The Aftermath of International Conflicts: Veterans Domestic Violence Cases and Veterans Treatment Courts

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VETERANS DOMESTIC VIOLENCE CASES AND VETERANS TREATMENT COURTS

I. INTRODUCTION ....................................................................................... 632

II. DOMESTIC VIOLENCE: AN OVERVIEW .............................................. 635
    A. Domestic Violence and War Veterans.............................................. 636
    B. Unique Issues for Victims of Domestic Violence by a Veteran.............. 638

III. COMING BACK HOME: THE EFFECT OF EXPOSURE TO VIOLENCE DURING OVERSEAS SERVICE ............................................................. 639
    A. What Military Personnel Are Exposed to While Deployed.................. 640
    B. Problems Faced by Returning Veterans and the Link to Domestic Violence........................................................................................................... 641
        1. PTSD in Different International Conflicts....................................... 642
            a. World War II......................................................................... 643
            b. Korea .............................................................................. 643
            c. Vietnam .......................................................................... 643
            d. Afghanistan ..................................................................... 644
            e. Iraq ................................................................................... 644
        2. Traumatic Brain Injury (TBI) .................................................. 644
        3. Depression and Substance Abuse ........................................... 645

IV. A DIFFERENT APPROACH: VETERANS TREATMENT COURTS............ 646
    A. Creation and Purpose ........................................................................ 646
    B. Controversies and Criticisms Regarding Domestic Violence Cases and Veterans Treatment Courts................................................................. 647
    C. Florida’s Veterans Treatment Courts and Domestic Violence.................. 648

V. FIXING AT HOME WHAT WAS BROKEN ABROAD: A RESTORATIVE APPROACH .................................................................................. 650
    A. Veterans Treatment Courts as a Restorative Type of Justice in Domestic Violence Cases................................................................. 650
        1. Public Policy Considerations .................................................... 650
        2. Program Recommendations .................................................... 654

VI. CONCLUSION ....................................................................................... 656
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I. INTRODUCTION

“‘If you don’t hear from me in the next 24 hours, call the police,’” whispered Kristi to Stacy—veterans’ wives—when she called her at 2:12 A.M. and then hung up. They had become friends while their husbands were deployed overseas in 2004. Kristi’s husband had served in three deployments and had recently come back from the last one. The day after the call, Kristi said to Stacy, “‘Mark tried to strangle me last night.’” Kristi’s husband adored her. He had no history of domestic violence, no pattern of abuse. He had made no attempts to isolate her from friends, family, or finances. Kristi sought help, but to no avail.

As if the experiences acquired during deployments were not enough, veterans often return home to struggle with family issues caused by the trauma suffered during combat. The impact of military service can manifest itself in “the lives of veterans and their families in [various] ways.” “[F]amily functioning is [unavoidably] affected” after a deployment. Upon

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2. Id.
3. Id.
4. Id.
5. Id.
return, service members find themselves battling another war at home. Significant rates of domestic violence in returning war veterans have caused a rising concern. Most of them feel terrible that they cause all this trouble and do not want to hurt anyone. Now more than ever, it is crucial that we recognize the effects that trauma is having on the relationships of military veterans, because compared to military conflicts of the past, the majority of currently returning veterans are married or are in a committed intimate relationship.

This increase in crimes committed by veterans gave rise to veterans treatment courts. Judges across the country started to notice that veterans who came back from deployments and appeared in court, brought back similar personal issues. They began to suspect that these issues might have been related to their military service. Veterans treatment courts are modeled after other types of special courts that have proven to be successful in the past such as special drug and mental health courts. The program aims at “rehabilitation rather than incarceration” for eligible veterans by using treatment programs. Today, more than ninety veterans treatment courts exist in the United States. Upon completion of the program, veterans could potentially have charges dropped or reduced.

16. Id.
17. Id.
A controversy arises in deciding whether domestic violence cases should be allowed in veterans treatment courts due to the nature of the offense. Critics note that in a domestic violence case, it could be dangerous to continue to have the victim in contact with the offender, that courts must have access to offender’s records, and that specialized training is needed for those providing services. Due to these criticisms, the majority of cases involving violent crimes are being left to make their way through the traditional criminal justice system.

Abuse, when perpetrated by a veteran, has a unique distinctive pattern, which does not follow the cycle of abuse that is often found in books. This article argues—through the integration of psychological studies which link domestic violence with the experiences that military personnel are exposed to while deployed—that domestic violence cases should be allowed in veterans treatment courts across the country as a form of restorative justice. The majority of studies find that at least 50% of veterans seeking treatment for posttraumatic stress disorder (PTSD) or mental disturbances related to combat, batter their wives.

As a matter of public policy, we owe our veterans much more than a lock them up and throw away the key approach. They should be offered further intervention, considering that the domestic violence is a result of their stay overseas. Furthermore, restorative justice has proven effective in the past in repairing the harm done and reducing the rate of recidivism.

