



## King County

# Law, Justice, Health and Human Services Committee

## STAFF REPORT

<b>Agenda Item:</b>	10	<b>Name:</b>	Kelli Carroll
<b>Proposed No.:</b>	2011-B0136	<b>Date:</b>	July 26, 2011
<b>Invited:</b>	Kevin Devine, Veterans Justice Outreach Coordinator, VA Puget Sound Health Care System		

### **SUBJECT**

A briefing on the role and history of Veterans Specialty Courts.

### **BACKGROUND**

***What is Veterans Court?*** Veterans Courts are specialty therapeutic courts designed to address the unique needs of individuals who have served in the US military. Based on therapeutic mental health and drug courts, veterans courts are "problem solving" courts, integrating treatment with justice-system case management, where participants are closely supervised and monitored.

In Veterans Court (VC), a team approach is used with an emphasis on connecting court clients with treatment rather than punishing them with more jail time, although jail is used as a sanction when appropriate. VCs, like other therapeutic courts, are opt-in models, which require that participants fit a defined set of criteria and then voluntarily opt in to the court by agreeing to the rules of the court and to abide by the developed treatment plan. The relationship between the judge and the court client is important to provide both support and accountability.

VCS are distinguished from drug and mental health courts in their exclusive focus on veterans and the emphasis on utilizing treatment and benefits provided by the US Department of Veterans Affairs (VA).

Studies show that individuals who go through specialty courts have decreased recidivism rates which translate to reduced incarcerations and other reduced justice system costs.

***History of Veterans Courts:*** The first VC was established in Buffalo, New York in 2008 by Judge Robert Russell. Judge Russell has stated that in his 13 years as presiding Judge of Buffalo's Drug Treatment Court or in Mental Health Treatment Court, it became apparent that veterans faced a number of challenges in addressing their combat related trauma.

In particular, he noted that war related illnesses appeared to contribute to escalated suicide attempts, arrest, incarceration, divorce, domestic violence, homelessness and despair. The Judge stated that rather than be reactionary to the anticipated increase of veterans appearing in Buffalo's criminal courts, they decided to take a pro-active approach, embarking on a plan to develop a specialized treatment court to meet the unique needs of their veterans.

Since "the Buffalo experiment" in 2008, nearly 80 VC have been established across the US, with more coming on line monthly. In Washington State, there are VCs in Clark, Pierce, Spokane, and Thurston Counties.

**Veterans in Need:** Though veterans are not more likely to be arrested than the general population, there are significant numbers of veterans involved with the criminal justice system, many of whom struggle with mental health and/or substance abuse illnesses. There are 23.4 million veterans in the US<sup>1</sup>, 1.7 million veterans of Iraq and Afghanistan wars<sup>2</sup>, and 623,000 veterans in Washington State and 143,000 in King County.

A 2000 Bureau of Justice Statistics report noted that 81 percent of all justice involved veterans had a substance abuse problem prior to incarceration. 35 percent were identified as having alcohol dependency, 23 percent were homeless at some point in the prior year and 25 percent were identified as mentally ill. Other data points include:

- 230,000 veterans were in local jails and state and federal prisons in 2007<sup>3</sup>
- 1 in 5 veterans report symptoms of mental disorder<sup>4</sup>
- 1 in 4 veterans ages 18-25 met criteria for substance abuse disorder in 2006<sup>5</sup>
- 1 in 3 of the adult homeless population has served in the military<sup>6</sup>

In addition to the mental health, substance abuse and homelessness issues many veterans are contending with, veterans returning from recent conflicts abroad present with post traumatic stress disorder (PTSD) and traumatic brain injury (TBI):

- The Department of Defense (DOD) Post-Deployment Health Assessment and Reassessment indicate that 17 percent of active duty personnel in the Army and 25 percent of Army reserve members screen positive for PTSD three to six months after returning home.<sup>7</sup> PTSD is an anxiety disorder that may occur after exposure to or involvement in a traumatic event.
- The DOD and Veteran's Brain Injury Center estimate that 22 percent of all combat casualties from the Iraq and Afghan conflicts are brain injuries, compared to 12

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<sup>1</sup> U.S. Department of Veterans Affairs

