Sue Palazzo, after a board decision behind closed doors to restore \$9.1 million in pay cuts to all employees.

The pay restorations in a tight budget year drew enormous public scrutiny, and Addonizio and Palazzo alleged the district had made "material misstatements and material omissions" about the board's decision. (The pair subsequently became the only trustees to support resuming tape-recording in the 5-2 vote.)

Schools activist Jim Reardon, meanwhile, sued the district over the possible Brown Act violation, alleging that the pay restoration decision should have been discussed at an open meeting. Reardon's lawsuit was tossed out, however, after a judge ruled the district had taken the proper steps to address the suspected violations.

Last summer, the District Attorney's Office interviewed each of the seven trustees about the closed-door decision but concluded that each trustee's recollection of what had transpired was so different that it was impossible to ascertain the truth.

The office said the case had an "appearance of impropriety" and admonished trustees for curtailing the tape-recording of meetings, noting "some of the trustees themselves were under the impression that the closed sessions were still being recorded." Capistrano Unified's policy is to take written minutes of its closed-door meetings and taperecord its open-session meetings.

The district has been accused of Brown Act violations four times since 2007. The District Attorney's Office released reports about Capistrano's violations in 2007, 2008 and 2011; in each report, a series of alleged violations was outlined. In 2010, an Orange County judge separately determined the district had violated the Brown Act.

CAPO ATTORNEY ARGUES AGAINST RECORDING

During the board's March 12 discussion, Capistrano Unified attorney Daniel Shinoff argued against recording the closed-door meetings.

Shinoff said that if trustees know they're being taped during their closed-door deliberations, it could "have some chilling effect on the give-and-take that occurs between trustees." He also said a judge or law enforcement agency could compel the tapes to be turned over for review.

Shinoff also noted that if audiotapes are created, members of the public and media could file publicrecords requests to have the tapes released, and "there is a lot of costs associated with determining whether it is subject to records requests."

Assistant District Attorney Lubinski dismissed Shinoff's arguments, noting that investigators would retain the right – and responsibility – to determine what transpired in a closed-door meeting regardless of whether the meeting was tape-recorded.

"That opportunity will always exist if we're looking into a Brown Act violation," Lubinski said.

Attorney Craig Alexander, who represented Addonizio and Palazzo when they clashed with the board majority over the pay-restoration issue, said trustees should have no reason to be wary of audio-recording – that the benefits far outweighed any theoretical risks. Trustees recorded closed-door meetings for about a year without running into any of the pitfalls described by Shinoff, Alexander emphasized.

"What do they have to be afraid of?" Alexander said. "Why would they be using closed session to make unflattering remarks that might be disrespectful to certain people? As long as you're dealing with the issues at hand and not wandering off into areas that could be a violation of the Brown Act – the fact that something might be embarrassing to a certain person is not a violation of government code."

Terry Francke of the open-government watchdog group Californians Aware agreed that the district's arguments against tape-recording did not hold water, especially with its long history of run-ins with the Brown Act.

"Being overheard on a tape recording deters people from violating the Brown Act; it doesn't deter business from getting done," Francke said.

CONTACT THE WRITER: 949-454-7394 or smartindale@ocregister.com



Bryson

Forum, a 52-minute National Public Radio feature on Veterans Courts, November 12, 2012, including Judge Wendy Lindley among those highlighted and interviewed

<http://www.kqed.org/a/forum/R201211121000>

ORANGE COUNTY

LAWYER



THE ORANGE COUNTY BAR ASSOCIATION

The OCBA Salutes Our Veterans



by Hon. Wendy S. Lindley

After the war in Vietnam, our combat veterans returned home to an indifferent, if not hostile, reception. During the years which followed, our society as a whole seemed to turn its back on the returning veterans, and to ignore the terrible psychological damage that many had suffered as a result of their combat experience.

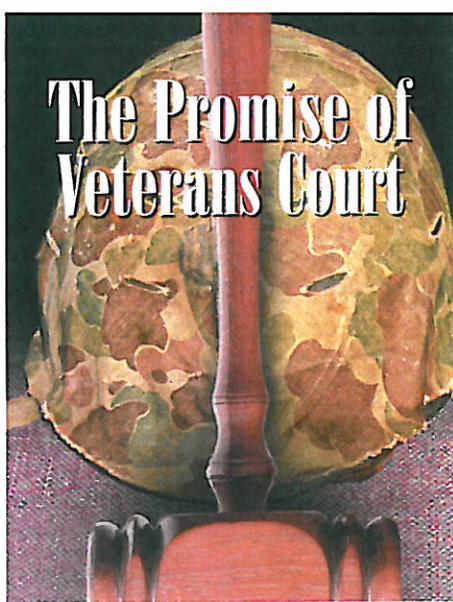
For the criminal justice system, it remained business as usual: addicted veterans found themselves on the wrong side of the “war against drugs”; mentally ill veterans often found themselves in jail, untreated, and then released to a life on the streets; and homeless veterans found themselves reviled as an unpleasant nuisance. To our shame as a country, we did not acknowledge our moral obligation to those who had sacrificed so much for us.

Now, however, there is a growing recognition that the mental health of combat veterans returning from service overseas is a serious national concern. News media carry stories about the issue, and discuss what can be done in response to it. In the justice system, too, there has been an increasing momentum to do things differently.

One indication of this change is California Penal Code section 1170.9, amended in September 2006 to say that if a person convicted of a criminal offense can show that the offense was committed as a result of post-traumatic stress disorder, substance abuse, or psychological problems stemming from military service in a combat theater, the court may order the defendant into a treatment program instead of jail or prison.

A second indication of positive change is the establishment of Veterans Courts. Based on the Drug Court model, Veterans Courts are designed to provide a holistic and collaborative approach to the identification and treatment of all of the problems that underlie the offender’s criminal behavior. Working in partnership with the VA and others who are interested in the welfare of veterans, the programs offer participants the support of a team and the involvement of a caring judicial officer in overcoming those problems and getting their lives back on track.