Part II of the article gives an overview of domestic violence as a global issue and mentions recent cases of domestic violence in the military that have added to the controversy. It also outlines unique issues faced by victims of domestic violence of a military veteran. Part III of the article focuses on the many issues faced by veterans of different wars upon return

24. Hawkins, supra note 22, at 571.
29. See infra Part II.
30. See infra Part II.B.
from combat and the experiences lived while in combat. This section employs psychological studies to emphasize the link that these recurring issues have in causing domestic violence. Part IV part of the article introduces veterans’ treatment courts and their purpose. It explores the controversies raised by cases of domestic violence in this type of court, and briefly discusses Florida, with special emphasis on the newly created Broward County’s Veterans Treatment Court. Part V and last part of the article argues that domestic violence cases should be allowed in veterans treatment courts in all jurisdictions as a form of restorative justice to repair the harm done by the veterans and the overseas deployment itself. It also brings to light some public policy considerations and provides some recommendations to alleviate the criticisms that surround the issue of hearing domestic violence cases in this kind of court.

II. DOMESTIC VIOLENCE: AN OVERVIEW

Domestic violence—or, as some call it, intimate partner violence—is a pattern of behavior that someone uses to overpower and control another person. “[D]omestic violence encompass[es] a . . . range of behaviors . . . .” It can take the form of physical, sexual, emotional, psychological, and verbal acts. Physical violence includes “[p]ushing, shoving, grabbing, slapping, [and] punching,” among other acts of physical contact and intimidation. Emotional domestic violence can range from coercive tactics to name calling and yelling. It knows no barriers and affects people anywhere in the world: Any age, religion, economic status, and nationality. Most of the time, the
result is a trauma that can last a lifetime. Statistics show that one in four women will be faced with a domestic violence experience at least once in her lifetime.

Around the world, one in three women have been a victim of physical or sexual abuse and at least “half of the world’s women [suffer from] violence in intimate relationships.” “Domestic violence is . . . most common . . . against women and [represents a] major international health risk[. . .].” Unfortunately, countless domestic violence incidents are never reported to the authorities, because of fear or hope that the person will change, among others. In addition to causing emotional issues, domestic violence affects the economy by impeding the victims from attending work. Domestic violence causes increased health care spending, clogged courts, and losses in educational achievement in countries around the world. In fact, domestic violence was one of the first types of violence that gave rise to action at an international level.

A. Domestic Violence and War Veterans

Domestic violence is an issue that affects all branches of the military in the United States. In a study performed among returning military from Operation Iraqi Freedom and Operation Enduring Freedom (OIF/OEF), an alarming 60% of families referred for mental health evaluations have had an episode of domestic abuse. Out of that 60%, 53.7% said that there had been shouting, pushing, or shoving. In 2006, a study revealed that among

44. Id.
45. Id.
47. Id. at 62.
49. See NAT’L COAL. AGAINST DOMESTIC VIOLENCE, DOMESTIC VIOLENCE FACTS, supra note 43.
50. Id. at 77.
53. Lara, supra note 53, at slide 9; Sayers et al., supra note 53, at e6 tbl.3.
returning veterans with current or recently separated partners, 27.6% of partners were afraid of the veteran.\textsuperscript{55} The following cases are recent examples of domestic violence in returning veterans.

A few years after returning from Iraq in 2005, soldier and combat medic Thomas Delgado attempted to kill his wife, broke her nose, and tried to choke her.\textsuperscript{56} Delgado was charged with one count of first-degree attempted murder.\textsuperscript{57} Medical records revealed that Delgado had only limited memories of what happened that night.\textsuperscript{58} The records also showed that while in service in Iraq, he lost fellow soldiers twice and he had been “‘feeling numb and disconnected since’” the deployment.\textsuperscript{59} Prior to this incident with his wife, Delgado’s only record was a minor traffic violation.\textsuperscript{60} His wife, Shayla Delgado, insisted that her husband is a good person and deserves special treatment despite what happened.\textsuperscript{61} In “2010, Delgado accepted a plea bargain for second-degree assault involving domestic violence, a felony, and misdemeanor criminal mischief. He was given a four-year deferred sentence, four years probation, a . . . fine . . . and . . . a mandatory restraining order.”\textsuperscript{62} Since his conviction, Delgado has been charged with four other offenses, probably due to lack of treatment and following the traditional criminal justice approach.\textsuperscript{63}

In 2002, within only a six-week range, three sergeants who had just returned from Afghanistan murdered their wives and then killed themselves.\textsuperscript{64} A more local example took place recently.\textsuperscript{65} In April 2011, a former marine Paul Gonzalez, while in the chambers of Broward Judge Ronald Rothschild,\textsuperscript{66} went into rage after being ordered to pay child support by the judge.\textsuperscript{67}

\begin{thebibliography}{99}
\bibitem{55} Sayers et al., supra note 53, at e6.
\bibitem{56} Spellman & Drash, supra note 14.
\bibitem{57} Id.
\bibitem{58} Id.
\bibitem{59} Id.
\bibitem{60} Id.
\bibitem{61} Spellman & Drash, supra note 14.
\bibitem{63} Id. (stating that the traditional criminal justice system is not prepared to deal with the symptoms associated with military problems).
\bibitem{64} Alvarez & Sontag, When Strains on Military Families Turn Deadly, supra note 28.
\bibitem{65} See Rafael A. Olmeda, Sentencing Postponed for Man Who Beat Wife, S. FLA. SUN SENTINEL, Feb. 23, 2012, at 6B.
\bibitem{66} Id.
\end{thebibliography}
Gonzalez left his former wife with a fractured jaw and broken nose. 68 The former marine says that he does not recall what happened. 69 Paul Gonzalez was sentenced to fifteen years behind bars. 70 Perhaps if his PTSD was treated in time, this case could have been avoided. Gonzalez apologized to his ex-wife and admitted that he had failed her. 71 In court, there is a certain expectation of safety. 72 Common sense tells us that a rational person would not beat anyone in court—certainly not in the presence of a judge—if there was not something wrong with him or her. In fact, a psychiatric expert testified that the former marine was suffering from bipolar disorder and PTSD. 73 His attorney expressed his concern that he might not be able to get the kind of help he needs to overcome his issues in prison. 74