<sup>2</sup> Iraq and Afghanistan Veterans of America

<sup>3</sup> 2010 US census ([www.census.gov](http://www.census.gov)) and National Association of Drug Court Professionals ([www.nadcp.org](http://www.nadcp.org))

<sup>4</sup> RAND Center For Military and Policy Research

<sup>5</sup> Substance Abuse and Mental Health Services Administration

<sup>6</sup> US Department of Veterans Affairs

<sup>7</sup> GAINS Center, "Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions," page 5, [http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS\\_Report.pdf](http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf)

percent of Vietnam-related combat casualties.<sup>8</sup> Traumatic brain injury occurs when a sudden trauma causes damage to the brain. TBI can result when the head suddenly and violently hits an object, or when an object pierces the skull and enters brain tissue.

Suicide has become increasingly prevalent among military veterans and is now affecting veterans disproportionately. National statistics show that veterans constitute about 20 percent of the 30,000 to 32,000 U.S. deaths each year from suicide. Of an average of 18 veterans who commit suicide each day, about five receive care through the VA health-care system. More than 60 percent of those five had diagnosed mental-health conditions.<sup>9</sup>

The combination of mental health problems and substance abuse can be potent and can trigger behaviors that draw veterans into the criminal justice system. PTSD and TBI can cause violent outbursts often targeted at family members, leading to charges of domestic violence. Self-medicating with alcohol and drugs can lead to impaired driving and Driving Under the Influence (DUI) charges. As a result, domestic violence and DUI charges are common charges for veterans suffering from mental health and substance abuse issues.

**King County's Veterans:** As noted above, there are an estimated 143,000 veterans in King County. By applying the statistics gleaned from the studies cited in this report, there could be:

- 28,600 veterans in King County with a mental health disorder (20 percent of the total)
- 35,750 veterans in King County with a substance abuse disorder (25 percent)
- 805 homeless veterans in King County (33 percent of the One Night Count total of 2,442)

And while veterans have utilized King County's existing therapeutic courts, there has been no specific court or docket dedicated to the unique needs of veterans involved in the criminal justice system.

**Role of Veterans Courts:** Veterans Treatment Courts seek to divert eligible veteran-defendants with substance dependency and/or mental illness who are charged with certain non-violent criminal offenses, to a specialized criminal court docket. The court substitutes a treatment problem solving model for traditional court processing.

Veterans are identified through evidence based screening and assessments. The veterans voluntarily participate in a judicially supervised treatment plan that a team of court staff, veteran health care professionals, veteran peer mentors, alcohol and other

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<sup>8</sup> E. Lanier Summerall, "Report of (VA) Consensus Conference: Practice Recommendations for Treatment of Veterans with Comorbid TBI, Pain, and PTSD. <http://www.ptsd.va.gov/professional/pages/traumatic-brain-injury-ptsd.asp>

<sup>9</sup> American Forces Press Service, <http://www.defense.gov/news/newsarticle.aspx?id=58879>.

drug health care professionals and mental health professionals develop with the veteran.

At regular status hearings treatment plans and other conditions are periodically reviewed for appropriateness, incentives are offered to reward adherence to court conditions, and sanctions for non-adherence are handed down. Completion of their program is defined according to specific criteria.

***The VA's Veterans Justice Outreach Initiative:*** The purpose of the Veteran Justice Outreach Initiative (VJO) initiative is to avoid the unnecessary criminalization of mental illness and extended incarceration among Veterans by ensuring that eligible justice-involved Veterans have timely access to VHA mental health and substance abuse services when clinically indicated, and other VA services and benefits as appropriate. King County works closely with the VA of Puget Sound on veterans matters.

### **ATTACHMENTS**

1. July 17, 2011 New York Times article
2. January 9, 2011 Reuters article
3. February 11, 2010 Newsweek article

# Coming Together to Fight for a Troubled Veteran July 17, 2011 New York Times

By ERICA GOODE

OKEMOS, Mich. — When the standoff began on a humid August night, it seemed destined to become one more case of a returned soldier pulled down by a war he could not leave behind.

Staff Sgt. Brad Eifert circled through the woods behind his house here, holding a .45-caliber pistol. The police were out there somewhere and, one way or the other, he was ready to die.

He raised the gun to his head and then lowered it. Then he fired nine rounds.

“They’re going to take me down, they’re going to finish me off, so,” he remembers thinking, “finish me off.”