Following the lead of Judge Robert Russell in Buffalo, New York, I have established a



Veterans Court in Orange County, and have spoken to dozens of jurists and administrators from around the country who are working to set up Veterans Courts in their home states.

In Veterans Court, the focus is on the offender rather than the crime. The goal is to understand and address the causes of the criminal behavior, and to realize that – for an offender suffering from PTSD – reckless driving, domestic violence, and substance abuse may all be manifestations of an underlying problem that can be successfully treated; but that effective treatment won’t be obtained through traffic school, or through a traditional batterers intervention program, or through prison.

The issues faced by returning combat veterans involved in the criminal justice system are especially appropriate for resolution through a collaborative treatment approach. Often, these offenders face a complex web of challenges – mental health issues, substance abuse, strained family relations, the need for anger management, and the difficulty of re-integrating into the workforce. For the collaborative team, many resources are becoming available that can assist them in addressing these areas. In addition, it is my belief that military service personnel respond well to an authority figure whose overriding concern is for their survival and the success of their mission – in this case, the mission being to reclaim their lives.

The creation of a Veterans Court is not without its own challenges. Some may object that the program gives unwarranted special treatment to one group of criminal offenders. In reply, it must be noted that Veterans Court is a mental health court; and that mental health issues, if left unaddressed in jail or prison, will continue to be manifested in criminal behavior

when the offender is released.

Others may object that a Veterans Court costs too much – a charge that previously has been made against drug court; however, studies over the past fifteen years have consistently shown that treatment courts not only enhance public safety, they dramatically reduce recidivism and they actually save money when compared with the usual way of processing offenders.

Veterans Courts are too new to have established a record of success to match that of drug courts or other mental health courts; but it is clear to me that this approach is working.

Recently, a Veterans Court participant stood before me for his case review. When he was first accepted into the program, this man was a walking time bomb. Trained in violence, steeped in post-traumatic stress, he was beset with psychological problems and tormented by issues resulting from his combat experience, and all of it was locked up inside of him. Outwardly – and ominously – he did not connect with others. He made no eye contact; he spoke very little; and when he did speak, his voice was flat and without emotion.

Had he been sent to prison, his withdrawal, his repressed anger, and his alienation would surely have gotten worse; and upon his release, our society – having sown the wind – would surely have reaped a devastating whirlwind. Instead, he has been participating in Veterans Court – receiving counseling, attending group and individual therapy, and accessing a wide range of resources tailored to meet his needs.

In the hushed courtroom, this man spoke clearly and from deep in his heart. He recounted his slow but steady progress, he thanked the team that was helping him regain control over his life and his emotions, and then he looked at me and said he had finally come to realize that “it’s all right for a soldier to cry”.

We, as a society, owe it to our veterans to do everything we can to help them overcome the problems that result from their military service. When these men and women become involved in the criminal justice system, we must seize the opportunity to intervene in their lives, and work together to make them whole once again.



The Hon. Wendy Lindley is an Orange County Superior Court Judge who has been a driving force behind the Collaborative Courts since 1994.

VETS FIND ALLY ON HOME FRONT

Local version of the widely successful veterans court makes sure that combat warriors get a fair shake.

ANAHEIM – They lost 14 Marines in nine days in Afghanistan.

“At first it’s fear – fear of everything,” says former Navy corpsman Alex Klatt, 25, of Huntington Beach. “Then you just go numb.”

Then you feel guilt.

In Klatt’s case, guilt led to drinking. The drinking led to a fistfight. And the fight led here: to a special court known as Veterans Treatment Court.

Normally, court is held every Tuesday in Santa Ana. But this week, Judge Joe T. Perez moved proceedings to the grand ballroom of the Anaheim Marriott – as a real-life workshop for the national Vet Court Convention.

At 3:30 p.m. on Wednesday, 10 veterans – charged with crimes ranging from petty theft to assault with a deadly weapon – walked past a few hundred conventioners still sipping Starbucks coffee.

The bailiff called out: “Please rise!”

And court was in session.

One man was charged with assault. Another with burglary. Another with choking his neighbor. Serious charges. So why give them a second chance?

“These guys hold a rifle halfway around the world and say, ‘Not on my watch,’ ” says Perez. “They deserve some credit for that.”

Not only credit, but a chance to repair the psychological wounds of war.

“I felt like the war made me into a monster,” one Marine who was charged with assault and battery told the judge, “but I’m really not a monster.”

The Marine said his life was spiraling downward before the program. Now he’s been sober 21 months, attends school and recently found his own place to live. The crowd cheered. The judge thanked him. And the next defendant stepped up to the podium.

“Treatment is the key,” says Melissa Fitzgerald, senior director of Justice for Vets, which hosted the convention.

If you don’t deal with the underlying issues – the post-traumatic stress disorder, the traumatic brain injuries and the addiction that comes along with that, she says, then the problem never goes away.

Not all veterans are eligible, however – only combat veterans and first-time offenders for whom therapy appears to be a better remedy than jail time.

A decade ago, no one had ever heard of veterans court. Now there are 145 in the U.S. with 60 more about to open.

“This is a movement, a community solution to a national problem,” Fitzgerald says.

The convention featured speakers such as retired four-star Gen. Barry McCaffrey, White House deputy drug czar Michael Botticelli and six-time Emmy Award-winning actor Martin Sheen.

They spoke of the 2.5 million veterans still returning from Iraq and Afghanistan; of the 500,000 who suffer from PTSD or major depression; of the nearly 500,000 who suffer from substance abuse and combat-related mental illness; and of the 22 who commit suicide every day.

Then there was a quiet man you might not have noticed if you didn’t hear the murmurs he caused wherever he went.

That man was Judge Robert Russell.