Overall, violent victimization rates among spouses of United States military personnel have “increased from 18.6 to 25.5 per 1000” spouses. 75 Some local observations corroborate that “intimate partner violence and related offenses [could be] up to one quarter of” the issues with which veterans enter the criminal justice system. 76

**B. Unique Issues for Victims of Domestic Violence by a Veteran**

Deployment to war often includes long separations that in turn, place a tremendous amount of pressure on military families, no matter how healthy the relationship is. 77 When these factors are added to the stress experienced in combat, and the injuries received, sometimes the perfect storm is created. 78 When there has been a deployment, the spouse who stays home—the wife most of the time—is likely to assume responsibility for the family and adapt

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68. Olmeda, supra note 65.
70. Warren, supra note 67.
71. Id.
72. Id.
73. Id.
74. Id.
76. Fairweather et al., supra note 23.
77. Alvarez & Sontag, When Strains on Military Families Turn Deadly, supra note 28.
78. See id.
to new roles as head of the household.79 When the soldier returns, role reversals might become a struggle for power.80 When veterans return and see the autonomy of their partner, they might try to coerce them in order to regain control.81

Military spouses are also faced with the usual issues that civilian victims of domestic violence experience, such as fear, isolation, and economic concerns.82 However, in addition to these fears, there are other factors which are unique to military spouses, causing them not to report the abuse.83 For example, there is a chance that the information military spouses share will not be kept confidential.84 This adds to the unwillingness to report the violence because of the effect that it might have on the abusive veteran’s career.85 Economic dependency on the veteran’s benefits, and the fear of losing them, could also be a cause of the lack of reports.86 Also, the military becomes some families’ identity, making spouses less likely to report domestic violence to preserve their honor.87

III. COMING BACK HOME: THE EFFECT OF EXPOSURE TO VIOLENCE DURING OVERSEAS SERVICE

Many returning “veterans have [been] witness[es to] violence while deployed.”88 The training they receive, and combat itself animates aggressive behavior.89 Military personnel are trained to attack enemies frivolously and fast.90 A majority report that after deployment their family dynamics have

80. Stamm, supra note 39, at 325.
82. Stamm, supra note 39, at 325.
83. Id.
84. Id.
85. Id.; see also Lizette Alvarez, Despite Assurances from Army, an Assault Case Founders, N.Y. TIMES, Nov. 23, 2008, at A24.
87. See Stamm, supra note 39, at 325.
90. Id.
changed.91 They report issues communicating and more frequent conflicts with their families.92 Wars are extremely intense and cause great damage not only to bodies, but also to minds.93 Deployment causes changes that lead to mood swings, hostile attitudes, and emotional numbness.94 Returning veterans who were deployed to Afghanistan and Iraq for recent conflicts—such as Operations Enduring Freedom and Iraqi Freedom—present higher rates of psychological injuries.95 Soldiers returning home bring with them a constant sense of danger.96

A. What Military Personnel Are Exposed to While Deployed

Recent years have seen the largest mobilization of troops to foreign soils since the Vietnam War.97 Since the tragic events of September 11, 2001, troops’ deployment time to foreign countries has become more extensive.98 Some troops were even deployed more than once.99 During their stay on foreign soil, military personnel are exposed to intensive combat.100 The military live in fear of possible ambushes or bombs that kill or injure their fellow soldiers and cause destruction.101 Killing civilians and other enemy

92. Id.
93. See id.
94. Id.
99. Williamson & Mulhall, Iraq & Afg. Veterans of Am., supra note 98, at 6; see also Korb et al., supra note 98, at 9.
100. See Friedman, supra note 96, at 586.
101. Id. at 586–87.
combatants is also a strong experience. Soldiers come to feel helpless and fear these unpredictable attacks. While in combat, they also have to deal with the aftermath such as having to handle dead bodies, being the witnesses of destroyed communities and homes. The exposure to sounds and devastating sights of people dying around them creates anxiety.

B. Problems Faced by Returning Veterans and the Link to Domestic Violence

Upon return from war, and after being exposed to all of the stressors discussed above, the transition from an environment requiring hyper-vigilence can be a tough one. "'One minute you are in Baghdad waiting for a bomb to go off and the next minute you are in Burger King . . . . There is a lot of disorientation.'" Combat trauma has a long-term impact in the proper functioning of a family. Some military returnees are just not able to leave all of these experiences behind and adapt to their home environment.