Leaving his weapon, he ran into the driveway, shouting, “Shoot me! Shoot me! Shoot me!” The police officers subdued him with a [Taser](#) and arrested him. A few hours later, he sat in a cell at the Ingham County Jail, charged with five counts of assault with intent to murder the officers, each carrying a potential life sentence.

In daring the police to kill him, Mr. Eifert, who had served in Iraq and was working as an Army recruiter, joined an increasing number of deployed veterans who, after returning home, plunge into a downward spiral, propelled by [post-traumatic stress disorder](#) or other emotional problems.

Their descent is chronicled in [suicide attempts](#) or destructive actions that bring them into conflict with the law — drunken driving, bar fights, domestic violence and, in extreme instances, armed confrontations with the police of the kind that are known as “suicide by cop.”

Such stories often end in death or prison, the veteran in either case lost to the abyss.

But something different happened in Mr. Eifert’s case. Headed for disaster, he was spared through a novel court program and an unusual coming together of a group of individuals — including a compassionate judge, a flexible prosecutor, a tenacious lawyer and an amenable police officer — who made exceptions and negotiated compromises to help him.

If he takes advantage of the chance to recover his life, he is likely to avoid incarceration and receive the care he needs to move forward.

How this came about — it evolved over more than seven months, during which Mr. Eifert remained in jail — says much about what is required to pull a psychically wounded soldier back to safety and raises questions about the limitations of the systems in place to deal with troubled veterans, whose trespasses can in many cases be traced to a lack of adequate help earlier on.

Some officials believe that war trauma should not qualify veterans for special treatment in the criminal justice system, especially in cases where public safety is endangered. “P.T.S.D. is not a get out of jail free card,” said a prosecutor in a Missouri case involving a veteran who had a faceoff with the police.

Yet a growing number of legal and law enforcement experts argue that when a veteran's criminal actions appear to stem from the stresses of war, a better solution than traditional prosecution and punishment is called for. The society that trained them and sent them into harm's way, they say, bears some responsibility for their rehabilitation. And they point to other exceptions in the legal system like diversion programs for drug offenders and the mentally ill.

"I don't interpret it as excusing behavior, but as addressing what the behavior is," said Judge Robert T. Russell Jr. of Buffalo City Court, who founded the first special court for veterans there in 2008. It can provide an alternative to punishment, mandating treatment and close supervision and holding them to strict requirements.

"The benefit is, you increase public safety, you don't have a person reoffending and, hopefully, that person can become functioning and not suffer the invisible wounds of war," Judge Russell said.

Mr. Eifert, 36, was fortunate that, just months before, his county had become one of 80 jurisdictions around the country that have adopted the veterans court model. But the resolution of his case took more than that.

The judge had to take an interest in his case and accept him in the court, which did not normally hear serious cases involving the use of a firearm.

The prosecutor had to ultimately decide that Mr. Eifert's emotional difficulties warranted leniency.

The police officer, who, although he had feared for his life during the standoff — "This is probably not going to end well," he remembers thinking — had to agree to drop the charges of assault with intent to murder.

A judge advocate general officer at Fort Knox, Ky., where the Army's recruiting command is based, had to argue to reverse the discharge under other than honorable conditions set in motion by the Army after his arrest, which would have deprived him of most of his military benefits, including the services of the [Department of Veterans Affairs](#). A lawyer, Frank Reynolds, had to work to put all the pieces together.

"The justice system is a system of black and white, and most cases of warriors are gray," said Jeff Murphy, a retired lieutenant and crisis team intervention coordinator for the Chicago Police Department who conducts training on dealing with veterans. Mr. Eifert's case, he said, offered a template of how to resolve such situations. "You need champions that understand the dynamics of the stresses that military veterans are experiencing," he said, adding, "And if everybody doesn't agree, it falls apart."

## **A War That Lingered**

Even as he returned home from Iraq to Fort Carson, Colo., in 2006, his uniform covered with medals, Mr. Eifert knew something was wrong. The finely honed aggression that had carried him through deployments as an infantry gunner and a truck commander during two of the war's most violent years was still very much alive inside him.

He was irritated by bad drivers: "You're so used to being king of the road, to having people get out of the way," he said.

He was irritated by the seeming obliviousness of the people around him. “None of these people are thinking about people over there **sweating** and bleeding and struggling right now,” he would think in a store or on the street.