In 2006, he was presiding over a mental health court of Buffalo, N.Y., and having a difficult time with a Vietnam veteran who did not respond to any treatment or punishment. The man slouched, stared at the floor and gave only guttural responses .

Frustrated, Russell asked two veterans in his courtroom to approach the bench. He asked them to talk to the man in the hallway. When they returned, the man stood erect, looked the judge in the eye and vowed to try harder.

Russell knew he was on to something.

He asked his local Department of Veterans Affairs hospital if they’d help. They agreed. And in January 2008, the first Veterans Treatment Court was born.

It became the model. By year’s end, Judge Wendy Lindley in Santa Ana had created the nation’s second veterans court, reasoning that “mental health issues, if left unaddressed in jail or prison, will continue to be manifested in criminal behavior when the offender is released.”

That was happening to Derrick Brown of Anaheim, who watched two close friends die from a roadside bomb attack in Iraq in 2005.

“When I got back, I didn’t fit in anywhere,” says the former Army infantryman. “I wasn’t comfortable around people, and I hated myself.”

He turned to alcohol and drugs. He got arrested for robbery, burglary, drugs and possession of brass knuckles.

In the past 18 months, he’s undergone therapy, found a good job, reunited with his children, gotten married and is buying a house.

How valuable has the program been?

“They gave me my whole life back,” he says.

That’s what Russell is talking about when he says: “Some who make a great sacrifice may also come back with great burdens. And we as a society can act as a bridge to help our men and women who served to regain stability in their lives.”

There’s a reason why Orange County was asked to hold open court at the national workshop. It’s also why people come from Japan, England and all over the U.S. to observe its veterans court: It works.

Only six of its 131 participants have been re-arrested.

Such courts don't require money so much as cooperation, according to those involved – meaning a commitment from the VA hospital for therapy and other resources, the district attorney's office, the public defender's office and probation officers.

"This is about saving lives and money," Perez says, who notes that all 10 veterans volunteered to appear on this day. "We try to let other veterans know, through our guys, that there's hope. A lot of those guys, when they come home, they don't have it."

One with new-found hope is former Navy corpsman Klatt, who beat up his father and his brother on New Year's Eve in 2011.

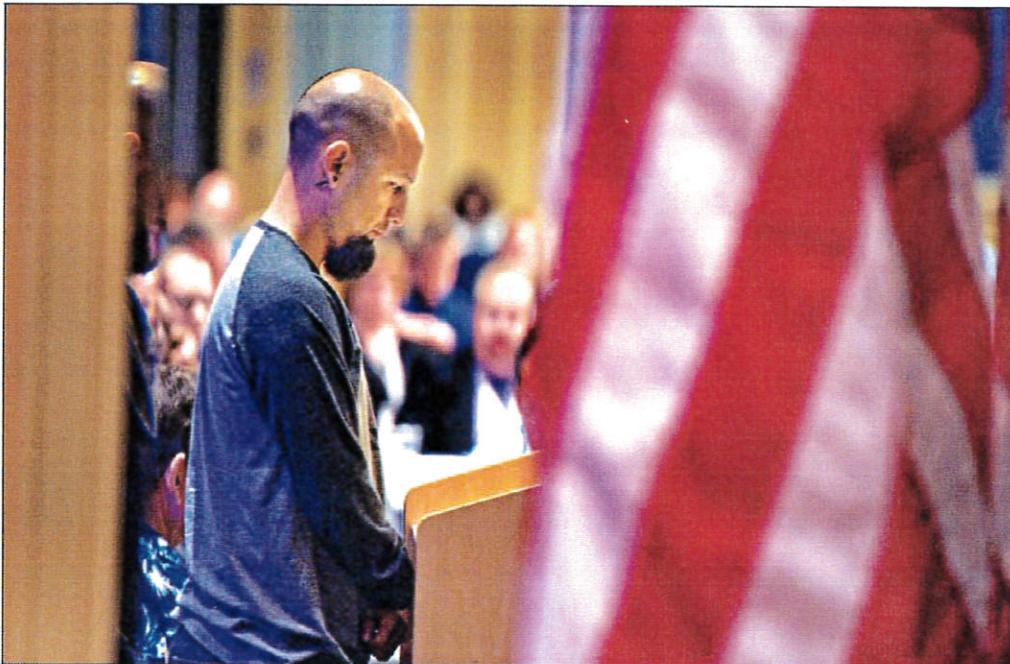
"It was hard for me to look inward at first," he admits. "But veterans court is making me do it."

He's been sober 17 months and is in college, studying a new field: "warrior science."

It sounds a bit farfetched, he admits – the study of mental training to help warriors resist PTSD before they go to war. But for Klatt, it's personal, a debt to those in Afghanistan and those he hurt at home.

"One day," he says, "I hope to join the profession."

CONTACT THE WRITER: 714-796-6979 or tberg@ocregister.com



Edwin G. of Santa Ana stands before Superior Court Judge Joe T. Perez during a session of Veterans Treatment Court during the national Vet Court Convention in the grand ballroom of the Anaheim Marriott.



Superior Court Judge Joe T. Perez listens to a Veterans Treatment Court success story from Derick Clifton at a session during the national Vet Court Convention.



**This is a movement,
a community solution
to a national problem.”**

**MELISSA FITZGERALD
JUSTICE FOR VETS**



Actors Heather Goldenhersh, left, Martin Sheen and Benjamin Burdick deliver a dramatic reading of Sophocles' "Ajax" during the national Vet Court Convention.



David Santana of Anaheim walks back to his seat after addressing the Veterans Treatment Court at a session held during the national Vet Court Convention at the Anaheim Marriott.



Veteran Donald Stillings is greeted by his mentor, 4th District Justice Eileen C. Moore, after addressing the Veterans Treatment Court in Anaheim.

OC Register August 31, 2011 article re Combat Veterans Court link

<http://www.ocreger.com/news/-314705--.html?pic=1>

ALTERNATIVE COURTS MAKE HEADWAY

Orange County's program for combat veterans, for example, emerges as a national model.