The witnessing of violence and death increases the likelihood of aggressive behavior. Some studies show that frequent deployment makes it more likely that combat trauma will occur, which increases the risk of domestic violence. In other words, the more they have witnessed in combat the more likely the domestic violence is. Veterans who displayed more fear in the war zone tend to be more violent toward their partners. Also, a comprehensive study by the National Vietnam Veterans reveals that veterans

102. Id. at 586.
103. Id. at 586–87.
104. Id.
105. Friedman, supra note 96, at 587.
106. Id. at 586–87.
107. Id. at 587.
108. Alvarez & Sontag, When Strains on Military Families Turn Deadly, supra note 28 (quoting Judge Pamela Iles, a superior court judge).
110. Friedman, supra note 96, at 587.
113. Id. (quoting Dr. Jacquelyn Campbell, a professor of nursing who was a member of the Pentagon task force).
who participated in the Vietnam War “with high levels of war-related trauma” had a greater risk of engaging in domestic violence.\(^{115}\)

The truth is, the same type of behavior that in a war zone can allow the veteran to survive is the same behavior that causes them trouble reintegrating upon return.\(^{116}\) The complex issue of reintegration brings with it psychological and clinical complications such as depression, anger, blame, shame, substance abuse, or psychiatric disorders.\(^{117}\) Along with these disorders other factors that might cause difficulty and conflict at home could be: Coolness and detachment as a result of controlling emotions in combat, inability to accept that some situations are out of his control, overreactions, and aggressiveness.\(^{118}\)

By the year 2014, at least “some 1.5 million members of the United States Armed Forces will have served in . . . active combat.”\(^{119}\) As many as one in five of them will suffer from traumatic brain injury (TBI), PTSD, severe depression, or substance abuse.\(^{120}\) Studies have found that combat exposure quadruples the risk of domestic violence.\(^{121}\)

1. PTSD in Different International Conflicts

PTSD occurs when a person has experienced an event that involved death, injury to themselves and others, and the person reacts with horror and fear.\(^{122}\) As a result the affected individual will experience trauma over feelings, dreams, detachment, and avoidance.\(^{123}\) As much as 30% of military personnel exposed to war zones show signs of PTSD.\(^{124}\)

Some studies show that there is a relationship between PTSD and the increase of domestic violence.\(^{125}\) One research study analyzed veterans who sought help with marital relationships and determined that those who had

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\(^{115}\) Sayers et al., supra note 53, at e1–2.

\(^{116}\) COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 2.

\(^{117}\) Friedman, supra note 96, at 588.

\(^{118}\) Lara, supra note 53, at slide 17, 20, 22.

\(^{119}\) Hawkins, supra note 22, at 563.

\(^{120}\) Id.


\(^{122}\) Church, supra note 111, at 47.

\(^{123}\) Id.


\(^{125}\) Alvarez & Sontag, When Strains on Military Families Turn Deadly, supra note 28.
been diagnosed with PTSD “were significantly more likely to perpetrate violence toward their partners.” In fact, combat veterans with PTSD have a higher level of anger than those who have not been diagnosed. This anger, in turn, is reflected in acts of domestic violence. Another study shows that around 63% of veterans with “PTSD had been aggressive to their partners in the last year.” When combined with other issues that returning military have to face—such as depression, substance abuse, and relationships distress—the risk of violence heightens. The veteran’s ability to see that what he is doing is wrong is impaired by PTSD. It has even been recognized in some criminal cases that PTSD is linked to diminished culpability.

a. World War II

It is estimated that one in every twenty veterans who participated in World War II experienced symptoms of PTSD. Some of the symptoms include nightmares, irritability, and memories from the incidents.

b. Korea

A study shows that “as many as 30 percent” of veterans of the Korean War that are still alive are suffering from PTSD.

c. Vietnam

Thirty-one percent of Vietnam veterans were diagnosed with PTSD upon return from deployment, and almost half of male Vietnam veterans with PTSD had been arrested at least once after their return.

126. Sherman et al., supra note 81, at 484.
127. Id. at 480.
128. Id.
129. Id.
130. Id. at 484.
131. Hafemeister & Stockey, supra note 89, at 105.
132. Id. at 126.
134. Id.
135. Id.
136. Id.
d. Afghanistan

Veterans returning from deployments to Afghanistan have high rates of psychological disorders, including some presenting with PTSD.137

e. Iraq

In a study of 168,528 Iraqi Veterans, a total of 20% had some sort of psychological disorder, including PTSD.138 The Marines and Army had higher chances of developing PTSD because of their enhanced exposure to combat while deployed.139

2. Traumatic Brain Injury (TBI)

TBI is a trauma to the head—such as one that military personnel receive while in combat—that could be temporary or permanent, and interferes with the proper functioning of the brain.140 Often, while in the combat field, veterans receive injuries from bullets, hits to the head, or bomb blasts.141 When an explosion detonates, the blast could cause an invisible wound, which has the ability to damage the brain with no visible marks.142 This is important because the severity of TBI is determined by what occurred when the injury was received.143 Symptoms of TBI can be very similar to those of PTSD: irritability, impatience, anger, and inability to control impulses.144 Other symptoms include increased verbal and/or physical aggression.145 TBI has the ability to make PTSD symptoms worse and vice versa.146 TBI has recently become the “signature injury” that veterans returning from their deployment in Iraq face.147 Some special issues faced by the soldiers in Iraq are

137. Id.
138. Epstein & Miller, supra note 133.
139. Id.
140. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 1–2.
141. WILLIAMSON & MULHALL, IRAQ & AFG. VETERANS OF AM., supra note 98, at 3.
142. Id.
144. BATTERED WOMEN’S JUSTICE PROJECT, VICTIM ADVOCATE GUIDE: INTIMATE PARTNER VIOLENCE (IPV) AND COMBAT EXPERIENCE 2 (2011).
145. Id.
146. Id.
147. WILLIAMSON & MULHALL, IRAQ & AFG. VETERAN OF AM., supra note 98, at 1; Emily Singer, Brain Trauma in Iraq, MIT TECH. REV. (Apr. 22, 2008), http://www. technologyreview.com/featuredstory/409938/brain-trauma-in-iraq/.
the electromagnetic pulse of explosions, in addition to the sound and light of the blast.  