Mr. Eifert wanted to go back into combat, but the Army had other plans, sending him to Michigan as a recruiter. At a **mental health** screening, he told an Army psychiatrist that he was drinking too much, having **panic attacks**, waking up from **nightmares** — his house exploding, his hand being blown off.

“It’s normal,” he said she told him. “You’ll get over it.”

But as he moved through his life — divorcing his first wife, taking up his new job at the Great Lakes Recruiting Battalion, marrying a woman with three children he had met through eHarmony — the volatile emotions stayed with him. He won honors as a recruiter, but he continued drinking, sometimes as much as a fifth of Jack Daniel’s a day.

He was haunted by memories: friends being killed; the day he shot up a house filled with women and children, killing many of them; another when he watched a truck full of military contractors burn and did nothing to save them.

He no longer believed in the war or in his recruiting job. “Everybody I put in I know is going to get deployed,” he kept thinking, “and I have to look their parents in the face and be like, ‘It’s not that bad, look at me, I’m great after two deployments. Your son will be fine.’ ”

An operation for a shoulder injury did not heal properly and added to Mr. Eifert’s **depression**. In February 2010, he put a gun to his head in his garage, and after seeking help the next day went to the Veterans Affairs hospital in Ann Arbor. But he was released after a four-hour evaluation with **prescriptions** for psychiatric medication and counseling. A few months later, he made a second suicide attempt.

“I just felt totally hopeless in every situation in my life,” he recalled, “like I had no control over anything, I couldn’t do anything. I was just living, you know, like floating.”

The day of the standoff, Aug. 9, 2010, started badly. Mr. Eifert did not sleep well. He got a Facebook message from his brother, a soldier stationed in Afghanistan, saying that the base there had been hit by truck bombs. He had a minor argument with his father-in-law, a man he respected greatly.

In the afternoon, he went to his grandparents’ house in nearby Mason and sat on the patio, **smoking cigarettes** and drinking. When his grandmother asked him what was wrong, he told her that he felt like a failure and that he hated his life.

“And we cried, she cried, and she held me,” he said.

He called his commanding officers and told them he needed help. “I’m tired of drinking, I’m tired of feeling hopeless, I’m tired of feeling depressed, I’m tired of feeling angry,” he said he told them. “I’m tired of my life.”

A first sergeant and a captain from the recruiting command met him at his grandparents’ house, and said they would drive him to a hospital in two cars, the sergeant driving his. An Army document filed in the case said that, during a stop at a 7-Eleven along the way, Mr. Eifert became “belligerent,” demanding his car keys. When they refused, Mr. Eifert shoved the

sergeant, ripped the first sergeant stripes off his chest, grabbed the keys and drove off, the document said.

Mr. Eifert said the officers had agreed to let him stop at his house to say goodbye to his wife and then reneged. To him, it seemed “another handshake and a smile, just a false promise.”

At 4:45 p.m. that day, his wife, Michelle, got a text from him, saying “You don’t need me.” When he came home, he was drunk and unreachable.

“He just kept repeating: ‘They lied to me. They lied to me. They’re coming after me,’ ” she said.

Mr. Eifert said that much of what happened that night is hazy. But he remembers telling his wife to leave and to take the children with her.

He grabbed three guns and went into the woods. He made calls on his cellphone — to a commanding officer he trusted, to a friend.

Four police officers called to the scene were positioned across the street, their rifles trained in his direction. He was only dimly aware of them, he said, but he was seized with the same adrenaline he had felt in Iraq. “It was a fight or flight situation,” he said.

He raised the .45-caliber pistol to his head, “but I didn’t know how hard I was going to have to squeeze the trigger,” he said. “I started thinking, ‘What if I don’t squeeze it hard enough?’ ”

So he aimed the gun at tree trunks, he said, and fired. The police later said that he was shooting at them.

“I was just so angry, I wanted to die,” Mr. Eifert recalled, “and they took me to the hospital and I woke up in jail.”

### **An Alternative Approach**

Sitting at his kitchen table in East Lansing the next morning, Judge David L. Jordon of Ingham County District Court read an article about the standoff in Okemos and was immediately interested in the case.

“I thought, boy, that sounds like an attempted suicide by cop and it sounds like a veteran who just gave up and wanted to be done with things,” he said.