Specialized Orange County courts are marking significant milestones, with one program emerging as a nationwide model while another celebrates a special graduating class.

The local DUI Court marked its 1,000th graduation last week, and the Orange County Combat Veterans Court was recently chosen as one of only four such programs nationwide to become a “mentor court” for other jurisdictions.

Created as alternatives to the traditional criminal justice system and meant to address the underlying issues that lead to individuals breaking the law, a system known as collaborative courts encompasses more than a half-dozen programs, including ones focused on drug and alcohol use and the homeless. Those eligible for the collaborative courts are heavily screened and required to admit to their crimes and agree to undergo an intensive, structured and supervised series of treatment programs.

The milestones for the Orange County collaborative courts system come as the focus for the statewide criminal justice system increasingly shifts toward working with inmates to make sure they don't break the law again rather than simply locking them up.

An overcrowded state prison system has resulted in oversight for some felons falling to local law enforcement, and while the effects of California's “inmate realignment” program on local jails and probation offices have garnered the most attention, the efforts at the county rehabilitation level will be key to determining realignment's success or failure.

The Orange County veterans court, which began in 2008 as the brainchild of Superior Court Judge Wendy Lindley, is the first of its kind in California and only the second nationwide. In a recent speech at the Long Beach veterans hospital, which serves as a key partner for the court, Lindley described the court as a “non-adversarial therapeutic program” where veterans can “gather together as comrades in recovery.”

“They are coming into our program because they agree they broke the law and want to get over their issues,” Lindley said.

When evaluating who can enter the veterans court program, officials look for those who went into the military with a clean record but changed as a result of their service.

“I'm usually looking for some sort of disconnect that occurred while in the service,” said Bert Eitner, the deputy probation officer assigned to the veterans court. “A lot of these guys come home, and you can throw out the old stereotypes: They think they are alone, they think they are the only one going through this.”

More important in the evaluation process than the crime they are admitting to is whether they are open to treatment.

“We don’t believe in setting anyone up for failure in the program,” said Kim Parsons, the veterans court coordinator. “It’s a tough program, but for them, it’s worth it because they learn so many tools, the coping skills, how to interact in daily life and the ability to interact with people like them.”

Along with two courts in New York and a court in Oklahoma, the Orange County program was recently chosen by Justice for Vets as a “host site” for those interested in learning how to run a veterans court.

“A lot of places want their own twist, so they take the information that we have provided them and create their own programs,” Eitner said. “I think what we have seen is a countrywide turn in the way the public views veterans and what they go through when it comes to our freedom. I think people are better educated about what these guys did for us.”

The veterans court, just like DUI Court and the other collaborative programs, wasn’t always an easy sell. But advocates for the court say that the savings in jail costs as well as lower recidivism rates have led to their increased use, locally and nationwide.

Court officials say that those who take part in the program also come to embrace it.

“Most appreciate the attention that they are getting from the court,” Eitner said. “They have sunk fairly low when they get in front of the court, and to get the opportunity to right their lives means a lot to them.”

At DUI Court’s recent 1,000th graduate ceremony at a Newport Beach courtroom, Judge Matthew S. Anderson pointed to similar effects on collaborative court participants.

Talking to an investigator and officer who had arrested two of the graduates, Anderson spoke of the turnaround he believed they had made.

“You see people at their ugliest, but what you are going to see today are people who made some incredible choices to change their life,” Anderson said. “I look out and I see these beautiful, healthy, sober people and I know that something amazing is underway.”

Anderson’s comments echoed ones made by Lindley after her speech in Long Beach about the ultimate effect of the veterans court.

“I truly believe we are saving lives,” Lindley said.

CONTACT THE WRITER: 714-796-7939 or semery@ocregister.com



Judge Wendy Lindley started the county veterans court in 2008.

Orange County Register, September 4, 2011

A court to get veterans back on track

Those facing prison can get a second chance.

SANTA ANA – When you walk into the room with its six rows of walnut-stained, pew-like benches and raised dais, it feels like you've entered a chapel.

And for veterans like Jesse Paredes who have gotten into serious trouble with the law, it has been a place of redemption.

Welcome to Combat Veterans Court, a 3-year-old collaboration between the Veterans Administration and the Orange County Superior Court to help veterans facing criminal charges avoid prison, get training or jobs and straighten out their lives.

The court was the first of its kind in the country and has become a model that has been replicated in 80 jurisdictions across the country.

WRONG TURN

Paredes, 26, was one of the lucky ones when he got out of the Marine Corps in 2009 at the height of the recession. His training as a military cook landed him a job at Ralph Brennan's Jazz Kitchen in Downtown Disney.

But Paredes, whose parents had to sign for him to enlist when he was 17, was having difficulty making the mental transition from Iraq combat to civilian life. As he became more depressed, his after-hours partying became a drinking problem. He ended up in jail in 2010, arrested for drunken driving after totaling his car.

"I was told I would be getting an 18-month sentence in state prison, with no half-time, no quarter-time, no chance for early release," said Paredes, still stunned by the prospect.

While in jail awaiting sentencing, a public defender overheard Paredes mention his military service and told him about the Combat Veterans Court. That chance encounter set Paredes on a new path.

Modeled after drug court, Combat Veterans Court brings together the District Attorney, Probation Department, the Public Defender, a VA case manager and the county Health Care Agency to work with veterans who have had a run-in with the law. The goal is to get the vets the treatment and support they need to turn their lives around and keep them out of prison.

Veterans accepted by the court spend 18 to 24 months in a highly-structured program that includes counseling, recovery support, VA and probation meetings and, when necessary, substance abuse treatment and random drug testing. In many cases, the first part of the four-part program is spent in residential treatment. It ends with a "graduation" and release on probation. Participants who fail to complete the program or are discharged face their original court sentence.