3. Depression and Substance Abuse

Although there is no major cause of depression, environmental factors such as the ones that veterans are exposed to while present in the combat zone serve as an aggravating factor. War experiences can lead veterans to a great state of depression and increased suicidal thoughts. These high levels of depression in veterans are correlated with violence. A study shows that approximately 81% of veterans who suffered from depression had “engaged in at least one [violent] act toward their partner[] in the last year.” Thoughts of suicide seem to also play as a risk factor that increases partner violence.

In order to deal with the difficult experiences of combat, some veterans drink or abuse drugs. Although alcohol “abuse does not cause domestic violence, there is [certainly] a . . . correlation between” them. Domestic violence studies often show that there is an increase in the risk of becoming violent when the person is using drugs and alcohol. Also, drug and alcohol use is correlated with violence among intimate partners. A study in 2003 “found that 56.6% of veterans had used alcohol and 7.5% reported heavy alcohol use.” In addition, there were indicators of “higher use of marijuana by veterans.” The use of substances represents an increased risk of lethal violence.

148. WILLIAMSON & MULHALL, IRAQ & AFG. VETERANS OF AM., supra note 98, at 3.
149. See NAT’L ALLIANCE ON MENTAL ILLNESS, DEPRESSION AND VETERANS FACT SHEET (2009), http://www.nami.org/Template.cfm?Sections=Depression&Template=/Content Management/ContentDisplay.cfm&contentID=88939.
150. BATTERED WOMEN’S JUSTICE PROJECT, supra note 144, at 3.
151. Sherman et al., supra note 81, at 486.
152. Id.
153. BATTERED WOMEN’S JUSTICE PROJECT, supra note 144, at 3.
154. Id. at 2.
156. Id.
157. Id.
158. Russell, A Proactive Approach, supra note 8, at 358; see also Alcohol Use and Alcohol-Related Risk Behaviors Among Veterans, NSDUH REP. (Substance Abuse and Mental Health Services Administration), Nov. 10, 2005, at 1, 2.
159. Russell, A Proactive Approach, supra note 8, at 358.
160. See BATTERED WOMEN’S JUSTICE PROJECT, supra note 144, at 3.
IV. A DIFFERENT APPROACH: VETERANS TREATMENT COURTS

A. Creation and Purpose

Veterans treatment courts arose in response to an alarming increase in veterans who upon return home from combat would commit crimes. When judges across the country started to notice that veterans who appeared in court brought similar personal issues, they began to suspect that these issues might have been related to the time they spent in service in foreign nations. The inability to cope with problems on their own has sparked initiatives in some jurisdictions to promote and establish veterans treatment courts. Veterans treatment courts are modeled “after other [types of] special[ ] courts [that have proven successful so far], such as drug courts and mental health courts.” The program aims at “rehabilitation rather than incarceration,” employing treatment programs.

“The first veterans’ court was established in Buffalo.” Veterans eligible for the program were “identified using . . . assessments and . . . then given the [choice] to participate in the program.” Using a “combin[ation] [of] rigorous treatment and personal accountability” these courts give veterans the sources to manage their issues and convert them into productive and law abiding citizens. Eligible veterans are identified and referred to the program by Veterans Justice Outreach Specialists (VJOSs). Since 2008, California, Colorado, Texas, Nevada, Illinois, Connecticut, New Mexico, New York, Minnesota, and Oklahoma “have either adopted or considered [adopting] legislation” to bring these courts into existence.

162. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 1.
163. Id.
164. Id.
165. Haughney, supra note 18.
166. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 1.
167. Haughney, supra note 18.
168. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 1.
169. Haughney, supra note 18.
170. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 3.
171. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 3.
Today, there are over ninety veterans treatment courts in the United States. Although, courts in all jurisdictions have slight variations, all of them follow a similar program. Veterans in the program have access to fellow veterans who serve as mentors. “The way veterans interact with each other is helpful. They respond better and are more receptive when they feel understood.” “There have been reports [from] other [v]eterans [t]reatment [c]ourts that veterans adapt faster to these types of courts . . . .” Upon completion of the program veterans could have charges dropped or lessened.

B. Controversies and Criticisms Regarding Domestic Violence Cases and Veterans Treatment Courts

Veterans treatment courts encourage the family of the veteran to get involved in the treatment as a way of support and motivation. Although it is generally accepted that our veterans should receive special treatment—including “medical care, educational support, and employment” opportunities—that same special treatment seems to be causing the controversy.