Local blogs covering the standoff were tapping mixed reactions.

“I hope they lock him up for the rest of his life,” one commenter wrote, shortly after Mr. Eifert’s arraignment.

“Thank you for your service Sergeant Eifert,” another wrote. “I hope you get the help you need, and can return to Okemos a healthy man.”

The son of a World War II pilot, Judge Jordon is passionate about veterans’ issues, an ardent fan of “Achilles in Vietnam,” Jonathan Shay’s book on combat trauma. After hearing about the veteran’s court in Buffalo, he started a similar one in East Lansing. The court, which meets twice a month, not only gets veterans into treatment, it also provides them a mentor who is also a military veteran. The veterans have a chance to avoid jail by meeting a set of rigorous criteria.



Mr. Eifert's case, Judge Jordon said, was "at the core of anyone's concept of a treatment court."

But the court was not normally open to defendants charged with crimes involving guns or other violence, and the move there could not take place unless the prosecutor, Stuart Dunning III, was willing to reduce the charges. Initially, the prosecutor "was not going to play at all," said Mr. Reynolds, the defense lawyer.

Mr. Murphy, the retired Chicago police lieutenant, noted that in high-profile cases like Mr. Eifert's, prosecutors are often placed in an awkward position.

"If you have a highlighted situation of a veteran out of control out there in the community," he said, "it becomes more difficult to adjudicate using an alternative method to conventional prosecution."

And in some cases, no alternative is available. In Platte County, Mo., which has no special court, the veteran with post-traumatic stress disorder who had a faceoff with the police is scheduled to stand trial on Sept. 12 on charges including felonious assault on a police officer, though no shots were fired. He had called 911 for help.

As the prosecutors in Michigan learned more about Mr. Eifert's history, however, the move to the veteran's court began to seem more feasible.

"We charge based on what we know at that time," Mr. Dunning said, "but hopefully we're open to further evidence and information that comes along, and as we become aware of things, we adjust our positions accordingly."

One fact that swayed the prosecutors was that Mr. Eifert was a trained marksman. Had he really wanted to kill the police officers, he could have, they believed. Another was that he had asked for help on several occasions before the standoff.

When the defense argued that Mr. Eifert had severe post-traumatic stress disorder, "it was more believable than it might have been had two or three of those facts been different," said Catherine Emerson, an assistant prosecutor.

### **Soldier With a Gun**

Still, they could not drop the charges if the victims of the crime, the Meridian Township police officers, would not agree.

A call to deal with "a man with a gun" is one of the most dangerous that police officers face. Entering an unpredictable situation, they are trained to act to protect their own safety and the public's.

When the suspect is a soldier, the situation grows more complicated. In Gresham, Ore., a veteran was killed by the police when he stepped out onto his front porch carrying a rifle; his family had called 911 saying he was suicidal. In Glendale, Ariz., a soldier newly returned from Afghanistan shot a man in a bar and then fired at a police officer, who killed him.

Officer John Free was the first to respond to Mr. Eifert's house that night. As he crouched with his AR-15 rifle behind the pine trees across the street waiting for a clear shot, he said, he thought of his 7-month-old daughter and wondered if he would see her first birthday. He saw muzzle flashes in the darkness and heard bullets whiz through the trees.

“Your mind plays tricks on you when you’re out there for 2 1/2 hours in the dark,” he said. “You would hear something in the woods and it would turn out to be a deer, and then O.K., it’s just a deer, but is the deer moving because he’s moving towards us?”

Officer Free took off his reflective badge and smeared mud on the illuminated dial of his radio. At one point, an officer crawled across a hornet’s nest, and when a sharp pain went through his leg, he thought he had been shot.

Still, when Ms. Emerson called Officer Free to ask about the charges, he said he bore Mr. Eifert no hard feelings.

“I said, ‘I don’t think any of us would not want him to get treatment,’ ” he said.

“There’s a difference between somebody who’s a criminal and someone who’s just in a perfect storm of things going wrong.”

### **A Chance for a Future**

On Aug. 2, Mr. Eifert, having pleaded guilty to a single charge of carrying a weapon with unlawful intent, a felony, will officially enter the veterans court program. He separated from the Army on June 9. Twelve to 18 months from now, if he adheres to the strict regimen of treatment through the Veterans Affairs hospital in Battle Creek and supervision set by the court, the charge could be dismissed or reduced to a misdemeanor.