ROAD BACK

Paredes was accepted in the veteran's court June 15, 2010, and was sent to the VA's residential program at the Villages at Cabrillo in Long Beach. After his initial 60 days were up, he asked the court if he could stay longer.

"I was getting a lot of good out of it," Paredes said. "A lot of things were coming up and I was dealing with them."

Life soon began turning around for him. First he got his old job as a cook back.

“They got me back to what I love doing, being back in the restaurant business,” he said. “Now I have money. I have food.”

H also has his own apartment, thanks to help he received from the Orange County Veterans Affairs Supportive Housing Program, which provides veterans with vouchers to help with rent.

Paredes is working on Phase 3 of the four-part veteran’s court program. If he continues to make progress, he could “graduate” in six months.

He is confident he is on the right road now. He knows his family has seen the difference, too.

“My mother said, ‘I finally have my son back.’”

Veterans court takes a chance on violent offenders

By MEGAN MCCLOSKEY
Stars and Stripes
Published: September 14, 2010

SANTA ANA, Calif. — In one of Orange County’s traditional criminal courts, the young defendant had been seen as an aggressor who had, without provocation, used brass knuckles to beat a middle-aged man at a gas station.

In Judge Wendy Lindley’s court, the 22-year-old was all of that, but he was also a former Marine corporal who had served in Iraq.

That made all the difference.

Instead of spending two years in jail, the violent offender is going to therapy for post-traumatic stress disorder, to counseling for substance abuse and, now, to college.

Lindley presides over a court designed for combat veterans, allowing most to avoid incarceration if they plead guilty to their crimes and adhere to a strict probation program focused on intensive treatment of their underlying issues — in most cases, PTSD.

“These guys went off to war and as a result of their service were damaged, and our job is to restore them to who they were,” Lindley said.

Her court in Orange County, near sprawling Camp Pendleton, is one of about 40 specialized veterans dockets that have sprung up across the country in recent years, but Lindley is at the forefront of a new trend for these courts: taking cases involving violent crimes.

Veterans courts are part of the growing national debate about how to deal with struggling veterans who have seen years of war, and about how much, if any, special treatment they deserve.

Many of the jurisdictions that have embraced the veterans court model are in cities with a large veteran population or those near military bases. This year a few states have passed laws calling for veterans courts, and there’s proposed federal legislation to help fund the courts.

Skeptics argue that allowing offenders to skip jail simply because they wore the uniform isn’t in the best interest of the public, especially when dealing with violence.

But proponents say it’s an effort to prevent the cycle of recidivism seen with Vietnam veterans over the last 40 years. There are about 1.7 million Iraq and Afghanistan veterans, and according to a 2009 RAND study, about one in five of them have mental health issues from their time at war. It’s those troops — and their brethren from earlier wars — that veterans courts are designed to help.

Court is in session

Lindley's court started in 2008. Along with a public defender, a district attorney, a probation officer and an outreach worker from the Department of Veterans Affairs, she supervises the defendants' progression through the formal probation program. It's at least 18 months and consists of mandatory treatment at the VA, frequent court appearances before Lindley, home inspections and random drug testing. If the veteran doesn't comply with the four-phase program, he can be kicked back to criminal court for prosecution. If the veteran is successful, he can walk away felony-free, case dismissed.

Her court is one of only a handful in the country that accepts violent offenders, but as these courts become more popular many are leaning toward taking violent offenses, according to the National Association of Drug Court Professionals.

Given that combat veterans' PTSD issues often manifest in aggressive behavior, "it flies in the face of reason not to take violent cases," said Isabel Apkarian, the court's former assistant public defender. "I don't know how you have a veterans court without taking those clients."

Lindley's team recently debated two prospective violent cases. One involved a vet who had shaken a baby.

"I talked to him in custody for one and half hours," Andrea Serafin, the VA coordinator, told the team. "The severity of the crime is what concerned me, and I wasn't able to make any kind of connection there with his combat experience."

Lindley, who makes the final decision, said the case was "way beyond the pale of anything we intended to take in this court."

They did accept the other case, involving a veteran who had been shot in Iraq and was charged with domestic violence for dragging his wife out of the house by her ankles.

But the team doesn't always agree.

The Marine who left the man at the gas station — with injuries resulting in \$14,000 in medical bills — almost didn't get accepted.

"I think he kept us all up at night for different reasons," Apkarian said.

She thought if the veterans court didn't take him he would be lost forever.

Wendy Brough, the veterans court prosecutor, opposed him on the record.

"I personally believe that those defendants should get state prison," she said.

The probation officer had his doubts, too, but Serafin thought otherwise.

“I fought hard for him,” she said. “I could see him being that normal kid working at Costco doing his thing and going to family barbecues and then he just snapped. And I thought, ‘He needs us.’”

His family fought hard for him, too. Nearly two dozen family members showed up on his behalf, bringing the letters he wrote during his deployment.

“The letters just became darker and darker,” Apkarian said.

The Marine’s assault victim wasn’t convinced. The man was appalled at the idea of his assailant not getting sentenced to jail, Apkarian said.

In his victim’s impact statement, the man said the veteran “hit me at least twice in the face so bad that my mouth burst,” and that his assailant’s military uniform didn’t make up for the crime.

Apkarian said it’s natural for a victim to want to see someone punished for hurting them, but it was up to the court to balance that with what will protect society in the long run.

“I argue that they and the public are better off. We can warehouse them — whether its six months or six years — and they are back on the street without the coping skills they need,” she said.

Lindley decided to take a chance on the former Marine.

“And he’s doing beautifully,” she said.

Last summer, when announcing in court that he was enrolling in college, he teared up as he described how the Marine Corps teaches them not to be emotional, “but in this program I learned to deal with pain, and it brings positive change.”

Opening statements

When the veterans arrive in Lindley’s court, they’re often defeated, ashamed and addicted to drugs or alcohol.

“They have once had the pride of success and of earning their uniform and being a respectable person who’s been entrusted with protecting our country. And I think the fall is harder for them for that reason,” Lindley said.