For example, “[a]dvocates for victims of domestic [violence] in Nevada” like the idea of veteran courts, however feel like the “escalating nature of [domestic violence] offenses” should not be within the reach of those courts. In 2009, a teleconference was held that included forty-nine organizations and professionals to discuss in-depth the possibility of admission of violent offenders in veterans treatment courts. The following categories of cases were discussed: Domestic violence, illegal possession of firearms, aggravated substance abuse and offenses, and cases of simple assaults. Even though national advocates and justice professionals countrywide feel like domestic violence is an important problem among veterans, “only a few

173. MacVicar, supra note 20, at slide 3.
174. COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 3.
175. Id. at 4.
177. Id.
178. See COMM. ON MILITARY AFFAIRS & DOMESTIC SEC., supra note 15, at 4; Hawkins, supra note 22, at 568.
179. Russell, A Proactive Approach, supra note 8, at 369.
181. Id. at 570.
182. Fairweather et al., supra note 23.
183. Id.
courts have [truly] addressed the issue." Some courts, like the one in Orange County, California, have started to take on a case-by-case approach for offenders of intimate partner violence with the requirement that they demonstrate a clear relationship between the deployment and the violence.

Perhaps the most troubling fact of allowing domestic violence cases in veterans treatment courts seems to be the fact that the victim often continues to have some sort of contact with the offender and people fear they might be in additional danger. Critics also note that the court must have access to all of the previous information from the offender and deployment, and that specialized training will be needed.

All of these criticisms have had an effect on the type of cases accepted into these courts. The cases accepted have generally been limited to non-violent offenses, leaving the violent ones to the traditional criminal justice system. In fact, to get an idea as to which courts do allow domestic violence cases to be heard is a challenge because programs are reluctant to reveal that information due to the controversial nature of the topic. Other programs are full of contradictions when it comes to defining whether they accept them or not.

C. Florida’s Veterans Treatment Courts and Domestic Violence

Florida has past experience with special courts: The drug courts and the mental health courts. Okaloosa County’s veterans cases primarily involve domestic violence and substance abuse. Palm Beach County is not currently taking domestic violence misdemeanors to be heard in their courts, and those cases are referred to another division.

The most recent addition to Florida’s veterans treatment courts has been in Broward County—opened April 30, 2012—presided by Judge Edward H.
Merrigan, a veteran himself. Blind Broward County’s Veterans Treatment Court aims to provide returning veterans that enter the system through another division, opportunities for rehabilitation. It consists of a twelve to eighteen month program to help veterans with “behavioral, mental health, or substance abuse disorders.”

Dr. Giovanna Delgado, a psychologist, is the Veteran Justice Outreach Coordinator (VJOC) for the counties of Miami-Dade, Broward, and Monroe. As a VJOC, Dr. Delgado works with community partners such as judges, police departments, and other agencies to give them training and a better understanding of the issues affecting veterans. “We are part of the courtroom and we link veterans to services.” Regarding domestic violence cases Dr. Delgado said:

I have not really dealt with any domestic violence cases. I would say that they should be considered in a case-by-case basis. If someone has a history of domestic violence pre-deployment, it is not the same case as someone who does not. The court should determine the criteria.

Broward County’s Veterans Treatment Court is currently willing to handle domestic violence cases; however, no case of this type has been presented yet. When asked his opinion about having domestic violence cases heard in veterans treatment courts, Judge Merrigan said:

I think having domestic violence cases in Veterans Treatment Courts is a good idea because it will benefit them in a way that traditional courts cannot. . . . It does not matter how understanding the family is, there is some friction and they need professional help. Whether or not they are successful is a different story, but we have to give them access to the program.
I think that even if they have a history previous to deployment, we should accept them. I think it would still benefit them. 203

V. FIXING AT HOME WHAT WAS BROKEN ABROAD: A RESTORATIVE APPROACH

“Restorative justice is a [relatively] new [idea] in the fields of victimology and criminology [that] [a]cknowledg[es] that crime[s] cause[] injury to people and communities.” 204 It follows the idea that the harm done should be repaired and the parties involved should be allowed to participate in the process. 205 This initiative allows the victims and the offenders to be “involved in responding to the crime.” 206 It takes a social, rather than isolated approach to criminal justice issues. 207 The program encourages face-to-face meetings that address the injuries and what should be done to repair them. 208 There is some evidence that the willingness of individuals to participate in restorative justice programs is high. 209 It is likely that a victim of domestic violence whose partner was never violent pre-deployment, but has now become so, will be willing to give one last attempt to fix the issue. This is particularly true if the victims become aware that the program involves trained experts.

A. Veterans Treatment Courts as a Restorative Type of Justice in Domestic Violence Cases

“Social support is a [very] powerful protective factor” 210 and could help the returning military to feel accepted. Veterans treatment courts seem promising when compared with much older therapeutic courts, such as drug

203. Id.
205. Id.
206. Id.
208. CTR. FOR JUSTICE & RECONCILIATION, PRISON FELLOWSHIP INT’L, supra note 204, at 1.
209. MARSHALL, HOME OFFICE RESEARCH DEV. & STATISTICS DIRECTORATE, supra note 207, at 8.
210. Friedman, supra note 96, at 589.
Intervening early can serve to stop a cycle of violence. Furthermore, restorative justice allows the family and victim of the offender to receive emotional and spiritual support. Allowing meetings between the veteran with his or her spouse or partner on a regular basis can permit the offender to take responsibility for his or her actions and develop a plan to cope with the issue. Victims also receive a much needed apology and see the regret in the veteran, which can be healing. Using veterans treatment courts as a restorative approach will allow offenders to repair the harm done and reintegrate to society. Intimate partners represent a great role in the maintenance of one’s health and could encourage the veteran to finish the treatment. So far the courts have proven effective and have even made positive changes in veterans lives. Some have also been able to fix their relationships and get “their lives back on track.”