He is at home now, with his wife and stepchildren, slowly learning to cope more constructively with his problems. He has abstained from drinking since his arrest — he wears a monitor on his ankle that records any alcohol he consumes. He is working part time at a family farm.

He has ups and downs, but on most days, he sees some possibility of a future.

Someday, he said, he would like to sit down with the police officers who arrested him “and just kind of say ‘Wow, that was a big crazy mess and I’m glad you didn’t kill me and I’m sorry that I put you guys through that.’ ”

But that will not happen tomorrow or the next day.

“We’re a long way from this being over,” said Sgt. Maj. David Dunckel, the mentor assigned to Mr. Eifert by the veteran’s court, who keeps a close eye on him. “There is some resolution to his legal problems, but the demons that haunt him are still pretty deeply embedded.”

Still, Sergeant Major Dunckel said, “I’ll put my money on Brad getting through this O.K.”

## Nation's first veterans court counts its successes

By Neale Gulley

**BUFFALO, New York** | Sun Jan 9, 2011 3:02pm EST

<http://www.reuters.com/article/2011/01/09/us-court-veterans-idUSTRE7082U020110109>

(Reuters) - From the minute Judge Robert Russell walks into Buffalo Veterans Court, it is clear this is no ordinary courtroom.

"Hello everybody," the judge says.

"Good afternoon, Judge," everyone replies in unison.

The first defendant steps forward, and Russell asks him what branch of the military he served in.

"Navy, sir," he says, and the room bursts into applause.

Buffalo's Veterans Court, the first of its kind when it began three years ago, has proven so successful it is a model for the 46 such courts that have sprung up since in 20 states, largely to address the needs of veterans returning home from Iraq, Afghanistan and Vietnam.

Among the most recent, a veterans' court was started less than a month ago in New York City.

So successful is Buffalo's Veterans Court that it boasts a zero recidivism rate -- none of the participants have been rearrested and returned.

Specialized courts for drugs, alcohol, domestic violence, gambling and other issues have existed for years. But this concept -- akin to a rehabilitation program blended with legal consequences -- focuses on issues associated with U.S. veterans who often suffer from post traumatic stress disorder, brain trauma or chemical dependency.

All the defendants in the Buffalo courtroom are veterans. By agreeing to treatment and rehabilitation, they avoid jail for the crimes that landed them in the court system.

The program aims to create a therapeutic environment that fosters rehabilitation, "so my style is somewhat paternal and somewhat empathetic," Russell said.

### SUCCESS STORY

One success story is Manuel Welch, 53, a veteran of the U.S. Navy who grappled for decades with drug and alcohol abuse and addiction and made numerous trips in and out of the city court system.

He is one of 51 former servicemen to graduate from Russell's court, avoiding jail time for a string of petit larceny, cocaine possession and other crimes.

After a 12-step program, counseling and drug and alcohol testing, not only is he clean and sober but he has become a mentor to other program participants. He credits the Veterans Court with his recovery.

"The thing that did it for me is they never give up on you," Welch said.

City Court Judge Joseph Cassatta, who runs specialty courts addressing mental health and drug addiction in nearby Tonawanda, said returning soldiers can have severe emotional problems that lead to criminal behavior. Instead of focusing on punishment, he said, a veterans' court is concerned with addressing the cause and attempting to resolve it.

"You rehabilitate instead of incarcerate," he said.

Some 180 cases are moving forward through Russell's court, though the program has seen its share of dropouts.

Tom Burke, president of the Ohio chapter of Vietnam Veterans of America, has been looking at the Buffalo court with the idea of starting one in his area.

Of Ohio's 41 VVA chapters, nine of them -- about 350 people -- are made up entirely of incarcerated veterans, he said.

"We have a need for it here, for the guys who are coming back," he said. "We're starting to see the Iraq and Afghanistan guys show up in the system."

There are 1.7 million veterans of Iraq and Afghanistan, according to the group Iraq and Afghanistan Veterans of America.

But with the popularity of Buffalo's pioneering court model has come controversy. Allen Lichtenstein of the Nevada ACLU said his group objects to such laws if they give too much discretion to district attorneys as to choosing who is eligible or move toward establishing what are in effect two separate systems of justice.