Despite the seriousness of the crimes — assault, domestic violence, and one case of someone carrying grenades — veterans court doesn’t much resemble criminal court.

One recent Tuesday with about 15 veterans sitting on benches in the courtroom, a smiling Lindley strode in wearing her judge’s robe and greeted them with “Good afternoon.”

The courtroom cheerfully responded in unison, like an elementary school classroom: “Good afternoon.”

She called out the veterans’ names so each could stand and be recognized with applause. There’s a lot of clapping in Lindley’s veterans court. Even the prosecutor joins in to give encouragement.

Lindley quickly checks in with each defendant for a progress report that is more like a casual conversation than a formal hearing.

“Adam, come on up,” she said last month.

They talked about his kids, whom the judge had met the week before.

“The older one has your eyes,” she said.

“You’re my principal whenever they ask about you,” the veteran said.

Lindley plays a maternal role with the 38 defendants. She says her job is a lot like parenting, doling out praise along with the discipline. She has an easy rapport with the veterans, nodding her head appreciatively as they share successes. But she doesn’t hide her disappointment from those who have messed up.

A former Marine corporal didn’t make it up to the podium before Lindley was shaking her head and telling him: “You blew it, buddy. Big time. Not smart. Not smart at all.”

He hung his head and his parade-rest stance sunk deeper to the floor with each admonishment. The lawyers here are mostly silent. The VA coordinator and the probation officer do the talking. Both expressed sharp disappointment with the former Marine, who had left his treatment facility without permission. The bailiff handcuffed him on his way to a week in jail.

Near the end of the session, a former petty officer third class sat handcuffed, waiting to be taken to jail for failing a drug test.

The public defender pointed out that it was the sailor’s birthday.

“OK, you know what we do,” Lindley prompted the court. They serenaded him with “Happy Birthday.”

“Next year, it’s going to be a better birthday,” Lindley told him.

Closing arguments

Veterans are a sympathetic group, so it’s not hard to persuade people to give them a break, Apkarian said.

But many of the defendants who end up in the criminal justice system are victims of trauma, and Lindley recognizes that her veterans court chooses to elevate one group out of many whose trauma likely influenced their crimes.

But for her, the type of trauma — war — makes it acceptable.

“I think we can justify it when we look at combat veterans,” Lindley said. “These human beings chose to put their life on the line for our freedom, so I think that intellectually I’m comfortable with saying I think our veterans deserve this special treatment.”

California law says only veterans who were in combat are eligible — a distinction that is important to Lindley and her team. Unlike many of the other veterans courts that take all veterans, they believe the special court is only warranted for combat veterans.

Lindley’s team searches for a connection between the combat and the criminal behavior.

“One of the things we do is look at a person’s history before they served our country,” she said. “If they have no intersection at all with criminal justice, then we conclude that their intersection now is a result of, probably, PTSD, TBI and of course substance abuse as a result of [those conditions].”

That doesn’t mean veterans are cleared of guilt — only that they get a break in sentencing. “I firmly believe we are ultimately responsible for what we do,” Lindley said.

Still, she maintains the country needs to take care of its combat veterans, especially since so many don’t get the mental health treatment they need while on active duty. In her court she’s seen success. Next month, five veterans will graduate from the program.

“We’ve got to stand up and take responsibility. And this works,” Lindley said. “It’s just too bad it can’t happen before it gets to this point.”