Since veterans are a unique group of individuals and their needs are even more unique—as with domestic violence—then it follows that special treatment of these individuals’ needs is required. Traditional courts do not consider the great interaction between the issues presented by veterans and domestic violence. “And to have the police catch these veterans, often at great danger, beat them with a conviction for some crime of which they may or may not be guilty, and then turn them out on the street without testing or treatment, as is common practice now, is insane.” Traditional courts also

211. See Comm. on Military Affairs & Domestic Sec., supra note 15, at 6.
212. Spellman & Drash, supra note 14.
214. See id.
215. Id. at 2.
216. See id. at 1–2.
217. See Monson & Taft, supra note 13, at 2.
219. Id.
222. See Lara, supra note 53, at slide 9; Russell, A Productive Approach, supra note 8, at 366.
223. Corry, supra note 62, at 1.
do not consider the fact that these veterans are trained to be violent before their deployment.\textsuperscript{224}

Initial data on the effectiveness of these courts suggest that there is a decrease in re-offense for misdemeanors from 15\% in veteran courts to 40-50\% in regular courts.\textsuperscript{225} For felonies the numbers also seem promising: 15\% in veteran courts versus 70\% in regular courts.\textsuperscript{226}

Since military personnel have been disciplined and have had to follow orders before, they are likely to follow the program, even if domestic violence is included.\textsuperscript{227} Receiving help from other veterans with similar experiences could be a motivating factor.\textsuperscript{228} The concern that the victim is in constant contact with the offender and could be in further peril\textsuperscript{229} is one without merit.\textsuperscript{230} When presented with this issue, Judge Merrigan said: “We still keep in place restraining orders and the no weapon policy. Safety and protection of the victims should not be a concern, because it is the same as in traditional programs.”\textsuperscript{231}

It is likely that a veteran’s partner who has not had an issue of violence with the veteran before—but has an incident after deployment—will be willing to be proactive and try to fix it. Veterans that commit violent offenses whose conduct is a consequence of issues acquired during their stay overseas will be more suitable to be treated in veterans treatment courts.\textsuperscript{232} Also, they should be eligible because they are suffering from the same underlying conditions that have led veterans that have committed non-violent offenses to do so.\textsuperscript{233} The mental illnesses presented by the returning veterans are a direct effect from the combat environment they were exposed to while on foreign soil, and treatment is likely to break the cycle.\textsuperscript{234} Fairness requires that the same system of rewards and sanctions be offered to domestic violence offenders and non-violent offenders.\textsuperscript{235} “The violent offenders need help more than anybody . . . .” If you are going to create special judicial programs to

\textsuperscript{224} See Lara, supra note 53, at slide 27.
\textsuperscript{225} MacVicar, supra note 20, at slide 13.
\textsuperscript{226} Id.
\textsuperscript{227} See Cavanaugh, supra note 14, at 981.
\textsuperscript{228} Id. at 483–84.
\textsuperscript{229} See Fairweather et al., supra note 23 (discussing the concern that in domestic violence cases contact between the victim and the offender could be dangerous).
\textsuperscript{230} See Interview with Edward H. Merrigan Jr., supra note 202.
\textsuperscript{231} Id.
\textsuperscript{232} Cavanaugh, supra note 14, at 486. The current article only focuses on domestic violence cases. Although still controversial, other violent offenses are beyond the scope of this article.
\textsuperscript{233} Id.
\textsuperscript{234} Id. at 487.
\textsuperscript{235} Id.
help veterans, does it make sense to give special services only to those who need help the least?" 236

Using veterans treatment courts as a restorative justice approach seems promising because of previous results of restorative justice programs. 237 There is evidence that restorative justice can satisfy the needs of the victim and has the power to reduce the frequency that the offender will reoffend up to 27%. 238 Instead of feeling that everyone wants to punish him, the veteran will be motivated to reform and have the feeling that society will reaccept him. 239

Some think that a restorative justice approach is “soft” or lenient. 240 However, many aspects of restorative justice programs are tougher than regular programs because they require the offender to take full responsibility for his actions and repair the harm done. 241 The imposition of “[e]xcessive [punishment] does not equate with being tougher on crime.” 242 Punishment has a tendency to work better when all of the parties involved accept it, and when it is carefully calculated to address the issue. 243 This flexible approach could prove beneficial to veteran families in distress as a result of domestic violence. It will heal them, instead of imposing a severe prison sentence on the veteran and placing an economic burden on the criminal justice system.

1. Public Policy Considerations

Americans all over the nation must be aware that we are indebted to our military veterans who have gone overseas to protect us. 244 Even though there is imminent danger in combat, serious challenges await our veterans when they return home. 245 If anyone in this country deserves to be treated in a special manner—particularly when it comes to issues related to their families—it is our veterans. What we do for them is a reflection of who we are as a country. Hearing domestic violence cases in veteran treatment courts will

236. Id. at 486.
237. See Restorative Justice Works, supra note 29.
238. Id.
239. See MARSHALL, HOME OFFICE RESEARCH DEV. & STATISTICS DIRECTORATE, supra note 207, at 11.
240. Id. at 26.
241. Id.
242. Id.
243. Id.
244. OFFICE OF NAT’L DRUG CONTROL POLICY, EXEC. OFFICE OF THE PRESIDENT, supra note 169, at 1.
245. Id.
not only make them productive citizens,246 but also return the peace of mind to their partners, who had to be strong through deployment and now have their relationships destroyed by domestic violence.247 Even if the task is challenging, it is no excuse to ignore the issue altogether. Individuals who are involved with these types of courts agree that incarceration is not really the way to go in trying to solve the veterans issues.248 “I do not think they are being treated different. I think they are being given the benefits they have earned,” said Judge Merrigan.249