"We don't have a particular problem with veterans, when they've been through certain things, having special needs. I think the opposition is instead of having two separate systems."

"Where does it end? Do we then have courts where police are treated because of a certain status?"

But Russell, Cassatta and others who deal with veterans on a daily basis say the success is there for all to see.

It costs taxpayers about \$32,000 per year to hold a prisoner at the county jail, they note.

"We can clean them up for a ballpark figure of \$7,000 or less. We're saving our taxpayers and more importantly we're saving our families and we're saving our community," Cassatta said.

## NEWSWEEK

### A Separate Peace

by Dahlia Lithwick-February 11, 2010

#### **Why veterans deserve special courts.**

The problem is hardly a new one, but we need only watch *The Hurt Locker* to refresh our collective memory: veterans return from war, having seen and survived unspeakable things, then try to adjust to civilian life with inadequate resources and support. Depending on the study you read, between 20 and 50 percent of veterans from the Iraq and Afghanistan wars suffer from posttraumatic stress and other mental disorders—and half don't seek mental-health care. Those who do don't always receive the kind of care they need. The results of these systemic failures are increased instances of rape, assault, addiction, and other criminal acts that tangle up veterans in the criminal courts. The Department of Veterans Affairs estimates that veterans account for 10 percent of the people with criminal records.

The first "veterans' court" was launched in Buffalo, N.Y., in January 2008 by Judge Robert Russell. His program was based on the various "problem solving" tribunals around the country, ranging from specialized drug courts to mental-health and domestic-violence courts. Drug courts, for instance, integrate treatment with justice-system case management, and closely supervise and monitor participants. Studies show they have decreased recidivism rates as well as the cost of incarceration. In recent testimony before the House Veterans' Affairs Committee, Russell said his program teams veterans guilty of nonviolent felony or misdemeanor offenses with volunteer veteran mentors, requiring them to adhere to a strict schedule of rehabilitation programs and court appearances. One hundred and twenty veterans are enrolled in the Buffalo program; 90 percent of participants have successfully completed the program, and the recidivism rate is zero.

Since the Buffalo experiment was launched, 22 other cities and counties have created their own veterans' courts. The Senate is looking at legislation introduced by John Kerry and Lisa Murkowski to fund more veterans' courts for nonviolent offenders. Whether these will serve violent offenders as well is already a difficult issue for legislators and judges. The Buffalo court handles chiefly nonviolent offenses. But that may not solve the problems in Colorado Springs, Colo., where there have been 15 former GIs arrested in connection with a dozen murders over the past five years. These are guys who have never been involved in the criminal-justice system in their lives. They come home from war profoundly different men.

That's why Robert Alvarez, a psychotherapist with the Wounded Warrior program at Fort Carson, recently told a Denver newspaper that it's a mistake to carve the most violent offenders out of the proposed veterans' court in Colorado: "The violent offenders need help more than anybody ... the very skills these people are taught to follow in combat are the skills that are a risk at home." If you are going to create special judicial programs to help veterans, does it make sense to give special services only to those who need help the least?

The bigger issue with the veterans' courts has been raised by the American Civil Liberties Union, which objects to the creation of a unique legal class of criminals based on their status as veterans. Thus, Lee Rowland of the ACLU of Nevada opposes the proposed state veterans'-

court bill because it provides "an automatic free pass based on military status to certain criminal-defense rights that others don't have." Mark Silverstein, legal director of the Colorado ACLU, explains that the legal category of "veteran" is both too broad and too narrow, sweeping in both Vietnam and World War II veterans who have very different experiences, but excluding nonveterans who also suffer from PTSD and aren't eligible for any special courts.

Perhaps the inevitable conclusion here is the one nobody wants to say out loud: we have known for years that treatment works better than incarceration when it comes to criminal defendants with drug and mental-health problems. We also know that close supervision and monitoring work better than casting our most vulnerable citizens adrift. Veterans deserve special treatment for their service, and the fact that veterans' courts seem to work as well as they do suggests that politicians needn't justify their existence beyond that fact. But whether we really want to create first- and -second-class criminal-justice services, and whether we can truly draw any principled line between nonviolent veterans and violent ones in the judicial treatment they receive, are not easy political questions, but thorny legal ones.