The VVA

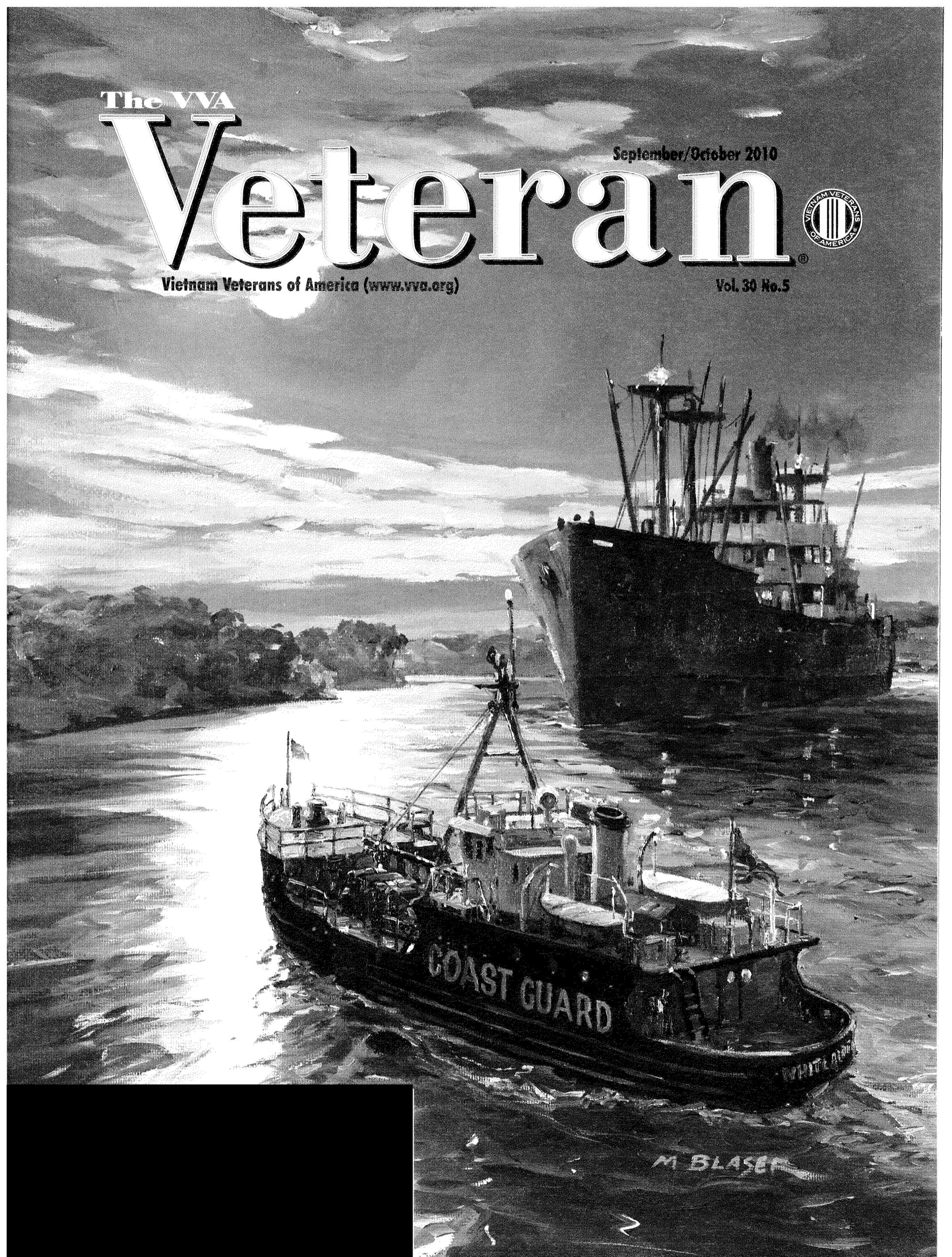
Veteran

September/October 2010



Vietnam Veterans of America (www.vva.org)

Vol. 30 No.5



M BLASER

Veterans Court, California Style

BY JUDGE EILEEN MOORE

Orange County, California's Veterans Court, which started nineteen months ago, is presided over by Judge Wendy Lindley in a defunct department store. The sign out front reads "Community Court" as it houses other collaborative courts.

But the sign inside says "Veterans Court" with Mickey Mouse saluting an American flag, reminding all that Disneyland, "the happiest place on earth," is only a few miles away. Unlike any other veterans courts in the country, this one only accepts combat veterans. Many non-combat veterans, however, are seen in the separate drug, DUI, homeless, mental health, and domestic violence collaborative courts.

California courts are able to respond straightforwardly to PTSD in veterans because of a law amended by the California Legislature in 2006. That statute, Penal Code section 1170.9, permits the courts to divert into a program any veteran who was a member "of the military forces of the United States who served in combat" and "suffers from post-traumatic stress disorder, substance abuse, or psychological problems as a result of that service."

Judge Lindley's program centers around the specialized needs of combat veterans. The judge believes they are better served when they are separated from others because combat veterans share a common bond, understand each other, and are accustomed to structure. She accepts those who had no problems during school and no contacts with the criminal justice system when they joined the military.

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 eighteen months.

Prior to a recent court session, a group of professionals met in a cramped room behind the courtroom. The team included the judge, two probation officers, a deputy district attorney, a public defender, a VA representative, two representatives from the mental health agency, and an Army captain who works as a judge advocate and assists veterans bogged down with non-criminal disputes. Each veteran scheduled to appear in veterans court that day was discussed individually. Thus the term, "collaborative court."

All but two of the veterans were doing well. One was terminated because he was arrested for driving under the influence. Having already pled guilty, he was soon on his way to state prison.

The other off-course veteran had been in Veterans Court for several months. But after he received a large retroactive disability payment from the VA, he spent it on drugs. The veteran was so full of self-loathing and remorse that he wanted to drop out and take the consequences, which means prison. I sensed the group of experts did not want to allow the young man to make such a drastic decision. Many participants attempt suicide at least once before entering the program. Because the team thought he could be brought back into the fold, it recommended the judge impose a high sen-



tence. I suspect they intended to extort the veteran into staying in Veterans Court and not giving up on himself.

The personal dedication of the team members is apparent. They fully realize they are on the cutting edge of an entirely different approach to criminal justice, an alternative to "lock 'em up and throw away the key." Judge Lindley says that 75 percent of the general prison population re-offends within eighteen months of release. With collaborative courts, the percentage is much less. With Orange County's combat Veterans Court, there has been only one failure thus far, the veteran who was terminated the day I was there to observe. Presently, there are forty veterans in the program. The first graduation will be in October.

The team also reviewed referrals to the program. One referral was a Vietnam-era veteran who had had the job of removing soldiers' coffins from airplanes when their bodies were flown back to the States. He has had significant mental health issues ever since. It was decided he did not qualify, however, because he was not in combat.

After the collaboration process, everyone moved into the standing-room-only courtroom. Aside from the veterans and family members, many mentors were in the audience. Participants in Veterans Court served primarily in Iraq and Afghanistan. All of their mentors served in Vietnam and most are members of VVA Chapters 785 in Orange County and 1024 in Brea.

When Judge Lindley called a veteran's case, she asked for applause, and it was enthusiastically given. Each veteran is required to plead guilty at the start of the program, and most have pled guilty to at least one felony. Some of the felonies involve violence.

On the day I visited the court, a new entrant into the program, who was charged with his third driving under the influence offense since he separated from the mili-

tary, was advised of his rights to a jury trial, to cross-examine witnesses against him, to call his own witnesses in his defense, and to testify himself. He gave up all of those rights and pled guilty in exchange for participating in Veterans Court. He asked the court for permission to leave California for a family reunion. The court granted him permission to attend the reunion, obviously impressed that the veteran already was going to daily Alcoholics Anonymous meetings on his own without a court order. But the court ordered him not to drive or consume any alcohol, even when he was outside California.

After a while, it became apparent how far into the program each veteran had progressed. In the first phase, veterans look frightened and stooped. By the end of the third phase, they stand erect and proud. As they pass from one phase to another, they are required to write an essay and read it aloud in court.

A veteran who asked permission to move into the third phase said: "Today I come before the court a different person as opposed to when I first came in the front door of this court. Back then I was full of hate, not caring what happened to me, to my family, or to anyone." Another who wanted to pass into the second phase told the court: "Things have changed ever since the Veterans Court accepted me into the program. There is now hope and a new direction for me to take."