2. Program Recommendations

The traditional criminal justice system is not prepared to handle the symptoms associated with some of the issues the military face as a consequence of deployment.250 This is why the veterans treatment courts specializing in these kinds of issues are able to more adequately solve them. It is important for therapists and professionals to recognize the higher risk of domestic violence presented by veterans suffering from depression and PTSD.251 Targeting the symptoms that have triggered the domestic violence252 instead of trying to convict veterans could be a more effective way to deal with the problem.253 Since treatments for domestic violence are different from those to cure some mental health issues such as PTSD there should be a combination of those with specialized domestic interventions.254

The assistance and collaboration of professionals is required, not only in regular cases, but also in domestic violence cases. Family counselors should be used along with other trained personnel, like psychologists. In an effort to avoid the problem before it arises, the courts should also offer military personnel and their partners pre-deployment “preparatory [and] educational materials,”255 which would help them cope with the distance while on international soil and prepare them to face post-deployment issues. The critics complain that there is no protocol to follow;256 however, a lot of methods can

247. See id. at 359; see also Bannerman, supra note 1.
248. Cavanaugh, supra note 14, at 480.
251. Sherman et al., supra note 81, at 487.
252. See King & King, supra note 114, at II-7-10 to II-7-11.
253. See Corry, supra note 62, at 3.
254. Casura, supra note 221.
255. See Monson & Taft, supra note 13, at 2.
be integrated into the program that are already in existence.\textsuperscript{257} For example, Critical Interaction Therapy exists, which “focuses on . . . resolving [the] ‘critical interaction’ that develop[] between spouses” as a result of trauma experiences.\textsuperscript{258} Also, Emotion Focused Therapy can be adapted to fit marital distressed couples.\textsuperscript{259} Some of these treatments have showed promising results\textsuperscript{260} and should be integrated to veterans treatment courts when dealing with domestic violence.

As long as ongoing risk assessments and safety planning are done\textsuperscript{261} admitting domestic violence cases to veteran treatment courts would do more good than harm. Of course, limits should be placed. Veterans who have no history of domestic violence, but upon return become violent towards their partner should be given priority to enter the program. Veterans with a prior history of domestic violence should be considered on a case-by-case basis. Furthermore, currently efforts are being made by various organizations to solve these types of challenges by using studies, funds, and increasing community based-partnerships.\textsuperscript{262}

Domestic violence is a serious issue nationwide and the response should be as serious, while protecting the needs and the well-being of veterans and their families.\textsuperscript{263} Even if training and preparation is expensive, there is also a serious cost when nothing is done.\textsuperscript{264} Healthy and formerly functional families are being torn apart by this unfortunate reality.

Perhaps another consideration for the program would be to offer them mental treatment when returning home regardless of the likeliness of committing an offense.\textsuperscript{265} When approaching a domestic violence incident, the source of the conduct should be considered when deciding the appropriate way to intervene.\textsuperscript{266} It would be pointless to put the veteran through a veteran program without first addressing the underlying issue.\textsuperscript{267}

\begin{itemize}
\item \textsuperscript{257} See Monson & Taft, supra note 13, at 2–3.
\item \textsuperscript{258} Id. at 3.
\item \textsuperscript{259} Id.
\item \textsuperscript{260} Id.
\item \textsuperscript{261} See Fairweather et al., supra note 23.
\item \textsuperscript{262} Id.
\item \textsuperscript{263} See id.
\item \textsuperscript{264} Hawkins, supra note 22, at 570.
\item \textsuperscript{265} Cavanaugh, supra note 14, at 485.
\item \textsuperscript{267} Id.
\end{itemize}
tion should be aimed at fitting not only the offense, but also the circumstances under which it occurred.  

VI. CONCLUSION

For a veteran, it is unfortunate to lose a friend in combat; but perhaps the most devastating part is returning home and losing his or her family as well. Our veterans and their loved ones, who are often surrounded with uncertainty in a deployment, should be able to at least rest assured that their family life upon their return will be safeguarded.  

It is an irony to train soldiers to survive in such a hostile environment, to kill and trust no one, and then expect them to come home and be peaceful without any type of intervention. The current aversion in some jurisdictions against cases of domestic violence involving veterans being admitted to veterans treatment courts should not continue. The support for our troops should not be limited to sending them letters and food when they are away; it should continue when they come back and are on the verge of losing their families, facing time in jail, or both. Allowing domestic violence cases in veterans treatment courts will serve one of the main purposes of restorative justice and contribute to the long-term commitment in this country to healing the internal wounds of war.

—“Freedom is not free.”

268. Id.


271. See The White House, supra note 269, at 1.

272. Korean War Veterans Memorial, Nat’l Park Service, http://www.nps.gov/kowa/index.htm (last visited Apr. 21, 2013). These words are engraved in the Washington D.C.’s Korean War Memorial. See id. This phrase is an idiom usually used to express gratitude to our troops. See id. It implicitly says that the benefits we enjoy today are owed to the sacrifices taken by our military by going to foreign nations and fighting for our freedom. See id.