Most of the veterans are in their twenties. All of them have served their country in a war and suffer from PTSD. Thanks to several dedicated judges and Vietnam veteran mentors, almost all of those in Veterans Court soon will be able to enjoy the fruits of what America has to offer without a criminal record.

There are three other Veterans Courts in California. Judge David Cohn presides over the Veterans Court in San Bernardino County. The court works very closely with the Jerry Pettis VA Memorial Center and has been in operation for the last eighteen months. Combat service is not a requirement, but a discharge under honorable conditions is. Most of the participants have been arrested for possession of drugs or theft. Sex crimes and most crimes of violence exclude a veteran from participating in the program. Several veterans have been terminated from the program. Judge Cohn's program dismissed its first ten graduates on July 16.

Tulare County's Veterans Court is just starting. The specifics are still being ironed out. Santa Clara County's Veterans Court has all veterans, combat and non-combat, in the same program. San Diego Superior Court also is planning a Veterans Court. It's likely that many more of California's fifty-eight counties will also follow, each tailoring the court in its own unique way. ■

Eileen Comerford Moore, originally from Philadelphia, served as an Army Nurse at the 85th Evacuation Hospital in Qui Nhon in 1966. She lives in Southern California and sat on the Superior Court for almost twelve years. Since 2000, she has been an appellate justice on the California Court of Appeal. Judge Moore is a life member of VVA Chapter 785. She can be reached at Eileen.Moore@jud.ca.gov

Veterans Court – Washington Post 12-2-13

(also at <http://www.justiceforvets.org/Vet-Court-Con-Press>)

http://www.washingtonpost.com/politics/veterans-court-program-helps-warriors-battle-addiction-mental-health-crises/2013/12/02/d44cf352-5b6c-11e3-bf7e-f567ee61ae21_story.html

Veterans court program helps warriors battle addiction, mental health crises

by Melinda Henneberger

Former Marine Cpl. Eric Gonzales doesn't remember much about the night last year he led police in Orange County, Calif., on a high-speed, 26-minute chase that ended when he threw his truck into reverse and crashed into the patrol car behind him.

When he finally took his foot off the gas, he was handcuffed and later charged with DUI, evading arrest, assault on a police officer and more.

Still in the Marine Corps at the time, and living at Camp Pendleton, Gonzales's first court appearance was brief; he argued with the judge and got himself ejected.

But then he finally listened to his counsel: "My lawyer recommended I go to veterans court" — one of a growing number of such programs that oversee criminal cases involving military veterans who were arrested at least partly because of an addiction or mental illness, most commonly depression and post-traumatic stress disorder.

An average of 22 military veterans commit suicide every day in this country, perhaps the best measure of the mental health crisis among veterans. And 130 special courts for veterans in 40 states are tackling that problem.

The first one was started in Buffalo in 2008, modeled on the drug courts that have significantly reduced recidivism rates by substituting treatment and other support programs for incarceration.

Gonzales, who served in Afghanistan in 2009 and 2010, was facing a nine-year prison sentence, so he was eager to opt for oversight from Judge Wendy Lindley's veterans court in Orange County. He "graduated" from the program in September.

On Monday, the 23-year-old stepped up to a podium in a ballroom at Washington's Marriott Wardman Park hotel and addressed a crowd of about 900 as the first speaker at the first national training conference for those who work in such courts.

Gonzales, a high school sports star from San Bernardino, had a college scholarship but persuaded his parents to sign the waiver that let him enlist at 17: “I joined the greatest fighting force I could — the United States Marine Corps!” he said, to a big round of hoo-rahs from Marines in the crowd.

But while serving in Afghanistan, he saw the man who had been “like a father” to him blown up by an improvised explosive device. So once he was back home, Gonzales told the crowd, he began drinking heavily and was “shocked at the truth of the beast.” He skipped the specifics but said, “I had fallen off my white horse.”

Through the veterans court, he started to work on his problems instead of masking them: “I did mindfulness, PTSD and exposure therapy — which . . . really do work, actually.”

After he spoke at the conference, a succession of big names did, too: “He’s what it’s all about,” retired Army Gen. Barry McCaffrey said of Gonzales. “We’ve got this battle force that kept us safe since 9/11; now we’ve got to stay behind them.”

After the program, Gonzales’s former drug court parole officer, Bert Eitner, came up to congratulate him.

During his first week in Afghanistan, Gonzales’s base was attacked by a suicide bomber; two Marines were killed. The later loss of his mentor, Sgt. Maj. Robert Cottle, who was killed by a 300-pound explosive device, was hard — as were orders from his superiors that prevented Gonzales from quickly retrieving the body.

“That’s what broke my mind,” he said.

After returning home in May 2010, “we’d only discuss when we were drunk who died.”

The veterans court doesn’t take men and women on active duty, Eitner said, “because there’s no point giving them all these services and then letting them go back to deployment.”

“If you mess up,” Gonzales said the judge told him, “you’re going to prison.” Instead, he lived in a residential treatment center. He meditated, worked out, did cognitive therapy, underwent exposure therapy — in which he was taken back to his mentor’s death again and again— and attended every 12-step meeting he could.

Asked whether he was tested regularly for drugs and alcohol, Eitner and Gonzales burst out laughing. Six times a week by Eitner alone, Gonzales said, “even though I was already peeing for four other people.”

Since graduating from the program three months ago, he’s back in school, studying audio engineering and getting some work, too, while living with his parents and advocating for the program that he feels saved his life.

Both Gonzales's problem and his progress are pretty typical of what Eitner sees, he said, in a program that has a recidivism rate of 3 percent. "This guy," Eitner said of his former charge, "was sent someplace no one should ever be sent, but that's what we do to our kids because they're good at it. And you can't strap a gun on every day and have it not affect you."